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Book Review by Edward Synot

Michael Mansell needs no introduction. Lawyer, activist and prominent Aboriginal leader, Mansell has for decades provided a strong voice to the important but often derided and misunderstood issue of Indigenous sovereignty. By doing so, Mansell is no stranger to the polemical nature of Indigenous politics. Yet despite such circumstance, Mansell's *Treaty and Statehood: Aboriginal Self-determination* strikes through as another timely intervention in the Indigenous recognition debate.¹

Mansell's book sophisticatedly navigates the recognition debate and reminds all Australians of the fundamental justice of Indigenous claims and the need for a new relationship that empowers Indigenous peoples.² To this extent, Mansell's words are in unison with the recent publication of the Uluru Statement following the culmination of the Referendum Council's work and the outcome of the 2017 National Constitutional Convention.³

While proclaiming Indigenous sovereignty to be as it always has been, the Uluru Statement asks 'How could it be otherwise?'.⁴ The Uluru Statement commits to the realisation of a new relationship that allows Indigenous sovereignty to 'shine through... substantive constitutional change and structural reform' that would enable 'power over our destiny'.⁵ Following the convention this was communicated through a claim for a Makarrata Commission to oversee agreement making and truth-telling, and a constitutionally enshrined First Nations Voice to ensure Indigenous involvement in the decision making processes that affect them.⁶

Mansell would agree with the fundamental principles expressed by the Uluru Statement – the need for truth-telling and the intrinsic quality of Indigenous sovereignty that inheres in Indigenous claims.⁷ Yet while the Referendum Council's final report was deliberately limited in detail to leave the function and design of a First Nations Voice to parliament, emphasising instead the need for structural reform, Mansell's *Treaty and Statehood* provides an erudite assessment of the many options for reform.

These options, among others, include designated parliamentary representation,⁸ treaty options,⁹ and the potential for Indigenous statehood.¹⁰ While these options are often labelled a step too far, Mansell's assessment of them including the issues that inhere for Indigenous peoples through their minority position in the electoral system,¹¹ convincingly canvasses the important legal and political issues relevant to any proposal for reform – from the domestic and constitutional to the now long established international.

Indeed, Mansell's discussion of 'internal self-determination' is an intelligent and convincing understanding of the differing claims and potential for what could be that does not arrest itself to claims of radicalism or unrealistic dreaming.¹² While Mansell's suggestion – Indigenous statehood – may automatically attract derisive claims, the detail and issues it covers are those centrally important to any reform that will take place. For Mansell, those factors for statehood include: a defined territory, consent from Aboriginal land owners, agreements of states to transfer lands, the existence of a working Aboriginal government and clear evidence of Aboriginals ready to govern themselves.¹³

What shines through Mansell's *Treaty and Statehood* most powerfully however is not necessarily the detailed proposal for statehood, nor the insightful revelations about the many issues faced by reform proposals, but rather the gentle but definitive affirmation of Indigenous sovereignty from which he begins. Similar in effect to the Uluru Statement's question of how could it be otherwise, Mansell begins with a hypothetical scenario of a Prime Minister sitting down with Indigenous people as equals in

recognition of the legitimate authority of Indigenous peoples and their claims.¹⁴ This starting point of a new relationship seems to be both near and far, but the power of Mansell's important intervention draws from the authority of tradition that inheres in Indigenous sovereignty as both affirmation of self and as counter-claim to the assumed legitimacy of the current political and legal order. Mansell highlights this best when he claims that 'legitimacy is an unresolved issue not to be so lightly dealt with',¹⁵ and that unless the 'sovereign rights of Aboriginals are properly dealt with, Australia will remain a tarnished nation, built on invasion, dispossession, discrimination and oppression.'¹⁶

In the fraught arena of Indigenous affairs and politics, sovereignty has too often been derided as outside of the acceptable or realistically achievable, labelled as belonging to nostalgic separatists rather than those that are aware of and willing to aim for the practical and pragmatic. Yet, beyond the very important issues of disadvantage and social dysfunction, the claims of Indigenous people as Mansell highlights are informed by those very rights that inhere in and exist because of the sovereign status of Indigenous people.

Despite this sovereign understanding, Indigenous claims are too often dismissed as being a dangerous form of cultural relativism or a divisive claim to special rights within an otherwise homogenous and equal community. However, this is where the claim to an ideal of equality in the face of the lived experience of Indigenous peoples continuously fails in its violent abstraction of lived life. Indeed, as Mansell bluntly claims, 'Throwing slogans such as "we are all Australians" at the festering historic issue is no substitute for action.'¹⁷

Mansell's *Treaty and Statehood* should be compulsory reading for all, let alone those interested in and working toward substantive and structural reform that would enable a new relationship between Indigenous and non-Indigenous Australia. The understanding and recognition of the inherent nature of Indigenous sovereignty now runs in both international and domestic law, yet Australia lags behind others in its realisation of a better and more legitimate relationship. *Treaty and Statehood* provides a gentle but definitive invitation to the Australian nation and people to revisit self, to hear and understand the authority of Indigenous peoples and their claims, to 'signify the type of nation Australia wants to be',¹⁸ and achieve the vision Mansell shares with most 'of a healthy, vibrant Aboriginal people living in a harmonious relationship with the Australian people.'¹⁹

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- 1 Michael Mansell, *Treaty and Statehood: Aboriginal Self-determination* (The Federation Press, 2016).
- 2 *Ibid*, 105.
- 3 Shireen Morris (ed), *A Rightful Place: A Road Map to Recognition* (Black Inc, 2017).
- 4 *Ibid*, 2.
- 5 *Ibid*.
- 6 *Ibid*, 3.
- 7 Mansell, above n 1, 13.
- 8 *Ibid*, 21, 39.
- 9 *Ibid*, 97.
- 10 *Ibid*, 198, 225.
- 11 *Ibid*, 39.
- 12 *Ibid*, 198.
- 13 *Ibid*, 249.
- 14 *Ibid*, 13.
- 15 *Ibid*, 71.
- 16 *Ibid*, 84.
- 17 *Ibid*, 196.
- 18 *Ibid*, 105.
- 19 *Ibid*, 272.