Reviewer's report

Title: Taking Tissue Seriously Means Taking Communities Seriously

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Reviewer: Donna Dickenson

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General
This article opens a much-needed debate on a subject which is still too little considered: global export of indigenous people’s tissue. While its analysis and prescriptions are not strikingly original, they are well-considered, balanced and comprehensive. The slim existing literature is covered clearly and helpfully, with appropriate referencing, and the style is clear.

Major Compulsory Revisions (that the author must respond to before a decision on publication can be reached)

Minor Essential Revisions (such as missing labels on figures, or the wrong use of a term, which the author can be trusted to correct)

Discretionary Revisions (which the author can choose to ignore)

As a discretionary revision, I would recommend that the authors make their analysis of legal developments in the First World more nuanced and up-to-date. Although they state that no legal cases have found in favour of donors’ rights over their tissue, that is not entirely true of the Greenberg case. The District and Appeal Court decisions in the Catalona case do at least recognise that there can be such a thing as property in excised tissue stored in a databank, before weighing up the competing claims of patients, researcher and university. Both these cases thus represent an advance on Moore.

The authors may also wish to distinguish between common law and civil jurisdictions, particularly France. The French DNA affair described by Paul Rabinow in his book of that title actually raises a number of similarities with the Third World, such as the ‘invasion’ of one country by a firm from a more dominant nation and the sense that the national genome is at risk—just as in the Tongan example. For a comparison of the two countries, see Donna Dickenson, Property in the Body: Feminist Perspectives (Cambridge University Press, 2007), chapters seven and eight.

I would thus suggest that the authors could modify their rather simplistic distinction between the way in which these issues are treated in developed and
developing countries. The authors tend to argue that individualistic informed consent is sufficient and appropriate in the developed world, but not in communitarian developing countries. But the French DNA example, as well as the Greenberg case involving a patient/parent community, also demonstrate the felt inadequacy of informed consent for Western donors as well. This point could be strengthened, as a discretionary revision.

**What next?:** Accept after discretionary revisions

**Level of interest:** An article of importance in its field

**Quality of written English:** Acceptable

**Statistical review:** No, the manuscript does not need to be seen by a statistician.

**Declaration of competing interests:**

I declare that I have no competing interests.