

English summaries

Australia facing its Colonial Past

I. MERLE

In 1992, for the first time in its history, the High Court of Australia was presented with a case involving recognition of the ancestral land rights of an indigenous community, the inhabitants of the Murray Islands in the Torres Straits. The court ruled in favour of the islanders in the Mabo Case, creating a new legal category in Australian common law: native land rights, or native title. The decision provoked a storm of controversy in Australian public opinion. The repercussions of the decision went far beyond the specific case of the Murray Islanders as it amounted to a recognition of the "customary" land rights which all indigenous Australians were held to inherit from the period preceding European colonisation. The ruling thereby overturned one of the fundamental legal principles of the Australian nation: the doctrine of "terra nullius". This article discusses the stakes in the current debate by reviewing the genesis of a "white" Australia based on the wholesale rejection of its first inhabitants through the legal doctrine that the continent was uninhabited before the arrival of the Europeans. What was the origin of the idea of "terra nullius" and what did that principle mean? How was it applied and accepted as legitimate for more than two hundred years? In what circumstances was it finally overturned and what are the major consequences of that ruling? The Mabo Case points to a series of historical and legal questions which have profoundly challenged the whole of Australian society, its perception of the country's past and the nation's conscience.

The Body of a Sinner. The Price of Piety. The Politics of Adultery in Late Antiquity

H. SIVAN

Using Jerome's Ep. 1 as a point of departure this article examines the legal definition of the crime of adultery in Late Antiquity. Underlying the exposition of the case narrated by Jerome is an effort to relate legal theories to realities and ideologies to practicalities. The leading question is how did the moral wrong of adultery contribute to shaping relations between the governed and the government on the one hand, and the private and the public spheres on the other. This study also analyses Jerome's own attempts to provide a Christian interpretation of a tale of adultery and a public execution of an adultress.

Seduction, Family Space and Authority in the Italian Renaissance L. MARTINES

Based upon 251 tales by more than thirty writers, this essay examines family space in Italian Renaissance cities (c. 1350 to 1560). Seen in the context of parental

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authority, the theme and stratagems of amatory seduction, whether by male or female, focus the inquiry. Household space, window and door areas, going into the streets, and visits to relatives and churches are all considered. Women of the propertied classes were supervised and kept mostly at home. Family space went where women went; it did not follow men. Given the extreme dangers involved, seduction was bound to be fearful. Closed domestic space encouraged real or imagined incest. Having corralled his women, the hegemonic male was then haunted by fears of what went on inside the enclosure.

Fatma's Dilemma: Sexual Crime and Legal Culture in an Early Modern Ottoman Court

L. PEIRCE

In 1541, the judge of the court of Aintab heard the testimony of a peasant girl, Fatma, who had accused two young men of making her pregnant, and one of the two of raping her. The scenario that unfolded revealed that the rape accusation was made at the urging of the mother of the young man who was actually the father. Fatma's case is examined here, not with the goal of resolving it, but rather as a complex site of conflicting legal principles and interests. By situating this case in the context of other cases of sexual crime in mid-16th-century Aintab, this essay contemplates the ways in which a local society interpreted and used the law to resolve moral and social problems. It argues that the local court, while functioning as an instrument for the enforcement of normative law, acted at the same time as an arena for negotiation of the very law it was mandated to enforce.

The Search for a Historical Tradition: Early India

R. THAPAR

It has long been held that Indian society in ancient times was an a-historical society and therefore no historical works were written. This view was propagated by colonial writers who argued that they had to "discover" and reconstruct the past of India. This article indicates the existence of a historical consciousness in early India, referred to as the it ihāsa-purāṇa tradition. It has constituted of a variety of texts—genealogies, historical biographies, chronicles of kingdoms and of families, and of inscriptions issued by many dynasties, recording certain events. There was also a recognition of linear time as important to these records, even though a cyclic form was given to cosmic time. It would therefore be appropriate to investigate what was viewed as history in such a society.

At the Edge of Medieval Islam: Urban Elites and Islamization in the Algarve

M. MARÍN

The article analyses the islamization of the extreme Western region in the Iberian Peninsula (the Algarve). This process, while following the general trends of the whole of the history of al-Andalus, presents certain peculiarities, among them a late development (by the second half of the 4th/10th century) of the scholarly activities of the "ulamā". Reasons for this late appearance are proposed, through an examination of Arabic sources which shows the establishment of Arab cultural models prior to the process of islamization itself. Finally, attention is given to the role

played by the “ulamā” in shaping the Islamic character of society. As members of urban elites, scholars in the Algarve established their own family networks (mainly of non Arab origin), played an active role in local politics and, in a significant number of cases, displayed life styles of extreme asceticism.