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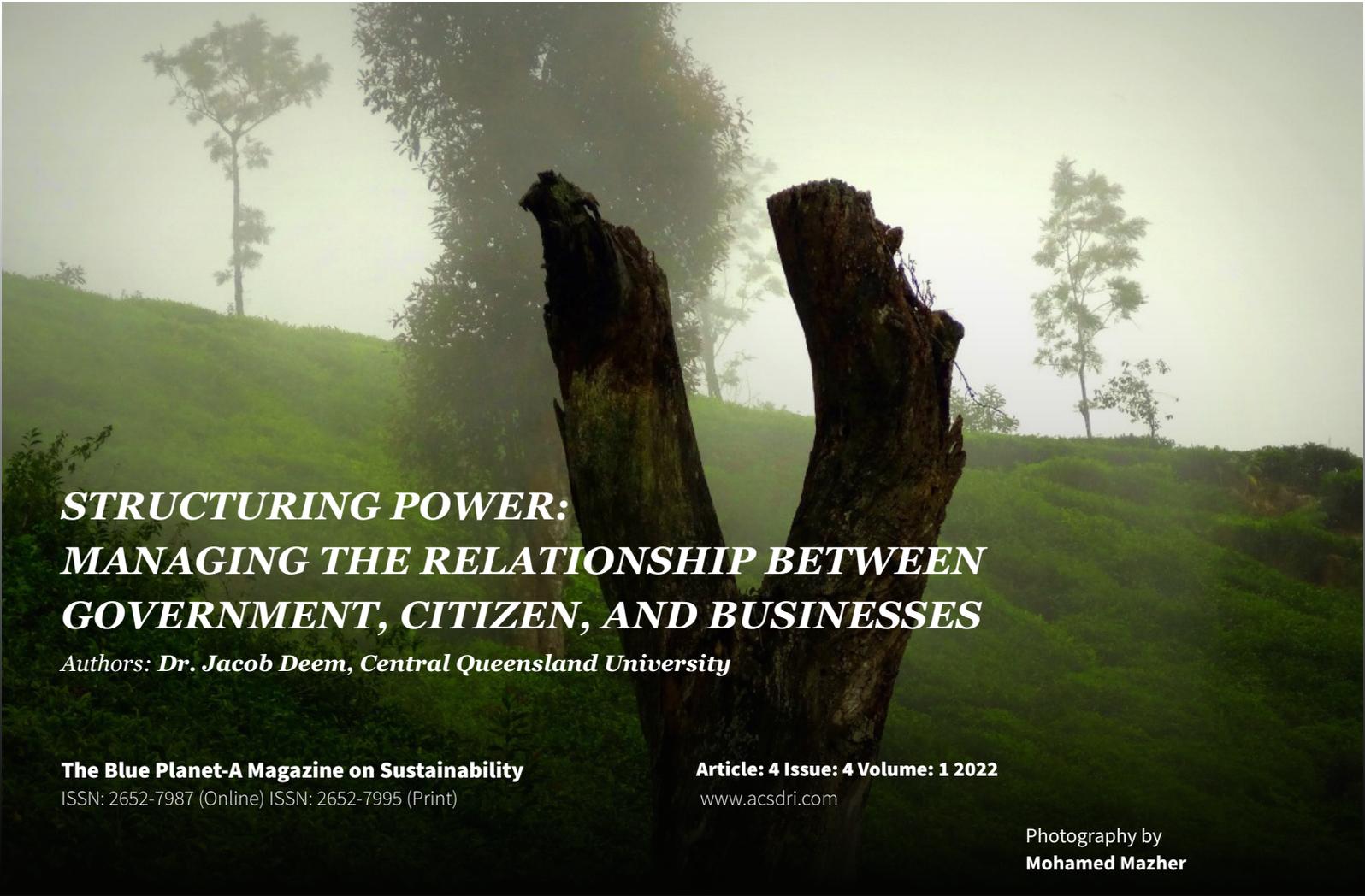
*Structuring Power :  
Managing The Relationship Between  
Government, Citizen, And Businesses*

By

Dr. Jacob Deem

*Published by*





# ***STRUCTURING POWER: MANAGING THE RELATIONSHIP BETWEEN GOVERNMENT, CITIZEN, AND BUSINESSES***

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## **Introduction**

The relationship between government and business is underpinned by a core tension: on the one hand, how do we ensure that government does everything it can to help private enterprise thrive, but on the other hand, how do we prevent the government from interfering too much in business? This article explains key structures, institutions, and principles that manage government, citizens, and business relationships.

Many societies (Australia, Canada, and the USA) use three key mechanisms to manage government power. First, constitutions, a nation's founding documents, and fundamental laws guarantee individual rights and limit government power. Second, power can be shared or divided across different governments in one country in a federation. Third, Parliament, as a representative body of the citizens of a country, is designed to ensure that the government reflects the people's wishes. These three topics are vital to understanding government-business relationships, as they underpin how a country is governed and how a business can or cannot operate in that country.

# How does government exercise power?

The government's power over an individual is easy to observe in our everyday lives, especially in recent years with pandemic-related lockdowns, vaccine mandates, and mask-wearing requirements. Outside the exceptionalism of COVID-19, police can arrest suspected criminals; transport departments decide whether or not we are licensed to drive a car; education departments determine the education our children will receive (and how much we have to pay for it), and the difference between a well-run and a poorly run public hospital can mean the difference between life and death for patients.

Governments are equally powerful in the business world. Corporate tax rates are the most recognisable example of government influence in this field, but governments can also affect the way a business is run through investment regulations, small business start-up grants or tax concessions, industrial relations and workers' rights laws, and trade negotiations with other countries.

When used in a way that favours business, these powers can make it easier for private enterprises to succeed by maximising their profits and long-term viability, but this may come at the cost of workers' rights, the environment, or social welfare and well-being. However, when the government has other priorities, these powers can restrict a company's ability to do business.

Therefore, it is important that we have a political system that strikes the right balance between empowering the government to protect workers, the environment, and other interests and leaving space for innovation and enterprise by ensuring that the government does not have too much control over the way individuals and companies conduct themselves.

## What is a constitution and government's power?

Constitutions establish the fundamental principles, structures, and rules for a society (whether that be a country, a state, or even a business). In a political setting, we can think of a constitution as a 'rulebook' for government because it maps how power is allocated and spells out what the government can and cannot do. Accordingly, the Constitution manages the relationship between citizens, businesses, and government by setting limits on government power.

It usually has little to say directly on the relationship between individuals and businesses, although a good constitution gives effect to the rule of law by both treating everyone equally and ensuring that no one is above the law (i.e., even the government is ruled by and subject to the laws in the Constitution).

Constitutions also play an important role in establishing the key institutions and offices of a nation – Parliament (the democratically elected body responsible for making laws), courts, the head of State, etc. – and setting out their responsibilities. Embedding these structures in the Constitution sends a signal as to their value and importance in society. Constitutions can also be vital in federations or federal systems, where power is divided across different levels of government, and rules are needed to govern how the different levels work.

Importantly, constitutions are ‘fundamental’ because they are more challenging to change or amend than ordinary laws. Typically, constitutional amendment requires approval from a majority of citizens through a referendum, while ordinary laws are made, changed, and repealed in Parliament. The difficulty of amending the Constitution provides stability and consistency to society, especially in times of extreme uncertainty, and guarantees that citizens will be protected by the rule of law, even during a change of government.

## What is federalism?

Federalism aims to manage government power by dividing the functions and responsibilities of governance across different jurisdictions. For example, in Australia, power is constitutionally split between the ‘national’ or ‘federal’ government and the State and Territory governments. Australian federalism mainly draws on the example of the US federal system, which contains Federal and State governments. However, Canadian and Swiss Federal systems also informed the drafters of our Constitution. In these cases, different individual governments (e.g., the States in Australia and the US) agreed to unite to form a new nation (quite literally, the ‘United States’ in the American case). However, they were reluctant to give up all their power. Accordingly, federalism is best understood as a compromise or bargain that carefully balances the autonomy, independence, and uniqueness of subnational governments with unity, uniformity, and equality across the nation.

Federal systems can be contrasted with unitary systems like the UK, New Zealand, or Japan, where true authority rests with only one (national) level of government. However, New Zealand and Japan have more than one level of government (national and municipal/local), while the picture in the UK is even more complicated, with national and local governments and Assemblies in Scotland and Wales with their powers and responsibilities.

So, how can we distinguish between a unitary system with multiple levels of government and a true federal system? The key difference is that in a federal system, power and sovereignty (the authority to rule) are genuinely divided across the different jurisdictions, such that one government cannot force another government to act in a particular way. By contrast, in a unitary system, the central level retains complete sovereignty, merely devolving power to lower levels, which it could (in theory) take back at any time.

# What are the advantages and disadvantages of federalism?

A federal system of governance has the potential to deliver a range of benefits to citizens and businesses, although these benefits do come at a cost. Historically, federations were often formed to facilitate trade and security by uniting the economies and armies of the constituent jurisdictions. These benefits typically carry on through the life of the federation.

In terms of policymaking, federalism is thought to produce mechanisms for better policies because State or subnational governments can make decisions that best reflect the needs and values of the local population, while national governments can take a 'big picture' approach and create policies that are in the national interest. Furthermore, jurisdictions can learn from each other, applying policies that seem to work well and innovating new improvements from which other jurisdictions can learn.

However, while federalism offers an array of advantages, it also has some drawbacks. The most commonly cited issue with federalism is that it can be inefficient compared with unitary systems. Dividing sovereignty between different levels of government can result in policy overlap and duplication (e.g., where national and State governments both make laws on the same issue), meaning that time and resources are wasted.

Perhaps more concerning is when laws are inconsistent between the national and State levels or between States. This is especially true in a business setting, where companies that operate in multiple States may face increased costs due to having to comply with different regulations in each jurisdiction. In Australia, a common complaint from businesses is that inconsistent approaches to climate change and environmental regulation at national and State levels stifle innovation and dissuade businesses from pursuing environmentally sustainable practices, as the costs and rewards for doing so are rendered uncertain.

A related concern is the inter-jurisdictional bickering that comes from empowering different levels of government. Furthermore, this bickering is even more concerning when it obscures accountability for problems and leads to a 'blame game' between governments. When federal and State governments share responsibility for a policy area, it can be hard to pinpoint who is at fault when things go wrong. In 2021, this accountability gap was highlighted when federal and State governments blamed each other for the shortage of COVID-19 vaccines.



# Conclusion

We began by considering the core tension of government-business relations: a balancing act between giving governments enough power to help individuals and enterprises thrive but not so much power that they would be able to interfere with the freedoms and rights of those individuals and enterprises. We discussed three broad approaches to managing this tension: constitutions, federations, and parliaments. Accordingly, the relationship between business and government will depend on the country and its institutions – what powers does Parliament have in the Constitution? How many parliaments are there in a federal society? And how is power separated across the governing branches? A successful business will know the answers to these questions, as it can best adapt to the governing arrangements in which it finds itself.





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