

1 Do We All Have Feminised Bodies Now?

It is widely feared that we no longer possess a property in our own bodies. Instead, it has been argued, ‘what we are witnessing is nothing less than a new gold rush, and the territory is the human body.’¹ Tangible rights in human tissue and intangible rights in the human genome have been said to be the subject of a new enclosure movement by researchers, biotechnology corporations and governments.² Commodification of the body, broadly construed to include private property rights by third parties in tissue, DNA samples, umbilical cord blood and other substances derived from individuals’ bodies, has caused great, if sometimes belated, outrage among patients’ rights organisations, academic commentators, journalists and the general public, in both the developing and the developed worlds.³

The commodification of genetic research, it has been alleged, extends beyond the issues of patenting gene sequences or harvesting DNA to the way in which the very agenda of research is dictated by corporate

¹ Suzanne Holland, ‘Contested commodities at both ends of life: buying and selling embryos, gametes and body tissues’ (2001) 11 *Kennedy Institute of Ethics Journal* 263–64.

² James Boyle, ‘The second enclosure movement and the construction of the public domain’ (2003) 66 *Law and Contemporary Problems* 33–74; Vandana Shiva et al., *The Enclosure and Recovery of the Commons: Biodiversity, Indigenous Knowledge and Intellectual Property Rights* (New Delhi: Research Foundation for Science, Technology and Ecology, 1997); Donna Dickenson, *Me Medicine vs. We Medicine: Reclaiming Biotechnology for the Common Good* (New York: Columbia University Press, 2013), pp. 198–202.

³ In a large literature, see Donna Dickenson, *Body Shopping: Converting Body Parts to Profit* (Oxford: Oneworld, 2009), p. 4; Céline Lafontaine, *Le corps-marché: La marchandisation de la vie humaine à l’ère de la bioéconomie* (Paris: Éditions du Seuil, 2014); Debra Satz, *Why Some Things Should Not Be for Sale* (New York: Oxford University Press, 2010); Melinda Cooper and Catherine Waldby, *Clinical Labor: Tissue Donors and Research Subjects in the Global Bioeconomy* (Durham, NC: Duke University Press, 2014); Donna Dickenson, ‘Commodification of human tissue: implications for feminist and development ethics’ (2002) 2(1) *Developing World Bioethics* 55–63; Elizabeth Anderson, ‘Is women’s labor a commodity?’ (1990) 19 *Philosophy and Public Affairs* 71–92; and Margaret J. Radin, *Contested Commodities: The Trouble with Trade in Sex, Children, Body Parts and Other Things* (Cambridge, MA: Harvard University Press, 1996).

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requirements.⁴ If this is true, the scientific method has itself become a commodity. Even more broadly, both donors and recipients can be seen to have become part of the ‘phenomenology of exchange’.⁵ As in the old agricultural enclosure movement, ‘things that were formerly thought to be uncommodifiable, essentially common or outside the market altogether are being turned into private possessions under a new kind of property regime.’⁶ That new regime is dominated by ‘biocapital’ and is situated within a global ‘bioeconomy’.⁷

Much of the legal momentum behind the transfer of rights over the body and its component parts from the individual ‘owner’ to researchers and corporations dates back to the *Moore* case, in which an immortal cell line was created from the T-cells of a patient who was held to have no further rights in that cell line.⁸ Most people are surprised and somewhat shocked when they learn that Moore apparently did not ‘own’ his body. Legal doctrines under both civil and common law systems have left us with something of a vacuum, although in the past few years some judgments have appeared to recognise limited property rights in tissue for donors.⁹

Such cases may appear to undermine the ‘no-property’ rule that has prevailed in the common law,¹⁰ but the proverbial jury remains out on whether they are sufficiently strong to counterbalance the powerful forces

⁴ Dorothy Nelkin, ‘Is bioethics for sale?’ (2003) 24(2) *The Tocqueville Review* 45–60.

⁵ Diane Tober, ‘Semen as gift, semen as goods: reproductive workers and the market in altruism’ (2001) 7 *Body and Society* 137–60.

⁶ Boyle, ‘Second enclosure movement’, p. 37.

⁷ Kaushik Sunder Rajan, *Biocapital: The Constitution of Postgenomic Life* (Durham, NC: Duke University Press, 2006).

⁸ *Moore v. Regents of the University of California*, 51 Cal. 3rd 120, 793 p. 2d, 271 Cal. Rptr. 146 (1990). This well-known case concerned a man diagnosed with leukaemia who underwent a splenectomy for therapeutic purposes. He was subsequently asked to return to the hospital several times to donate further tissue samples unrelated to the spleen. It transpired that his unusually active immune cells had been used to produce an immortal cell line with an estimated commercial value of US\$3 million. Moore sued to establish proprietary rights in the cell line following the researchers’ and clinicians’ failure to obtain his informed consent to the further extractions.

⁹ E.g. *Yearworth and others v. North Bristol NHS Trust* (2009) EWCA Civ 37; [2010] QB 1, which upheld a claim from several men for negligent damage to the semen which they had stored prior to operations for testicular cancer. The court recognised that the samples could be considered sufficiently as property for purposes of the claim. For analysis of the case, see, *inter alia*, Muireann Quigley, ‘Property: the future of human tissue?’ (2009) 17 *Medical Law Review* 457; J. Lee, ‘The fertile imagination of the common law: *Yearworth v. North Bristol NHS Trust*’ (2009) 17 *Torts Law Journal* 130; and S. H. E. Harmon and Graeme Laurie, ‘*Yearworth v. North Bristol NHS Trust*: Property, principles and paradigms’ (2010) 69 *Cambridge Law Journal* 476–93.

¹⁰ Jesse Wall, *Being and Owning: The Body, Bodily Material, and the Law* (Oxford: Oxford University Press, 2015).

behind commercialisation of human tissue.¹¹ In England and Wales, the leading recent case, *Yearworth*, concerns male tissue (sperm), not female tissue. Given that women's entitlements in their persons and bodies have traditionally been fewer than men's,¹² we should not necessarily assume that female tissue will be brought under the same rubric. The law has so far failed to consider that women put greater labour into extraction of eggs than men undergo in the collection of sperm. This omission is highly relevant in cases that have upheld men's rights against women's entitlements over the usage of stored IVF embryos.¹³

According to the no-property rule, we do not own our bodies in law: they are not the subject of property rights in any conventional sense, although traditionally they have been shielded to some extent by what James W. Harris calls 'protected non-property holdings'.¹⁴ Thus while corpses cannot be owned at common law, those charged with their disposal – hospitals, families and public or religious authorities – are restricted by certain duties and endowed with certain powers, although these are not ownership privileges and powers. Once tissue is separated from the living body, however, the common law generally assumes either that it has been abandoned by its original 'owner' or that it is and always was *res nullius*: no one's thing, belonging to no one when removed.¹⁵ Under previous circumstances, the tissue would have been presumed to have been removed because it was diseased and thus of no further value to the person from whom it was extracted.

Civil law systems such as that of France typically view the body as *une chose hors commerce* or *res extra commercium*: a thing not subject to contract

¹¹ The *Yearworth* case did not involve commercial interests: the parties were patients and a hospital.

¹² Carole Pateman, *The Sexual Contract* (Cambridge: Polity, 1988); Donna Dickenson, *Property, Women and Politics: Subjects or Objects?* (Cambridge: Polity, 1997).

¹³ E.g. *Evans v. Amicus Healthcare Ltd.* [2004] E.W.C.A. Civ. 727. This case concerned a woman, diagnosed with ovarian cancer, who had produced embryos with her then partner as a precaution against sterility following her operation. (Note the strong resemblance to *Yearworth*, in which men likewise diagnosed with cancer had produced sperm as an insurance against infertility following their potential operations.) The male partner's right to withdraw consent to implantation of the embryos was upheld by the court over any property right Evans had in the embryos. Jesse Wall argues that the court prioritised the HFEA's statutory liability to ensure consent of both partners, while in *Yearworth*, property remedies were sought; Jesse Wall, 'The legal status of body parts: a framework' (2011) 31(4) *Oxford Journal of Legal Studies* 783–804. Additionally, in *Yearworth*, there was no conflict between male and female gamete donors.

¹⁴ James W. Harris, *Property and Justice* (Oxford: Oxford University Press, 1996), p. 351.

¹⁵ Jean McHale, 'Waste, ownership and bodily products' (2000) 8(2) *Health Care Analysis* 123–35.

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or exchange.¹⁶ Similarly, under French law, tissue removed during a procedure is considered to be abandoned, *res derelictae*. In both common and civil law systems, then, contracts in bodily tissue and materials are difficult or impossible to enforce, although for different reasons. In both systems, patients traditionally have had no further property rights in their tissue once an informed consent to its extraction or donation has been given.¹⁷ While some scholars have argued cogently for giving tissue donors some property rights because of the dearth of protections offered by other forms of law,¹⁸ these recommendations have not yet had a major impact on the governance of biomaterials.

But why should it be so widely assumed that we do own our bodies? Why does it matter so much? A large part of what disturbs people about commodification of the body appears to be the way in which it transforms us into objects of property holding rather than active human subjects. (For the time being, I will not distinguish between objectification and commodification; Chapter 2, however, will tease out some important differences between these two core concepts.) In the French context, this concern is clearly stated in several opinions of the French National Consultative Ethics Committee (CCNE), which has consistently declared that human dignity and subjectivity are incompatible with selling oneself or parts of oneself as objects. ‘Trading persons, or parts of persons, or elements of persons in the market place, would turn

¹⁶ E.g. an influential and determinative early report of the French Comité Consultatif National d’Ethique (CCNE) (French National Consultative Ethics Committee) states, ‘Il faut dresser une digue contre cette marchandisation de la personne, et il n’en est pas d’autre que le principe intangible selon lequel le corps humain est hors commerce’ (We must set up a bulwark against such commodification of the person, and the most fitting is the intangible principle according to which the human body is beyond commerce). See CCNE, *Recherche biomédicale et respect de la personne humaine* (Paris: DF, 1987), cited in Anne Fagot-Largeault, ‘Ownership of the human body: judicial and legislative responses in France’ in Henk ten Have and Jos Welie (eds), *Ownership of the Human Body: Philosophical Considerations on the Use of the Human Body and Its Parts in Healthcare* (Dordrecht: Kluwer, 1998), pp. 115–40, at p. 130.

¹⁷ In France, the CCNE *Avis* (Opinion) on products derived from human materials (no. 9, February 1987) stipulates that products of commercial benefit derived from donated tissues should be sold at a market price which only reflects the researchers’ and manufacturers’ labour, with no additional profit, and that the patient should have no right to any financial benefits. See Fagot-Largeault, ‘Ownership’, p. 131.

¹⁸ E.g. Quigley, ‘Property: the future of human tissue?’; Heather Widdows, ‘Persons and their parts: new reproductive technologies and risks of commodification’ (2009) 17 *Health Care Analysis* 36–46; Laura Feldman, ‘Utilising property concepts to respond to new risks and challenges posed by medical research’, paper given at the HeLex centre, University of Oxford, 23 June 2010; J. K. Mason and G. T. Laurie, *Law and Medical Ethics* (Oxford: Oxford University Press, 2011, 8th ed.), Chapter 14; Imogen Goold and Muireann Quigley, ‘The case for a property approach’, in Imogen Goold, Kate Greasley, Jonathan Herring and Loane Skene (eds), *Persons, Parts and Property: How Should We Regulate Human Tissue in the 21st Century?* (Oxford: Hart, 2014), pp. 231–262.

subjects into objects, that is, subvert the foundations of the social order. Preserving the freedom of subjects involves maintaining (so to speak) all parts and bits of subjects within the realm of persons.¹⁹ The sociologist Dominique Memmi has characterised the French national ethics committee's response to commodification of the body or genome as grounded in fear of a threat 'to the totality of the subject . . . of an intrusion into what appears to be the most secret and intimate area, that of the body or gene'.²⁰ In the common law context, the emphasis on human dignity is less pronounced and a libertarian rights-based discourse more frequent.

Yet although some Anglo-American commentators argue that our rights as moral agents and human subjects actually require us to have the free right of disposal over our bodies,²¹ the common law posits that something can be either a person or an object – but not both – and that only objects can be regulated by property holding. The implication is clear: to the extent that persons' body parts can be regulated by property holding, those body parts are objects or things. If we are embodied persons, then to some extent we become objects too. The question is to what extent.

Bodies, Persons and Things

This core distinction between persons and things is as much philosophical as legal. It has its origins in Kant:

Man cannot dispose over himself because he is not a thing; he is not his own property; to say that he is would be self-contradictory; for insofar as he is a person he is a Subject in whom the ownership of things can be vested, and if he were his own property he would be a thing over which he could have ownership. But a person cannot be a property and so cannot be a thing which can be owned, for it is impossible to be a person and a thing, the proprietor and the property.²²

¹⁹ CCNE *Avis* no. 7, p. 137. See also Opinion no. 21, 'That the human body should not be used for commercial purposes' (1990), and Opinion no. 27, 'That the human genome should not be used for commercial purposes' (1991).

²⁰ Dominique Memmi, *Les gardiens du corps: dix ans de magistère bioéthique* (Paris: Éditions de l'École des Hautes Études en Sciences Sociales, 1996), p. 18.

²¹ For arguments in favour of removing or modifying legal prohibitions on commodification of human tissue, see, e.g., David B. Resnik, 'The commercialization of human stem cells: ethical and policy issues' (2002) 10 *Health Care Analysis* 127–54; Stephen Wilkinson, 'Commodification arguments for the legal prohibition of organ sale' (2000) 8 *Health Care Analysis* 189–201; and Michele Goodwin, *Black Markets: The Supply and Demand of Body Parts* (New York: Cambridge University Press, 2006).

²² Kant, *Lectures on Ethics* (Indianapolis: Bobbs-Merrill, 1963), p. 4, cited in G. A. Cohen, *Self-Ownership, Freedom and Equality* (Cambridge: Cambridge University Press, 1995), p. 211.

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Human tissue and human genetic material, however, fall between the two stools, containing elements of both person and thing, subject and object. It may well be that our discomfort about commodification of human tissue and genetic material reflects a sense that recent developments take us nearer to the object end of the spectrum. In the Kantian formulation, this shift radically undermines our very humanity. The relationship between the body and the person is a constant question which will recur throughout this book; here I merely give some introductory thoughts.

Biotechnology has made the entire notion of the body much more fluid. On the one hand, bodily functions can be replicated or enhanced by objects originally extraneous to the subject, machines such as ventilators and pacemakers, as well as by substances derived from human bodies but through industrial processes, such as factor VIII blood-clotting products. On the other, human biomaterials extracted from the body enter into research and commerce as objects – not only in more commodified economies such as the USA but increasingly on a global level. As Melinda Cooper has written, ‘the twentieth century brings the production process *inside* the body and puts organs, blood and cell lines into circulation *outside* the body, scrambling the classical Marxist distinction between the living and the dead.’²³ So far in the twenty-first century, this process has continued to gather pace.

The second development – extraction and commodification of human biomaterials – is the primary focus of my attention, but the first, insertion of external products into the body, has also drawn feminist comment, for example in Donna Haraway’s metaphors about cyborgs.²⁴ It becomes much more difficult to insist that the body simply *is* the person when tissues from the body are no longer physically joined to the person or when the body is a conglomerate of extraneous tissues and one’s own. Feminist theory again shows its utility in helping us to frame the current debate over the ‘new enclosures’ more clearly. Bioethics, by contrast, has been criticised as lacking sustained reflection on the relationship between persons and bodies, including body parts and tissues.²⁵

²³ Melinda Cooper, ‘The living and the dead: variations on De Anima’ (2002) 7 *Angelaki: Journal of the Theoretical Humanities* 81–104.

²⁴ Donna J. Haraway, *Simians, Cyborgs and Women: The Reinvention of Nature* (New York: Routledge, 1991).

²⁵ Catriona MacKenzie, ‘Conceptions of the body and conceptions of autonomy in bioethics’, paper presented at the Seventh World International Association of Bioethics conference, Sydney, November 2004; Catherine Waldby, ‘Biomedicine, tissue transfer and intercorporeality’ (2002) 3 *Feminist Theory* 239–254; and Catherine Waldby and Melinda Cooper, ‘From reproductive work to regenerative labor: the female body and the stem cell industries’ (2010) 11 *Feminist Theory* 3–22.

New biotechnologies disaggregate the body, robbing it of its organic unity and encouraging the view of body parts as separate components which do not sum to anything more than their compilation.²⁶ As Maria Marzano-Parisoli has written in her excellent *Penser le corps*, ‘in addition to the *natural body* and its parts, there now exists a series of artificially produced bodily elements which make the distinction between *natural body* and *artificial body* much harder to pin down.’²⁷ The patenting of genetic sequences, considered further in Chapter 7, provides a clear illustration of the way in which elements extracted from the body can take on a separate existence from the original subject. Another telling and troublesome example is that of hand and face transplants, in which the bodily identity of the donor is a continual reminder to the recipient of another subject’s integration into one’s own body.²⁸

When body and subject are equated, the body becomes inviolable because it is identified with the subject. That makes violation not merely philosophically impermissible but jurisprudentially impossible: the body is the substratum of the person and thus innate to the subject of law. In other words, there can be no distinction between the person as rights-holding subject and the body as the object of rights. If the subject is separate and sovereign, however, the rights-holding subject can do what she likes with her body as a mere object. Some writers – not including myself – maintain that the sovereign individual should have the unfettered right to dispose of her body as she wishes, and indeed that the right to do so is an important cause for feminists to reclaim, hence the literature supporting prostitutes’ rights over their own bodies, in a neo-liberal style of argument.²⁹

In the extreme cases of slavery or of the sale of life-sustaining organs, we can see the contradiction between disposing of one’s body, in the name of free action as a subject, and the subsequent extinguishing of the subject

²⁶ Jayasna Gupta, ‘Postmodern bodies, assisted reproduction and women’s agency’, paper presented at the Seventh World International Association of Bioethics conference, Sydney, November 2004.

²⁷ Maria M. Marzano-Parisoli, *Penser le corps* (Paris: Presses Universitaires de France, 2002), p. 118.

²⁸ Donna Dickenson and Guy Widdershoven, ‘Ethical issues in limb transplants’ (2001) 15(2) *Bioethics* 115–24; and Donna Dickenson and Nadey Hakim, ‘Ethical issues in limb allotransplants’ (1999) 75 *Postgraduate Medical Journal* 513–15.

²⁹ Julia O’Connell Davidson, *Prostitution, Power and Freedom* (Ann Arbor: University of Michigan Press, 1999). For an exploration of the assumptions behind this discourse, see my ‘Philosophical assumptions and presumptions about trafficking for prostitution’ in Christien van den Anker and Jeroen Doemernik (eds), *Trafficking and Women’s Rights* (Basingstoke: Palgrave Macmillan, 2006), pp. 43–53. For a powerful recent critique, see Kajsa Ekis Ekman, *Being and Being Bought: Prostitution, Surrogacy and the Split Self*, trans. Suzanne Martin Cheadle (North Melbourne, Victoria: Spinifex Press, 2013).

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in whose name this freedom is supposed to operate. A contract of slavery is logically invalid because it extinguishes the legal existence of one party to the contract. It is therefore entirely consistent in philosophical and legal terms to bar such forms of alienation of the body by sale or other means. The more difficult cases concern disposing of parts of the body that do not threaten the continued existence of the subject.

Again, Kant is often cited as the locus of the assertion that we are barred from using our bodies as mere tools, since that would entail treating ourselves as mere means – although to our own ends rather than those of another subject. While Kant clearly states that we are not authorised to sell any part of our bodies, he seems to make exceptions for non-vital elements such as hair, although he is uneasy even about that. In other situations, for example in the permissible amputation of a diseased foot, Kant does appear to draw the dualistic distinction between body as object and moral person as subject, so that we are entitled to ‘use’ the body in such a way as to preserve the person. (I have put ‘use’ in inverted commas because amputating a diseased foot does not seem to be ‘using’ the body as a tool in the same way as selling a part of the body, even selling a body part in order to keep body and soul together.)

So although Kant at first denies that the person can be separated from the body, or that the body can be treated as a thing without injuring the person, he makes exceptions for certain parts of the body, particularly those which are not vital to life. One might think that DNA swabs used in genetic and genomic analysis, or tissue slides containing microscopic samples, would be among those modern-day exceptions that could be justified on a Kantian basis. Oddly, however, it seems that these forms of tissue extraction have often occasioned the strongest protest. In Chapter 8 I describe a case example from Tonga, where there was deep public resistance to an Australian biotechnology firm’s agreement with the government to collect tissue samples for the purpose of genomic research into diabetes. As the director of the successful protest group put it, ‘they came for sandalwood, now the b . . . s are after our genes.’³⁰

The Feminised Body

There is widespread dismay, in both the Global South and the wealthy countries, at the notion that by losing a property in our bodies, we lose a part of our individual identity. But why does this phenomenon seem so

³⁰ Lopeti Senituli, ‘They came for sandalwood, now the b . . . s are after our genes!’, paper presented at the conference ‘Research Ethics, Tikanga Maori/Indigenous and Protocols for Working with Communities’, Wellington, New Zealand, 10–12 June 2004.

novel? After all, women's bodies have been subject to various forms of property holding over many centuries and in many societies.

In this book I want to argue that what we are witnessing is *the feminisation of property in the body*. The 'new enclosures' of the genetic commons or of forms of human tissue threaten to extend the objectification and commodification of the body to both sexes. Everyone has a 'female' body now, or, more properly, a feminised body. Of course men do not have bodies that are biologically female, but both male and female bodies are now subject to the objectification that was previously largely confined to women's experience. As Melinda Cooper and Catherine Waldby have argued powerfully, a feminised model of 'clinical labour' likewise predominates in the global bioeconomy – extending beyond areas that only affect women, such as commercial surrogacy and egg sale, to the vulnerable status of male and female labour alike in such areas as commercialised clinical trials in the pharmaceutical industry.³¹ Although bioindustry valorises the intellectual labour of the researcher, it construes the bodily contribution of tissue providers and human research subjects 'as an already available biological resource, as *res nullius*, matter in the public domain'.³²

The crux of my claim is that commodification of human tissue and the human genome affects both sexes, and thus appears to feminise men, by threatening to reduce both men and women to the role of objects – the physical matter on which medical interventions, patenting or experimentation takes place, and which serves as the raw material from which added value can be extracted. Although some bioethicists and sociologists, particularly those who take so-called 'enhancement' seriously,³³ view the body as a *tabula rasa* on which the subject can now inscribe whatever identity he wills, here I shall be arguing the opposite position. There is nothing liberating about viewing the body in such alienated fashion, as a blank screen onto which we can project our fantasies, as a mere object of our whims. What is threatening to many observers about commodification of the body, judging from a widely accepted discourse, is that it reduces both sexes to the condition of objects. Whereas in many countries the extension of abortion and contraception rights in the 1960s gave women increasing control over their bodies, elevating them to the status of subjects which only men had previously enjoyed, the new enclosures throw the process into reverse.

³¹ Cooper and Waldby, *Clinical Labor*; see also Carl Elliott, *White Coat, Black Hat: Adventures on the Dark Side of Medicine* (Boston: Beacon Press, 2010).

³² Cooper and Waldby, *Clinical Labor*, p. 9.

³³ For a fuller discussion, see Dickenson, *Me Medicine vs. We Medicine*, Chapter 5, 'Enhancement technologies: feeling more like myself.'

But whereas new reproductive rights functioned mainly to raise women to the level of autonomy that men had long enjoyed – despite some commentators’ view that what happened in the 1960s was that everyone gained new powers over their own bodies³⁴ – the ‘new enclosures’ threaten both sexes. They do not threaten both sexes equally: female tissue and labour are generally far more valuable and hence vulnerable to commercial exploitation, for example in the gamete industry.³⁵ Commodification of the body and of clinical labour affect women disproportionately, as I illustrate in Chapters 3 (on the sale of human ova in IVF and research), 4 (on commercial surrogate motherhood) and 5 (on private banking of umbilical cord blood). But other developments affect both sexes in similar though not always identical manner: for example, biobanks (studied in Chapter 6), genetic patenting (Chapter 7) and the genetic commons (Chapter 8).

It might seem odd for me to advocate a property approach grounded in feminist reasoning, if property is about objects, and if women’s status has hovered uncomfortably between that of a subject and that of an object. However, I shall shortly illustrate how the ‘bundle’ concept of property concerns relationships, obviously among people, of exclusion and inclusion. Common law jurisprudence typically views property as a set of relationships between persons, not as a thing in itself.³⁶ This emphasis on property as relationship is entirely consistent with feminist theory, which has frequently foregrounded relationships and relatedness.³⁷ Chapter 2 has more to say about this contention.

My argument could lead in several directions, and I want to begin by making it clear which roads I have not taken. As Robert Frost says, the road not travelled by can make all the difference. Here are some of the perilous legal and philosophical roads not taken in this book.

1 I certainly do not wish to argue that we should be indifferent to the commodification of the body, or that because women have had to suffer the status of objects of property holding, men should too. On the contrary, I argue that by and large we should oppose commodification of the body. By examining the insights offered by feminist theory,

³⁴ Memmi, *Les gardiens du corps*, p. 29.

³⁵ Rene Almeling, *Sex Cells: The Medical Market in Eggs and Sperm* (Berkeley: University of California Press, 2011).

³⁶ Wesley Newcomb Hohfeld, *Fundamental Legal Conceptions as Applied in Judicial Reasoning* (New Haven, CT: Yale University Press, 1919). An important exception to this generalisation is Harris’s *Property and Justice*.

³⁷ See, for example, M. J. Larrabee (ed.), *An Ethic of Care* (New York: Routledge, 1993); H. Lindemann Nelson and J. Lindemann Nelson, *The Patient in the Family* (London: Routledge, 1995); Virginia Held, *Feminist Morality* (Chicago: University of Chicago Press, 1993); and P. Bowden, *Caring: Gender-Sensitive Ethics* (London: Routledge, 1997).