On the evolution of the Australian form of government: three major trends over the past thirty years

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Abstract: *Sull'evoluzione della forma di governo australiana: tre tendenze principali negli ultimi trent'anni* – This research focuses on trends in Australia's government over the past thirty years, particularly regarding the relationship between the Executive and Legislative branches at the federal level. The study will investigate key constitutional developments and interpretations that have influenced the contemporary characteristics of Australian government. By examining these elements, the article seeks to provide insight into the dynamics of Australia's political structure and governance. Overall, it aims to underscore the significance of the three identified trends in shaping the current form of government in Australia.

Keywords: Australia; Executive power; Federalism; Electoral law; Executive agencies

1. Introduction

The evolution of Australian constitutional law and its unique form of government reflect a complex blend of British, American, and Australian influences.

As a relatively young nation with formal independence achieved in the 20th century, Australia's constitutional framework has evolved through various stages—colonial governance, federation, the dismantling of colonial authority, and progressive judicial and legislative reinterpretations—into a stable, democratic system. Within a framework of asymmetric federalism that has undergone considerable modifications over time with regard to the mechanisms of distribution of legislative functions, Australia can generally be described as a parliamentary democracy under a constitutional monarchy. Although it remains a Commonwealth realm, British monarchical power is now entirely ceremonial.

As is well known, the Australian form of government is primarily based on the Westminster model, inherited from the United Kingdom. Executive power at the national level is accordingly ultimately exercised by the Prime Minister, who is formally appointed by the Governor-General, the King's representative in Australia.[1] The Prime Minister is the head of

[1] In general, see: C. Saunders, A. Stone (Eds), *The Oxford Handbook of the Australian Constitution*, Oxford, 2018 (especially, Part V - Separation of Powers; Part VI - Federalism; Part VII - Rights); J. M. Williams, *The Australian Constitution: A*

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government and leader of the party or coalition of parties holding the current majority of seats in the House of Representatives, the lower house of the federal Parliament. The Executive and legislative powers are therefore aligned at the highest level. Analogous arrangements exist at state and territory level, with minor variations.[2]

Notwithstanding this foundation, the process of federation at the turn of the 20th century set Australian government on a different trajectory from the United Kingdom in several respects, drawing on American experience to produce what has been described as a "Washminster mutation".[3] In addition to federalism itself, the adoption of a supreme law constitution entailed acceptance of the prospect that legislation would be judicially invalidated as unconstitutional, and a corresponding commitment to the strict separation of judicial power. It also entailed commitment to rigidity in formal constitutional structures, with a referendum-based standard for amendment which has proved extremely difficult to meet. Despite enthusiasm for other aspects of the American constitutional tradition, the federating states were not receptive to a supreme law Bill of Rights, preferring a more minimalist approach. While Westminster jurisdictions like the United Kingdom would subsequently embrace a statutory rights protection model, Australia's hybrid constitutional structure has contributed to its increasingly isolated position as a country lacking a federal Bill of Rights in any form. This continues to constrain the breadth and impact of the supervisory powers of the federal judiciary.

Against this general backdrop, the aim of this article is to point out certain trends that, at least over the last thirty years, have emerged with regard to this unique form of government, particularly in relations between the federal Executive and the legislature. The article will accordingly focus on outlining more recent developments in Australia's constitutional arrangements, including key constitutional and interpretive developments and the evolution in understandings of foundational underlying principles.

In summary, as will be seen, the evolution of the federal Executive power in Australia reflects a gradual shift from colonial dependency to full sovereignty, marked by increased independence, the adaptation of Westminster conventions, and the development of unique federal mechanisms. The federal Executive continues to evolve and expand in response to political, social, and legal challenges, balancing traditional conventions with innovative structures like the National Cabinet. Today, the Australian Executive represents a distinctive blend of inherited British principles and adaptations suited to Australia's federal, democratic context. However, there are valid concerns, both long-standing and emerging, about the extent to which current structures allow for Executive power to be meaningfully held to account, in either legal or political spheres.

Documentary History, Melbourne, 2005; A. Fenna, J. Robbins, J. Summers (Eds), *Government and Politics in Australia*, Sydney, 2014; B. Galligan, *A Federal Republic: Australia's Constitutional System of Government*, Cambridge, 1995; G., Singleton, A. Aitkin, B. Jinks, J. Warhurst, *Australian Political Institutions*, Sydney, 10th ed, 2013.

[2] The state of Queensland, for example, has a unicameral Parliament.

[3] E. Thompson, *The "Washminster" mutation*, in *Pol.*, 15(2), 32 (1980).

2. Three major trends

Generally speaking, the evolution of the federal Executive's power has underscored the changing balance within Australia's governance system, propelled by constitutional provisions, federal legislation, and evolving High Court interpretations.

Analysis of relevant constitutional articles, federal statutes, and case law demonstrates how the federal Executive has expanded its influence, often at the expense of the states' autonomy and the legislature's checks.

In general terms, as foreshadowed in the introduction, the evolution of the federal Executive power in Australia reflects the country's journey from a British colony to an independent, democratic federation. Established by the Commonwealth of Australia Constitution Act 1900 (UK), the Australian Constitution laid the groundwork for the federal Executive structure. Originally influenced by British parliamentary principles, Australia's Executive was intended to function within a Westminster-style system, where the Executive branch, though formally separate from the legislature, remains closely integrated with it.

The Executive power, as outlined in Section 61 of the Constitution, is vested in the British monarch and exercisable by the Governor-General as the King's representative. However, the practical authority of the Governor-General has evolved significantly over time. In the early years, the Governor-General often acted under direct instructions from the British government, reflecting Australia's status as part of the British Empire. Gradually, however, the role became more symbolic, and Australia established more independent Executive practices.

A critical evolution in Australian Executive power came with the Statute of Westminster 1931 (UK), which granted full legislative independence to the dominions of the British Empire. Australia adopted the statute in 1942, retrospectively to 1939, effectively ending British control over Australian legislative matters, including Executive decisions that impacted Australian law. This shift allowed Australia to exercise Executive authority without needing approval from the British government, thus enhancing the sovereignty of the federal Executive.

While the office of the Governor-General continued to hold formal Executive power, day-to-day governance had by this point shifted to the Prime Minister and a federal Cabinet, consistent with the Westminster tradition. By convention, the Governor-General acts on the advice of the Prime Minister and the Cabinet, exercising "reserve powers" only in rare and exceptional circumstances. A notable instance of the Governor-General exercising such powers occurred in the 1975 constitutional crisis, when Governor-General Sir John Kerr dismissed Prime Minister Gough Whitlam. This event highlighted the ambiguous nature of reserve powers, sparking debates on the absence of detailed constitutional rules regarding the role and powers of the Governor-General.

Throughout the latter half of the 20th century, Australia continued to move towards greater independence in Executive matters. In 1986, the Australia Acts eliminated any remaining British judicial and legislative influence, making the High Court of Australia the apex court of appeal and finally severing legislative ties with the British Parliament. This cemented

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Australia's Executive independence, establishing the federal Executive as a fully autonomous entity within the Australian constitutional framework.

It is important to highlight at this point that neither the Prime Minister nor the Cabinet is mentioned in the Constitution. Nor are their equivalents acknowledged in the constitutions of individual states and territories. Yet these actors are not only indispensable to the functioning of the Executive branch of government, but uncontroversially regarded as the ultimate repositories of Executive power in both law and practice. Over time, Cabinet has developed from an informal advisory group to a formal institution, recognized by both statute and convention as responsible for making significant Executive decisions. The Prime Minister, who leads the Cabinet and may also hold substantive ministerial positions, continues to derive their power from their position as the leader of the majority party in the House of Representatives.

The adaptation of the Westminster model of Executive power to Australian conditions over time has, as might be expected, emphasized federal principles and cooperative governance with the states. The Constitution delineates certain powers to the Commonwealth, leaving residual powers to the states. However, the balance of power has progressively shifted toward the federal government, particularly during times of crisis. For instance, during World War II, the federal government centralized income tax collection, which strengthened its financial and Executive influence. Similarly, the COVID-19 pandemic - as we will see - saw the creation of the National Cabinet, an extra-statutory body composed of the Prime Minister and state premiers, designed to coordinate the national response. The National Cabinet exemplifies the evolving nature of Executive federalism in Australia, showing a flexible approach to intergovernmental cooperation and decision-making.

Also as might be expected, in recent years, issues of transparency and accountability within the Executive branch have come to the forefront. The expanding powers of the Executive, especially in areas of national security and immigration, have led to calls for increased oversight. Legal challenges to Executive decisions in the High Court, such as cases on the detention of asylum seekers and the constitutionality of Executive orders, demonstrate the judiciary's role in shaping the scope and limits of Executive power. The establishment of bodies like the Administrative Appeals Tribunal (and the very recent dissolution and reconstitution of this body), provide clear examples of a push towards Executive accountability. The establishment of a federal anti-corruption commission in 2023,[4] and the high public profile of recent inquiries into different aspects of the Executive,[5] also exemplify this push.

The concept of ministerial responsibility, inherited from the Westminster system, remains a cornerstone of the Australian Executive, requiring ministers to be accountable to Parliament. However, the practical enforcement of this principle has been inconsistent. A recent inquiry exposed the self-appointment of the COVID-era Prime Minister to a range

[4] National Anti-Corruption Commission Act 2022 (Ch.).
[5] Between 2020 and 2024 alone, five Royal Commissions into aspects of Executive power were concluded.

of substantive ministerial portfolios without the knowledge of the existing ministers in those portfolios, let alone Parliament as a whole.[6] This incident was regarded as having "fundamentally undermined" the convention of responsible government.[7] There are ongoing discussions about reforming the standards of ministerial accountability to address modern governance challenges.

2.1 First trend: the evolution and transformation of the nature of the Australian Executive power

On this analytical basis, we can record at least three relevant trends in the evolution of the Australian form of government which are indicative of the logic, trajectories and dynamics of movement of this legal system in recent decades.

The first trend regards the nature of the Executive.

Notwithstanding that the Australian Executive is less formally defined from a legal perspective than in other similar British-based jurisdictions, there has been a clear progressive tendency to strengthen its role. Indeed—as Terence Daintith and Yee-Fui Ng have recently pointed out—the role and weight, historically relevant, of the practices and conventions that characterize the Westminster model per se have always seemed to find greater space and strength precisely in the Australian experience.[8] This risks making the constitutional operation of the Executive less defensible, all the more so given the complexity of its structure and the importance of ministerial oversight and accountability to Parliament.

Leaving aside the uniquely convention-based position of the Prime Minister, the strengthening of the Executive branch emerged first and foremost in relation to a progressive legal ratification of its role, its powers and its functions, departing from the traditional British preference for conventions and practices. This has resulted in an increasingly more formalized regulatory rationalization of the role of the Executive (starting from the constitutional text with reform proposals, generally unsuccessful, but also through primary legislation).

Thanks to this progressive legal formalization, Australia's federal Executive has increasingly gained authority at the expense of the legislative branch and state powers.[9] This trend, which has its roots in the overarching constitutional framework, has manifested through both legal and practical shifts, especially in areas of taxation, national security, and health.

As noted, the foundation of the federal Executive's authority resides in the Constitution, particularly in Section 61, which grants Executive power to the Governor-General as the monarch's representative. This power

[6] Hon Virginia Bell AC, *Report of the Inquiry into the Appointment of the Former Prime Minister to Administer Multiple Departments*, 25 November 2022.
[7] Ibid at [19], citing the opinion of the Australian Solicitor-General.
[8] See: T. Daintith, Y.F. Ng, *Executives*, in C. Saunders, A. Stone (Eds), *The Oxford Handbook of the Australian Constitution*, Oxford, 2018, 587-616; J. Pyke, *Government Powers under a Federal Constitution*, New South Wales, 3rd ed, 2024.
[9] See: G. Appleby, M. Davis, D. Lino, A. Reilly, *Australian Public Law*, Oxford, 4th ed., 2023.

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extends to executing and maintaining the laws of the Commonwealth. While Section 61 remains vague on the limits of this power, High Court interpretations have clarified and often broadened its scope, particularly when linked to national interests or emergent crises.[10]

Section 51 is the principal source of the legislative powers of the federal Parliament, many of which the Executive has leveraged for federal programs and initiatives. Sections 51(ii) (taxation) and 51(xxix) (external affairs) have been especially significant, providing a vehicle for the federal Executive to enact wide-ranging policies with both domestic and international implications. The High Court has tended to uphold both federal legislation and related Executive actions in these spheres as valid exercises of constitutional authority.[11]

Another major factor in the expansion of federal Executive power has been control over financial resources, particularly through Section 96, which allows the Commonwealth to grant financial assistance to any state under terms it sees fit. Over time, this provision has effectively enabled the federal government to incentivize or restrict state policies, centralizing control.

This financial power results in a phenomenon known as Vertical Fiscal Imbalance (VFI), where the federal government collects the majority of tax revenue, leaving the states dependent on federal grants for funding. The Uniform Tax Cases (1942 and 1957) further entrenched VFI. These landmark decisions allowed the federal government to monopolize income tax collection, thereby diminishing states' financial independence.[12]

Consequently, state governments have often been compelled to align with federal policies to secure necessary funding. For instance, federal funding conditions often shape areas like education, health, and infrastructure, fields traditionally under state jurisdiction. By strategically using conditional grants, the federal Executive effectively steers state policy without directly infringing on state powers reserved by Section 51. The Goods and Services Tax (GST), introduced in 2000 through the A New Tax System (Goods and Services Tax) Act 1999, redistributes revenue from GST back to the states but remains federally controlled, reinforcing federal fiscal dominance. The allocation of GST revenue according to federal decisions further underscores the financial leverage the Executive has over state governments.[13]

At the same time, the external affairs power, enshrined in Section 51(xxix), has become a powerful instrument for federal policy expansion, allowing the federal Executive to implement international treaties and agreements domestically, even on issues traditionally managed by states. *Koowarta v Bjelke-Petersen* (1982) and *Commonwealth v Tasmania* (1983) (the "Tasmanian Dam Case") are landmark High Court cases that broadened the

[10] In a general perspective, see: D. Solomon, *The Political High Court: How the High Court Shapes Politics*, Sydney, 1999; E. Campbell, H. P. Lee, *The Australian Judiciary*, Cambridge, 2001.

[11] See: H. Patapan, *Judging Democracy: The New Politics of the High Court of Australia*, Cambridge, 2000.

[12] See: H. Patapan, *Judging Democracy: The New Politics of the High Court of Australia*, quot.

[13] See: R. Dixon, G. Williams (Eds), *The High Court, the Constitution and Australian Politics*, Port Melbourne, 2015.

interpretation of this power. In the latter case, the federal Executive used the external affairs power to prevent Tasmania from constructing a dam by enforcing an international treaty, the World Heritage Convention, to protect environmental sites. These cases established a precedent that enables federal government to impose international standards on states through the Executive's foreign affairs mandate.

As a result, the Executive may bypass state opposition in areas like environmental conservation, human rights, and social policy by invoking international obligations.[14] Section 51(xxix) has thus become a versatile tool for Executive expansion, effectively diminishing state sovereignty in areas with international implications.

In response to global and domestic security threats, the federal Executive has also acquired increased authority to act decisively in the name of national security, particularly through legislation such as the Defence Act 1903 and the National Security Information (Criminal and Civil Proceedings) Act 2004, reflecting a broader phenomenon of "hyper-legislation" in the wake of the September 11, 2001 terror attacks.[15]

Legislative initiatives of this kind have given the Executive substantial leeway to restrict information, control defense operations, regulate immigration based on security concerns, and act to pre-empt perceived domestic threats. The Australian Security Intelligence Organization Act 1979 (ASIO Act), along with subsequent amendments, illustrates the Executive's reach in these spheres. The ASIO Act empowers federal authorities to conduct surveillance, monitor communications, and detain individuals under certain conditions, extending Executive influence into domains traditionally protected by individual rights. These powers have been expanded through related measures such as the Counter-Terrorism Legislation Amendment (Foreign Fighters) Act 2014, which grants the federal Executive authority to manage the movement of Australian citizens in and out of conflict zones. This concentration of power, framed around national security, has largely enabled the Executive to circumvent traditional legislative scrutiny and state jurisdiction. Legal challenges have been relatively successful in policing the boundary between Executive and judicial power, in cases where Executive actors have been empowered to make decisions of the kind reserved to federal courts under Chapter III of the Constitution.[16] Outside the Chapter III context, however, it has proved difficult to constrain the expansion of Executive power on national security grounds.

The Biosecurity Act 2015 is another significant piece of legislation that reinforces federal Executive power, allowing the federal government to impose nationwide health measures in response to biosecurity threats,

[14] In general, see: T. Blackshield, G. Williams, R. Ananian-Welsh, S. Brennan, A. Lynch, P. Stephenson, *Australian Constitutional Law and Theory*, Alexandria, 2024; C. Saunders, *The Constitution of Australia: A Contextual Analysis*, Oxford, 2011; A. Twomey, *The Veiled Sceptre: Reserve Powers of Heads of State in Westminster Systems*, Cambridge, 2018; J. Halligan, R. Wettenhall (Eds), *A decade of self-government in the Australian Capital Territory*, Canberra, 2000.

[15] See: K. Roach, *The 9/11 Effect: Comparative Counter-Terrorism*, Cambridge, 2012.

[16] See: O.I. Roos, *The Kable Doctrine, State Legislative Power and the Text and Structure of the Constitution*, in 46(3) *UNSW L. J.*, 931 (2023).

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including measures which are quasi-legislative or quasi-judicial in character. The COVID-19 pandemic highlighted this capacity, as the federal Executive assumed a central role in coordinating Australia's health response, largely circumventing legislative or judicial scrutiny, and often overshadowing state initiatives. At state level, the dominance of Executive power was also marked, particularly in states like Western Australia in which there was no effective political opposition. Executive accountability has been the dominant theme of domestic constitutional and political critique since the beginning of the pandemic.[17]

While immigration and citizenship policies have historically fallen under federal jurisdiction, the Executive's discretionary power in these areas has also expanded significantly through legislation. The Migration Act 1958 (Cth) provides the federal Executive with a substantial level of control over immigration, including discretionary powers to grant or revoke visas and to detain individuals deemed a risk to national security. Despite extensive criticism, these powers have been further augmented over time. Recently, for example, the Migration Amendment (Character and General Visa Cancellation) Act 2014 (Cth) allowed visa cancellations based on a broad "character test", effectively sidelining judicial oversight. The Australian Citizenship Act 2007 (Cth) had earlier empowered the federal Executive to revoke citizenship in cases involving terrorism, creating a pathway for Executive actions without substantial legislative or judicial review. This broad Executive authority has increasingly clashed with judicial perspectives on due process and human rights, but remains a testament to the federal Executive's strengthened position in immigration and citizenship matters.

Within this legislative framework, the High Court of Australia has often played a critical role in interpreting the Constitution in ways that support expanded federal Executive power.[18] Historically, in cases such as the Engineers' Case (*Amalgamated Society of Engineers v Adelaide Steamship Co Ltd*, 1920), the High Court abandoned the doctrine of "reserved powers", affirming that the federal Parliament held precedence in areas of concurrent jurisdiction. This shift paved the way for broader federal intervention in state affairs, thus indirectly enhancing the Executive's capacity to implement federal policies.

More recent cases, such as *Williams v Commonwealth* (2012), have imposed some limits on Executive spending power, affirming that Executive actions require statutory authorization unless linked to constitutional mandates. In the last five years, several high-profile High Court rulings, including *Love v Commonwealth; Thoms v Commonwealth* (2021), *Benbrika v Minister for Home Affairs* (2023), and *NZYQ v Minister for Immigration*,

17 See, eg: B. Bennett and I. Freckelton (Eds), *Pandemics, Public Health Emergencies and Government Powers: Perspectives on Australian Law*, Alexandria, 2021; M. Rizzi, T. Tulich, *All Bets on the Executive(s)! The Australian Response to COVID-19*, in J. Grogan, A. Donald (Eds), *Routledge Handbook of Law and the COVID-19 Pandemic*, London, 2022.
18 See: R. Dixon, G. Williams (Eds), *The High Court, the Constitution and Australian politics*, Port Melbourne, 2015; G. Appleby, M. Davis, D. Lino, A. Reilly, *Australian Public Law*, Oxford, 4th ed., 2023. Regarding the challenges of British-modelled judicial culture, see: J. Kerr, *Making Judges in a Recognition Judiciary*, in 31(4) *J. of Jud. Adm.*, 217 (2022).

Citizenship and Multicultural Affairs (2023), have more substantially disrupted the federal Executive agenda on immigration, crime, and national security. Such rulings have not however significantly curtailed federal Executive expansion; instead, they underscore the need for legislative support, which the federal Executive has often been able to secure through a cooperative Parliament.

In summary, the strengthening of Australia's federal Executive at the expense of both the legislative branch and state powers represents a profound shift in the balance of power within the Australian system of government. The Constitution, while ostensibly designed to secure checks and balances, has in fact facilitated increased Executive centralization through fiscal controls, the external affairs power, and national security imperatives. The High Court has, at least until recently, largely upheld the constitutionality of such measures, both reflecting and reinforcing an interpretive culture that facilitates federal dominance.

Within this framework, the Australian experience, especially in light of the handling of COVID-19—and more recent crises like the devastating bushfires of 2019-2020—may be seen to reveal a clear need for action to better systematize the role and position of government,[19] and in particular the emergence of a dominant federal Executive. The establishment of a new informal body—the National Cabinet—in the first year of the COVID-19 pandemic, which has since become a standing feature of the constitutional landscape, epitomizes this need.[20]

Meeting this need is important in order to contain perceived risks of the political Executive overstepping its prerogatives, giving Australian politics a more presidential stamp. Those risks are well demonstrated by the recent "secret ministries" saga. It is also important to address broader rising concerns about transparency and democratic accountability, particularly during emergencies (given that despite the benefits of cooperation, conflicts have consistently emerged between the various levels of government over how to manage certain policies, highlighting the tensions inherent in the Australian federal system).[21]

Overall, this concentration of Executive power raises important questions about accountability, federalism, and the future trajectory of Australian democracy. While the federal Executive's enhanced authority, which is now definitely based in law, enables rapid responses to national challenges, it also necessitates vigilant checks by the legislative and judicial branches to preserve democratic principles and safeguard state autonomy. Understanding the legislative framework and constitutional provisions that

[19] In general, see: A.Stone, J. Forrest, *Australia's Distinctive COVID-19 Response. National Report on Australia*, in A. Vedaschi (ed.), *Governmental Policies to Fight Pandemic. The Boundaries of Legitimate Limitations on Fundamental Freedoms*, Leiden, 2024, 589–610.

[20] See: A. Stobart, S. Duckett, *Country Responses to the COVID-19 Pandemic*, in *Health Economics, Policy and Law*, 17 (1) Special Issue 1, 95 – 106 (2022); A. Fenna, *Australian federalism and the COVID-19 crisis*, in R. Chattopadhyay, J. Light, F. Knüpling, D. Chebenova, L. Whittington, P. Gonzalez (Eds), *Federalism and the response to COVID-19: A comparative analysis*, Abingdon, 2021.

[21] See: T. Tulich, B. Reilly, S. Murray, *The National Cabinet: Presidentialised Politics, Power-sharing and a Deficit in Transparency*, in *Aus. Pub. L.* (2020).

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support Executive dominance provides insight into the Australian government's evolving structure, shaped by both historical imperatives and contemporary demands.

2.2 Second trend: the evolution and transformation of the electoral system

The second trend concerns the use of the electoral system. Australia's electoral system is renowned for its unique structure, incorporating different forms of voting.[22] These features have contributed to high voter turnout and a reputation for electoral stability.[23]

However, this system has never been without its critics, and it is increasingly being questioned.[24] Criticisms concentrate around representational fairness, voter disillusionment, campaign finance transparency, and malapportionment, all topics that have underpinned sustained calls for reform over the past fifty years.

The Australian electoral system has three principal elements: compulsory voting, preferential voting, and proportional representation in the Senate. Each of these elements has distinct purposes, and distinctly impacts how Australians vote and are represented.[25]

First, Australia is one of the few democracies to enforce compulsory voting, which was first implemented in 1924 for federal elections.[26] This requirement aims to secure broad electoral participation, avoiding the issue of low voter turnout which affects many democracies. The turnout in Australian federal elections is typically above 90%, contrasting starkly with countries where voting is or has become voluntary, such as Italy. Compulsory voting has been credited with increasing political legitimacy and voter engagement across demographic groups, by compelling citizens to stay informed on political issues.

At the same time, the Australian electoral system adopts preferential voting. This form of voting, used for elections to the House of Representatives, allows voters to rank candidates in order of preference. If no candidate secures an outright majority of first-preference votes, the candidate with the fewest votes is eliminated, and their votes are redistributed based on second preferences. This process continues until one candidate achieves a majority. This voting method reduces the likelihood of "wasted votes" and enables a more nuanced representation of voter preferences than the British "first-past-the-post" model, with the potential to benefit minor parties and independent candidates.

[22] In general, see: J Warhurst, G. Singleton, D. Aitkin, B. Jinks, *Australian Political Institutions*, Richmond,Victoria, 10th ed, 2013; D. Jaensch, *Election!, How and Why Australia Votes*, Sydney, 1995.
[23] See: J. Brennan, L. Hill, *Compulsory voting: for and against*, Cambridge, 2014.
[24] See: A. Gauja, *Party Reform: The Causes, Challenges, and Consequences of Organizational Change*, Oxford, 2016.
[25] See: W. Cross, A. Gauja, *Evolving membership strategies in Australian political parties*, in 49(4) *Aus. J. of Pol. Sc.*, 611-625 (2014).
[26] M. Bonotti, P. Strangio (Eds), *A Century of Compulsory Voting in Australia. Genesis, Impact and Future*, London, 2021.

Lastly, for the upper house – the Senate – which represents the cornerstone of the federal system, Australia employs a proportional representation system using Single Transferable Votes (STV). This system, introduced in 1949, is expressly designed to provide fairer representation for minor parties and independents, as it allocates seats based on the proportion of votes received by each party. This differs from the "winner-takes-all" approach of the House of Representatives and encourages a more diverse set of voices within the Senate.

Despite its apparent strengths, as noted, the Australian electoral system has faced persistent and severe criticism.[27] One major criticism is that preferential voting in the House of Representatives perpetuates a "disproportionate representation" of major parties. Due to Australia's concentration of voting districts, notwithstanding the potential inherent in a preferential voting method, the two-party-preferred system often results in underrepresentation of minor parties and independents in the House. As a result, the political landscape has tended to favor the two main parties—Labor and the Liberal-National Coalition—while other parties, such as the Greens or One Nation, face difficulty winning seats despite achieving significant shares of the popular vote. The most recent federal election in 2022 saw the unprecedented emergence of a new "teal" cohort of independent candidates, who worked cooperatively to overcome this difficulty.

The proportional representation system in the Senate has faced its own criticisms, particularly concerning minor parties and "micro-parties". While the STV system supports diversity, it has also led to accusations that micro-parties, often with narrow agendas, can gain disproportionate influence. This is in some ways the inverse of the difficulty with the system in the House of Representatives. Complex preference deals have sometimes allowed candidates from micro-parties to win Senate seats despite having a small initial vote share. The 2013 federal election, for instance, saw the rise of several micro-parties who gained seats through complex preference-swapping arrangements, raising questions about the legitimacy of Senate representation and the need for greater transparency.[28]

Another significant issue concerns campaign finance and the influence of money in Australian politics.[29] Unlike countries with strict limitations on campaign donations, Australia's federal electoral system has relatively few restrictions on donations, which has led to concerns over potential conflicts of interest and undue influence on policymaking.

Public distrust has grown over the role of large corporate donations, especially from industries such as mining, real estate, and gambling, which have vested interests in government decisions. Critics argue that the lack of transparency regarding donations threatens the integrity of Australian democracy, as wealthier interest groups may disproportionately shape

[27] M. Bonotti, N. Miragliotta (Eds), *Australian Politics at a Crossroads: Prospects for Change*, London, 2024.
[28] A. Fenna, J. Robbins, J. Summers (Eds), *Government and politics in Australia*, Richmond, Victoria, 10th ed, 2014.
[29] G. Orr, *The Law of Politics: Elections, Parties and Money in Australia*, N.S.W., Alexandria, 2nd ed, 2019.

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public policy. Arguments of this kind are closely linked to those raised in the context of media financing and concentration of media ownership, which have grown in force over the last decade.[30]

Compulsory voting has arguably helped maintain high voter turnout, but it has also contributed to a high rate of informal voting—where ballots are incorrectly completed and therefore discarded. Informal voting can be due to voter disengagement or confusion with preferential voting requirements. For instance, during the 2019 federal election, around 5.5% of House votes were informal, with higher rates among younger and less-educated voters, raising concerns about electoral engagement and the accessibility of the voting process.

In response to these criticisms, numerous reform proposals have been put forward, ranging from technical adjustments to more radical restructuring.

Some reforms have been implemented, while others have failed to gain traction.[31]

In particular, in 2016, Australia introduced significant reforms to Senate voting rules to address issues with preference deals among micro-parties. The reforms, passed through the Commonwealth Electoral Amendment Act 2016, aimed to reduce the influence of complex preference swaps by allowing voters to choose preferences "above the line" or "below the line" more clearly. Voters now have greater control over their preferences, which has diminished the ability of micro-parties to win seats through intricate preference deals. This reform marked a major step toward enhancing transparency in the Senate electoral process.

At the same time, campaign finance reform has been a persistently contentious topic in Australia, with repeated calls for stricter regulations on donations and transparency requirements. In recent years, proposals have included limiting donation amounts, implementing public funding for campaigns, and enforcing faster disclosure deadlines. Although several states, such as New South Wales and Queensland, have introduced stricter donation limits and reporting requirements, federal-level reform remains stalled.[32]

The Joint Standing Committee on Electoral Matters has reviewed campaign finance reform proposals over the years, including recommendations to cap donations and improve transparency. However, the lack of a federal consensus has hampered substantial reform efforts. Critics argue that the failure to implement federal-level donation caps and transparency measures continues to allow wealthy interests to unduly influence elections and policies.

To address the high levels of informal voting, there have been calls for improved voter education, increased assistance at polling stations, and further simplification of voting processes, especially for the Senate ballot.

[30] See: Senate Environment and Communications References Committee, Parliament of Australia, *Media Diversity in Australia*, Report, December 2021.
[31] G. Kefford, *Political Parties and Campaigning in Australia: Data, Strategy, and Media*, London, 2021.
[32] As at the end of 2024, the latest federal election finance reforms had been 'deferred indefinitely': T. Crowley, *Election donations reform shelved after talks with Coalition reach an impasse ahead of Senate 'D-day'*, on *ABC News*, 27 November 2024.

There has been a focus on civic education for younger Australians,[33] which is an area of broader concern, as an opportunity to improve understanding and engagement with the electoral process.

Advocates for more balanced representation have proposed implementing proportional representation in the House of Representatives to better reflect Australia's diverse political landscape and break the two-party dominance. There has however been limited political appetite for such radical restructuring.[34] Alternative proposals include multi-member districts or mixed-member proportional (MMP) systems, similar to those used in Germany and New Zealand, which could increase minor party and independent representation in the House.

Another recent reform topic concerns the representation of Australians living abroad and those in territories. Some reform advocates argue that the Northern Territory and the Australian Capital Territory should receive additional seats in Parliament to reflect their populations more accurately, while others maintain that the status quo is sufficient. As regards Australians living abroad, those who have been away for extended periods are currently at risk of losing their voting rights, leading to calls to secure these rights. In 2020, the High Court's decision in *Love v Commonwealth; Thoms v Commonwealth* brought to the forefront of national attention the related issue of foreign-born Indigenous Australians who are non-citizens and therefore ineligible to vote. Prior to the decision in *Love*, these Australians were regarded by Executive government as vulnerable to deportation as "aliens" in their own country.

The broader question of political representation for Indigenous Australians is central to current debates about the Australian electoral and broader constitutional system. While the disenfranchisement of Indigenous Australians from voting in federal elections was technically ended in 1962, longstanding systemic barriers and historical disenfranchisement have meant that their participation and representation in the electoral process remains disproportionately low.[35]

While discussion in this space has always extended beyond voting rights to calls for constitutional recognition and mechanisms for Indigenous voices in policymaking,[36] those mounting calls received a major set-back in October 2023 with the failure of the historic "Voice to Parliament" referendum. This government-initiated referendum proposed amending the Constitution to establish an advisory (non-legislative) body named the "Voice to Parliament", which would have empowered Indigenous representatives to advise Parliament directly on legislation and policies

[33] In general, see the reports, activities and information of the Joint Standing Committee on Electoral Matters of the Australian Parliament, accessible at https://www.aph.gov.au/Parliamentary_Business/Committees/.

[34] A. Gauja, P. Chen, J. Curtin, J. Pietsch (Eds), *Double Disillusion: The 2016 Australian Federal Election*, Canberra, 2018.

[35] See: K. Hardy, *Law in Australian Society: An introduction to principles and process*, London, 2019; and for a general and clear view on this topic, see: H. Hobbs, A. Whittaker, L. Coombes (Eds), *Treaty-making: two hundred and fifty years later*, Alexandria, 2021.

[36] See: S. Morris, *Broken heart: a true history of the Voice Referendum*, Collingwood, Victoria, 2024.

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impacting Indigenous communities. Advocates for the Voice argued that creating a formal platform for Indigenous perspectives within the highest levels of government was a small but important step towards fully acknowledging the unique and historically disadvantaged position of Indigenous Australians. However, the proposal was met with opposition from those concerned about creating a potentially divisive institution or expressing doubts about its practical impact.[37] Some of this opposition had clear racist overtones, and the government faced considerable difficulty in maintaining an evidence-based public discourse in the leadup to the referendum. The vote ultimately failed in all individual states and territories, as well as nationally, leading to significant disappointment among Indigenous leaders and advocates who had committed to supporting the reform proposal.

Indigenous and non-Indigenous Australians alike have expressed concerns about how this referendum result will impact future reconciliation efforts, Indigenous rights, and policy efficacy. The outcome signals a challenging road ahead for both symbolic and practical efforts to bridge historical and cultural divides, underscoring the ongoing complexity of achieving meaningful change in policy and representation, and the sense of alienation and exclusion within many Indigenous communities. It also amplifies long-standing doubt about the prospects for meaningful constitutional amendment in Australia.[38]

At the same time, broader efforts to reform Australia's electoral system reflect ongoing tensions between stability and adaptability. Supporters of the current system argue that the combination of compulsory voting, preferential voting, and proportional representation ensures effective governance and prevents the instability often seen in purely proportional systems. However, critics contend that without wide-ranging reforms, the electoral system risks becoming less representative and increasingly vulnerable to the influence of wealthier interest groups.

As public awareness of issues like campaign finance grows, political pressure for reform may increase. Additionally, shifting demographics, rising support for minor parties and "teal" independents, and the digitalization of electoral processes could necessitate further changes. An evolving Australia may demand an electoral system capable of reflecting its

[37] See: B. Harris, *Indigenous Peoples and Constitutional Reform in Australia. Beyond Mere Recognition*, New York, 2024; B. Carlson, M. Day, S. O'Sullivan, T. Kennedy (Eds), *The Routledge Handbook of Australian Indigenous Peoples and Futures*, London, 2024. See also: S. Morris, N. l Pearson, *Indigenous Constitutional Recognition: Paths to Failure and Possible Paths to Success*, in 91 *Aus. Law J.*, 350-359 (2017); M. S. Randazzo, *Constitutionalism of Australian First Nations. A Comparative Study*, London, 2023.

[38] To properly grasp the broad issues surrounding the need for constitutional recognition for Australian First Nations, legislative and constitutional options, reconciling principles of parliamentary sovereignty with the need for stable protections for indigenous rights, and the prospects for a pragmatic and ambitious solution which can significantly enhance indigenous participation and promote constitutional justice, see: S. Morris, *"The Torment of Our Powerlessness": Addressing Indigenous Constitutional Vulnerability through the Uluru Statement's Call for a First Nations Voice in Their Affairs*, in 41(3) *UNSW Law J.*, 629 (2018).

increasingly diverse political and social landscape, suggesting that ongoing adjustments to address transparency, representation, and accessibility will be critical.

In summary, Australia's electoral system, while robust and unique, faces challenges that demand ongoing scrutiny and adaptation. Over the past fifty years, reform efforts have sought to address criticisms around representational fairness, campaign finance, voter engagement, and the influence of minor parties, with varying levels of success. The 2016 Senate voting reforms and state-level campaign finance regulations demonstrate progress, yet broader reforms—particularly around campaign finance transparency and House representation—remain unaddressed, while the rigidity of the constitutional amendment process is effectively blocking more fundamental change in areas like Indigenous political representation. Striking a balance between reform and continuity is likely to prove essential to preserve public confidence in the electoral process and ensure that Australia's democracy remains representative and resilient.

2.3 Third trend: the evolution and transformation of the complex network of "Executive agencies"

The third trend concerns the expansion of the "Executive agencies" model, which has comprehensively reshaped federal public administration, aiming to make government policy implementation more effective and responsive to the country's dynamic needs
.[39]

These agencies—statutory bodies, operating under ministerial oversight but with considerable autonomy—are now essential to the functioning of the federal Australian government. They deliver essential public services, regulate key sectors and industries, ensure compliance with laws and regulations, and provide expert advice to policymakers.[40]

While the model has enabled greater specialization and operational efficiency in several areas, the increasing complexity and autonomy of these agencies have also brought challenges. In recent years, both their effectiveness and limitations have come under scrutiny, prompting discussions on how to reform these bodies for improved transparency, efficiency, and citizen trust.[41]

The establishment of Executive agencies within Australia's federal government follows a trend seen in other Westminster-based systems, where agency models are used to manage specific policy areas. These agencies range from well-known entities such as Services Australia, the

[39] In general, see: J. Bird, *Regulating the Regulators: Accountability of Australian Regulators*, in 35(3) *Melb. Univ. L. Rev.*, 739 (2011); E. Lindquist, A. Tiernan, *The Australian Public Service and Policy Advising: Meeting the Challenges of 21st Century Governance*, in 70(4) *Aus. J. of Pub. Adm.*, 237-250 (2011).

[40] See: A. J., Brown, J.A. Bellamy (Eds), *Federalism and Regionalism in Australia. New Approaches, New Institutions?*, Canberra, 2006.

[41] See: J. Bannister, A. Olijnyk, S. McDonald, *Government Accountability: Australian Administrative Law*, Cambridge, 3rd ed, 2023; A Bruce, *Australian Competition Law*, New York, 4th ed., 2021.

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Australian Taxation Office (ATO), and the Commonwealth Scientific and Industrial Research Organization (CSIRO), to specialized regulators like the Australian Prudential Regulation Authority (APRA) and Australian Competition and Consumer Commission (ACCC). By design, each agency focuses on a particular policy area, operates with expertise, and maintains some level of independence from political interference, allowing it to carry out functions efficiently and with a focus on long-term goals.[42]

The independence and specialization of Executive agencies provide several advantages. They allow the government to achieve a high level of technical expertise and operational flexibility, particularly in areas such as public health, social security, financial regulation, and scientific research. Further, agencies with dedicated regulatory powers, such as APRA and ACCC, contribute significantly to maintaining the integrity of Australia's financial and consumer markets. Agencies like the Australian Electoral Commission (AEC) also play crucial roles in safeguarding democratic processes, reinforcing the importance of agency models in Australia's federal system.

Several Australian Executive agencies are often cited as examples of effective administration and public service delivery. Centrelink, which was an agency in its own right from 1997 to 2011 but is now a program within Services Australia, has been cited in these terms for its critical role in administering social welfare payments, supporting vulnerable Australians, and assisting during times of national crisis, such as natural disasters and economic downturns. Despite facing operational challenges due to high demand and structural complexities, Centrelink's ability to respond to changing needs—particularly evident during the COVID-19 pandemic—has been seen as demonstrating its value. During the pandemic, Centrelink rapidly expanded its services to deliver emergency payments, helping millions of Australians and showcasing the agency's adaptability and resilience.[43]

Centrelink and its host agency Services Australia, which was until 1 February 2020 the Department of Human Services, are however at the epicentre of the recent "Robodebt" scandal, which is increasingly acknowledged as the most notorious failure of modern Australian public administration.[44] The Robodebt scheme involved more than 400,000 debts automatically raised against individual recipients between 2016 and 2019, following a process of 'income averaging' that was ultimately conceded by government to be wholly unlawful. While the scheme was approved at the highest levels of government, it had originated within the Department of Human Services. The replacement of that department with an Executive

[42] See: Australian Public Service Commission (APSC), *State of the Service Reports*, at https://www.apsc.gov.au.

[43] See: A. Stone, J. Forrest, *Australia's Distinctive COVID-19 Response. National Report on Australia*, in A. Vedaschi (ed.), *Governmental Policies to Fight Pandemic. The Boundaries of Legitimate Limitations on Fundamental Freedoms*, Leiden, 2024, 589–610. On Centrelink, in general, see: J. Halligan, J. Wills, *The Centrelink Experiment: Innovation in service delivery*, Canberra, 2011; D. Rowlands, *Centrelink: Agencification in the Australian Public Service: The Case of Centrelink*, Riga, 2010. See also: M. Considine, *The Careless State: Reforming Australia's Social Services*, Melbourne, 2022.

[44] See: *Report of the Royal Commission into the Robodebt Scheme*, 7 July 2023.

agency happened in 2019, after the key failings of the Robodebt scheme had been publicly exposed, but the scheme was not closed down altogether until mid-2020. The reputation of the "new" agency has also suffered through its association with initiatives seen as embedding systemic discrimination against Indigenous Australians through "welfare conditionality" initiatives like the Cashless Debit Card (CDC).[45]

The CSIRO is another high-performing agency, known for its contributions to scientific research and innovation, which has attracted significantly less controversy. As Australia's national science agency, CSIRO conducts research across various sectors, including agriculture, health, and the environment. Its breakthroughs, such as the development of Wi-Fi technology and ongoing research in renewable energy and climate change, underscore its effectiveness. CSIRO's work has not only provided substantial economic and social benefits but also positioned Australia as a global leader in innovation and applied sciences.

Another is the Australian Competition and Consumer Commission (ACCC), which is responsible for enforcing competition and consumer protection laws, and therefore critical in promoting fair trade and competition within the Australian market. By regulating industries, investigating anti-competitive behavior, and protecting consumers, the ACCC aims to maintain trust in Australia's economy. Its regulatory efforts in sectors such as telecommunications, energy, and digital platforms have reinforced its reputation as a robust and effective agency. Recent interventions in cases involving major tech companies demonstrate its role in addressing complex modern issues.[46]

While many Executive agencies perform well, others face challenges, criticisms, or allegations of inefficiency, at or even above the level of criticisms directed to Services Australia. Issues often stem from insufficient oversight, operational complexity, or perceived misalignment with public expectations.

The Australian Taxation Office (ATO), which plays an essential role in the Australian economy by collecting revenue and enforcing tax laws, has faced criticism for its handling of disputes with small and medium-sized enterprises (SMEs) and for allegedly aggressive tax recovery methods. Cases of perceived overreach and bureaucratic rigidity have led to a strained relationship with some segments of the public, raising questions about transparency and proportionality in its operations. Furthermore, complex tax regulations have increased the compliance burden on individuals and businesses, highlighting the need for clearer, simpler processes.

The National Disability Insurance Agency (NDIA), responsible for administering the National Disability Insurance Scheme (NDIS), has also faced sustained criticism. Issues such as delays in service delivery, inconsistencies in funding allocations, and a complicated application process have sparked concerns among disability advocates and recipients. The NDIS

[45] See: S. Bielefeld, *Digitalisation and the Welfare State – How First Nations People Experienced Digitalised Social Security under the Cashless Debit Card*, in 60(3) *J. of Sociology*, 599-617 (2024).
[46] See: L. Harding, J. Paterson, E. Bant, *ACCC vs Big Tech: Round 10 and Counting*, in *Pursuit* (2022).

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has been plagued by administrative bottlenecks and has struggled to keep pace with the rising demand for disability services, highlighting the limitations of the agency model in addressing deeply personal and complex needs.

More recently the Australian Federal Police (AFP) has also faced scrutiny for its handling of certain politically sensitive investigations and its treatment of Indigenous Australians. A series of 2019 raids on journalists' offices raised acute questions about the balance between national security and the rights of a free press,[47] while more recent allegations of racism in front-line policing in the Northern Territory have attracted significant media attention and concern.[48] More generally, the AFP's progressively expanding remit and powers have sparked debate over accountability, especially given the sensitivity of its operations, with critics calling for increased oversight mechanisms.

Given the growing complexities and criticisms associated with Executive agencies, reform has been a recurring topic in Australian public discourse. As exemplified by the findings of the Robodebt Royal Commission in 2023, proposals for reform focus on increasing transparency, simplifying administrative processes, enhancing citizen engagement, and improving inter-agency coordination.

One consistent theme is simplifying the legislative framework governing Executive agencies. For instance, calls for tax reform have highlighted the need to reduce the complexity of tax laws, making compliance easier for individuals and businesses alike. Similarly, streamlining the NDIS's regulatory requirements could improve access and efficiency for those reliant on its services. Simplifying legislation would involve reducing bureaucratic procedures and ensuring that legal frameworks remain clear and user-friendly, minimizing administrative burdens and potential for confusion.

Strengthening oversight and accountability remains another crucial area for reform. Establishing independent bodies, such as the long-awaited National Anti-Corruption Commission, or enhancing the powers of existing ones, such as the Australian National Audit Office (ANAO), is an important step in ensuring that Executive agencies remain transparent and accountable to the public. Enhanced parliamentary scrutiny, particularly through specialized committees, could also offer regular assessments of agency performance and address concerns related to overreach or inefficiency.

Another area for improvement is fostering more robust citizen engagement within Executive agencies. Agencies like Services Australia, the NDIA, and the ATO would benefit from increased efforts to solicit and integrate feedback from service users. For example, developing accessible digital platforms where citizens can communicate concerns, access services, and offer feedback could significantly enhance transparency and improve public trust. Many advocates suggest adopting a "customer-centric"

[47] See: R. Ananian-Welsh, *The 2019 AFP Raids on Australian Journalists*, in *Press Freedom Pol. Pap. Background Briefing* 1 (2020).
[48] See: Office of the Independent Commissioner Against Corruption NT, *Investigation Report: Operation Beaufort*, November 2024.

approach, ensuring that services are designed with user needs and experiences in mind.

Australia's Executive agencies often operate in silos, even when addressing overlapping issues, such as healthcare and social services. This siloed approach can lead to inefficiencies and redundancy, particularly when agencies fail to coordinate efforts. Reform proposals have included promoting inter-agency task forces or shared data systems to improve information flow and streamline service delivery, although there is increased sensitivity about automated systems in the wake of Robodebt.[49] A coordinated response, particularly in areas such as emergency management and social welfare, could improve the efficiency and effectiveness of government services.

Transparency in regulatory practices, especially for agencies like the ATO and ACCC, is essential to address public concerns about fairness and impartiality. Proposals for reform in this regard include making decision-making criteria and enforcement guidelines more accessible to the public. Regular publication of performance metrics and decision outcomes could foster greater accountability and mitigate perceived conflicts of interest.

The role of Executive agencies in Australia's federal system will likely continue to grow, as they address increasingly specialized and complex policy challenges. However, their success depends on balancing autonomy with accountability, as well as ensuring that agency operations remain transparent and aligned with the public interest.

3. The Australian Government within the emergence of Executives in democracies

The past three decades have marked a global shift in democratic governance, with the Executive branch increasingly becoming the central actor in setting political agendas, shaping policies, and directing governance. This trend has been particularly noticeable in parliamentary systems, where the traditional balance of power has gradually tilted towards the Executive. In Australia, as we have seen, this trend has materialized in the strengthening of the federal Executive's power and influence over both the legislative process and intergovernmental relations. The Prime Minister and Cabinet, historically constrained by a combination of constitutional limitations, parliamentary scrutiny, and the federal structure, have increasingly taken on a dominant role in decision-making and governance. The development reflects not only shifts in the domestic political landscape but also broader trends across parliamentary democracies where the Executive has assumed a more decisive role in guiding national policy and responding to crises.

In line with global trends, the role of the Prime Minister in Australia has grown significantly over the past few decades. As we have seen, although Australia's Constitution does not explicitly mention the position of Prime Minister, the role has evolved through conventions inherited from the

[49] For Australian attitudes to automation in government generally, see: J. Boughey, K. Miller (Eds), *The Automated State: Implications, Challenges and Opportunities for Public Law*, Alexandria, 2021.

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British Westminster system. The Prime Minister has gained considerable autonomy and influence, transforming the role into a central authority in Australian governance.

The increase in the Prime Minister's power is partly due to the growing concentration of decision-making and resources within the Prime Minister's Office (PMO), which has strengthened the Prime Minister's ability to direct national policy and manage intergovernmental relations. Additionally, the global rise of media-driven politics has reinforced the prominence of the Prime Minister, as contemporary governance increasingly centers on individual leaders' visibility and charisma.

This Executive dominance has implications for parliamentary oversight and democratic accountability. Additionally, the use of "tied grants" and financial incentives by the federal government has allowed—as we have seen—the Executive to exert influence over states' policies, further enhancing its authority. By attaching conditions to federal funding, the Executive has successfully directed state-level initiatives in health, education, and infrastructure, effectively consolidating power at the federal level.

Obviously, crises have historically catalyzed the expansion of Executive power, and Australia's experience is no exception. The 2008 global financial crisis and later the 2020 COVID-19 pandemic are notable examples that highlight the Executive's central role in managing national emergencies. However, increased reliance on Executive authority also raised concerns about democratic accountability, as the rapid implementation of policies often bypassed traditional legislative processes, permitting the expanding role of federal agencies and administrative power. In fact, in addition to the Executive's growing influence, federal agencies have become increasingly powerful tools for implementing policies and managing public services, granting the Executive indirect control over critical economic and social sectors. This trend aligns with the global rise of administrative power, where Executive agencies take on quasi-legislative and quasi-judicial roles. While these agencies enhance the government's efficiency in addressing complex issues, they also operate with a degree of autonomy that may reduce transparency and accountability. Critics argue that the delegation of regulatory authority to agencies can undermine democratic principles, as these entities often lack direct accountability to the electorate.

Overall, the rise of the Executive as the primary driver of governance has redefined democratic systems globally, and Australia's experience reflects this broader trend. The constitutional interpretations and practical adaptations that have expanded the federal Executive's power underscore, as we have said, a shift toward centralized, Executive-led governance.

4. Some concluding remarks

In summary, reflecting on the evolution and trends in Australian government over the past thirty years, particularly the dynamic between the Executive and legislative branches, highlights the resilience of Australia's constitutional framework. This adaptability has allowed it to respond to new challenges while preserving the balance between federal and state powers.

Australian governance will likely continue to evolve, ensuring that the system remains responsive to the needs of a diverse and dynamic society.

However, as we have seen, significant challenges have surfaced in recent years that impact the system's efficiency and effectiveness. The increasing complexity and layered structure of governance risk causing inefficiencies, particularly as decision-making and policy implementation slow due to coordination difficulties among various departments and agencies under the direction of the Executive. At the same time, the struggle to sustain meaningful political participation and representation for all citizens has intensified, along with the challenge of upholding clear transparency and accountability in democratic processes. This shift has underscored the need for a renewed emphasis on Parliament as the central arena for government scrutiny and the articulation of political priorities, as well as the importance of the High Court's independent constitutional supervisory jurisdiction. Failing to achieve this rebalancing could erode the essential elements that uphold public trust, potentially straining the integrity and responsiveness of Australia's governance structure.

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