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## Bodies of Law

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# Critical Notices

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Moira McConnell\*

Corpor- (r)eality

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[Review of Alan Hyde, *Bodies of Law*, (Princeton, N.J.: Princeton University Press, 1997)]

“Don’t judge a book by its cover” is a maxim most frequently recited to children by adults to explain the idea that one should not judge people on the basis of appearance. This maxim captures the gist of the topic explored in Alan Hyde’s *Bodies of Law*. *Bodies of Law* seeks to expose the fact that we simultaneously view a person as an entity distinct from her or his physical manifestation while our understanding and response to a person is affected by our perceptions and judgments regarding their physical characteristics.

The relationship between a book and its cover is also relevant in a more literal sense to *Bodies of Law*. With the advent of computerized publishing techniques, book covers, unlike people, are not plagued with many immutable characteristics. One can, in fact, judge a book to some degree by its cover. It is fair to assume that an author, in collaboration with the publisher’s marketing division, has had some say about the shape, size, cover, font, etc. of her or his book. In commenting on a book, particularly one expressly employing a “deconstructive” and interdisciplinary methodology including semiotics, it is important to pay serious attention to the cover and other subliminal expressions of the author’s view. Adopting the author’s argument, then, I will comment on both the cover and the content of *Bodies of Law*. This approach resonates with legal experience since the distinction between procedure and substance is often illusory in determining outcomes. This is the case with *Bodies of Law*.

## *The Form/Cover*

*Bodies of Law* is a 294-page, larger than average size paperback with a glossy graphic cover. It is reminiscent of the high-end “gothic horror” genre with its visual invocation of the shadowy world of the macabre. Five computer-enhanced photo images of body parts, two of genitals, another a woman’s breasts, the fourth a raised muscular arm and hand, and the fifth a side view of what appear to be male haunches and feet

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crossed with a bleeding slice on the thigh— presumably some reference to penitence— float in ghastly shades of yellow and greys on a backdrop of black and blood-red. A shadowed text declaims the title and author. At a minimum, it looks like it might be a “good read” as law books go, a dramatic, provocative, perhaps even humorous, book. Even the author’s name suggests a pun. Unfortunately, and contrary to my comments above, *Bodies of Law* proves the veracity of the saying about books and covers. But, to give the author the benefit of doubt, perhaps that was his specific intent.

On other matters of form, perhaps more in the order of procedure, the author, a professor at Rutgers University and a self-described member of the Critical Legal Studies networks (a “Crit”) expressly claims that he is making an attempt to avoid what he sees to be the evils of current CLS writing. He tells us he wants to produce a book free of the “obscurity, pomposity and disregard of standards of logic and argumentation,”<sup>1</sup> and the over-citation, fine-print referencing and claiming of authority that is often associated with CLS writing. He plans to avoid these ills through a “methodologically light” deconstructive case law reading and promises not to indulge in endless discussions of deconstruction *per se*.<sup>2</sup>

The pace and style of *Bodies of Law* is obviously intended to emulate the energy of an oral presentation, including colloquialisms (“gosh”) and somewhat obscure snide asides.<sup>3</sup> It reads somewhat like a verbatim transcript of his lectures to a seminar on The Legal History of the Body at Yale<sup>4</sup> with very little editorial intervention aside from numerous, albeit short, footnotes. It may have been preferable to simply present these ideas as a series of lectures on the various points rather than attempting to string them together to reflect an overarching thesis and conclusion.

Alan Hyde tells us that his own reading and approach is deliberately “eclectic” in that he draws on diverse sources, some known, some unknown (at least to “crits”). He presents a long list of what he has not done in his research, presumably to forestall criticism on these grounds and to establish that his approach is based on a determined theoretical stance rather than ignorance of the norms of scholarship in his field.

Despite his stated intentions, the author breaks his promise about jargon. He has an irritating and seemingly overwhelming affection for the word “discourse” in all its conjugations, so much so that not only is it repeated numerous times on most pages but also appears on occasion

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1. at vii.

2. at vii, viii.

3. at xi, 67.

4. at x. In fact numerous seminars and people are thanked for their input and response.

more than once in a single sentence. Thus the book is not about human bodies, it is about “discursive bodies.” Obviously this is done to make the point that the bodies dealt with by the law are creations of the law and are not necessarily real. The same can be said of any disciplinary approach to the body, such as medicine, sociology or psychology. But its use is overdone. Not only is it tiresome, this language serves to obscure rather than clarify his ideas. For example, discourse is a word used, mostly by academics, to refer to the communication of ideas, usually by talking. The word discursive is often used to describe a discussion that is rambling. It is also used to describe a system of logical reasoning in philosophy. In experimental science it is used to refer to the notion of “straight line” or linear thinking and arrangement of information.<sup>5</sup> In this sense, law can be seen as reflecting a linear form of reasoning in that it is based on a system of collection of information which is arranged in a specific sequence to lead to a logical conclusion, which is not necessarily tied to any reality. It not clear how the ideas imported by using this language fit into Alan Hyde’s overall argument, which is, for the most part, directed at illustrating in formal terms the illogic of the way human bodies are dealt with in legal cases.

For a book that professes a commitment to creating a dialogue between critics and non-critics, the jargon is still frequently exclusive and impenetrable: *i.e.*, “antinecessitarian project.” The net result of this combination of “folksiness” and “exclusivity” is uncomfortable: it is all a bit contrived and neither approach works well.

### *Between the Covers*

As Alan Hyde remarks regarding the value of his book, “The proof of the pudding is in the reading.”<sup>6</sup> Moving beyond appearances then, is there anything nourishing or even edible in *Bodies of Law*? Does the reader walk away with some new insight? My conclusion, after devoting a great deal of time to reading and digesting each part of this book, is that the results did not, on balance, justify the energy involved in consumption.

*Bodies of Law* seeks to debunk the notion that there is any valid distinction to be drawn between personhood and physical being by examining this idea as it presents itself in *American* law developed by *American* lawyers (it is an unabashedly culturally specific “USA centric”

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5. R. Hobson, *Forms of Feeling: The Heart of Psychotherapy* (London: Tavistock Publications, 1985) at 65.

6. at. viii.

book). Other ways of describing this issue are well known, ranging from religious debates regarding the relationship between body and soul to the more contemporary language of “mind/body split.” He goes further than simply pointing this out and examines the ways in which the physical presentation and representation of ourselves is unavoidably an aspect of how we understand our own and others’ personhood: despite the admonitions of childhood, we do in fact judge books and people by their “covers.”

Alan Hyde’s approach involves exposing the absurdity of the law’s maintenance of this distinction by demolishing (deconstructing) any “real” or stable view of the body in law. He seems to be doing this in order to eliminate one half of the body/person equation. The result, in theory, should be the emergence of a more organic view of a human, *e.g.*, a hand is not a hand unattached to a person, a hand is a part of a person and legal decisions relating to its value, liberty and regulation are decisions about *the person*.

In exploring these ideas Hyde’s work is essentially that of a linguist since he is not examining bodies, he is only examining the words that we use to describe people, things and ideas. He does not expressly position his analysis in this field<sup>7</sup> but, in passing, notes the extent to which our body parts and functions dominate language, *i.e.*, “face saving,” “to lose face,” “the head (of an institution),” “gut feeling,” “the heart of the matter,” “a breath of air”.

The author has three aspirations for *Bodies of Law*:

1. “[It] collects, classifies and analyzes the way American lawyers talk about the body: the range of metaphors, similes, and other verbal constructions that cumulatively form a discourse of the body.”<sup>8</sup> In examining the discussion among members of this group, classified by citizenship and job, he considers when the body is property; when it is landscape; when it is a common experience; when it is a site of difference; when it is controlled; and when it controls. *Bodies of Law* is intended to be a catalogue of this discussion.
2. “[T]o advance the project of applying recent critical theory to legal analysis, to open up a dialogue between a legal academy that is often dissatisfied with the ineffective and repetitive quality of its internal discourse, and a world of critical theory . . . .”<sup>9</sup> In effect *Bodies of Law* attempts to both cross and connect disciplines in academia.

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7. He might agree to placement in the field of semiotics in that he does see the body as, in part, “a linguistic device” (at 3).

8. at vii.

9. at vii.

3. “[T]his book aspires to be a major jurisprudential statement from the Critical Legal Studies networks. I will be emphasizing that multiple competing constructions of the body are available to legal and to other speakers; that these *are* constructions; neither natural nor limited by biology. . . . This book carries the critical legal studies project of denaturalization to its core . . . . If I can show that the body, too, is a discursive creation, the antinecessitarian project of critical legal studies will have been carried to its ultimate destination.”<sup>10</sup>

He goes on to note his desire to move beyond deconstruction to reconstruction and, finally, “toward a jurisprudence of human presence . . . .”<sup>11</sup> “My goal,” he states, “is not to replace any particular way of talking about bodies, but, instead, to multiply the competing constructions that are available to anyone, the better to force confrontation with their provisional and artificial quality.”<sup>12</sup> This analytical approach and messianic motive is hard to fault. It finds its predecessors in the science of alchemy,<sup>13</sup> the symbolic significance of the Phoenix and, of course, Christianity, all of which describe a transformational process involving destruction of one material form in order to enable reincarnation or resurrection in another form.<sup>14</sup>

*Bodies of Law* presents three theses as to why the law (and lawyers, as wordsmiths) are particularly good at constructing bodies and then treating the constructions as though they are the people they represent (a variation on the theme of worshipping graven images, one supposes).

First, as employed in contemporary American law, *body* means an inconsistent and incoherent assortment of representations and visualizations, deployed to solve political problems internal to legal discourse. Second, there is no attractive alternative to this practice of representation. In particular, there is no “real” or “material” body that is available as a standard for political or legal theory, even when the precise question to be answered involves defining the boundaries of, or intrusion into, or use of, that body. We have literally no way of grasping cognitively the most intimate aspects of our bodies except through words and images of legal, that is, political discourse, developed to serve political purposes. Third, legal thinkers should recognize and confront the constructed nature of their

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10. at vii-ix.

11. at ix.

12. at 4.

13. Stanislas Klossowski De Rola, *The Secret Art of Alchemy* (London: Thames & Hudson, 1973).

14. The universality and significance of these patterns of shared human experience have been studied extensively by many, most notably C. Jung, *Man & His Symbols* (New York: Dell Publishing, 1975); M. Eliade, *Images & Symbols: Studies in Religious Symbolism*. (New York: Sheed & Ward, 1969).

representations of the body, and not, as they often do, inappropriately naturalize those constructions. Such inappropriate naturalizations of what are really discursive artifacts include the localizing in the body of such apparently natural or objective factors as race, sex, and disease.<sup>15</sup>

The author also employs a tripartite division or trinity in the organizational structure of the book to advance these three theses and his project (the destruction and reincarnation of the body). *Bodies of Law* is comprised of three parts entitled, Regulation, Desire and Abjection, respectively.

*Part I, Regulation*, examines American case law which treats the body as a machine, a tired machine, property, private property (no trespassers) and unsaleable (reproductive capacity) but commodified. These cases reflect the somewhat overlapping and incoherent development of legal thinking about human bodies—largely in relation to the limits of state or social interests in touching bodies. Clearly, and as the author’s analysis illustrates, it is a complex topic and perhaps a confused jurisprudence. If our bodies are private property why can’t we sell them? Why does Anglo-American law allow the sale of the products of our brain but does not condone the sale of our reproductive functions, except by agreed upon liability provisions for workplace harms? Why can we sell or rent the use of legs, hands and feet in labour services but the sale or rental of genital services is less acceptable? Why are all these physical activities characterized as analogous to commercial or property transactions? These are not new questions, particularly for readers who have followed the case law regarding the legal regulation of women’s bodies, and a collection of these sorts of cases does serve to highlight the extent to which the male dominated world of law remains absurdly removed from human experience. Further examples could be given that the author did not consider—such as the failure, until recently, to see feelings and emotions such as shame as a human experience which could be legally recognized. These “metaphysical” experiences remain largely unrecognized in many situations unless coupled with the loss or harm to limbs and organs or other recognized *physical* experiences.

*Part I* ends with a plea for a constitutional jurisprudence based on how we want to live with each other. Instead of the “cold” economic and industrial “metaphors” for the body as isolated bearers of rights described in terms of the body as machine or property or privacy, Hyde asks: “[c]an we conceptualize people as people in relations?” “Can we create a bodily discourse of pleasure, of sexuality?” “What about a better vocabulary of

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15. at 4.

domination, particularly gender domination?"<sup>16</sup> While these questions are provocative, Alan Hyde does not provide any examples or an explanation of what this new jurisprudence would look like or what difference it would make. For example, developing a better vocabulary of domination seems a somewhat less than useful exercise. If what he is suggesting is a more accurate description of the power relationships in the workplace wherein people do "sell" body parts and, arguably, their person in the form of labour or exposure to workplace risks, it might make some sense, at least superficially. However this approach assumes that relabelling these events will cause such horror that the reality will change. The danger is that in fact it will not, and we will live in a society that explicitly condones the sale or rent of self or people.

*Part II, Desire*, deals with the body as a product, an investment and a part of the economic system. Alan Hyde uses "*desire* as a non-technical term to cover all relations in which someone wants to see, be close to, understand, possess the body of another but that are not characteristically experienced as relations of economic exchange."<sup>17</sup> In this analysis he turns to Freud and Lacan's theories of erotic and infantile attractions and the notion that we gain a sense of self through the mirror of others.<sup>18</sup> "Specularization" in various forms is the rather obscure word Alan Hyde uses to describe this experience. He argues that the "task of legal discourse is to displace the erotic desire to know the displayed body."<sup>19</sup> It does this by regulating what parts of people can be displayed and where and who may view these displayed bodies. Not surprisingly, many of the cases he reviews illustrate the fact that women's bodies are more frequently accepted and regulated for purposes of economic display, e.g., the 1987 case of *Tamimi v. Howard Johnson Co. Inc.*,<sup>20</sup> regarding a woman employee required to wear makeup in order to "market" rooms at a hotel desk, presumably on the theory that the consumer implicitly associates the room/bed with the attractive but unavailable women who sells it to him (or, I suppose, her, although marketing practices still reflect heterosexual assumptions). The notion of subliminal seduction and its linkage to sex and women has been around for a long time. The discussion is interesting, not so much because Hyde tells us anything particularly new, but because the author, in collecting these cases, highlights the

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16. at 105.

17. at 109.

18. Although he expressly rejects an alliance with any particular school of psychotherapy, at 110.

19. at 110.

20. *Tamimi v. Howard Johnson Co. Inc.*, 807 F. 2d, 1554 (11th Cir. 1987), Hyde at 117-120.



absurdity of the law's attempt to develop rationales and reconcile precedents while refusing to recognize sexuality or patriarchy and the linkages between the two in our economic system.

In *Part II* Alan Hyde wanders into art, semiotics, communications and feminist analysis, although he gives rather short shift to Catharine MacKinnon and Andrea Dworkin. In the latter case it is especially surprising because her 1987 book *Intercourse*<sup>21</sup> examines much of the same ground as *Bodies of Law*, although she collects, classifies and deconstructs literature to make her point regarding the inevitability of physical (and other) domination and objectification of women by men in a society founded on domination and hatred of women. In both Hyde and Dworkin it seems that love and sense of the self and dehumanization of others are inextricably linked.

Alan Hyde extends his analysis of "desired bodies" to include bodies which contain legal "stories" or evidence such as bullets and drugs, and the limits on search and seizure and bodily intrusion. The examples he uses, such as a criminal law case involving a request for a search warrant for a woman's vagina<sup>22</sup> and another concerning testing of the reactions of a man's penis in a civil case<sup>23</sup> (the searchable vagina and the unsearchable penis), make the point that the law does not approach consistently the question of searching bodies for evidence in a legal story. The author concedes that to some extent he is mixing apples and oranges in that while the outcomes of these two cases superficially appear contradictory, in fact the analysis and context (criminal and civil) call for different balancing processes regarding privacy and the public interests involved. This may well undermine his argument from a legal perspective but it does raise an important point—why should the approach be any different to bodily intrusion? Hyde deplores rationales based on a public interest outweighing privacy rights because, in his view, the law is not considering any real body but only the legally constructed body in determining these boundaries. Judges do not relate their decisions to their own bodily experiences and sense of boundaries, he argues.<sup>24</sup> In his view there is no "convincing metatheory" of the body and the best that the law can do is to try to develop some coherency in its approach to balancing the reasons for setting bodily boundaries.<sup>25</sup> Although these are good points, Hyde does not really

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21. A. Dworkin, *Intercourse* (New York: Free Press, 1987).

22. *Rodrigues v. Furtado*, 950 F.2d 805, (1st Circ. 1991).

23. *Harrington v. Almy*, 977 F.2d 37 (1st Circ. 1992).

24. at 160.

25. *Ibid.*

explore the meaning of tort law regarding assault and the question of human rights restrictions on workplace testing and discrimination. Somewhat surprisingly, the author also recognizes but then deliberately dismisses what appears to be the most obvious explanation of the outcomes in these two cases—gender—as he comments “I do not think it is necessary to belabour the sexual difference here. Much has been written, particularly in the Freudian and Lacanian traditions about the symbolic significance of the penis. . . .”<sup>26</sup>

*Part II* on desire concludes by examining the emergence of “the sentimental body”—that is, the body as a site of uniqueness, feeling, commonality and empathy. His study focuses on the changes in the law regarding the treatment of prisoners and the fact that law can create both a prison and a protection for the body/person.

*Bodies of Law’s* third and final Part, in which the Alan Hyde’s phoenix, the “Body Fantasia” emerges, adopts as its title and theme “*Abjection*.” Abjection is the theoretical framework used by the author to explore the law’s treatment of bodily surplus, wastes, excrement and rejection. His analysis expressly draws on (“appropriated” is the author’s term) the concept of abjection developed by a psychoanalyst, Julia Kristeva, in her book *Powers of Horror: An Essay on Abjection*.<sup>27</sup>

Abjection is described as dealing with the infantile experience of the self prior to the mirroring experience described by Freud and Lacan, *e.g.*, where a child is presymbolic in her or his development. According to Alan Hyde, abjection “is the opposite of desire . . . [It] begins in the experience of excess or surplus, which must be got rid of. Both, however, are sources of intense pleasure, as everyone knows . . . though the literary and artistic representations of the pleasure of abjections are rare and the opposite of elevating.”<sup>28</sup>

Hyde links this theory to an analysis of legal cases dealing with urine analysis and various other evaluations of human excrement that contains “narratives” of interest to the law, *e.g.*, evidence of drug use. This analysis is stretched include to border or customs guards who are seen as taking on the role of purification of the social body—keeping the unwanted out. He considers several cases in terms of the racialized body as an abjected body—that is a rejected or different body.

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26. at 179.

27. Julia Kristeva, *Powers of Horror: An Essay on Abjection*, trans. Leon S. Roudiez (New York: Columbia University Press, 1982), Hyde at 211. It may be useful to note that Hyde describes her writing as “difficult, prolix and obscure.”

28. at 212.

The remainder of *Part III*, aside from the conclusion, examines diseased bodies, the rise of bathing and the association of smelly or “offensive” bodies with poverty. To a large extent *Part III* is a meander through the history of the senses and changing social ideas and practices.

The conclusion of *Part III* sees the emergence of the new “discursive embodied person.” “A Body Fantasia,” as the title of the concluding chapter announces. In “A Body Fantasia,” Alan Hyde ends the deconstruction process and shifts to reconstruction and, finally, reincarnation. He proposes a number of other ways in which the law might more coherently construct the human body to recognize it more clearly as an aspect of personhood. For example he suggests that the law might instead:

Construct bodies as the nexus of all the relationships of their lives, meaningless and insignificant except as the sum of those relationships

Equate legal subjects with their bodies, so that sale of blood or labour power could only be experienced as a sale of the person

Construct bodies as always presumptively available to social use

Construct bodies that differentiated each subject from another in ways that were entirely incommensurable, so that no body damage could even be evaluated

Construct bodies that could never represent any social relationship but sameness, so that differences among people, to the limited extent they were even observed, would be attributed entirely to their mental or moral processes, and not to bodies that were incapable of requiring such difference, at most capable of providing a certain normal variation that became difference only as self-consciously constructed as such

Always and everywhere treat “body” as a legal construction like “due care” or “good faith”, a legal term of art used to facilitate our making present other people, but always understood as a conscious creation employed for that (or some other) purpose, not a natural thing existing independent of our constructions. On this view we might write or say whatever we pleased about the body but would always be aware that we were reaching for figurative language and never be deluded into thinking we were describing reality

Make a very self-conscious effort never to employ our body metaphors of distance or absence, never to forget that legal subjects have bodies, strive for a law and politics of embodied subjects and always employ the most vivid literary imaging of bodies lest we forget that law is about people and people inter-act in the world through the media of their bodies.<sup>29</sup>

While the intent of this list of alternate views is to provide a more holistic approach and result in a convergence of the physical and spiritual aspect of personhood, it fails to do so. Rather it appears instead to

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29. edited list, at 261-262.

entrench current practices and abstractions. In some cases it also seems regressive. For example, it appears to condone the notion of the sale of a person if, for example, we choose to sell our physical labour for money. Perhaps the disparity of power in some employment relationships is such that it does amount to slavery, however the difficulty his suggestion presents is obvious. As mentioned earlier, altering the language used to describe events to explicitly recognize the sale of bodily activities as the sale of a person may not have the positive effect he imagines. In the area of tort law compensation for injury do we really want to regard the payment for specific injuries as payment for a person? In another context do we wish to regard compensation payments to survivors of sexual abuse in institutions as buying the person's experience? If so, will this mean that we value people differently if the amount differs between people or does it mean we never compensate people who suffer an injury? It appears that the latter is his suggestion. The result will be the height of academic disconnection with people's experience: in order to ensure a consistent academic theory of respect for the person we will not financially assist people who suffer a harm. It is clear that money will not pay for the harms inflicted, at best it constitutes an admission of responsibility, if not liability, and an attempt to perhaps improve the person's situation in the future.

Alan Hyde explains that his choice of the term, "Fantasia," to describe this "alternative" constructive "discourse" of the body draws on its romantic and archaic meaning of "image-production"<sup>30</sup> (as opposed to the Disney feature film). "In body fantasia, the most important goal in any sort of legal analysis is communion with another person."<sup>31</sup> In this fantastic world we will acknowledge that bodies are but "visualizations" which have no rights because they are not legal entities but, rather, are "the site of pleasure, sexuality and fusion with others."<sup>32</sup> He suggests that, "[i]f fantasia and empathy were an announced goal of the legal system, judges would be praised or criticized for their achievements in fantasia."<sup>33</sup>

And so, the reader imagines the Phoenix rises and takes wing . . .

Earlier I set out the author's three aspirations and it seems fair to consider his work on these terms, having already suggested it clearly did not match its cover.

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30. at 263.

31. at 263.

32. at 263-264.

33. at 265.

*Bodies of Law* is indeed a collection of *some* American case law describing human bodies in various ways. It is not comprehensive but the selections are by and large interesting. Certainly the author manages through the juxtaposition of cases, often drawn from differing areas of legal practice, to establish that the law's dealings with the body are inconsistent (if explicable) and incoherent and that they reflect the notion of a person as somehow different (in some cases) from his or her body. His sources are indeed eclectic and, if for that reason only, the book may be worth acquiring. While it was interesting to see the explicit reach for inclusion of psychological theories of human behaviour in legal analysis, the ideas he presents are yesterday's news dressed up in a new language. It is heartening to see Hyde's receptivity to ideas about the significance of the relationship between our physical and our metaphysical selves, but these ideas have been common knowledge amongst religious thinkers, philosophers, feminists and yoga practitioners and others for a long time, and are a central component of complementary health practices. The more current issue is not denying physical existence but rather trying to understand the silenced language of our bodies (called somatic psychology).<sup>34</sup>

Does *Bodies of Law* serve to open up a dialogue free of jargon? As I have noted earlier, it is still littered with obscure terminology. The style in which the book is written does not invite avid attention, rather, it is a hard slog to stick with *Bodies of Law*. One is not well rewarded for this effort because Hyde's conclusions are ornate but lacking in substance. He does not provide any examples to assist in understanding his vision. There is no sense of emerging from *Bodies of Law* learning anything particularly new about the law, aside from a few terms and theories used in disciplines other than law.

Does Alan Hyde manage to provide an affirmative jurisprudential statement on the human person from the CLS network? It is a trifle difficult to comment fairly on that last point since it appears to be co-opting a large number of scholars. Does he manage to construct an affirmative, holistic and ethically consistent jurisprudence of the human person? Alan Hyde sought through this book to reintegrate or heal the mind/body split through the deconstruction of the socially constructed body. Instead he ends up with a deconstructed body but still no integration of the physical and metaphysical. His list of proposed alternative con-

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34. L. Kirmayer, "The Body's Insistence on Meaning: Metaphor as Presentation and Representation in Illness Experience" (1992) 6 *Med. Anthro. Q.* 323; C. Caldwell, *Getting our Bodies Back* (Boston & London: Shambhala, 1996).

structions appear to be more a reworking of clumsy and rather intractable ideas: despite his claims to romanticism and fantasia they do not “fly.” While his “post-modern” aim of reconstruction is laudable it is simply part of the *zeitgeist* and the revulsion for the spiritual deadend of deconstruction. The “romantically” reconstructed body presented in *Bodies of Law* is not warm or breathing, it is an abstraction and remains purely a creation of the intellect. It brings to mind the words of Oscar Wilde, “All thought is immoral. Its very essence is destruction. If you think of anything you kill it. Nothing survives being thought of.”<sup>35</sup>

I was also disappointed that, in exploring the law’s bodily fictions, Alan Hyde did not look at what is surely one of the more interesting legal constructions—the purely legal body of the corporation. As a holder of rights with parents and sisters and relationships of all sorts, it is in fact the most powerful legal body today. It is virtual, often stateless, faceless, non-sexual and only partially gendered.<sup>36</sup> It is the ultimate legal body: it is pure construction. The fact that it is the result of a legal construction process opposite to the one described by Alan Hyde makes it even more interesting. Unlike the law’s dehumanization of human bodies the corporation is an example of the humanizing of a legal entity.

While I recognize it is rather unfair to criticize an author for not including other information or sources, it is unfortunate that in his embrace of eclecticism he missed considering the earlier jurisprudential work, particularly in Eastern Europe, of sociologists of law who examined the visceral or bodily experience of law or justice. One scholar in particular, Leon Petrażycki,<sup>37</sup> writing in the early 1900s, and his followers developed a psychological theory to explain the human physical and emotional experience of law. The idea has also been explored by American writers such as Edmond Cahn.<sup>38</sup> These writers sought also to combine psychology, law and sociology with the human experience of feelings about law and legitimacy and thus provide an entirely different approach to the integration of the body, mind and community in the context of law.

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35. Oscar Wilde, *Epigrams* (White Plains, NY: Peter Pauper Press, n.d.) at 30.

36. One of the oddities in the law is that related corporations are often described as sister corporations and parent corporations but we do not seem to have brother corporations. Thus we have a partial reproduction of the traditional family structure.

37. L. Petrażycki, *Law and Morality*, trans. H.W. Babb (Cambridge, Mass: Harvard University Press, 1955).

38. *The Sense of Injustice* (New York: New York University Press, 1949).

It is not difficult to agree with Alan Hyde's point about existing in a hall of mirrors and our resultant inability to truly see or know ourselves outside of these representations. Nevertheless, we do exist and feel and laugh and cry and bleed. Somehow the meaning of this experience gets lost in the rather tiring hyperbole and artifice of *Bodies of Law*.