CHAPTER 1

COUNTRY OVERVIEW

Each of the countries surveyed in this book should first be understood in the context of their governance systems. This means looking at the constitutional underpinnings; the relationship between the executive, legislature, and judiciary; and the nature of territorial governance (federalism, centralism, and other models). There are a number of excellent texts focusing on particular countries' governance systems that can provide the reader with a comprehensive understanding of these countries. The goal here is not to repeat those efforts but rather to focus on governance within the homeland security sphere. At the same time, it is important to establish some very basic knowledge of the governance systems of the countries to be surveyed in order to provide the legal, political, and institutional context within which to look at homeland security policies. The following is therefore a highly abridged overview of the countries to be focused on in the survey. These are Israel, the United Kingdom, Canada, Australia, Germany, France, the Netherlands, Italy, and Japan.

STATE OF ISRAEL (*MEDINAT YISRAEL*)

Israel is a small country with a total area of 22 072 km^2 (approximately the size of the American states of New Jersey or Massachusetts). It has a population of 8.68 million inhabitants (75% Jews and 21% Arabs, the remainder of the population consisting of small minority communities – non-Arab Christians, Bahai'i, Circassians, etc.). It also controls, but has not annexed, a large section of the West Bank and has annexed the northern, southern, and eastern sections of the city of Jerusalem and the Golan Heights (all of these territories were conquered during the Six-Day War of 1967). Most of the population

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MAP 1.1 Map of Israel.

lives in the temperate central and northern 40% of the country (which enjoys a Mediterranean climate) with most of the desert regions of the south sparsely populated. The topography varies from rocky and partially wooded hills in the north and east to sandy coastal plains in the west and to rugged desert hills in the south. Israel is a highly urbanized country with 92% of the population living in towns or cities, and 82% of the workforce employed in service industries, 16% in heavy industries, and only 2% employed in the agricultural sector. The leading sector in the economy is the hi-tech sector, and Israel is one of the world's leading producers of computer software, communications technology, avionics, and medical electronics.

The State of Israel was declared on 14 May 1948 upon expiration of the British Mandate for Palestine. The new state, however, did not appear in a vacuum and was established upon a foundation of three decades of nation-building and institution-building by a largely autonomous Jewish community (known in Hebrew as the *Yishuv*) operating under the administration of the British Mandate for Palestine. This incubatory period made it possible for the new state to come into existence with surprisingly robust and tested democratic institutions and traditions. In fact, it is quite remarkable that Israel was able to maintain an unbroken record of democratic rule throughout the years given the significant security challenges that if faced, including no less than seven full-scale wars as well as several additional significant military operations and long periods of dealing with intensive terrorist campaigns.

Israel is a parliamentary democracy and thus follows the principle of "responsible government" (in that the executive branch, known as the "government," is responsible to parliament and can be replaced by it). This means that the government must enjoy the support of the majority of the parliament (or, at the very least, avoid being voted out by a majority of the parliament), and the parliament has the power to unseat the prime minister and the rest of the cabinet if they lose majority support in the

Figure 1.1 Israeli parliament building. Credit: Roman Yanushevsky/Shutterstock.com.

parliament (usually via a parliamentary procedure known as a "vote of no confidence"). The upshot is that in such systems, the parliament is not only responsible for passing legislation but is also responsible for creating governments (cabinets). All of the countries surveyed in this book are parliamentary democracies of one sort or another, the only exception being France, which has a hybrid, or semipresidential, system. Indeed, while it may seem strange to American readers, the presidential system employed by the United States (in which the executive branch is independent of the legislative branch) is rare among democracies and largely confined to the Western Hemisphere. In a parliamentary system like Israel's, the government, that is, the ministerial level of the executive branch (the cabinet), is created from the legislature (the parliament) so that the prime minister and the other cabinet ministers are also members of parliament (MPs) – in some systems, all cabinet members must be MPs and in others only some are MPs, while in yet others cabinet ministers cannot be MPs. In the Israeli case, at a minimum, the prime minister and half of the cabinet must be MPs, but, in practice, the vast majority of (and often, all) government ministers are also MPs. In a parliamentary system, the prime minister is not elected directly but rather is elected to parliament (either by representing a voting district or, as in the Israeli case, by running at the head of a party list of candidates), and those cabinet ministers who are also MPs are also similarly elected to parliament (with the non-MP ministers appointed by the prime minister). Consequently, in the Israeli system, as in other parliamentary democracies, there is no constitutional separation between the executive and legislative branches. Most parliamentary systems comprise a bicameral parliament (two legislative houses), but Israel has a unicameral parliament – called the *Knesset*. The *Knesset* consists of 120 MPs (known as MKs [members of Knesset]), and the prime minister and the vast majority of his/her cabinet members are among those 120 members (with each enjoying one vote).

As noted above, all Israeli MKs are voted in by party list as there are no voting districts in Israel (or rather, the country is one voting district). This system of election is known as "proportional representation" and is quite rare among parliamentary systems – most of which employ some version of the "winner-take-all" system in which the candidate with the most votes (though not necessarily a majority of votes) in any given voting district is elected to represent that district (the British, using a horse racing metaphor, refer to this as "first-past-the-post"). In many ways, the proportional representation system is very democratic in that it essentially means that the leaders of smaller parties that represent only a fraction of the voters are able to achieve parliamentary office and thus, at

least theoretically, represent the views and preferences of those voters. Thus, whole swaths of minority opinion can enjoy representation, whereas in a "first-past-the-post" voting system like that of the United States, voters who supported candidates and parties that only garner a fraction of the votes are essentially ignored. This is one of the reasons that such systems tend to have fewer candidates from non-mainstream parties achieving a place in the legislature. If the United States, which has a "winner-take-all" system, were to hypothetically institute a proportional representation voting system, one can be certain that Congress would include a wide variety of parties and the effective two-party monopoly of power that exists today would be challenged and probably broken down over time. One of the downsides, however, of this voting system is that it often affords small parties and their leaders (that represent a political minority of one kind or another) the power to impose themselves on the majority (something that is not terribly democratic). As a result of the proportional representation voting system, and in view of the deep divisions in the Israeli body politic, elections for the *Knesset* produce a very large number of parties. At the time of this writing, the current *Knesset* membership (the 20th *Knesset*, voted in on 17 March 2015) belongs to no less than 10 separate political parties with the largest party, the *Likud* holding 30 seats and the second largest party, the *Zionist Camp*, which heads the opposition, holding 24 seats. Since a government (that is, the prime minister and the other members of the cabinet, who are collectively tasked with running the executive branch) can only be voted in with a majority in the *Knesset*, this means that the *Likud* is 29 seats shy of enjoying a slight majority in the *Knesset* (61 seats, of course, being needed for a minimal majority).

This current distribution of seats in the Israeli parliament is not unique. No Israeli political party has ever come close to enjoying a majority in the parliament, and consequently all Israeli governments are formed through an alliance (or "coalition") of parties elected to the *Knesset*. The current government (Israel's 34th) is made up of six parties, the largest and central one being the party of Prime Minister Benjamin Netanyahu, the *Likud*. Since the *Likud*, however, is far from enjoying a majority in parliament, Netanyahu must ensure the integrity of his coalition and this means that he, or any Israeli prime minister for that matter, must compromise and share power in a manner that would be quite foreign to a US president. Unlike a US president, who is voted in for a 4-year term and cannot be dislodged during that period (except if he/she is impeached), an Israeli prime minister can lose his/her job if a majority of the members of the *Knesset* decide to vote against the government and support an alternative leadership in what is referred to as a "constructive

vote of no confidence." This means that the prime minister must keep his coalition partners happy (as well as *Knesset* members from his own party) as a decision on the part of enough parties or individual *Knesset* members to stop supporting the government could lead to the passage of a vote of no confidence and the downfall of the government.

In parliamentary systems, the cabinet as a whole makes policy and the prime minister is not the chief executive and commander-in-chief, as is the US president, but rather *primus inter pares* (first among equals) in the collective decision-making of the cabinet. In parliamentary systems in which one party enjoys a majority in the parliament, the prime minister (who is head of his/her party) is in a much more powerful position than in countries, such as Israel, in which rule is by coalitions of parties. Nevertheless, even in systems in which one party enjoys a clear majority in the parliament, the prime minister does not enjoy a separate status, similar to that of the president of the United States, since prime ministers are not voted in directly and their status is dependent on the maintenance of the domination of their party (or coalition of parties) over the parliament. Moreover, prime ministers must act in the context of the cabinet with a majority vote in the cabinet a prerequisite for all important policy issues.

Parliamentary democracies also maintain a separation between the functions of "head of state" and "head of government" (whereas, in the United States, these functions are amalgamated in the person of the president of the United States). As Israel is a republic, the head of state is the president, whose role is almost entirely ceremonial. The Israeli president's only substantive powers are confined largely to the right to commute the sentences of convicted criminals or pardon them (and this only at the recommendation of the Ministry of Justice). The president is supposed to be "above" politics and act as a unifying figure – though the latter never really happens as most Israelis do not put much stock in the Israeli presidency and usually ignore it.

The realities of coalition politics sometimes make Israeli cabinets chaotic, and Israeli prime ministers often have to act more as consensus builders than leaders in order to keep together coalitions of parties with different agendas and ideologies. One of the repercussions of this need to maintain coalitions is that long-range planning is highly difficult as Israeli cabinets do not always last for their entire 4-year term (when they do not, this is usually because coalitions disintegrate and this leads to a loss of support in the *Knesset*, which usually results in the calling of early elections rather than a vote of no confidence), and the prime minister must be careful not to be seen as supporting positions that might irrevocably alienate his or her coalition partners in the cabinet, causing them to leave the government

and vote against it in the *Knesset*. This also means that the prime minister cannot use the cabinet as a true decision-making and deliberation body because the cabinet is stacked with his/her political rivals, both in the prime minister's own party and among the prime minister's coalition allies (Freilich, 2006, pp. 639–640, 645–646).

Unlike the linkage between the executive and legislative branches that exists in Israel and other parliamentary democracies, the court system in Israel is independent of these other institutions (as is usually the case in other parliamentary systems). While Israel has a number of specialty courts that deal with things such as municipal issues, labor disputes, traffic violations, small claims, family disputes, juvenile criminality, personal law matters that fall under the purview of religious courts, and a military justice system (more on this in a subsequent chapter), the primary court system has three tiers and is responsible for dealing with both criminal and civil cases. The lowest level of courts in this system is the magistrate courts (*Betei Mishpat Ha'shalom*), of which there are currently 26, which generally deal with criminal offenses punishable by incarceration of up to 7 years

Figure 1.2 Inner courtyard of the Israeli Supreme Court building. Credit: Corky Buczyk/Shutterstock.com.

and a range of civil issues. These courts are overseen by a single judge, and there are no juries in this or any other court in Israel. The next level is the district courts (*Betei Mishpat Mehozi'im*), of which there are five. These deal with more serious criminal cases and more monetarily significant civil cases and also act as an appellate court for cases previously tried in magistrate courts. Many of the cases heard in these courts are presided over by a single judge, but appeals and very serious cases are handled by a panel of three judges. The highest legal body in Israel is the Supreme Court (*Beit Mishpat Ha'elyon*), which usually consists of 12–14 justices (the number is set by the *Knesset*). The Supreme Court acts as the supreme appellate court (cases are usually heard by a panel of three justices though the president of the Supreme Court can create a larger odd-numbered panel for specific cases). In addition, the Israeli Supreme Court acts as a High Court of Justice (known in this context by the acronym *Bagatz – Beit Mishpat Gavoha Le'tzedek*) in exercising judicial review of government policies and the actions of official bodies and, on rare occasions, in annulling legislation passed by the Knesset. Unlike the US Supreme Court, the Israeli Supreme Court receives petitions from citizens and noncitizens requesting rulings on matters related to public policy independent of specific judicial cases and frequently intervenes and issues rulings forcing the government to modify or abandon certain policies. For example, in the counterterrorism and security context, the Court ruled on two separate occasions (in 2004 and 2005) that the government must change the route of the fence and wall security barrier Israel built in the West Bank in order to lessen the negative impact on Palestinian civilians living near specific sections of the fence, despite arguments made by government attorneys with respect to the importance, from a security perspective, of maintaining the existing routes of the fence.

In this context, the Israeli Supreme Court may be thought of as one of the most powerful courts in the world and one of the primary guarantors of civil liberties in Israel. This is particularly so given the fact that Israel, like the United Kingdom, lacks a formal constitution against which legislation or the policies of government can be compared. While incorporating elements of other legal traditions, Israel's court system is still fundamentally based on common law, and consequently precedents established in higher courts are binding on lower courts (a principle known as *stare decisis*).

Israel's small geographic size also causes it to be unique among the countries surveyed in terms of the manner in which governance occurs across the national territory. Israel and France alone among the countries surveyed have a highly centralized form of government, but France, which

is significantly larger and more populous than Israel, divides its territory into prefectures with officials appointed by the central government overseeing each prefecture in the name of the central government in Paris. Israel has no such administrative divisions as the national territory is very small, and appointing governors, prefects, county supervisors, and the like would make little sense. Accordingly, Israel has a central government (based largely in the capital, Jerusalem – though the Ministry of Defense is based in Tel Aviv), which holds considerable power and comparatively weak local governments (in the form of municipalities for cities, local councils for towns, and regional councils for rural areas). The vast majority of policing functions, for example, are centralized with one national police agency under the direct control of the central government and having law enforcement authority throughout the country. In this sense, one could argue that Israel is an example of the most centralized country within our survey (with Germany arguably being the least centralized, though Canada and Australia have highly federalized, and thus diffuse, systems as well). While the role of local government has grown in Israel over recent years (in matters of policing, to use the previous example, municipal inspectors have been given some limited police powers [see Chapter 3]), the lion's share of policy issues are still handled at the central government level. The small geographic size and small population of the State of Israel mean that only national-level agencies have the budget, personnel, and clout to design and implement most homeland security policies.

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

The United Kingdom has a territorial area of 243 610 km^2 (roughly the size of the US state of Oregon) and a population of just over 65 million people. Approximately 90% of the population lives in cities or towns. Close to 84% of the UK population is ethnically English with close to 9% ethnically Scottish, 5% ethnically Welsh, and 3% Northern Irish. In addition approximately 8% of the population originally hails from areas outside the British Isles. The climate is generally wet and overcast, and the topography varies from rugged mountains and hills in the north and west to rolling plains in the south and east. Industrial activity takes up some 24% of the economy, but the bulk (75%) of economic activity is in the service sector with the United Kingdom being one of the world's leading financial centers and enjoying one of the four largest economies in Europe.

Of the countries surveyed in this book, the United Kingdom has the longest tradition of parliamentary rule. It is not, however, a republic (as are Israel, France, and Germany) but rather, as its name suggests, a constitutional

MAP 1.2 Map of the United Kingdom.

monarchy in which the head of state is a hereditary monarch (that same monarch, Queen Elizabeth II, also reigns over Canada and Australia). Much of English history involved a tug-of-war between the Crown, desiring to maintain royal prerogatives, and Parliament, desiring to increase its share of power. Ultimately, Parliament was largely victorious in this contest, but the Crown was able to retain some significant residual powers (known as the "royal prerogative"). Those powers include the power to enter into international treaties, the power to declare war and peace, the power to summon and to dissolve Parliament, the appointment of a government (cabinet), and the power to commute sentences or grant pardons (Barnett, 2002, pp. 8–9). Perhaps even more significantly, the Crown must assent to any bill passed by Parliament before it can become law. While these powers appear very impressive on paper and, indeed, appear to be at odds with many of the principles of democracy, there are strong conventions in place that regulate these powers. These conventions, while they do not enjoy the status of legal requirements, are extremely binding nonetheless. For example, while the Queen could theoretically reject a bill passed by

Figure 1.3 British Houses of Parliament. Credit: Richie Chan/Shutterstock.com.

Parliament, this would in fact be the first time since 1707 that a British monarch would have done so, and this would unquestionably precipitate a serious constitutional crisis that would likely result in the significant curtailment of royal powers. Consequently, the monarchy cannot really exercise many of the significant powers that it theoretically enjoys. Moreover, most of these prerogative powers are no longer exercised by the Crown but rather by the government in the name of the Crown (powers of war and peace, the signing of international treaties, decisions on dissolving Parliament in order to call new elections, etc.), and it is generally understood that the Crown will assent to whatever the government requests of it. Beyond this, it is generally accepted that if Parliament passes a law regarding a particular matter, that issue will then be dealt with according to that Act of Parliament rather than government determining how the issue will be handled based on the powers it enjoys under the royal prerogative (Barnett, 2002, p. 10).

Unlike Israel, the United Kingdom has a bicameral parliament with two houses: a lower house (the House of Commons) and an upper house (the House of Lords). This bifurcation of Parliament (not unlike the rationale behind the creation of the more exclusive upper house of the US Congress) was originally designed, at least in part, to allow the nobility operating through the House of Lords (whose membership was once largely

hereditary but is now largely appointed) to maintain their historic prerogatives and to act as a limitation on the "excitability of the masses" as reflected through the House of Commons. The poet Samuel Taylor Coleridge reflected this viewpoint when he noted:

> You see how this House of Commons has begun to verify all the ill prophecies that were made of it – low, vulgar, meddling with everything, assuming universal competency, and flattering every base passion – and sneering at everything noble refined and truly national. The direct tyranny will come on by and by, after it shall have gratified the multitude with the spoil and ruin of the old institutions of the land.
>
> (Coleridge, 1833)

As of 2017, there were 806 peers in the House of Lords (membership fluctuates). Ninety-one of those with voting rights are hereditary peers, and the institution still contains 25 senior clergy of the Church of England as well as a large number of "life peers" (69) appointed for life by the Prime Minister. Given that the House of Lords also plays an important judicial role, it also includes in its membership up to 28 senior judges (including the Lord Chancellor, who heads the judicial branch, being also a member of the Cabinet and acting as Speaker of the House of Lords). The House of Lords is thus a nonrepresentative parliamentary body. Interestingly, members do not receive a salary for serving on this body, and this is consequently not a professional body with attendance being ultimately at the discretion of the individual. In the legislative process, the Lords have the role of scrutinizing legislation passed by the Commons and often improve upon legislation that is sometimes hurriedly passed by the Commons (Watts, 2006, p. 70). They can also delay the passage of a bill from the Commons (though only temporarily) and can also generate bills for the consideration of the Commons (approximately a quarter of bills passed by Parliament are initially drafted in the Lords). Consequently, while the basis for membership of the House of Lords is undemocratic in the sense that the Lords are neither elected nor directly accountable to the voters, the fairly limited powers of this institution in the legislative process ensure that most of the power and authority lie with the elected MPs in the Commons.

As with other parliamentary democracies, the leadership of the executive branch (the Cabinet) is formed through the creation of an elected majority in Parliament (meaning in this case the House of Commons). Members of the House of Commons are elected to represent 650 constituencies in the United Kingdom and its overseas territories. Unlike the Israeli model of coalition government, the vast majority of governments in the United Kingdom have

Figure 1.4 No 10 Downing Street, residence of the Prime Minister and location of cabinet meetings. Credit: Drop of Light/Shutterstock.com.

been formed from one party, which is able to gain a majority in the House of Commons in the wake of a national election (something that is much more possible with a voting system based on candidates running in voting districts rather than party lists elected via proportional representation). Consequently a British Prime Minister generally has the luxury of not having to deal with fractious coalition partners – though he or she may be the recipient of considerable grief from party backbenchers – not unlike the position that US presidents find themselves from time to time with respect to members of Congress from their own party. As in other parliamentary systems, the Prime Minister is a member of the House of Commons, and the other ministers are also MPs (four from the Lords and the rest from the Commons), and the Cabinet makes national policy decisions as a collective body. There are also 95 additional ministers who play leadership roles in ministries and other government agencies but do not hold Cabinet rank. One other point that is interesting about the role of Parliament in the British system is that Parliament is sovereign – meaning that no court or other entity has the authority to overturn an Act of Parliament and only Parliament can overturn its legislation. Since the United Kingdom, like Israel, does not have a written constitution, there is no document to which laws must conform. Courts have the authority to rule on the manner in which the government implements legislation, and thus the principle of judicial review exists and is acted upon in the United

Kingdom, but they do not have the authority to review legislation passed by Parliament (though they can review by-laws passed by local authorities).

Unlike Israel, there is no clear separation in the United Kingdom between the executive and legislative branches on the one hand and the judicial branch on the other. As noted above, the individual who effectively heads the judicial branch, the Lord Chancellor, is both a member of the Cabinet and a peer in the House of Lords (though there are restrictions, by convention, on the Lord Chancellor's powers when fulfilling one of these roles with respect to the other functions of the office). Moreover, the 26 judges who are peers in the House of Lords (known as the Law Lords) act as the country's highest court of appeals, causing a further intertwining of the relationship between the legislature and the courts.

The United Kingdom of Great Britain and Northern Ireland consists of four "countries" (in addition to overseas dependencies), namely, England, Wales, Scotland, and Northern Ireland, which form three jurisdictions with their own court systems, these being (i) England and Wales, (ii) Scotland, and (iii) Northern Ireland. England and Wales were formally united in 1536 (though English law had been applied to Wales since 1284, 2 years after the country was conquered by England). England and Wales were united with Scotland (creating the Kingdom of Great Britain) in 1707 and with Ireland

Figure 1.5 Old Bailey London, the Central Criminal Court of England and Wales. Credit: Anibal Trejo/Shutterstock.com.

in 1800 (creating the United Kingdom of Great Britain and Ireland), but at present only six northern counties still remain part of the United Kingdom and comprise the Province of Northern Ireland. While there are differences in the terminology and function of various courts in the three legal jurisdictions within the United Kingdom, it is still possible to summarize the system in general terms. At the lowest level of the court system are magistrate courts, which are presided over by volunteer, nonlegal professionals known as "Justices of the Peace" (of which there are approximately 30 000 of these lay justices). In addition, there are 140 district judges and 170 deputy district judges who are experienced lawyers that sit in magistrate courts as salaried justices. Magistrate courts deal with minor offenses (known as "summary offenses") such as assault, vandalism, family disputes, youth issues, public drunkenness, etc. The maximum penalty that can be handed down by a magistrate court is a level 5 fine (currently a maximum of £5000 and/or a 12-month prison sentence). Serious cases (indictable offenses) are heard in Crown Courts, and Crown Courts also hear appeals from magistrate courts. Crown Court trials on serious offenses (known as "indictable offenses") involve jury trials, whereas most Magistrate trials do not involve juries. Minor civil cases (such as small claims) are initially dealt with in county courts, and more serious ones are heard by the High Court (which also hears appeals from the county courts). The High Court is divided into

Figure 1.6 Scottish Parliament Building. Credit: cornfield/Shutterstock.com.

divisions dealing with various civil issues. Civil and criminal matters may be appealed from the High Court or the Crown Courts, respectively, to the Court of Appeal (which contains both a civil and a criminal division). The Law Lords of the House of Lords act as the supreme court of appeal. As with Israel, the principle of *stare decisis* applies to English adjudication, and thus decisions by higher courts will be binding on lower courts with rulings by the House of Lords binding on all courts in the legal system except the House of Lords itself (Slapper and Kelly, 2009, pp. 4555–4570).

While the United Kingdom is an amalgamation of England, Wales, Scotland, and Northern Ireland, it does not have a federal system of government – though it is also not a centralized state in the manner of Israel or France either. In fact, the United Kingdom incorporates both very significant elements of local autonomy, separate jurisdictions, separate laws, and institutions while also maintaining a strong central government. In this respect, and in comparison with the other countries surveyed, it is somewhat of an anomaly. In addition, the relative influence of each of these "countries" differs with England, which contains some 87% of the British population, being much larger, more populous, and wealthier than the other UK "countries." In terms of ultimate power, Parliament is sovereign and its ability to legislate for the entire country is not in question (and in this sense the United Kingdom is a centralized state), but there has been a significant divestment of central government powers over the years. Moreover, MPs representing constituencies in Scotland, Wales, and Northern Ireland are able to influence national policy from the center. At the time of writing, Northern Ireland, Scotland, and Wales all have their own devolved legislatures with varying degrees of local power (England does not have such an assembly and there presently seems to be little popular desire for such a body). Wales has the lowest degree of local autonomy with the Welsh Assembly having primarily administrative and executive responsibilities, and it can only legislate with respect to the manner of implementation of legislation passed at Westminster (the district of London that contains the Houses of Parliament). Scotland and Northern Ireland enjoy far greater autonomy with their own devolved legislatures that have the power to tax and to pass legislation with respect to certain matters. Scotland, moreover, has its own legal system (based on a hybrid of common law and civil law). Finally, Greater London has, since 2000, had its own mayor and regional assembly with some degree of autonomy, and there are other forms of regional governance. As with more centralized countries, local authorities enjoy the power to tax, pass by-laws, and otherwise enjoy some limited autonomy, and policing is regionalized in the form of 41 police district-based policing organizations (more on this later). The United Kingdom thus has a system of regional governance that is

neither completely centralized nor truly federal, but the central government is considerably stronger than local governments or the governments of Wales, Scotland, and Northern Ireland.

DOMINION OF CANADA

Canada is the second largest country in the world (after Russia) with a territorial scope of almost 10 million km^2. Its population, however, is rather small being just under 36 million people (just over half the size of the UK population). Given the harsh and intemperate climate of most of the country, 90% of Canada's population is clustered in the south of the country (within 160 km of the US border), and most of the center of the country is wooded wilderness, while most of the northern third is desolate tundra with subarctic and arctic climates. Most of the population is of European origin (approximately 66%) and an additional 26% of the population being of mixed ethnic background, 2% indigenous (known in Canada as "First Nations") and the remainder from Asia, Africa, and the Arab world. In

MAP 1.3 Map of Canada.

terms of its labor force, 71% are employed in the service industries and 26% in heavy industries. Canada has an affluent economy and lifestyle with vast reserves of natural resources. Its primary trading partner is the United States, to which it sends 76% of its exports.

Canada shares much of the basis of its system of government with the United Kingdom. This is not surprising given that Canada's process of detachment from the British Empire occurred very slowly and in a piecemeal fashion. What had been six separate British colonies united and became a Dominion (a self-governing member of the Empire) in 1867 with the promulgation by London of a Canadian Constitution. The separate dominion of Newfoundland subsequently joined the Canadian federation in 1949. However, Canada only became legislatively independent of the mother country with the passage of the *Statute of Westminster* in 1931, and the British Parliament maintained the exclusive right to amend the Canadian Constitution until the passage of the *Constitution Act* in 1982 – at which point Canada is considered to have achieved complete independence from Britain in the full legal sense. Symbolically however, the Canadians have not cut their ties with the United Kingdom completely and still remain a constitutional monarchy with Queen Elizabeth II also serving as Canada's head of state.

Canada's constitution is thus based on both the 1867 and 1982 Acts. The 1982 Act also included a bill of rights known as *the Canadian Charter of Rights and Freedoms*. As Canada is a federal state, each of Canada's 10 provinces

Figure 1.7 Flags of Quebec and Canada. Credit: Jacques Durocher/Shutterstock.com.

has veto power over amendments to the Constitution. Canada also has three territories that derive their powers from the federal government – unlike provinces, which derive their legal authority from the *Constitution Act* of 1867 and are thus not legally beholden to the federal government in terms of their respective spheres of authority. The most contentious constitutional issue in Canada is that of the status of the province of Quebec and whether or not it has the legal right to secede from the Canadian federation.

In 1995, a referendum held in Quebec nearly gave a victory to separatist political forces, and the Canadian Supreme Court subsequently ruled that while it was not legal for any province or territory to secede from Canada if a "clear majority" of Quebeckers voted in favor of secession, the federal government would be obligated to enter into negations on Quebec's secession. The Court also ruled that it was up to the federal government to determine what a "clear majority" was, and this led Parliament in 2000 to promulgate the *Clarity Act*, which gave Parliament the authority to determine what constitutes a "clear majority" (Malcolmson and Myers, 2005, p. 44). Any future attempt at secession by Quebec is thus likely to be highly complicated, but that prospect seems to be receding as support for independence among Quebeckers has dropped sharply since the mid-1990s. In fact, in a 2016 poll, 82% of Quebeckers and 73% of French-speaking Quebeckers agreed that Quebec should remain part of Canada (CBC News, 2016).

Figure 1.8 Canadian parliament building. Credit: Vadim Rodnev/Shutterstock.com.

Canada has a parliamentary regime with a bicameral parliament modeled on the British Parliament, and it consists of an elected lower house (the House of Commons) and an appointed upper house (the Senate). As in the United Kingdom, the Canadian House of Commons is equated with the term "parliament" because it holds the virtually exclusive power to legislate. The Commons consists of 337 MPs, each representing a territorially based constituency (known as a "riding"), meaning that the lion's share of parliamentarians come from the most populous provinces: Ontario and Quebec. The Senate, like the British House of Lords, was an elite "club" designed to act as a break on the democratic power represented by the Commons. Unlike the House of Lords, the Senate was not made up of hereditary peers, church officials, and the like but rather senators representing provinces. At present there are 105 senators with the seats distributed by the population size of each province (Ontario and Quebec each have 24 senators, the western provinces each have six, etc.). The senators are nominally appointed by the governor-general (the Queen's representative) but, in practice, chosen by the prime minister. The Senate has legal powers similar to the Commons but, because it is an unelected body, almost never makes use of its full powers, and thus its primary role is to review bills and make suggestions for changes, and, since the middle of the twentieth century, it has been the convention that the Senate will not oppose bills that

Figure 1.9 Supreme Court of Canada. Credit: jiawangkun/Shutterstock.com.

enjoy the support of the Commons (Malcolmson and Myers, 2005, pp. 132–133). As in other parliamentary regimes, the Canadian government (Cabinet) comes to power through obtaining the support of a majority of members of the House of Commons in the wake of parliamentary elections, and, like the United Kingdom, coalition governments are rare and usually formed during times of national crisis. As with other parliamentary systems, the government determines policy as a collective body, and the prime minister and other government ministers are MPs. Since the British monarch is also Canada's monarch, the Canadian Crown exercises similar powers (again, primarily symbolic and ceremonial) in the Canadian context. However, since the Queen resides in the United Kingdom, she is represented on an ongoing basis in Ottawa by a governor-general, who exercises the royal prerogatives in the name of the Queen and is appointed by her (though on the recommendation of Canada's prime minister). The Queen is also represented in the provinces by lieutenant governors.

Since Canada has a written constitution, the judiciary, as in the United States, has the power to review legislation to determine its constitutionality, and consequently, unlike the United Kingdom, Canada's parliament does not have unchallenged sovereignty, and the Canadian judicial branch is independent of the other branches of government. As in the United States, the court system in Canada is divided between federal courts and, in the Canadian case, provincial ones with the Canadian Constitution (specifically the *Constitution Act* of 1867) empowering the provinces to establish courts. Canada's provinces thus have courts that hear both civil and criminal cases and are divided into inferior courts (such as traffic, family, or small claims courts) and superior courts, which function either as trial courts for serious offenses and significant civil litigation or as appellate courts that receive appeals from the inferior courts (also known as provincial courts) (Malcolmson and Myers, 2005, p. 150). Since a good deal of law (including much criminal law) is based on federal legislation, the provincial court system can issue rulings based on both provincial and federal law. Given the unique nature of Quebec, it should not be surprising that while all the courts in Canada's other provinces operate under common law principles, Quebec's courts adjudicate based on the French tradition of civil law. While provincial courts are independent of federal courts, the federal government is given the authority to appoint all superior court judges including those in provincial courts. This reflects the nature of the Canadian federal system, which gives precedence to the federal government in a broad array of areas.

As in the United States, Canada also has a federal court to adjudicate certain matters of federal law (which range from anti-gang legislation to

maritime law to intellectual property laws). It should be noted however that, unlike the United States, the federal government has exclusive legislative power with respect to criminal law and procedure, and consequently provincial courts can adjudicate over criminal matters, but provincial parliaments cannot pass laws with respect to such matters (UK Foreign Office, 2005, p. 6). The Supreme Court of Canada has the authority to hear appeals from the provincial superior courts and the federal court and, as noted above, possesses the power of judicial review of legislation.

Unlike the United Kingdom, Canada is a federal country created, as was the United States, through the amalgamation of individual colonies. Naturally, the circumstances surrounding the creation of the Canadian federation were very different from those relating to the creation of the American federation. In addition to having a very different attitude and relationship with Britain compared with their American cousins, Canadians (with British guidance) had to also create a system that would make it possible for the English Canadians and the French Canadians to cohabit. This necessitated a federal system in which power would be shared between the central government and the provinces (who jealously guarded their autonomy). Unlike the US federation, where power is more evenly balanced between state and federal authorities, the Canadian

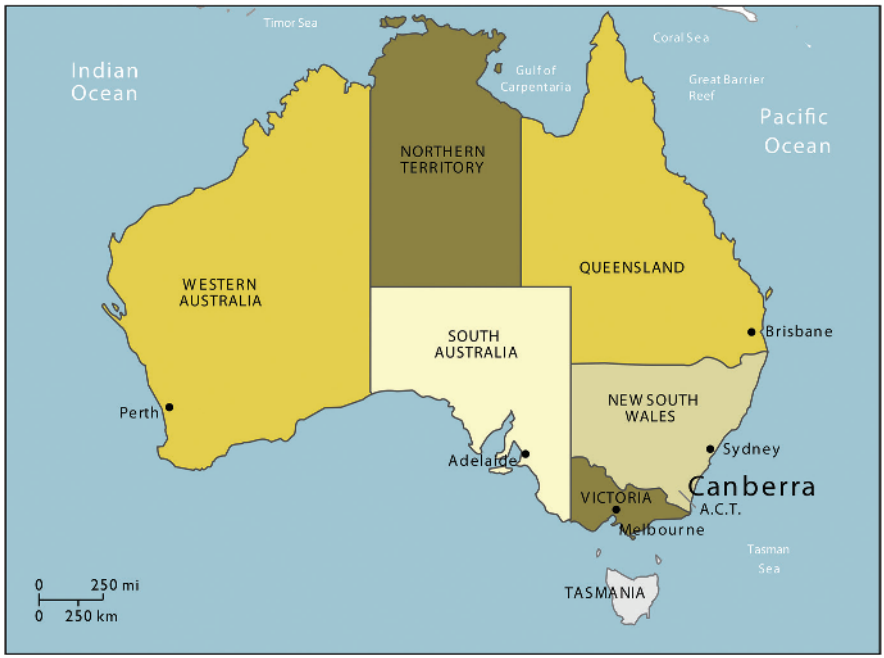
Figure 1.10 Canadian provinces and flags. Credit: cheda/Shutterstock.com.

federal government based in Ottawa is considered to be more powerful in relation to the provinces.

The Canadian Constitution gives the federal parliament exclusive control over trade and commerce and criminal law, and unlike the United States where residual powers (those not specifically granted to the federal government) are in the hands of states, in Canada the opposite is true. While in the United States federal laws are considered to supersede state law when there is a contradiction between the two, in Canada the federal government has the power of "disallowance" whereby it can annul legislation passed by the provinces even when provincial laws do not contradict federal laws (Malcolmson and Myers, 2005, pp. 71–72). In practice, however, provincial laws have not been "disallowed" since 1943, and thus this legal power is no longer exercised. Despite the constitutional dominance of the federal government, in practice governance in Canada is based largely on consultation and buy-in and, more often than not, involves cooperative ventures between the federal government and the provinces rather than a federal *diktat*, and, in this sense, Canada has become more decentralized over time. With respect to Canada's three territories (the Yukon, Northwest Territories, and Nunavut), however, their powers emanate from the federal government rather than the Constitution, and consequently they enjoy less autonomy than provinces. Thus, while the federal government does not generally interfere in areas that are seen as clearly within the competence of provincial governments (such as education), it does play this role with respect to territories. Provinces are headed by a premier and possess a unicameral legislature. Local government is run via municipalities (which can be based on cities, counties, or districts), and local governments are created by the provinces and can be dissolved by them. Thus, unlike the United States, local government does not exist as an independent power base but rather is beholden to the provincial government.

THE COMMONWEALTH OF AUSTRALIA

Australia has a total area of over 7.7 million km^2, making it the sixth largest country in the world and slightly smaller than the continental United States. It is primarily a country of low desert plateaus with the huge internal expanses (known as the "Outback") consisting of parched desert with small temperate zones in the south and east and a tropical climate in the far north of the country. Not surprisingly, the country does not support a large population, and, with some 23 million inhabitants, Australia has a population significantly smaller than Canada. Australia is highly urbanized with 89% of the population living in towns or cities. In terms of ethnicity,



MAP 1.4 Map of Australia.

75% of the population is of European origin, about 12% is Asian (including Middle Eastern), and the aboriginal population consists of less than 1% over the overall population. In terms of the workforce, some 75% are employed in the service industry and 21% in heavy industries. Like Canada, Australia has abundant natural resources (though, unlike Canada, it has severe water problems), and it enjoys a high standard of living.

There are many similarities between Canada and Australia but some important differences as well. As in the Canadian case, Australia's governance and legal systems are also based on the British model, and, as with Canada, Australia did not suddenly break with the mother country and go its own way. Australia was also formed through the creation of a federation between separate British colonies (in this case, six), though, of course, the Australians did not need to reconcile pronounced differences in language and culture between colonies as there was and is no Australian equivalent to Quebec. The Commonwealth of Australia was formed on 1 January 1901 in the wake of the passage in the British Parliament of the *Commonwealth of Australia* act in 1900. Prior to this, there had been six self-governing colonies on the Australian continent, and each colony's legislature had to vote in favor of joining the Commonwealth and to hold popular referenda on the issue.

Figure 1.11 Australian parliament building. Credit: Dan Breckwoldt/Shutterstock.com.

Like the Canadians, the Australians have a written constitution (promulgated in July 1900, which can only be revised by popular referendum), which, again as with Canada, establishes Australia as a constitutional monarchy with a parliamentary form of government and a federalist system of governance. The Australians too share the same monarch with the United Kingdom, and the Queen is represented in Australia, as in Canada, by a governor-general appointed on the recommendation of the prime minister. Finally, as with the Canadians, Australia's parliament gained full lawmaking authority in 1931 under the *Statute of Westminster*. The Australian parliament is also a bicameral legislature with a lower house (the House of Representatives) and an upper house (the Senate). MPs in the House of Representatives are elected to represent 150 constituencies that are geographically disbursed based on population. In a departure from the British system however, the Senate is also an elected body representing the six Australian states equally with 12 senators being elected for each state, two from the Northern Territory, and two from the Australian Capital Territory (Canberra and its environs). Voting for the Senate is on the basis of proportional representation, as in Israel (though in Australia, this voting occurs within each state and territory and Australians can vote either for party lists or for specific candidates), and this means that small parties have a greater chance for representation and that it is very rare for one party to enjoy a majority in the Senate. Legislation must be passed by both houses

Figure 1.12 Flags of Australian states and territories. Credit: Plan-B/Shutterstock.com.

before it can become law but most bills originate in the House of Representatives and the Senate does not have the power to block appropriation bills. The Australian legislative system thus represents a significant variance from the British Westminster model and, in fact, clearly contains elements of the American model. Nevertheless, as in other parliamentary systems, the government (cabinet) is created from the lower House and must maintain its majority in that body in order to govern. Moreover, unlike any of the other countries surveyed here, voting in Australia for federal and state/territorial legislatures is compulsory, and a small fine is levied against those who fail to vote and do not have a justifiable excuse.

In terms of federalism, the state governments are granted lawmaking rights by the Constitution, but these can be superseded by federal legislation. Moreover the federal government has exclusive powers to make laws in matters of trade and commerce, taxation, immigration and citizenship, etc. There is also a third category of powers, concurrent powers, in which both levels of government are empowered to enact legislation (examples include laws relating to insurance, banking, and regulation of businesses).

Figure 1.13 High Court of Australia. Credit: travelight/Shutterstock.com.

Any powers not granted specifically to the states or deemed concurrent powers are reserved for the federal government, and thus Australia resembles Canada in granting residual powers to the federal government. States differ from territories in terms of their degree of legislative and administrative autonomy with territories more dependent on federal legislation and governance. The Northern Territory however has full state powers and has simply retained the term "territory" in its name. Each state has its own institutions that mirror the federal ones with a governor (that acts as the local governor-general representing the Queen), an upper and lower house of parliament (except for Queensland, which has a unicameral parliament), and a premier and government.

The Australian judicial system, like its parent British judicial system, is based on common law. However, the federal nature of the state and the fact that there are three categories of law – state, concurrent, and federal – have necessitated the creation of two different court systems: state and commonwealth (federal). In the state court system, the lowest courts are magistrate courts (also known as the local courts), which handle infractions and small-scale civil issues, and magistrates are not legal professionals. Serious criminal and civil cases are handled at the state level by district courts (usually with jury trials), and each state has a Supreme Court that acts as the highest appellate court. At the federal (commonwealth) level, the High Court of Australia oversees the

federal court system and acts as the highest appellate court – in addition to fulfilling the function of judicial review with respect to the constitutionality of legislation passed by parliament. The High Court also rules on appeals from state Supreme Courts and can overturn decisions made by state courts. Below the High Court within the commonwealth court system are the Federal Court of Australia, the Federal Magistrates Court of Australia, and the Family Court of Australia (these courts deal primarily with matters of bankruptcy, discrimination, trade practices, privacy rights, industrial law in the case of the first two, and family-related matters with respect to the latter). State courts deal with matters arising under both state/territory law and federal law.

THE FEDERAL REPUBLIC OF GERMANY (*BUNDESREPUBLIK DEUTSCHLAND*)

Germany is just over 357 000 km^2 in size, making it one of the largest countries in Europe and slightly smaller than the US state of Montana. Its topography consists primarily of fertile plains and woodlands in the center and north and the Alps in the south, and its climate is temperate and marine. As with the United Kingdom, this hospitable climate has resulted in a large population comparative to its size, and Germany today has just over 82 million inhabitants (thus making it the most populous country in Europe). The population, of which 74% live in cities or towns, primarily consists of people of German ethnic origin (approximately 92%) with the remainder of southern or eastern European origin and just over 2% of Turkish origin. Germany has a significant industrial sector (almost 25% of the workforce is employed in heavy industries) with just over 74% in the service sector. It is the economic powerhouse of Europe and possesses the world's fifth largest economy with a highly skilled workforce and a sophisticated, export-based industrial infrastructure.

While every country's political and legal systems are a product of its past, that of Germany is particularly so given the profoundly negative effect that the totalitarian Nazi regime had on Germany (not to mention the rest of Europe). Moreover, the Allied occupation of Germany at the end of the Second World War resulted in the imposition of a democratic regime in Western Germany with the creation of the Federal Republic of Germany in 1949, as opposed to the organic development of law and government that occurred in most of the other countries in our survey (with the additional exception of Italy and Japan). Germany, of course, had its own democratic traditions dating back to the period of the ill-fated Weimar Republic (1918–1933), but many of these were more relevant as examples to avoid rather than being a strong basis for the formation of a stable and long-lived

MAP 1.5 Map of Germany.

Figure 1.14 Monument to Konrad Adenauer, the first chancellor of the Federal Republic of Germany. Credit: Matyas Rehak/Shutterstock.com.

democracy. Germany had a longer history with respect to the antecedents for federalism and, in particular, local independence, as the German state had only come into existence in 1871 and was preceded by a wide range of independent German states of various kinds that existed since the onset of the medieval period.

The current German political system and constitutional order (which was extended to the formerly Marxist East Germany with the unification of the two German nations in October 1990) is based on the German Constitution, the *Grundgesetz* (Basic Law). The Basic Law enshrines the principles of democracy, federalism, and constitutional rule in which all governing bodies are subject to judicial review and control. The creation of a judiciary with the power to oversee actions by the executive and legislative branch and a strong federalist system were seen as important power balancers that would prevent the aggrandizement of power at the executive level in a way that had brought about the collapse of the Weimar Republic and the rise of the Third Reich. One feature of the Basic Law is the "eternal character" of its primary principles, which are basic democratic rights,

Figure 1.15 *Bundestag*. Credit: M Dogan/Shutterstock.com.

federalism, and the welfare state. This means that amendments to the Basic Law, or even the writing of a new constitution at some future date, cannot abrogate these basic principles. The Basic Law also requires that political parties that run for public office accept democratic values. This means that the federal government can petition the Federal Constitutional Court for a ban disallowing any party to run for public office on the grounds of that party adhering to antidemocratic principles.

As is the case with the other countries surveyed above, Germany has a parliamentary form of government (though it is a republic, like Israel, rather than a constitutional monarchy). Also, similar to Israel, German governments are formed through coalitions of parties rather than by one party with a majority in parliament, and there has only been one case in the last 56 years in which one party was able to obtain a majority in parliament. Germany has a bicameral parliament with a lower house (the *Bundestag*) and an upper house (the *Bundesrat*), with the upper house, as in Australia, reflecting the federal nature of the country as *Bundesrat* members are representatives of state governments. As with other bicameral parliamentary regimes, the government (cabinet) and the prime minister (known in Germany as "chancellor") are members of the lower house and must enjoy a majority in the lower house in order to govern (though bringing down the government is more difficult in Germany

because the opposition must first muster a majority for an alternative government before they can pass a vote of no confidence to bring down the existing government – this is called a "constructive vote of no confidence"). Unlike other parliamentary systems surveyed here however, the chancellor is elected by majority vote in the *Bundestag* rather than only serving as head of the party that forms the coalition. This is because the Basic Law invests the chancellor with executive authority and thus his/her authority is derived from the Constitution and not only by virtue of enjoying majority support in the parliament. This also means that the chancellor can determine the size of his/her cabinet and appoints the cabinet ministers without needing to receive the approval of the *Bundestag*. The reason that governments in Germany are almost always the result of coalition building is that 298 of the seats in the 630-seat *Bundestag* are allocated on the basis of national proportional representation with voters selecting party lists (as is done in Israel with respect to the entire parliament), and this, of course, means that smaller parties have an easier time gaining representation at the expense of potential majorities for the larger parties. The remaining portion of the *Bundestag* membership is elected on the basis of "winner-take-all" candidate-based elections in 332 territorially based constituencies.

The upper house of the German parliament, the *Bundesrat*, consists of 69 members who are appointed by state (*Länder* – plural, or *Land* – singular) governments and represent state interests at the federal level. Each of Germany's 16 states has a minimum of three *Bundesrat* delegates, and the other seats are allocated on the basis of state populations. Approximately 50% of the bills passed by the lower house, the *Bundestag*, must also be passed by the *Bundesrat* in order to become law (these are bills in which the states enjoy concurrent powers with the federal government or bills that must be enforced or administered by the states). Also, the federal government, which produces the lion's share of bill initiatives, must first consult with the *Bundesrat* before it submits the bill for consideration to the *Bundestag*. This system ensures that critical legislation will have the buy-in of the majority of state governments because the upper house is, in effect, a state entity operating within the federal government (much more so than the US Senate because the *Bundesrat* members are appointees of state governments whereas US senators are not). This system also allows the state governments the ability to veto legislative initiatives at the federal level that they believe are inimical to their interests. Germany, as a republic, also has a federal president (*Bundespräsident*) as head of state whose powers, as in Israel, are largely ceremonial.

Figure 1.16 *Bundesrat*. Credit: Elpisterra/Shutterstock.com.

Unlike the other countries discussed above, the German legal system is not based on the common law tradition but rather on the civil law system (which does not rely on prior judicial rulings, but rather on a broad system of legal codes). The German judicial system consists of a system of specialized courts (constitutional, social, administrative, financial, and labor) as well as a regular court system that hears civil and criminal cases. The judicial system in Germany is inquisitorial, meaning that the role of the judge is to actively discover the truth rather than simply to preside over a courtroom and ensure that a fair trial ensues. This means that the judge serves as an active investigator of the facts. Germany has federal and state courts, but criminal laws are federal, though most criminal cases are heard by state-level courts.

The highest court in Germany is the Federal Constitutional Court (the *Bundesverfassungsgericht* [BVerfG]), which enjoys the right of judicial review and also, as with the Israeli Supreme Court, receives petitions on which it can hold hearings and make rulings (but it does not act as an appellate court). Half of its judges are elected by the *Bundestag* and the other half by the *Bundesrat*. Germany also has specialized courts that deal with administrative issues, labor disputes, intellectual property disputes, etc. The primary court system is organized into four levels. At the lowest level are local courts (*Amtsgericht*), which deal with minor criminal offenses punishable by 2 years'

Figure 1.17 Emblems of Germany's 16 states. Credit: Yuri Yu80/Shutterstock.com.

incarceration or less and with small-scale civil suits and are overseen by a professional judge in minor cases and a judge assisted by lay judges in criminal cases involving penalties of 1 year or more in prison. The second level consists of regional courts (*Landgericht*) that have sections that hear major civil cases and others that hear major criminal cases with trials presided over by a panel of judges. Regional courts also act as courts of appeal for local courts and have basic jurisdiction over most criminal and civil matters. Particularly serious cases (such as murder) are heard by regional courts with a panel of three professional judges and two lay judges. The third level consists of state appellate courts (*Oberlandesgericht*) that primarily deal with appeals from lower courts and also preside over trials dealing with acts of treason or antidemocratic activity. The top tier court is the Federal Court of Justice (*Bundesgerichtshof*), which is a final court of appeal for cases from regional and appellate courts (Federal Research Division of the Library of Congress, 1995).

Federalism in Germany is very deeply ingrained, and state power and autonomy are seen, as with other federal states, as a guarantee

against the concentration of power in a central government. But this need to balance the power of the central government is seen as particularly critical given Germany's history of despotic, unrestrained centralized control. Moreover, the Basic Law allows for three categories of legislation, as with Australia – those of federal law, concurrent law, and state law. The states also enjoy residual powers, as in the United States, in that any powers not explicitly granted to the federal government become state powers by default. However, as in the United States, when there is a conflict between federal and state law, federal law takes precedence.

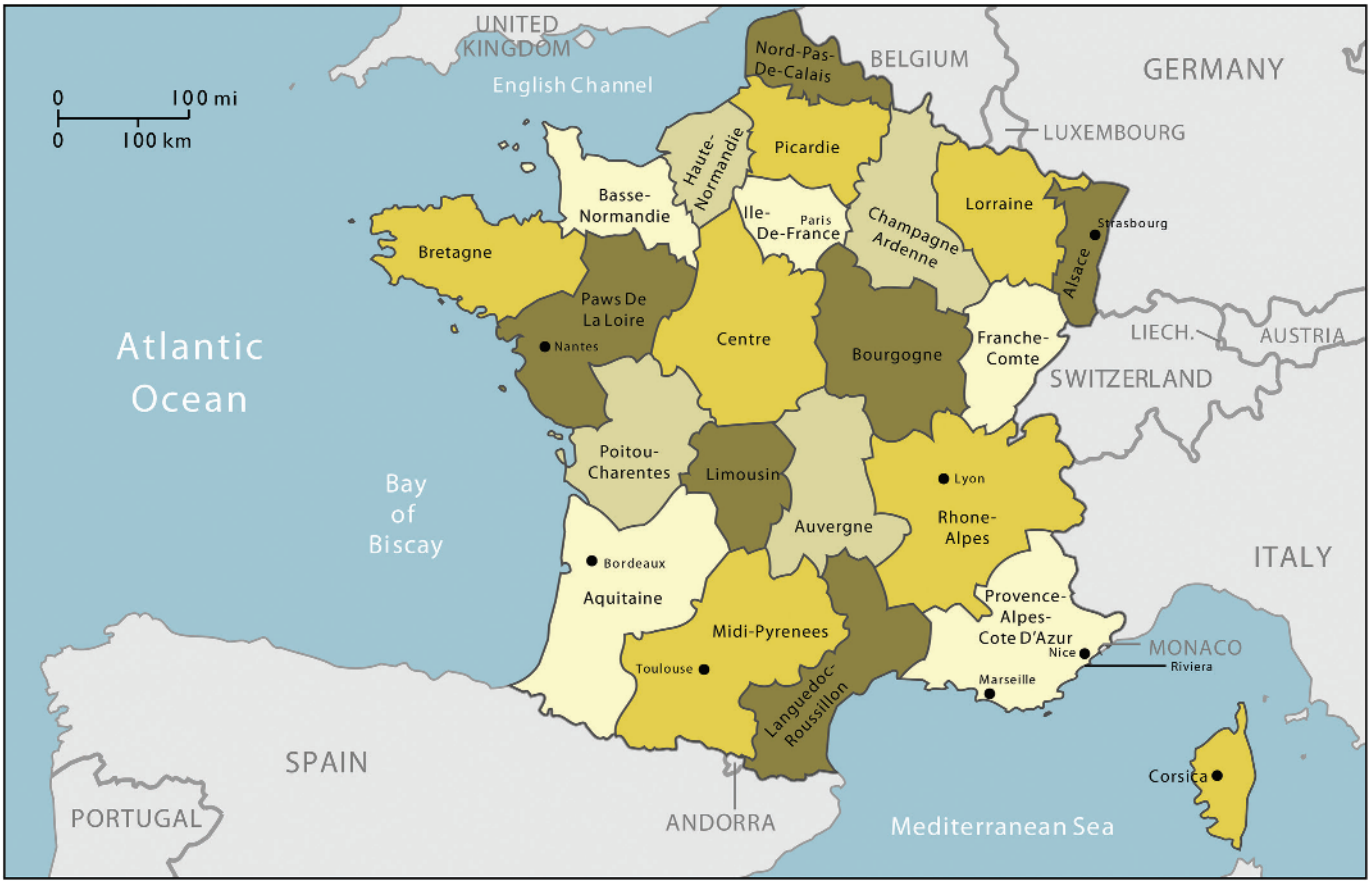
Ultimately, the German solution to the need to balance power, as noted above, is not only to provide for state autonomy under a federal system but also to give the state governments a significant role, via the *Bundesrat*, in the federal government. German states have the power of taxation and are obligated to implement federal policies and enforce federal laws when implementation of those policies and enforcement of those laws are not within the purview of federal agencies and the states usually have a wide degree of autonomy in choosing the manner of implementation of federal policies or enforcement of federal laws. In fact, one of the things that makes the German system unique is that the implementation of the vast majority of federal policies and the enforcement of most federal laws are in the hands of the states (Roberts, 2000, pp. 101–102). State governments are responsible for education, internal security (including policing), the four-tier court system described above, the provision of social services, most transport systems, and the organization of municipal and other local governments. At the same time, Articles 72 and 74 of the German Constitution state that when common legislation is necessary in all states, the federal parliament has the power to pass such legislation – and these articles have been used by the federal authorities over the years to expand their legal and institutional powers at the expense of the states (Konze, 2009, p. 102).

State governments have their own constitutions and are organized on the basis of a parliamentary system with a cabinet led by a prime minister (*Ministerpräsident*) and a unicameral legislature (state parliament – *Landtag*) from which the prime minister is elected by majority vote. The terminology for the minister-president and state parliament differs in some of the states, but this system is essentially the same across the different state governments in Germany. The states themselves are subdivided into districts, boroughs, municipalities, and other divisions (each state has a somewhat different system), but the state governments maintain a monopoly of control over the local level of government.

THE FRENCH REPUBLIC (*RÉPUBLIQUE FRANÇAISE*)

France has a territorial area of just over 643 000 km², making it slightly smaller than Texas and larger than Germany. In fact, France is the largest country in Europe save Russia. Its topography and climate are highly diverse from plains and rolling hills and a marine climate in the north and west to a central plateau to the Alps in the southeast and a hilly southern region with a Mediterranean climate. The population is just slightly larger than that of the United Kingdom with just under 67 million inhabitants. The majority of the population is of French ethnicity (though some are from families that originally hail from Italy, Spain, or Portugal), and between 5 and 10% of the population is of North African and Middle Eastern ethnic origins. France too is largely urbanized (though slightly less so than some of the other countries in the survey) with 80% of the population living in urban areas. Approximately 79% of the workforce is employed in the service industries and 19% in heavy industries (though the agricultural sector enjoys considerable political patronage). France enjoys a highly developed economy that is one of the four largest in Europe.

France's political and administrative system was heavily influenced by the rule of Napoleon Bonaparte (crowned emperor in 1804), particularly with respect to the centralized nature of the French state. While Canada and the United Kingdom chose, in differing degrees, to reflect the ethnic, social, and linguistic in their societies through various measures of decentralization, France ultimately chose to approach the challenge of social differences through strong principles of centralization and a strong national identity based on the principles of the republic, which were rooted in the concept of the equality of citizens, secularism, and popular sovereignty. France traditionally was a very diverse country with different cultures and languages (French only became the most widely spoken language in France in the wake of public education efforts begun in the 1880s that worked to effectively eradicate other dialects). France has experimented with a number of different constitutional orders since the revolution that began in 1789. The current constitutional order (based on the constitution promulgated in 1958) is known as the Fifth Republic, and it represents a sort of middle ground between the American presidential system and the traditional parliamentary system adhered to by the other countries in this book. The system maintains the distinction between head of state and head of government with a president as head of state and a prime minister as head of government. However, unlike parliamentary republics such as Israel and Germany in which the president has a primarily symbolic role (and is elected by the legislature), France's president is elected directly by the



MAP 1.6 Map of France.

voters and has wide powers. As this matter is not clearly spelled out in the Constitution, the distribution of powers between the president and the prime minister is complex and dependent, at least to a point, on the degree of ambition and governing styles of the individuals filling these positions and also on whether or not they are members of the same political party (which is usually the case, but not always). The president is considered to be the most powerful executive branch figure, and it is up to the president to appoint the prime minister and the other cabinet ministers. The prime minister and the rest of the cabinet ministers must, however, enjoy a majority in the parliament in order to govern. When the president, prime minister, and a majority of MPs are all from the same party (and assuming the president has a strong hold on his party), the French president's powers are quite substantial, and some refer to such situations as an "elected monarchy."

On the other hand, when the prime minister and his parliamentary majority are from a different party (a power-sharing arrangement known in French as *cohabitation*), the president's power, at least over domestic affairs, can be significantly limited. In very simplistic terms then, the president is seen as the preeminent actor with respect to foreign affairs and defense, whereas the prime minister is primarily responsible for domestic policy, but

Figure 1.18 Élysée Palace, official residence of the French president. Credit: Frederic Legrand – COMEO/Shutterstock.com.

reality can be more complex, particularly when the president is very ambitious and active. The French president also enjoys de facto lawmaking powers in the form of presidential decrees (*décrets*) that are similar to presidential executive orders in the United States. The president's power is balanced, however, by the constitutional requirement that the prime minister countersign most types of presidential decrees and other orders. This requirement for countersignature ensures that the president is accountable to the government (cabinet), which is, in turn, accountable to the legislative branch. Countersignature by the prime minister acting for the government as a whole also ensures that the government will take responsibility for implementing policy (Stevens, 2003, p. 68). The president also has the authority to delay legislation by asking the parliament to review it and he/she is designated the commander of the armed forces.

The French parliament is bicameral and comprises a lower house, the National Assembly, and an upper house, the Senate. The National Assembly (*Assemblée Nationale*) consists of 577 delegates (*députées*), and the Senate (*Sénat*) consists of 348 members. Elections to the National Assembly every 5 years are based on voting districts with run-offs if no single candidate was able to acquire 50% of the vote. Elections to the Senate every 6 years are based on an electoral constituency within each *department* (the administrative

Figure 1.19 French National Assembly. Credit: Frederic Legrand – COMEO/Shutterstock.com.

Figure 1.20 French Council of State. Credit: Netfalls Remy Musser/Shutterstock.com.

districts in which France is divided – the term is roughly equivalent to "county") or overseas territory, and some senators are elected to represent French citizens abroad. Senators are chosen by an electoral college composed mainly of elected municipal councils, and thus, to some degree like the German *Bundesrat*, they represent more localized governmental interests. Quite a few senators are also mayors or members of municipal or regional councils. The Senate however is clearly the weaker body in comparison with the National Assembly. Not only does the National Assembly (in traditional parliamentary fashion) form the government (cabinet) and give it the authority to govern by virtue of its majority in the National Assembly, but it is also the primary legislative body since the Senate's powers, in most categories of legislation, are limited to reviewing bills and providing input to the National Assembly. The National Assembly must make an effort to ensure that bills are acceptable to the Senate, including, when necessary, undertaking mediation between the two houses. Only in the fairly rare event that the Senate rejects a bill supported by the National Assembly will the National Assembly override the Senate and pass the legislation nonetheless (France, Senate, 2009).

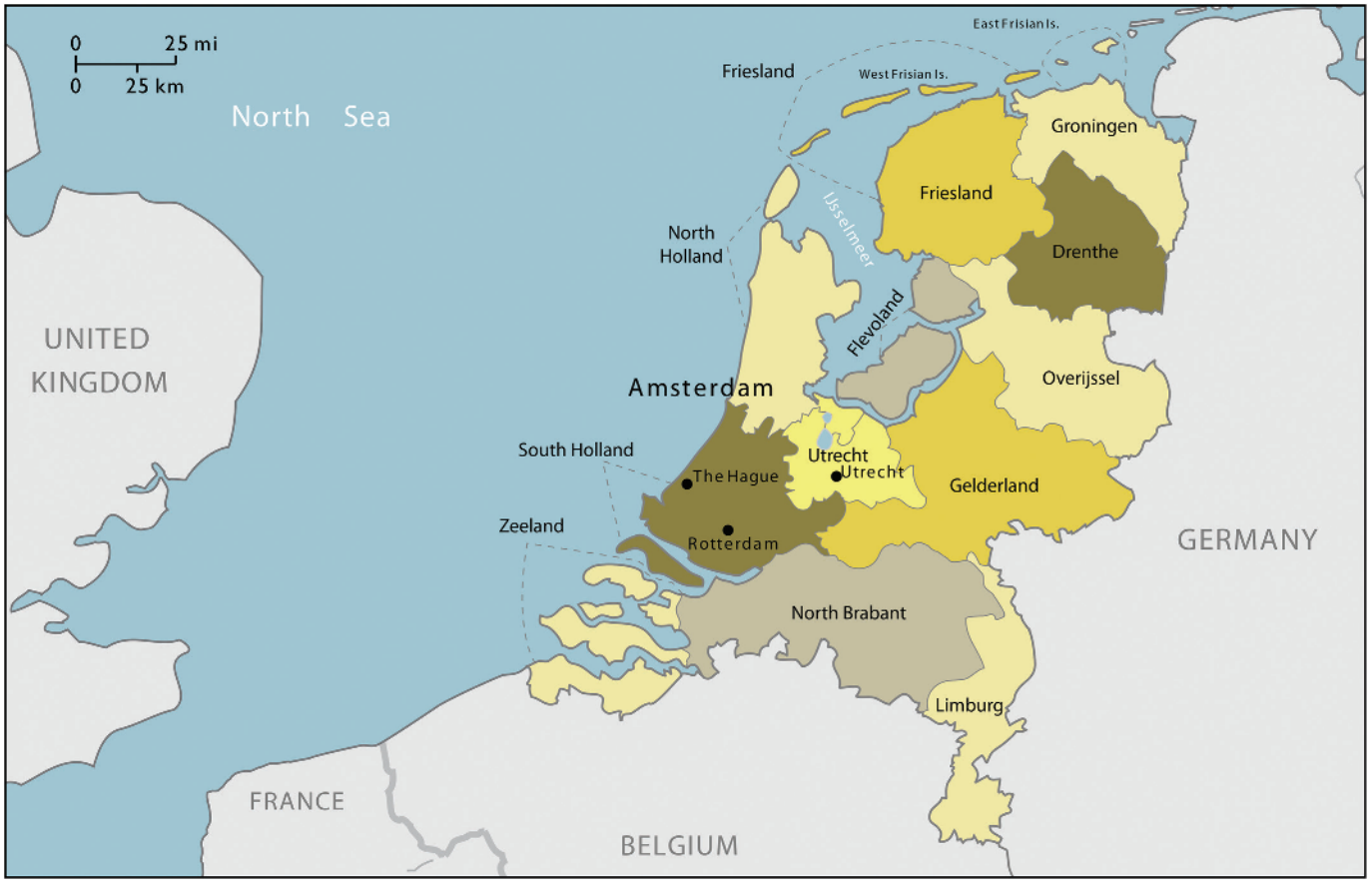
As with the German legal system, French law is based on civil law rather than common law, and thus rulings are based on statutes and legislation as opposed to case law. This means that, unlike the practice in common law countries, courts in civil law countries such as France are forbidden

from making case law and are expected to rule based on the letter of the law. Of course, this approach, which dates back to the establishment of the French Civil Code in 1804, has proven too inflexible to cope with modern complexities. Consequently, the current practice in France, mimicked in other civil law countries, is to allow judicial interpretation of the law based on the historical context of the law and the supposed intent of the lawmaker (this is known as the "exegetical method") or via interpretation based on what is deemed to be the objective purpose of the law (known as the "teleological method") (Siems, 2014, p. 45). As in the case of Germany, the French judicial system is inquisitorial. The role of the defense counsel (*avocat*) is primarily to ensure that correct procedures have been carried out by judges and is thus more of an auxiliary to the judge than a major actor in the legal process, as in the adversarial system (Hodgson, 2006, p. 32). There are two separate French court systems: administrative courts and judicial courts. Administrative courts handle disputes between citizens and state entities. The supreme administrative court is the Council of State (*Conseil d'Etat*); below it are a number of specialized administrative courts and administrative appeals courts including courts that deal with asylum and refugee issues, corruption, the disciplining of public servants, social aid disputes, claims for compensation due to government measures, etc. The judicial courts deal with disputes between people and offenses against people, property, or society. The supreme court in this system is the Court of Cassation (*Cour de Cassation*) based in the Hall of Justice in Paris. This court acts as the highest court of appeal in criminal and civil cases. It rules not on the facts of a case, but whether or not the laws have been properly applied by inferior courts (French Ministry of Justice, 2012). Below the Court of Cassation are appellate courts, and below the appellate courts are regional courts (*Tribunaux de Grande Instance*) that address more significant claims (above €10 000) as well as divorce and similar cases. At the bottom of the civil judicial hierarchy are the "courts of the first instance" (*Tribunaux d'instance*), which hear claims under €10 000. A range of specialized civil courts also serve as courts of the first instance, and each deals with a different area of civil litigation: employment disputes, commercial disputes, labor disputes, land disputes, etc. There are also a range of specialized criminal courts including police courts (infractions and misdemeanors), regional criminal courts, juvenile courts, and assize courts, the latter which involve jury trials and deal with serious offenses. The French, in keeping with the inquisitorial nature of their judicial system, also employ investigative magistrates (*juges d'instruction*) to conduct investigations prior to cases being heard in court (see Chapter 2). Finally, France has a constitutional court tasked with interpreting the French Constitution.

As noted earlier, France, like Israel, is a centralized state and not a federal one. Unlike Israel however, France is divided into regions (*regions*) and counties (*départments*), in addition to possessing municipalities (*communes*). France has 26 regions, each administered by a regional council and a chairperson. Most of the regional powers relate to planning, budgetary issues, and economic development. The *departments*, of which there are 96 in France proper (not including the overseas territories), serve as the most important administrative units. The "county seat" in each *department* is known as the prefecture and is generally the city or town closest to the geographic center of the county. The leadership of these counties consists of an elected general council (*Conseil Général*) with the president of the council serving as the chief executive (prior to 1871, *departments* were headed by prefects appointed by the national government). *Departments* do not enjoy anything similar to the degree of autonomy enjoyed by states in federal systems and still play the role of territorial units for the organization of central government activities. *They* deal with social welfare issues, public health, maintenance of roads and public buildings, support for education, and similar activities (Stevens, 2003, pp. 145–147). As most local issues are handled by *departments*, the authority of municipalities, run by a mayor and municipal council, is quite limited in contrast to some other countries, and it deals primarily with communal order: building permits, oversight of public services, and some other matters. Ultimately then, while France does have locally elected leaderships at the regional, county, and municipal level and while the French Senate does represent local interests, the bulk of public policy matters are developed and administered from Paris.

KINGDOM OF THE NETHERLANDS (*KONINKRIJK DER NEDERLANDEN*)

The Netherlands is a small country of just under 42 000 km^2 that is about twice the size of the US state of New Jersey. Its topography consists of fertile lowland plains (some of them reclaimed from the North Sea), and most of the country lies at or under sea level (the highest point in the country is only 322 m high). The climate is primarily marine and thus mostly wet and overcast. The population of the country, at just over 17 million people, is also small, though not for the country's physical size. In terms of ethnicity, almost 79% of the population is of Dutch ethnicity and over 6% of Indonesian, Middle Eastern, or North African ethnic origins. The Netherlands is a highly urbanized country with 90% of the population living in cities or towns. Just over 81% of the workforce is employed in service industries and 17% in heavy industries. Overall, the Netherlands is



MAP 1.7 Map of the Netherlands.

Figure 1.21 States General. Credit: Anton Ivanov/Shutterstock.com.

a prosperous country with an important role as a transportation hub for Europe (Rotterdam, the country's main port, is the largest port in Europe).

The population of the Netherlands, like the landscape bisected by rivers, dikes, and estuaries, is divided and consists of four principal groups: Catholics, Protestants (following a number of denominations), Socialists, and Liberals (chiefly the middle classes). In order to allow for the inclusion and representation of each group (none of which ever consisted of a population large enough to claim a majority), it was necessary to develop, as in Israel, inclusive institutions. Accordingly, again as is the case in Israel, the Netherlands has a proportional representation voting system in which citizens vote for political parties for parliament. As with other proportional representation systems, the Dutch parliament is made up of a number of parties, none of which have a majority (in fact, it is rare for any of the parties to possess even one-third of the seats in a given parliament), and consequently governments are formed through the creation of coalitions. The Dutch parliament is known as the States General (*Staten-Generaal*) and consists of two houses. The lower chamber, the House of Representatives or Second Chamber, is directly elected every 4 years through national proportional representation elections for parties, whereas the upper house, the Senate or First Chamber, is elected every 5 years by the provincial legislatures. The House of Representatives consists of 150 seats, and the Senate consists of 75

seats. Similar to upper houses in countries such as the United Kingdom, Canada, and Australia, the Dutch Senate has very limited powers. Legislation is initiated and passed in the House of Representatives, and the Senate has no powers to amend legislation, and its role is primarily to review legislation for errors and to either pass or veto the legislation. The House of Representatives, in typical parliamentary fashion, initiates, amends, and passes legislation and forms the government – which can be voted out of power if the government loses majority support in the lower house. Like the United Kingdom, Canada, and Australia, the Netherlands is a constitutional monarchy. While the cabinet is not appointed by the Queen and does not serve at her pleasure, the Queen is called upon to play the role of arbiter since the election outcome never produces a clear winner with a majority of seats in the House of Representatives (Andeweg and Irwin, 2009, p. 126). The Queen fulfills this role by appointing a politician to oversee the coalition negotiations and the subsequent formation of a new government. Dutch prime ministers tend to be weak compared with their counterparts in other parliamentary democracies and have very few formal powers (they lack, for example, the power to dismiss members of the cabinet), and virtually all executive decisions are taken by the cabinet as a whole with each minister having significant power to run his/her ministry autonomously.

Figure 1.22 Netherlands Supreme Court. Credit: Rijksvastgoedbedrijf.

The Dutch legal system follows the French inquisitorial judicial model. There are no jury trials in the Netherlands, and cases are heard by a single judge in subdistrict courts (which deal with minor cases) or a panel of 3–5 judges in district courts (*Rechtbank*). There are 19 district courts (each with seven subdistrict courts), five appellate courts (*Gerechtshof*), and a Supreme Court (*Hoge Raad* – which acts as an appellate court and focuses on supervising the administration of justice). The Supreme Court is not allowed to rule on the constitutionality of legislation and must restrict its activities to judicial appeals and oversight.

The Netherlands essentially follows the model of a centralized state with some local autonomy (closer to the French model of territorial governance than to federal systems). The country is divided into 12 provinces, each with its own directly elected legislature and government. However, with the exception of a few areas such as infrastructure, planning, transportation, welfare, and environmental protection, provincial control over policy is limited (Andeweg and Irwin, 2009, p. 192). The 443 municipalities in the Netherlands are more powerful than provincial governments and have, among other duties, responsibility for education, urban planning, fire and police services, arts and education, and the provision of social services (Netherlands Institute for Multiparty Democracy, 2008, p. 61).

REPUBLIC OF ITALY (*REPUBBLICA ITALIANA*)

Italy's territorial area is just over 301 000 km^2, making it slightly larger than the US state of Arizona. Its territory comprises a long peninsula, two large islands, and several smaller islands, and most of the land area is rugged and mountainous with some plains and coastal lowlands. The climate is chiefly Mediterranean though the far north is alpine and the farther south one goes, the hotter and dryer it becomes. Most of the population is of Italian ethnic origin (with less than 5% of African, North African, and Middle Eastern origins), but there are significant cultural, linguistic, and economic differences between the northern and southern halves of the country. Italy has a comparatively larger agricultural sector that employs just under 4% of the workforce with traditional industries employing 28% of workers and the service sector employing nearly 68% of the workforce. Italy's north is highly developed and generally on par with northern European living standards, but its south is considerably poorer and less developed.

Contemporary Italy, like contemporary Germany, was profoundly affected by dictatorial rule and the desire to prevent a return to fascism and the attendant-centralized concentration of power. Like Germany, Italy is a relatively new country and was only unified in the mid-nineteenth century

MAP 1.8 Map of Italy.

Figure 1.23 Italian Chamber of Deputies building. Credit: cge2010/Shutterstock.com.

(with the completion in 1870 of an 11-year unification process). Italy, like the other countries surveyed (with the exception of Israel and the United Kingdom), has a constitution that sets out the role of the branches of government and has a parliamentary system of government. The government (cabinet) is known as the Council of Ministers (*Consiglio dei Ministri*) and is headed by the prime minister. The Italian government, as in the case of the other countries surveyed here, can only remain in office if it enjoys the confidence of parliament (i.e. if it is not voted out of power). In a departure from the parliamentary norm however, the Italian government must ensure the support of both houses of its bicameral parliament (the Chamber of Deputies and the Senate) in order to govern. Italy, unlike the other countries surveyed here, has a truly bicameral parliament in that both the lower house, the Chamber of Deputies (with 630 members), and the upper house, the Senate (with 315 members), have the same authority and role (Bull and Newell, 2005, p. 116). This not only means that the government must ensure the support of both houses but also that bills in Italy must be approved by both houses in order to become law. Accordingly, unlike the far less representative (but also less powerful) upper houses in many of the other countries surveyed here, Italian senators (*Senatori*) are elected in a very similar manner as Italian deputies (*Deputati*). As in Israel, elections for parliament are carried out on the basis of proportional representation via

voting for party lists. But unlike Israel and the Netherlands, but similar to the other countries in the survey, elections are regionally based. There are 26 voting districts for the Chamber of Deputies and 20 for the Senate (the latter corresponding to Italy's 20 administrative districts). Between 1991 and 1993, Italian electoral law was reformed in an attempt to achieve political stability. For decades Italy was infamous for having one of the most unstable (if not the most unstable) political systems among democracies due to the fact that its proportional representation voting system made it very easy for small parties to enter parliament, thus creating governments dependent on broad and unstable coalitions. The instability of these coalitions resulted in governments being brought down on a regular basis so that, up until the time of these political reforms, postwar Italian governments lasted an average of 9 months. Under the present system, elections are still held under a proportional representation system with voters voting for party lists, but the party that passes a 40% threshold in the Chamber of Deputies is automatically granted enough seats (if it has not obtained these in the actual elections) to gain a 55% majority in the lower house. Similarly, elections for the Senate allow for what is termed a "majority prize" in that the largest coalition of parties per region is granted a 55% majority of the seats representing that particular region. Without getting into the intricacies of the Italian electoral system, the bottom line is that the new system has

Figure 1.24 Italian Senate building. Credit: Brian Kinney/Shutterstock.com.

reduced the power and number of smaller parties, giving governments a greater chance of serving out their terms.

Italy, as a parliamentary republic, also has a president who, as in Israel, is elected by parliament, but the Italian president, who serves for 7 years, plays a more substantive constitutional role. The Italian president enjoys the power to dissolve parliament and can decide to refrain from dissolving a given parliament in the wake of the collapse of a government, in order to encourage the existing parliament to produce a new coalition government and thus to attempt to ensure political stability and continuity (Bull and Newell, 2005, p. 129). The president, as in the Israeli case as well, appoints the prime minister and government from the dominant coalition of parties, but the Italian president has more discretion regarding the choice from among competing groups of parties in parliament. The Italian president also enjoys the power to veto legislation, albeit only temporarily. Finally, in Italy, uniquely among the republics surveyed here, outgoing presidents are automatically entitled to a senatorial seat for life and have the right to nominate five lifetime senators from among Italians who have distinguished themselves in social, scientific, or artistic fields (Bull and Newell, 2005, p. 117).

The judicial branch in Italy is independent of the other two branches of government, and, in order to assure this independence, the judicial branch has nearly complete control over the appointment and dismissal of judges,

Figure 1.25 Italian Court of Cassation. Credit: D. Bond/Shutterstock.com.

this being carried out by the High Council of the Judiciary (*Consiglio Superiore della Magistratura*). Italian law is based on Napoleonic law and the civil law system. However, unlike France, a 1990 reform of the legal system resulted in the phasing out of inquisitorial judicial practice with an adversarial system similar to that of the common law countries. At the same time, the Italian judicial system, like the French one, is divided between administrative courts and criminal courts.

Minor legal matters are handled by magistrates (*Conciliatori*) who are lay judges. At the next level, the courts of the first instance for more serious cases (civil and criminal) are tribunals (*Tribunale*) and three other specialized courts. Tribunals usually consist of one judge, but with important cases heard by three judges (there being 159 tribunals, each with jurisdiction over its own district). Tribunals are default courts for general civil and criminal disputes, but other more specialized courts operate at this level of the judicial system including 90 criminal courts (*Corte d'Assise*) that deal with felonies as well as courts that deal with disputes concerning minors and courts that deal with traffic matters, minor civil claims, etc. At the next level, there are courts of the second instance that hear appeals from these lower courts: tribunal appellate courts (also known as *Tribunale*), appeals courts (*Corte di Appello*), and criminal appeals courts (*Corte d'Assise d'Appello*). At the top tier of the Italian judicial system lies the Court of Cassation (*Corte di Cassazione*), which acts as the highest court of appeal. Constitutional matters however are ruled upon by a separate 15-member constitutional court (*Corte Costituzionale*).

Like France and Israel, Italy is a centralized state. However, the nature of the country's history and geography (including the fact, as noted earlier, that Italy was not even a unified country for most of its medieval and a significant portion of its modern history) has meant that there are stark localized differences in dialect, mentality, and culture. This is pronounced enough that regional political parties, such as the Northern League (which has alternated between calls for a federalist system and demands for complete separatism), have been able to make political inroads. Italy has 20 regions (*Regioni*), each of which enjoys a significant level of autonomy. Each region is governed by an elected regional council (*Consiglio Regionale*), a government (*Giunta Regionale*), and a president. The Constitution guarantees the regions' financial autonomy though their power of taxation is limited and can be overridden under certain conditions by the central government. Each region is broken down into provinces (*Province*), of which there are a total of 110, and these, in turn, are divided into communes (*Comuni*). Provinces and communes (municipalities of various sizes) also have legislatures, executives, and chief executives, and consequently their structure largely mirrors

that of regional governing institutions. The regions are responsible for local policing, environmental protection, public services, and economic development. Provinces in general have few powers as commune powers have increased over time. Aside from some planning issues and a few other matters, provincial power is quite limited. Communes focus largely on public works, transportation, commerce, utilities, hygiene, and cultural events.

JAPAN (*NIPPON-KOKU*)

Japan, like the United Kingdom, is an island nation comprising four main islands and several smaller ones with a total area of almost 378 000 km^2 – which makes it slightly smaller than the US state of California. Its climate is primarily marine and temperate with a subtropical climate in the far south and a cold climate in the far north. Most of the terrain is rugged and mountainous, necessitating the judicious use of land. Japan has a population of almost 127 million people, making it the tenth most populous country in the world (while being the 61st largest). Japan is the most ethnically homogeneous country in this survey and one of the most ethnically homogeneous countries in the world. 98.5% of the population is of Japanese ethnicity, and the largest minority group, Koreans, comprises only half of a percent of the population. Japan is highly urbanized with the vast majority of the population (almost 94%) inhabiting cities or towns. Just under 3% of the workforce is involved in agricultural pursuits such as rice farming, and further 26% are employed in Japan's vaunted industries and 71% in the service sector. Japan is an economic superpower, and despite some two decades of economic stagnation, it is still the world's third largest economy.

As with Germany and Italy, Japan's governmental structure represents a reaction to the dictatorship and aggression of the prewar and wartime regime overthrown by the US occupation of the country in late 1945. The American authorities, in part to build legitimacy for the new Japanese institutions and maintain some degree of continuity with the past, allowed the Emperor to continue to reign, thus instituting a constitutional monarchy that remains in force to this day. The Emperor was forced to renounce his "divine" status in 1945 but was allowed to continue to function as head of state. As with many other constitutional monarchs, the Emperor's role is to represent the country, to act as its symbolic embodiment, and to fulfill various formal ceremonial functions of state such as appointing the prime minister (though the actual determination as to who will be prime minister depends on majority support in parliament). Japan, like most other democracies, also possesses a formal constitution, and this document, like so many other aspects of postwar Japanese governance, was a product of

MAP 1.9 Map of Japan.

Figure 1.26 Japanese Diet. Credit: IM_Photo/Shutterstock.com.

the US occupation. It includes a section (Article 9) that renounces war as the sovereign right of the Japanese nation in perpetuity – though this has been interpreted over the years as renouncing Japan's right to wage aggressive war but not its right to self-defense.

The Japanese parliament (the Diet) consists of two houses: the lower house (House of Representatives – *Shugi-in*), with 500 members, and the upper house (House of Councillors – *Sangi-in*), with 242 members. Unlike some of the other bicameral parliaments discussed above, the upper house is directly elected – though its constituencies mirror Japanese prefectures and thus are conceived of as representative of local interests. For elections to the lower house, the country is divided into 300 single-seat constituencies, and 200 seats are allocated on the basis of proportional representation in 11 regional blocs. Each voter votes once for a candidate to represent his/her local constituency and once for a party list. Representatives are voted in for 4-year terms – though this can be shortened if early elections are called. Elections to the upper house are also divided between constituencies (though these are often multiseat constituencies) and proportional representation. Elections to the House of Councillors are for 6-year terms. With respect to matters of power and authority, the House of Representatives is considered more powerful than the House of Councillors. The prime

Figure 1.27 Japanese Supreme Court. Credit: CAPTAINHOOK/Shutterstock.com.

minister and government are chosen by the Diet as a whole and must be members of the Diet, but if both houses disagree as to the appropriate choice, the lower house has ultimate authority to choose. In terms of legislation, a bill passed by the lower house but rejected by the upper house can be made into law if the House of Representatives passes it again with a two-thirds majority.

The Japanese judicial system, like that of France and the Netherlands, is inquisitorial and is based on five types of courts: the Supreme Court, high courts, district courts, family courts, and summary courts. The Supreme Court (which consists of a Grand Bench with 15 justices and three Petty Benches made up of five justices each) is the country's highest appellate court. The Court also has the authority to adjudicate legislation. The high courts handle appeals from the other courts with appeals usually heard by a panel of three professional judges. Most criminal and civil cases are first adjudicated in district courts (the exceptions being family matters and juvenile delinquency cases, which are handled by family courts, and minor civil claims, which are handled by summary courts). Most district court cases are handled by a single professional judge. Investigations in Japan are handled by the Public Prosecutor's office with different levels of prosecutors dealing with the different levels of courts (The Secretariat of the Judicial Reform Council, 1999). Strictly speaking, Japan does not have a jury system for

trials, but it recently enacted a law that added "lay judges" to the existing panels of professional judges with lay judges being chosen randomly from among the members of the public. In district courts, cases are now heard by a panel consisting of three professional judges and six lay judges with all the judges, in keeping with the principles of the inquisitorial legal approach, having authority to initiate and oversee investigations.

As with the Western Allies in Germany at the end of the Second World War, US occupation forces in Japan viewed the decentralization of the Japanese state as an important guarantor of democracy that would prevent the concentration of power and the return of authoritarian rule. Article 92 of the Japanese Constitution affirms the decentralization of power and the safeguarding of local autonomy. Japan is divided into 47 prefectures (*Todofuken*) with different degrees of autonomy and size (including three municipal prefectures: Tokyo, Osaka, and Kyoto). In addition, there are close to 2000 local governments with their own degrees of autonomy. Prefectures (headed by governors) and local governments (headed by mayors) enjoy authority over administration, budgets, planning, and by-laws, and they fulfill functions that in other countries would be within the purview of central government (Stevens, 2008). For example, provision of welfare and other social insurance and healthcare are a shared responsibility between municipal and prefectural governments (with municipalities providing basic healthcare and prefectures running hospitals) on the one hand and central government on the other. Nevertheless, unlike Germany, the prefectures are not autonomous states, and Japan can still be considered to be a centralized system with regional administration (much like France).

CONCLUSION

As this chapter has shown, the countries addressed in this book have a wide variety of political and legal systems and institutions. Not surprisingly, these diverse systems are products of the countries' respective histories and their external influences. Broadly speaking, the countries discussed in this chapter can be grouped by system of government – all of these countries have parliamentary systems with the exception of France, which has a mixed governmental system due to the powers of the French presidency. Alternatively, they can be grouped based on the structure of their respective legislatures – Israel has a unicameral parliament, and all the others have bicameral parliaments. Yet another way of thinking about these countries has to do with their legal and constitutional systems – the United Kingdom and Israel lack formal constitutions, whereas all the other countries addressed here possess constitutions. In terms of their judicial systems,

France, Italy, the Netherlands, Japan, and Germany follow various versions of the Napoleonic legal system, whereas Canada, the United Kingdom, Israel, and Australia employ the common law system. Finally, in terms of their governance frameworks, Australia, Canada, and Germany have federal systems of governance that balance the power of state or provincial governments with those of the federal government. Other countries such as Israel, Japan, France, and the Netherlands have unitary systems of government (albeit significantly different ones), and the United Kingdom is a bit of a hybrid that is primarily unitary, but delegates some powers to those parts of the United Kingdom that are not England.

The governance structures, legal frameworks, and ways of engaging in the business of governing are important to understand because, among other things, these strongly impact the nature of homeland security efforts in each of these countries. All the democracies referenced above operate under the rule of law (otherwise they would not be democracies) and under the constraints of their various governmental structures and ways of operating, and these are important to understand if one is to understand why they do what they do in the homeland security sphere. These countries also differ dramatically in terms of the types of homeland security challenges they face. In the terrorism realm, all the countries in our study have experienced terrorism of one kind or another over the years, but the scope and intensity of the terrorist threat has been very different. Clearly, Israel and the United Kingdom have been the countries that have had to cope with the greatest amount of terrorism in the most intense form (Israel, of course, more so than the United Kingdom), but, at one point or another in their fairly recent past, Canada, Japan, Germany, France, Italy, and the Netherlands have had to cope with terrorism problems, and Australians have been the subject of terrorist attacks overseas and have narrowly avoided several terrorist attacks at home – some 15 terrorist plots were reportedly foiled in Australia between 2014 and 2016 (Pailin, 2017). Moreover, all of these countries view terrorism as a significant threat that must be guarded against. In the areas of natural disasters, the Canadians and Japanese have extensive experience, and the British, Germans, and others have had to deal with wide-scale flooding and other problems. Australia too has suffered floods and earthquakes as well as some catastrophic brushfires, and even Israel, which rarely suffers natural disasters, experienced its worst natural disaster in 2011 (the Carmel Brushfire).

All of the countries surveyed have had to cope with immigration and integration issues and with public health problems (with Canada having had to deal with the SARS outbreak). Additionally, all of the countries

surveyed have had to beef up airport and seaport security and develop policies to strengthen critical infrastructures. In short, while there are significant differences in institutions and political and legal systems, as well as differences in culture and mentality across these countries, many of the threats that they must prepare for are similar and are also common to those facing homeland security policymakers in the United States.

ISSUES TO CONSIDER

- How is a country's historical experience reflected in its constitution and/or institutions?
- What are the primary differences between common law/adversarial legal systems on the one hand and civil law/inquisitorial systems on the other?
- How do the versions of federalism differ among the federal systems surveyed in this chapter?
- How do the versions of centralism differ across the centralized systems surveyed in this chapter?