

Persons, Parts and Property. How Should We Regulate Human Tissue in the 21st Century?

By Imogen Goold, Kate Greasley, Jonathan Herring and Loane Skene. Pp Xxiv + 309. Hart Publishing 2014. ISBN: 978-1-84946-546-5



With rapid strides made in scientific and technological advances, it is inevitable that questions as to whether human body parts possess property rights have surfaced, especially over the past four decades.

This debate has been the subject matter of not only the courts (in particular, the Anglo-Australian courts), but also of academic literature, with *inter alia*, legal academics, philosophers, ethicists, and sociologists contributing to the differing opinions on the issue. While court decisions and statutory regulation in some jurisdictions have resulted in some acceptance of limited property rights in some kinds of tissue, this has remained an extremely disputed subject on all sides of the body-ownership argument.

This book, which encapsulates the body-property debate, is a collection of work from legal academics, philosophers and sociologists from the UK and Australia who have looked into the detail of the merits or otherwise of a property approach to regulating human body parts. Broad doctrinal and theoretical questions as well as some of the highly specific legal issues are addressed. The book comprises sixteen chapters with the body as property debate covering many areas of concern including property rights in gametes, organ shortages, donations, sale of body parts, organ markets, black markets for body parts, and technological advancements with the use of cell lines, patenting issues, and research use of human tissue. Philosophical questions about the nature of the self and personal identity and how these affect decision-making and dealing with biomaterials, moral rights and the law relating to tissue, banking of tissue and umbilical cord blood and biobanking are also discussed and weighed up.

Three chapters provide constructive discussion on how to appropriately regulate human tissue in the context of its use in biomedical research. Consideration is given as to how the property law model could apply here with specific focus on newly emerging technologies. A particular area of growing concern – biobanking

– is considered in detail in light of this practice becoming a major component of education and research in the healthcare sector. The ethical and legal concerns raised by this practice, including issues of consent, problems pursuant to unanticipated findings, and issues of governance, control and access are comprehensively debated. Umbilical cord blood banking, also a key area because of particularly vexing issues involving the interplay of individual, public and private interests are considered from the perspective of how demands for umbilical cord blood from the various sectors can best be balanced. The aim of online genetic testing services to create a research biobank from the tissue samples sent in by its customers and the epidemiological and lifestyle questionnaires is explored from the perspective of the commons. The notion of ‘corporate commons’ is used to examine whether restrictive genetic patenting could assist clinical biomedicine rather than impede it.

Regulatory questions are considered at a macro-level. The application of existing frameworks based on consent, privacy and the potential application of property principles is examined. In addition to these broad applications, some chapters focus on narrow detail of some legal matters like the law of gifts and the application of the concept of divesting abandonment. Throughout, it is stressed that the regulatory approach should take into account ethics and should be reflective of the many values inherent in human tissues and community principles and beliefs as well.

In this collection, areas of disagreement together with points of convergence are investigated with the goal of reaching some consensus. A number of potential approaches to the question on how to regulate human tissue are presented. This book, while it does not resolve the body-property debate, is a step closer towards doing so. It is not just an anthology on comparative law, but it provides deeper philosophical, ethical and social insights into a highly contested field of interest and is written in an easy to understand, yet scholarly style. It is a valuable resource for students and scholars in health sciences, law and the humanities and would be a wise investment for university libraries globally.

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