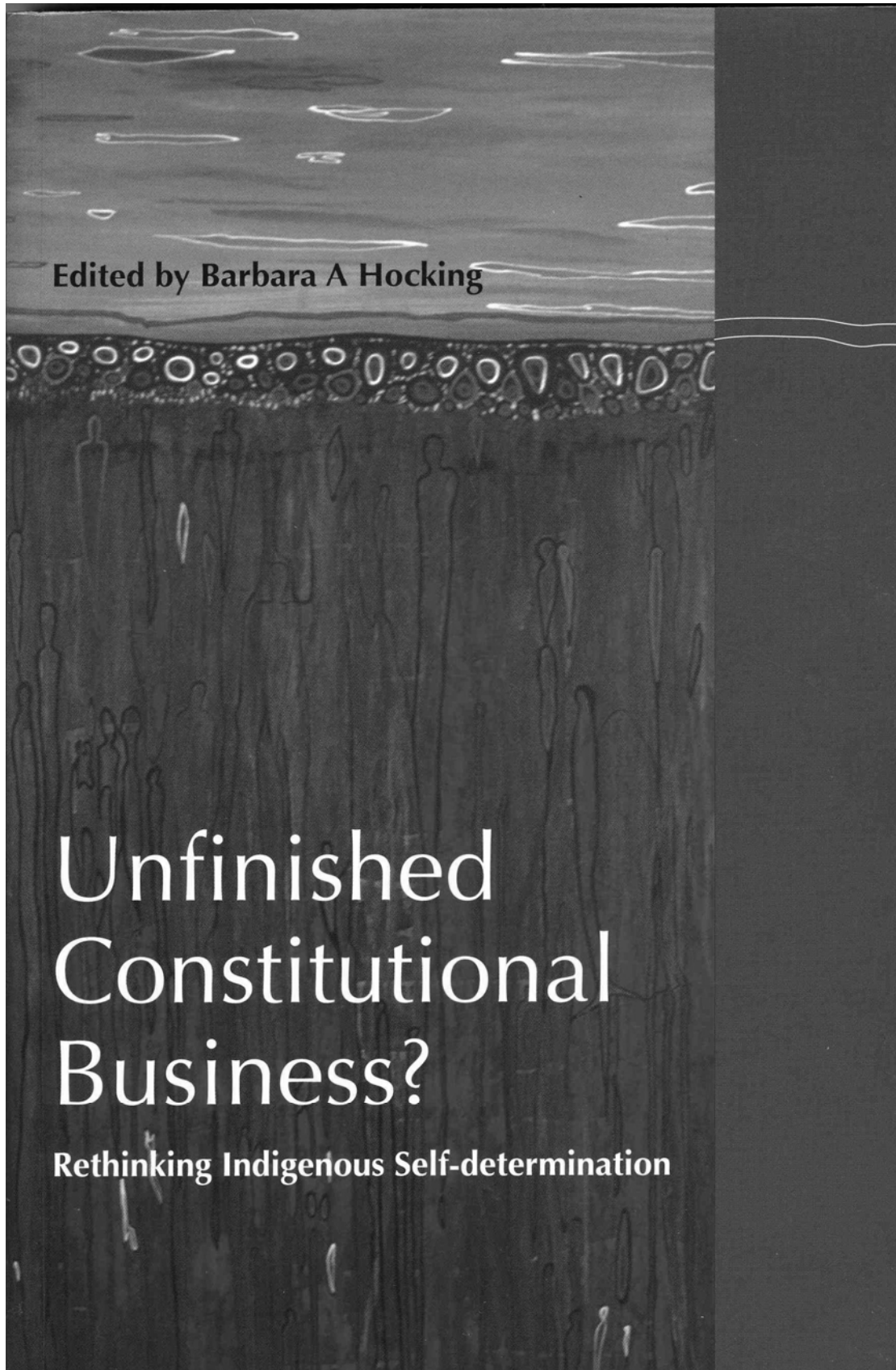


BOOK REVIEW



Edited by Barbara A Hocking

Unfinished Constitutional Business?

Rethinking Indigenous Self-determination

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Reviewed by Nicole Watson

From the first page of *Unfinished Constitutional Business* one gets the impression that its offerings will be bold and inspiring. Beginning with the confronting poem, ‘The Politics of a Racist Game’ by Indigenous writer, Nicole Williams, this refreshing book is unafraid to explore the human consequences of legal principle while losing none of the intellectual rigor of a conventional legal text.

The nineteen commentators come from a range of cultural backgrounds and disciplines. The diversity of the contributors is one of the book’s strengths because it enables self-determination to be considered holistically. For example, Chris Cunneen’s chapter on the relationship between Indigenous self-determination and policing, albeit an important contribution, would not normally find its way into a black-letter legal analysis. The inclusion of academics from outside of the legal academy also exposes the reader to critique of the politics behind the law, particularly the means by which non-Indigenous institutions repress Indigenous self-determination.

For example, John Bradley and Kathryn Seton illuminate the colonial practices that underpin legislation such as the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth). Such processes not only deem Europeans as the arbiters of the authenticity of claimants, forcing them to fall within racist stereotypes, but also constrict the ability of Indigenous people to adapt to the pressures of colonisation. In one example provided by Bradley and Seton senior women demanded the inclusion in their claim of members of the stolen generation. Such individuals were adopted into families who could teach them the knowledge that they would have otherwise acquired. Although this was a genuine attempt by the claimants to begin to heal the legacies of earlier child removal policies, they were not supported by the relevant Land Council.

Another exciting aspect of the book is its historical analysis of colonial attempts to recognise Indigenous sovereignty. In some cases the introduced institutions were diametrically opposed to Indigenous tradition, producing disastrous results. In this vein, Corrin Care provides a timely analysis of parliamentary democracy in the Solomon Islands. After shuffling between German and British control the Solomon Islands achieved independence in 1978. The nation’s constitution that provides for a centralised form of government was drafted in London, after only 10 days of discussions with a delegation of Solomon Islanders. Little consideration appears to have been given to the appropriateness of centralised government for a country made up of 63 languages with a lengthy tradition of authority being vested in local clans.

Of recent civil unrest Corrin Care poses the question - given the incongruous foundations of government, is it any surprise that it was unable to uphold the rule of law?

While the use of European institutions for the recognition of Indigenous self-determination has led to spectacular failures, some have also evolved from their colonial roots into tools of empowerment. For example, Catherine J Iorns Magallanes traces the history of Maori parliamentary seats. Initially Maori participation in parliamentary business was tokenistic – Maori members did not speak English and were unassisted by translators, except when required for negotiations with their fellow parliamentarians. However, in the latter part of the twentieth century, Maori seats gained the acceptance of mainstream political parties and are now perceived as an important expression of Indigenous self-determination.

In Australia's current political climate ideas such as Indigenous parliamentary seats would appear to be unattainable and therefore, irrelevant. However, the experiences of Indigenous peoples in other parts of the world are pertinent to some of the current debates in Australian Indigenous policy, particularly Joshua Cooper's chapter on the Kanaka Maoli, the Native Hawaiian people. Tourism has lined the pockets of multinationals and led to the exploitation of Kanaka Maoli. Cooper provides examples of sacred sites that have been desecrated to make way for resorts, the distortion of culture in order to lure wealthy outsiders and the lack of affordable housing that has resulted from the tourism boom. One is left with the impression that in the Australian debate over privatisation of communal lands, economic arguments must not be allowed to overwhelm Indigenous peoples' rights to practice their laws and traditions.

The final strength of the book, in this reviewer's opinion, is its accessible language. Lawyers, those who work in the field of human rights, in fact, anyone who has an interest in the unresolved issue of Indigenous self-determination, will benefit from reading this book. However, *Unfinished Constitutional Business* is not flawless. As a young Indigenous academic this reviewer was dismayed by the absence of emerging Australian Indigenous writers. While the contributions from established Australian Indigenous academics are among the book's highlights I was saddened that younger voices appear to have been overlooked. However, in spite of this criticism, *Unfinished Constitutional Business* is an exciting and timely book.