firmation that mythology is inevitable and ever-present in contemporary culture. Legendre likewise identifies the roots of 'our own mythological structures' (p.113) in Roman law and in Christian doctrine, and modern secularisation as 'more a process of substitution than one of radical change' (p.56).

> The secularization of aesthetics during the Renaissance and the process of reclassification which took place during the eighteenth century gave rise to something new, but the sacred distinction was left untouched, confirming something that lawyers in Europe have been repeating since the era of scholasticism: the law is written in the domain of pontiffs and rulers; the people, as mere subjects, are separated from it. The Text declares the mystical order of a great spectacle ... [p.56]

Just as the Dutch jurist Herman Dooyeweerd, writing in the early 20th century, saw all social institutions as markers of communal faith, of beliefs parading as common sense, so Legendre sees political power

> in a direct relation with the Reason of representation. In order to institute the similar, a society constructs an image of all that we are. Politics, therefore, is eminently religious. [p.234]

Such an analysis, Legendre fears, is subversive and may explain why his 'writings are deemed to be unacceptable' and aberrant, particularly in France (p.89).

Legendre's psychoanalytic orientation is yet another barrier to his influence as a legal historian.

> [T]he history of law, which is currently on the decline in France ... is horrified at the very mention of Freud, or, worse still, Lacan. The fact that Freud was, so to speak, blessed in legal literature, not least in Kelsen's writing ... is commonly overlooked. [p.101]

Yet Legendre is critical of the psychoanalytic establishment for a certain ignorance concerning 'institutional questions' (p.44), including its own (p.199), and is cautious in his appropriation of Freud and Lacan. Psychoanalysis 'is neither an explanation of the world nor of society, it is not an official message, it leaves the questions posed by life unanswered' (p.84). Nevertheless it can 'contribute to the analysis of the capture of the individual by the institution ... through uncovering certain unrelenting cultural patterns of repetition, and through the identifications of the rites ... transmitted by classical texts' (pp.40-1).

The texts of law, including the textual tradition of interpretation, are for Legendre creators of faith and fabricators of believers (p.69). The message of legal institutions is not so much a matter of communication as it is a staging that preys upon our fantasms, our desires, and our sense of guilt, to seduce us as subjects of law. Law institutes our lives, and its discourse is like theology for medievals, or like natural science or medicine for moderns (p.137). Law guarantees and orders our social lives as reasonable, just as Roman and medieval canon law did — we repeat and re-enact those structures, those representations, those myths.

Legal processes and institutions are not, for Legendre, properly characterised as merely one important social structure alongside the institutions of religion or scientific reason — they *are* our religion and they provide, historically, our images of causation, proof, and truth. Law works on numerous levels and fronts to create identity and to govern our bodies — their functions, emotions, and desires. We are captured not only in Law's textual boundaries, aesthetic images, and theatrical staging, but in its dance — we conform, we imitate, we march as our bodies, resonating with law, are moulded and ruled. If that sounds exaggerated or provincial (ennobling jurisprudence as the queen of all disciplines), Goodrich's opening translation, entitled 'The Dance of Law', is a wonderful display of interdisciplinary acumen.

In the end, Legendre's rich and multi-faceted project is not easily summarised in a book review. Goodrich's introduction does as good a job as possible in identifying themes, but the themes in *Law and the Unconscious* multiply with each selection and serve to make Legendre's entire canon enticing. If post-colonial studies has been criticised for having 'four centuries and the entire universe'[1] as its disciplinary field, Legendre at times seems to view ten centuries and all of western culture as his own. Jurisprudence, after all, is concerned with the big picture, and while details — textual references, case examples, historical episodes — are not lacking in Legendre, he succeeds in revealing the genealogy and spirit of contemporary legal institutions.

DAVID S. CAUDILL

David Caudill is Professor of Law at Washington & Lee University, Virginia, USA.

Reference

1. Jacoby, Russell, *Marginal Returns: The Trouble with Post-Colonial Theory*, Lingua Franca, Sept/Oct 1995, p.30.

Subversive Sites: Feminist Engagements with Law in India

by Ratna Kapur, Brenda Cossman; Sage Publications, in association with The Book Review Literary Trust, New Delhi, 1996; 352 pp; Rs 200, hardcover.

Ratna Kapur and Brenda Cossman provide a critical intervention into the field of women and the law in India in their latest publication *Subversive Sites*. *Subversive Sites* is a feminist analysis of the legal regulation of women in India, examining both the limitations and possibilities of the role that law can play in women's struggles for social change.

India has a long history of the women's movement making extensive use of the law, particularly legal reform, as a tool for social change such as anti-sati legislation, anti-dowry legislation, and reservations for women at State and local government levels. But there have been many disappointments, even within the more successful campaigns, particularly in relation to the implementation of the law. Thus there is a growing disenchantment among sectors of the women's movement in India who now argue for women to disengage from the legal system. It is interesting that in the light of the Wik Bill currently before the Australian Parliament, which undermines the decision of the highest court in Australia, legal activists in Australia may also be beginning to question the value of law as a tool for change.

In this environment, *Subversive Sites* is a well-timed book. As it explores alternative strategies for the law, the book builds up a well-argued concept of the law as more than just a tool for social change. The authors argue that:

> [L]aw needs to be reconceptualised as a site of discursive struggle where compet-

> ing visions of the world and of women's place therein, have been and continue to be fought out. [p.12]

This approach better captures the complex role of law in social change. It creates a space that brings to light new strategies for the women's movement to engage with in litigation, law reform and legal literacy, and may prove useful and encouraging for women in India and Australia who are becoming disillusioned with the law.

In the first chapter the authors set out their theoretical argument. They draw on a wide range of western feminist critiques of dominant constructions of gender within the law. But far from simply borrowing western feminist critiques of western legal systems and applying them to the Indian situation, the authors have provided a valuable contribution to the development of the new feminist legal studies in India. Kapur and Cossman draw the points of similarity in areas where western feminist legal theory and Indian legal theory are exploring the same questions yet throughout the book ground the theory in relevant and important examples of where the law impacts on women in India today. This approach is well situated in the growing body of literature from African-American women (for example, Patricia Williams), women of colour in the West and women in developing countries who have criticised western feminist legal theory for obscuring the multiplicity of difference that exists among women.

Arguing that the law is a site of contestation, the authors explore different aspects of their argument in chapters two, three and four, focusing on the areas of family and the law, the constitution (particularly the application of and the courts' interpretation of sex discrimination legislation) and the Hindu Right, respectively.

Special mention should be made of the chapter on *Women, the Hindu Right and Legal Discourse*, which I found partcularly interesting. The Hindutva — the right wing, conservative, Hindu fundamentalist political parties of India — have been gaining increasing popularity in India in recent years. The Hindutva and the women's movement in India have become entangled over the issue of a Unifom Civil Code. The women's movement has been arguing for a single code on marriage and divorce to ensure that women are not disadvantaged and discriminated against under the guise of cultural practice.

Unfortunately for the women's movement, the Hindutva have co-opted the call for a Uniform Civil Code on the very different basis of removing recognition of Muslim minorities in Indian law. The authors examine the nature of this co-option — how the Hindutva have adopted much of the language of the women's movement, in order to access the vote of many lower class/caste women. Kapur and Cossman's analysis of this co-option and the difference between the Hindutva's rhetoric and their actions is excellent.

The authors use this issue most effectively to demonstrate their theory that the law is not necessarily a site of two adversaries against each other, as it has been traditionally thought of, but that it is a site where there are multiple players negotiating the dilemmas.

The final chapter where the authors look at positive strategies in the areas of litigation, law reform and legal theory is the most useful. The authors argue that:

> Legal strategies cannot and should not be abandoned in women's struggles ... [but] any attempt to use the law must be informed by an understanding of the limitations and dangers of legal strategies. [pp.292-3]

They suggest that for legal strategies to be more effective, the law cannot be seen in isolation, that the distinction between law and politics needs to be shifted to locate the law within the realm of broader political struggles, thereby avoiding the limitation of a narrow focus on a constitutional rights discourse (p.292). Furthermore, the distinctions between legislative reform, litigation and legal education must be seen in the context of engaging an approach of multiple, integrated strategies, each having an appropriate and complementary role to play in the circumstance. The key to using the law is to see the law as *potentially transformative*. Thus legal strategies such as law reform are a means to an end, and we cannot assume that the battle is won if the legislation is enacted.

It is refreshing to see a book, that not only uses the tool of feminist legal theory to deconstruct the law, but goes further by attempting to reconstruct and discuss useful and positive strategies for the way forward.

ALISON AGGARWAL

Alison Aggarwal is completing her Masters of Asia Studies at the Australian National University.

Human Rights Approaches to Environmental Protection

Edited by Alan E. Boyle and Michael R Anderson; Clarendon Press Oxford 1996; 313 pp; $120.00 hardcover.

This book was published after the Final Report of the UN Sub-Commission on Human Rights and Environment, prepared by Fatma Zohra Ksentini, the Special Rapporteur.[1] Having followed the progress of the work of the Special Rapporteur and the development of the *Draft Declaration of Principles on Human Rights and Environment* at law school, it was with great interest that I read this book. It is worth noting the events which led to the adoption of the Draft Declaration by the UN Sub-Commission as they provide a context for many of the issues discussed in this book.

In 1989 the Sierra Club Legal Defence Fund, in conjunction with Friends of the Earth and the Association of Humanitarian Lawyers, brought two environmental cases concerning alleged violations of human rights together with the degradation of the environment in Guatemala and Ecuador before the 41st session of the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities. Submissions were heard on the subject of environment as a human right and the Sub-Commission concluded that it should study the problem of the environment and its relationship to human rights. Fatma Zohra Ksentini was appointed Special Rapporteur on Human Rights and the Environment and has prepared a number of reports on the subject. The *Draft Declaration of Principles on Human Rights and the Environment* was drafted on her behalf.

The reports of the Special Rapporteur describe the growing awareness and recognition of the environmental dimension of human rights by various human rights treaty bodies and other international organisations, and review