

**THE FUTURE OF AUSTRALIAN FEDERALISM:
COMPARATIVE AND INTERDISCIPLINARY
PERSPECTIVES**

EDITORS: GABRIELLE APPLEBY, NICHOLAS ARONEY AND THOMAS
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The future of Australian federalism seems to be a constant matter of discussion for academics in the “lucky country”. To many outsiders, this seems an incomprehensible state of affairs and few states have the constant self-examination of their constitution that seems to exist in Australia. This book attempts to provide such understanding and place the Australian debate in an international context. This aim is clearly achieved in what is an excellent volume, densely backed with both detail and overview. For this reader it certainly provided some much needed enlightenment.

The book brings together a wider range of authors from both Australia and across the globe. As is often the case with such collections (which as in this case emerged from a conference) this leads to a lack of coherence in some places and distinct variations in quality across the contributions. Nevertheless, overall the work hangs together in a way that is relatively unusual for such large works. The volume starts with an excellent overview by the authors, clearly pro-federal in their sentiments, which provides a good structure for the book as a whole. Importantly, for the non-Australian reader (or the generalist), it places the Australian federal mode in the domestic context, explaining how it fits within the rest of the constitutional structure.

The first substantive section discusses the balance between the Commonwealth level and the states through five distinct chapters. These are provided by a mix of academics and judges and it is noticeable that there are distinct disagreements between them although as Gageler points out, attempts to pinpoint the nature of the balance are doomed to fail such is its fluid nature. However, the flow appears to be all one way, towards the federal level. Perhaps the most interesting comments are by Robert French (Chief Justice of Australia) who argues strongly that the trend towards cooperative federalism (although popular and perhaps advisable) leads inexorably to the empowerment of the Commonwealth level. Similar arguments are to be found in the contribution of Paul De Jersey (Chief Justice of Queensland).

The chapter by Zimmerman in this section, although interesting, is also something of an anomaly, arguing for exceptionalism in Western Australia and positing the possibility of cessation or “special treatment” for the resource

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rich state. However, such comments seem to fly in the face of evidence presented later in the work, (A.J. Brown), which show opinion across the federation in favour of less not more powers for State government.

After sketching the current balance between the federal and state level, and its future progress, the volume presents a series of comparative studies which, while mostly of high quality in themselves, do not always engage with the issues being discussed.

While the chapters presented by Gunlicks and Koch present clear analyses of the German federal model, its recent reforms and the role of the German Constitutional Court in European integration respectively, the lack of reference to the Australian model, perhaps limits their utility in this context. The differences between the constitutional frameworks (and the role and power of the Supreme Courts) of the two federations is so great that greater comparative effort needs to be expended to ensure that the reader is able to make the chapter relevant to the Australian context. The same is also true of Schapiro and Kincaid, whose chapters on the US, while interesting and useful, lack connection to the Australian model. Hueglin, to his credit, does provide a connection between his discussion of the Canadian shift to federal bargain and equivalents elsewhere, including Australia.

Part three turns to the question of managing divisions within societies themselves. Australia is often seen as a strange federation precisely because it lacks such clear divisions. In perhaps the most interesting chapter in their entire volume, Aroney, Prasser and Taylor challenge this view, by pointing out through excellent use of empirical evidence that sharp divisions exist throughout Australian society. The issue perhaps is how to recognize such divisions territorially. The other chapters in the section suffer again from a failure to connect with the Australian question. Indeed it is not until the end of this section, where Aroney et al's chapter is placed that the relevance of such arguments becomes apparent. Even so it is questionable whether Ratnapala's rather left-field discussion of Federalism as a form of peaceful governance really has much relevance in an Australian context.

The final two parts return to more solid ground with discussions of fiscal federalism and the options for reform in the Australian system. The section on fiscal federalism is particularly rigorous and detailed. The three chapters by Boadway, Galligan and Bodman cover the ground well and provide some excellent nuanced arguments. Galligan's chapter in particular provides the outside with an excellent overview of the system and a deep insight into the political and constitutional drivers that have created the model whereby the states are legally free but "bound to the chariot wheels of the Commonwealth" as Alfred Deakin, one of the framers of the Australian Constitution famously described it.

In the final section the volume presents a series of chapters examining the future of the Australian model. The picture it paints is not particularly rosy with a commonly held view that "something must be done" coupled with a lack of agreement as to what exactly should occur. Brown in particular presents a

very interesting analysis of public perceptions of the Australian system. They are not positive but appear somewhat confused as to the desired outcome. Perhaps this reflects the general apathy towards the political class rather than Australian federal model? Further contributions from Saunders link overseas models to the Australian example and provide some good comparative food for thought. Returning to the theme of cooperation discussed in the first part, White (Queensland Court of Appeal) provides some fascinating insights into the disjointed nature of the Australian judiciary and its attempts to create a “national” system.

The section and indeed the volume as a whole are rounded off by a short conclusion by Twomey providing some idea of what may occur in the “Future of Australian Federalism”. There is no doubt that the reforms she suggests (constitutionalising cooperative federalism, reforming the powers and functions of government, etc.) are desirable but it is less than clear that they will come to pass. As the author herself comments, such reform are technical and uninspiring for the electorate. They are also politically difficult to implement, meaning that few politicians would be willing to take the risk of implementation when the rewards are so very low. Fenna and Anderson’s discussion (in this volume) of the failed Rudd reforms are evidence enough of the dangers of this course of action.

Overall this is a long and detailed read that will reward the persistent reader. As with all such collections there is a degree of incoherence at times and some of the authors clearly decided to plough their own furlough. However, the editors have done an excellent job of shepherding their flock in the direction required and, in the main, have kept their charges focused on the topic at hand. For this reason the book is to highly recommended. For those who wish to acquire a knowledge of the current state of the Australian federal model, this book is required reading.