

Australia's adversarial v. France's non-adversarial legal system

Adversarial trial (PROOF)

- Assumption is that truth is revealed through a contest between the parties presenting evidence before a passive adjudicator
- Common law utilising countries usually adopt this system: e.g., Britain, USA, India, New Zealand, South Africa, Fiji, Canada

Trial Process	
Role of Judge	<p>An impartial adjudicator and judge who oversees the trial. They have various responsibilities, including:</p> <ul style="list-style-type: none">• Ensuring a fair trial by enforcing trial procedures (upholding natural justice).• Deciding the remedy in civil trials.• Deciding the sentence in criminal trials. <p>• In the absence of a jury, the judge will also decide the facts of the case (which evidence is believable and thereby whether the accused/defendant is guilty).</p>
Role of parties	<p>Legal (either natural or artificial) persons who dispute about how law should resolve their disagreement in court.</p> <p>Prosecution/plaintiff: Bears the onus/burden of proof, must reach the standard of proof required.</p> <p>Defendant: Presumed innocent with no burden of proof, has a right to silence.</p> <p>Both parties are responsible for:</p> <ul style="list-style-type: none">• Gathering evidence.• Presenting evidence in court.• Testing other parties' evidence.• Arguing about how statute law should be interpreted in their case.
Role of legal representation	<p>'Equalisers', bear the burden of running the case on behalf of a party. They are legal experts hired by any party, and often are required to have any chance of success.</p> <p>Their responsibilities include:</p> <ul style="list-style-type: none">• Examining and cross-examining witnesses.• Submitting high-quality evidence to court to be deliberated upon by the judge/jury.
Rules of evidence	<p>Andrew Mallard and Gene Gibson: example of focus of system on evidence/proof presented rather than the truth (see advantages/disadvantages).</p> <p>Relevance: evidence must be applicable to the case: bearing relevance to establishing the action or inaction alleged or, in some cases, the intent to undertake such an action. Evidence must be able to be tested and relate to matters of fact in contention. Irrelevant evidence is excluded.</p>

Non Adversarial Review Of Migration Decisions The Way Forward

Laverne Jacobs, Sasha Baglay



Non Adversarial Review Of Migration Decisions The Way Forward:

Non-Adversarial Review of Migration Decisions ,1993-09-01 Non-adversarial Review of Migration Decisions
Australia. Committee for the Review of the System for Review of Migration Decisions,1992 **Administrative**
Decision-Making in Australian Migration Law Alan Freckelton,2015-05-01 The ANU College of Law Migration Law
Program is pleased to introduce a text in administrative decision making in Australian migration law Over the past eight
years we have assembled a team of some of Australia s most highly qualified migration agents and migration law specialists
to deliver the Graduate Certificate in Australian Migration Law Practice and the Master of Laws in Migration Law Alan
Freckelton has worked with the Migration Law Program since 2008 Through personal recollections and a comprehensive
analysis of administrative decision making he brings his professional expertise and experience in this complex field of law to
the fore The examination of High Court decisions parliamentary speeches and public opinion bring a contentious area of law
and policy to life enabling the reader to consider the impact that legislation and decision making has upon the individual and
society as a whole *The Nature of Inquisitorial Processes in Administrative Regimes* Laverne Jacobs,Sasha
Baglay,2016-03-03 Inquisitorial processes refers to the inquiry powers of administrative governance and this book examines
the use of these powers in administrative law across seven jurisdictions The book brings together recent developments in
mixed inquisitorial adversarial administrative decision making on a hitherto neglected area of comparative administrative
process and institutional design Reaching important conclusions about their own jurisdictions and raising questions which
may be explored in others the book s chapters are comparative They explore the terminology and scope of the concept of
inquisitorial process justifications for the use of inquiry powers the effectiveness of inquisitorial processes and the
implications of the adoption of such powers The book will set in motion continued dialogue about the inherent challenges of
balancing policy goals fairness resources and institutional design within administrative law decision making by offering
theoretical practical and empirical analyses This will be a valuable book to government policy makers administrative law
decision makers lawyers and academics **The Procedure of the Federal Specialist Tribunals** Robin Creyke,1994
Federal Law Review ,2002 Immigration and Refugee Law in Australia Mary Crock,1998 This text provides a
comprehensive account of the laws and policies governing immigration and refugee law in Australia Core to the work is its
thorough analysis of judge and tribunal made laws that supplement and contextualise the laws made by parliament and
implemented by the immigration bureaucracy Immigration and Refugee Law in Australia highlights fundamental issues
raised by immigration control in this country and the relationship between immigration and Australia s perceived social and
economic needs These issues are the differential treatment of the non citizen or alien as other in the Australian polity and the
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