

## BOOK REVIEW

# INDIGENOUS AUSTRALIANS, SOCIAL JUSTICE AND LEGAL REFORM: HONOURING ELLIOTT JOHNSTON

EDITED BY  
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Federation Press, 2016

*This review, the collection upon which it focuses, and the delivery of each public lecture the collection includes were, and continue to be, carried out on Kurna Land. This author acknowledges the Kurna People, and pays his respects to Kurna Elders, past, present, and future. The author additionally acknowledges the communities represented by key contributors to the collection.*

An annual lecture in honour of Elliot Johnston AO QC, respected member of the South Australian Judiciary, Commissioner of the Royal Commission into Aboriginal Deaths in Custody, and foundation staff member of Flinders Law School, has been held, since its inauguration in 1998, as a collaboration by Flinders Law School and Flinders University's Office of Indigenous Strategy & Engagement. This annual lecture acknowledges Elliott Johnston's strong commitment and tireless work to support social justice and equality before the law. The lecture series started as a tribute, following his retirement from the Law School, and continued as a memorial lecture after his passing in 2011. This book, produced in his honour, is a collection of all the lectures delivered since the series was inaugurated up to and including 2015.<sup>1</sup>

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<sup>1</sup> The editors of the collection note that unfortunately no record can be located of Linda Burney's 2004 lecture 'Looking forward, looking back', but they advise

Johnston was, and continues to be, a much-revered figure within the South Australian legal community and beyond. It is fitting that each part of this collection reveals new insights into not only his personal achievements and contributions, but also brings to the fore his legacy, not only the lasting impact he had on those who knew him, but the key role he has played in the amelioration and recognition of Australia's First Peoples.

The collection is ordered chronologically beginning with the first Elliot Johnston Tribute Lecture delivered by Frank Brennan in 1998, through the first Memorial Lecture delivered by Michael Kirby in 2012, and concluding with the lecture delivered by Jacinta Ruru in 2015. It was published in 2016, the year that marked the 25<sup>th</sup> Anniversary of Johnston's delivery of the *National Report of the Royal Commission into Aboriginal Deaths in Custody*, the 25<sup>th</sup> Anniversary of the establishment of Flinders Law School, and the 50<sup>th</sup> Anniversary of the establishment of Flinders University.

While the collection has been structured chronologically, in their introduction chapter the editors identify four themes that have shaped and influenced the lecture series over its 17 year history. In identifying these themes, the editors contextualise some of the broader social, political and legal discussions surrounding the concepts explored throughout the collection. The themes, '*Indigenous Rights and Law Reform*', '*Negotiation, Recognition, Reconciliation*', '*Criminal Justice Matters*', and '*Life Stories*', provide a useful vehicle for the editors to introduce each contribution and examine its significance. However, while such an approach is entirely defensible, it does result in a somewhat artificial compartmentalisation of the arguments set out across the contributions. But, to their credit, the editors highlight where this is the case, making return reference to those contributions already

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that a view of the substance of the lecture can be gained by reading her Inaugural Speech to the New South Wales Parliament following her election in 2003 as the first Aboriginal person to serve in that house.

introduced where they too could be considered as exploring that theme. Usefully, the editors use this chapter to provide the reader with references to additional material beyond that provided by the contributors, providing further context not only for the reader moving throughout the collection, but for researchers and other interested parties to draw on.

Each contribution to the collection is well-written and readily accessible to students, lawyers, researchers and, beyond this, to the broader community. This is no doubt a product of the conversational style adopted throughout, given the nature of each contribution having been delivered as an oration. The limitations often implicitly enforced in conventional academic writing are eschewed in preference to freely flowing and accessible narrative. The ensuing incorporation of personal perspective and experience, contextualised with striking and prescient legal observations, makes each contribution fertile ground for relatability and critique in equal measure.

It can be the case in edited collections, especially thematic collections, that some of the more interesting aspects arise by implication, or factors not commented on directly. Throughout reading this collection I was taken by the shift across the years represented in the approach taken to the commencement of each lecture. There is a perceptible shift in the regularity in the offering of an Acknowledgment to Country, recognising that the lectures were presented on Kurna land, and a real genuineness in which that acknowledgement is offered. An exemplar of this appreciation can be observed in the opening of Martin Hinton's erudite lecture from 2009, where he reflects on the role First Peoples have played, and continue to play, in our construction of Australian identity. It is perhaps fitting that the journey upon which this collection takes us across 17 years of legal and political history, as it relates to Australia's First Peoples, in its very essence and performance embodies some of the changes and recognition it calls for.

Additionally, while perhaps attributable to those organising and facilitating the lectures over the years, rather than simply a feature of the collection itself, the inclusion and prominence of Indigenous voices and perspectives, treated with the same respect and dignity as non-Indigenous voices, is both encouraging and appreciated. Readers of this collection will find multiple legal and political perspectives on pressing social justice issues, some challenging like Pat O'Shane's *Back to the Future: Aboriginal Imprisonment Rates and Other Experiences* which, in 1999, raised the potential question of a 'hidden genocidal intent in the Northern Territory's mandatory sentencing laws', and others inspiring such as Megan Davis' *Putting Meat on the Bones of the United Nations Declaration on the Rights of Indigenous Peoples*, where she recounts the role played by Australia's First Peoples in contributing to the development and ultimate adoption of the Declaration, while setting out strategies for capacity building within Aboriginal communities. The collection also provides an opportunity to engage with Aboriginal voices across various academic and social debates, presented with a raw authenticity. Such contributions, unfortunately, tend to be too readily isolated or neglected in mainstream commentary.

This collection represents a fitting tribute to Elliot Johnston, with each contribution embodying the commitment to justice he exemplified throughout his distinguished career and in his work as a foundational member of Flinders Law School. And beyond this, it serves as a genuine reflection on the progress and changing nature of the broader reconciliation project between the law, Australia's First Peoples, and the broader Australian society. It is perhaps worth noting that a fifth theme finds its way woven throughout the fabric of this collection: *Unfinished Business*. It is in that spirit that I commend this book to you.

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