Utilization Of Power In Australia: Separation Of Powers

To understand who has power and how that power is utilized in Australia first one must look to the Australian constitution which contains the doctrine of separation of powers which dates to ancient Greece and Rome. The separation of powers is divided into three distinct branches each of which holds separate and independent powers which act as a balance and check to the other branches. The three branches include the legislative, executive and judicial powers (Greenfeld, 2012).

The legislative branch makes laws, the executive puts the laws into operation and the judicial which unlike the legislative and executive are different often work in conjunction with each other. The judicial powers are separate from the legislative and executive powers. The separation of powers is regarded as a cornerstone and foundation of fair governments around the world (Gerangelos, 2009). The members of the judicial powers are professional judges from the high court of Australia and other federal courts. The main functions of the judiciary are to determine disputed questions of fact and laws made by parliament also including any precedents, however, the jurisdictional powers are only exercised with the criminal justice system specifically the court system (Lee & Adams, 2013).

Judicial power involves interpreting and deciding controversies between citizens and governments. Courts have power or jurisdiction over the controversy and the capability to enforce a binding decision from interpreting parliament made laws and precedents (Murphy, 2008). The separation of powers and the judiciary at its most basic function do not give advice they interpret the law with the intent it was meant, settle disputes in criminal and civil cases, apply law to the facts in the case and reach a definitive decision which is unique to the judiciary because only they have such powers. The Doctrine of separation of powers helps make sure that no part of the government or judiciary gains absolute power to protect both the constitutional and implied constitutional rights of the people of Australia (Gelber, 2006). An example of a country that does not have a constitution or separation of powers is china which provides a good example of the differences and importance of both a constitution and separation of powers to provide a fair and just system of government and power. While the separation of powers is effective in terms of democracy, however, there can be no absolute separation as example the Australian prime minister has elements of both legislation and executive powers as a member of parliament and head of the government (Parpworth, 2012).