This essay is meant to be informative more than argumentative. The author does not express her own opinions but tries to sketch the so-called 'French law and ethics' of the identity relation between the person and his/her body, implying the principles of immunity or inviolability ('immunité') and unavailability or indisposability ('indisponibilité') of the human body, with the consequence that therapeutic or other uses of human blood or body parts should be non-profit. Of course, dissenting opinions have been expressed in France, but on the whole a broad consensus seems to exist, and it is expected that Parliament will pass further 'legislation on bioethics' systematizing the doctrine in law [34,35,36].

The present essay concentrates on the philosophical, ethical, and legal issues concerning the status of the human body, in relation to human rights. Very minimal information is given about the resection, handling, storage, or donation of human tissues or body parts, about blood transfusion, or about organ transplantation.

The essay is divided into five sections:
- overview of the French legal situation prior to 1988;
- experimenting on human subjects (law of 1988);
- the ethical status of the human body (recommendations by the National Consultative Ethics Committee, around 1990);
- 'from ethics to law': towards a legal status of the human body, a series of official reports; and
- legislation on bioethics (1994).

Only the period anterior to the 1994 legislation is covered here. The transition 'from ethics to law' (1989-1993) and the contents of the 1994 legislation are analyzed elsewhere [see, 19].
II. OVERVIEW OF THE FRENCH LEGAL SITUATION PRIOR TO 1988

*Human Rights in General*

The French *Constitution* of the 5th Republic (Oct. 4, 1958) in its Preamble states the attachment of the French people to human rights, as defined by the Declaration of Human Rights of 1789 and by the Preamble of the Constitution of the 4th Republic (1946). All three documents currently have full constitutional value, as reasserted by the Constitutional Council on July 16, 1971.

The French revolution abolished serfdom (Aug. 4, 1789) and slavery (Feb. 4, 1794). Liberty as a human right is interpreted as implying that no human being may be sold or bought, and that no human being may sell his/her own person. The Declaration of Human Rights included in the *Constitution* of 1793 explicitly stated that no person can be alienable property:

> Art. 23 – Tout homme peut engager ses services, son temps. Mais il ne peut se vendre ni être vendu. Sa personne n’est pas une propriété aliénable (Constitution, 1793).

The *Civil Code* [3] until 1994 did not explicitly give a status to the human body (or to human embryos); it separated persons from property, and stated that only property may be the object of an agreement. Agreements are contracted between persons; the object of the agreement may not be any person. For example, an agreement between a couple and a surrogate mother, the object of which would be that the surrogate mother will be inseminated, carry the pregnancy, deliver the baby, and give (or sell) it to the couple is void, because neither a woman’s uterus, nor a baby, can be the object of an agreement (Civ. 1ère, 13 déc. 89, D. 90). Another example: an agreement about the painting of a tattoo on a person’s skin is void (Trib. gr. inst. Paris, 3 jun 69, D. 70). In other words: the human body is not a commercial object.

> Art. 1128 – Il n’y a que les choses qui sont dans le commerce qui puissent être l’objet des conventions (Code civil).

The *Penal Code* [5] separates ‘Crime and offence against persons’ (Title II, Chap. 1) from ‘Crime and offence against property’ (Title II, Chap. 2). The Chapter on ‘Crimes and offences against persons’ (murder,