

(1) IMPORTANCE OF ADMINISTRATIVE LAW

Introduction

Administrative law (hereon 'admin law') plays a significantly important role in the Australian legal system. Its purpose is ingrained in regulating how government bodies exercise their powers and providing a means for individuals to challenge breaches of rules and principles. This essay will explore the regulatory and legal importance of admin law through the separation of powers (SOPs), mechanisms of review, and how it serves to help vulnerable individuals.

Values

French CJ (2010) embedded in admin law is values of *accountability, rationality, transparency, fairness and legality*. He also defines admin decision-making as a way to properly safeguard the rights and interests of individuals. He necessitates that these principles should be applied primary decision making where decisions are made before becoming enforced through avenues of review and appeal.

Argument 1: Administrative Law ensures the Separation of Powers

- The separation of judicial power from the executive is crucial in admin law. The doctrine of SOPs ensures that the three major organs of the government system: the legislature, executive and judiciary remain independent and act as a check and balances on their powers.
- This ensures that political accountability is achieved. An example of this in admin law is the distinction between judicial review (JR), which is assigned to the courts, whilst a merits review is an executive institution assigned to administrative tribunals.
- Entwines with notion of '*ultra vires*' where a body should not exceed beyond their legal power or authority.
- As per Chapter III of the Constitution, courts cannot substitute an original decision of the executive, but only decide on its correctness. This judicial restraint ensures that courts do not meddle in executive matters, which their capacities are ill suited to resolve high-level policy. Therefore, admin law ensures the SOPs and the achievement of political accountability as a key value in the Australian legal system.

Argument 2: It allows for mechanisms for review such as MR and JR (Advantages and disadvantages)

- Besides political accountability, admin law is important in maintaining legal accountability through two avenues: merits review (MR) and judicial review (JR). Admin law confers a right to challenge a government decisions by which a person feels aggrieved, and to safeguard their rights and interests in their dealings. Enrooted in these review mechanism are values of fairness and good faith:
- Merits Review:
 - MR exists through internal review by agencies themselves and through tribunals.
 - According to *Creyke*, MR's accessibility and cost-effectiveness makes MR friendlier to the everyday person.

MR is focused on reviewing the merits of an agency decision, with the aim of achieving the most 'correct and preferable' decision. The official stands in the shoes of the original