

Contents

		Página
IN	TRODUCTION	15
	PART ONE	
1		
	REE OR AT A PRICE? CONCERNING THE HUMAN BODY S A RESOURCE	23
N	MARÍA CASADO	
1.	Introduction	23
2.	The distance between prescriptions and practices	24
	Egg donation	27
	Surrogate motherhood	28
	Organ donation	29
	Blood donation	30
	Research with human beings, biological samples and health data	31
3.	Two conflicting models: dignity and rights v market society	32
4.	Some thoughts about justice and the consideration of the	
	body as a resource	35
2		
	HE RIGHT TO ONE'S OWN BODY (BODILY INTEGRITY) ND ITS CONSEQUENCES	39
N	MANUEL ATIENZA	
1		20



M. CASADO GONZÁLEZ: FROM SOLIDARITY TO THE MARKET. THE HUMAN...

			<u>Página</u>
2			41
	2.1		41
	2.2		44
3			48
4			52
5			55
,	5.1		55
	5.2		57
	5.3		59
_			61
6		1. 1	
50	urces	consulted	61
3			
Sι	BJEC	T, BODY AND MARKET: A COMPLEX RELATION-	
	-	······································	65
A	ANA RU	JBIO	
1.	Intro	oduction	65
2.		modern legal and political discourse and capital/the	00
۷.		Ret	67
3.		t structural changes should legal and political culture	07
٠.		ertake in order to overcome origins-based oppression?	71
1.		political and ethical value of the modern discourse	78
		commercialization and fragmentation of bodies	79
5.		8	
6.	-	y-subjects and citizenship	83
7.		t mistakes have we made and are we still making?	86
8.		spected problems and future challenges	87
So	urces	Consulted	90
4			
IS	THER	RE ANYTHING MONEY CAN'T BUY?	93
		ROYES	, 0
1		1.0 1.20	

8



CONTENTS

		Página
5		
SH	MY BODY MINE? CONCERNING THE PRIVATE OWNER- IIP OF THE HUMAN BODY	101
1.	The human body, tempted by the market	101
2.	My body is mine	106
	Ownership	106
	My body is mine and not yours	107
	Is my body mine?	108
3.	My body and I: do I have a body or am I a body?	109
	The parts of my body and I	111
4.	The ownership of oneself, or self-ownership	112
	Nozick and self-ownership	112
	What Locke says	115
	Is Nozick wrong?	118
	Is Cohen wrong?	118
5.	My body is nobody's	123
So	urces consulted	125
6		
DI	TWEEN PROPERTY AND PERSONALITY: THE RIGHT TO SPOSE OF PARTS AND PRODUCTS OF THE BODY FROM CIVIL LAW PERSPECTIVE	129
	STHER ARROYO AMAYUELAS	1-2
1.	Introduction	129
2.	Between the right of ownership and the right of personality	130
	2.1. Ownership of the body or of its separate parts?	130
	2.2. Or a right of personality and self-determination?	133
	2.3. Some difficult cases	134
	2.3.1. The destruction of male genetic material	135
	2.3.2. The disposal of gametes and embryos	136







		<u>Página</u>
3.	The fact that financial gain is prohibited does not imply that	
	the disposal of organs, tissues or fluids is prohibited	138
	3.1. Compensation for the discomfort caused	140
	3.2. The problem of transparency	142
4.	Conclusion	146
7		
	OTES ON THE HUMAN BODY AND ITS PARTS IN THE	
	ARKET	147
S	ALVADOR DARÍO BERGEL	
1.	Introduction	147
2.	The human body and the person	148
3.	The new panorama	150
4.	Human body parts, substances and waste	154
5.	The different positions concerning the situation of the sepa-	
	rate parts of the body in legal systems	155
	5.1. Situation in the orbit of patrimonial rights	156
	5.2. "The personality rights approach"	158
	5.3. Alternative approaches	160
6.	Importance of the genetic information of detached body parts	161
7.	Ends pursued with the detachment of body parts and the	101
	applicable legal regime	164
	7.1. The sale of parts of the body	164
	7.2. Donation	166
	7.2.1. Donation for transplants	166
	7.2.2. Donation for scientific purposes	166
	7.3. Preservation of the material given by the donor for later use	166
8.	The contradictions arising from the new reality	167
9.	The principle of non-commerciality of the body: its sources	
	and scope	170
	The separate and industrialized parts: their regime	173
11	The artificial parts incorporated in the hody	175



Página

PART TWO

8

				CY BE PERMITTED IN SPAIN? THE	
ST	STATE OF THE QUESTION AND SOME CONSIDERATIONS				
E	STHEI	R FARNO	ÓS AMOR	ÓS	
1.	Surr	ogacy	today		179
2. Different approaches to the same phenomenon, the boom					
				gacy and a "liberalizing" trend	183
3.	The		_	pain	187
	1. The point of departure: nullity of the agreement and "cross-border reproduction"				187
	2.			of the Directorate General of Registries and February 2009	189
		2.1.		lents and the progress of the case	189
		2.2.	Surrog	gacy before the Supreme Court	191
			2.2.1.	Sound judgment in the methodology and the more debatable nature of the substantive arguments	191
			2.2.2.	Surrogacy contrary to the Spanish international public order	193
			2.2.3.	Absence of discrimination	194
			2.2.4.	The best interests of the child	195
		2.3.	Where	e are we?	198
4.				he European Court of Human Rights: pos-	
	sible	e impli	cations	for Spain	200
5.	Final considerations				
	1.	Moral	and bioe	thical neutrality	204
	2.	Shoul	d surroga	acy be permitted in Spain?	206
Soı	ırces	consul	ted		212







		<u>Página</u>
9		
TIC	GAN AND TISSUE DONATION AND TRANSPLANTA- ON: ALTRUISM OR BUSINESS?	219
1.	Introduction	219
2.	Definitions	221
3.	Illicit organ trafficking practices	222
	Living donors in their own country	225
	Living donors travelling to the recipient's own country	226
	Transplants performed in third countries with living donors	226
	Inclusion on foreign waiting lists	226
	Manipulation of waiting lists	227
	Cadaveric donors on demand	227
	Regulated compensation of living and cadaveric donation	227
4.	Prices and fees	228
5.	Ethical conclusions and assessments	228
Sou	urces consulted	229
10		
TH	E COMMERCIALIZATION OF GENETICS	233
С	ARME BARROT	
1.	Using genetics to diagnose diseases	233
	Family ties	234
	Doctor-patient relationship	235
	Genetic counselling	235
	Conclusions	236
2.	Forensic genetics	236
	Forensic genetic testing on the Internet	236
	The identity of the professionals	237
	Paternity report	237
	Conclusions	238
Sou	urces consulted	238



CONTENTS

		Págin
11		
ΒI	MERGENT RESEARCH AND MARKETS: WEBSITES, APPS, G DATA, BIOLOGICAL SAMPLES AND GENETIC INFORATION	241
1	MÍRIAM MÉNDEZ GARCÍA	
In	troduction	241
1.	Analysis of research projects with websites and apps	243
2.	Treatment of international requests for samples	243
3.	Requests for samples through intermediary companies	244
4.	Requests for samples for technical validations and other external requests	244
5.	Requests for extraordinary use of biological samples	245
6.	Big data and genetic information projects	248
So	ources Consulted	248
12		
M	HE TREND TOWARDS THE COMMERCIALIZATION OF HUAN BODY PARTS AND OF PRIVACY IN RESEARCH WITH OLOGICAL SAMPLES AND DATA (BIG AND SMALL)	251
I	TZIAR DE LECUONA	
1.	Introduction	251
2.	Public assets at the service of private interests?	254
3.	Part I: Biological samples of human origin and biobanks	256
4.	Part II: Big data analysis applied to research (big data) and health apps (mHealth)	265
5.	Conclusions and proposals	273
N(OTE ON THE AUTHORS	277

Thomson Reuters ProView. Guía de uso



