

Guest Editorial: Rethinking Property Approaches in Resources for the Circular Economy

Steenmans, K., Malcolm, R. & Clarke, A.

Author post-print (accepted) deposited by Coventry University's Repository

Original citation & hyperlink:

Steenmans, K, Malcolm, R & Clarke, A 2020, 'Guest Editorial: Rethinking Property Approaches in Resources for the Circular Economy', *Journal of Property, Planning and Environmental Law*, vol. 12, no. 3, pp. 185-186.

<https://dx.doi.org/10.1108/JPEL-09-2020-064>

DOI 10.1108/JPEL-09-2020-064

ISSN 1756-1450

Publisher: Emerald

Copyright © and Moral Rights are retained by the author(s) and/ or other copyright owners. A copy can be downloaded for personal non-commercial research or study, without prior permission or charge. This item cannot be reproduced or quoted extensively from without first obtaining permission in writing from the copyright holder(s). The content must not be changed in any way or sold commercially in any format or medium without the formal permission of the copyright holders.

This document is the author's post-print version, incorporating any revisions agreed during the peer-review process. Some differences between the published version and this version may remain and you are advised to consult the published version if you wish to cite from it.

Guest Editorial: Rethinking Property Approaches in Resources for the Circular Economy

Katrien Steenmans, Coventry Law School and Centre for Business in Society; Coventry University; Coventry; UK.

Rosalind Malcolm, School of Law and Environmental Regulatory Research Group; University of Surrey; Guildford; UK.

Alison Clarke, School of Law; University of Surrey; Guildford; UK.

The concept of a circular economy (CE) has no universally agreed definition, but generally encompasses the notions of waste prevention or alternatively reusing, recycling or recovering wastes and resources in order to achieve sustainable development (Kirchherr *et al.*, 2017). CE practices and approaches have been around in some form since indigenous times (e.g. Gregson *et al.*, 2015; Greenwood *et al.*, 2018; Kosoe *et al.*, 2019), but explicitly labelled CE objectives have only recently gained traction with law- and policy-makers and in the private, public and third sectors (Geissdoerfer *et al.*, 2017). The challenge lies in facilitating transitions to achieve such aims. To this end, interactions of property law with CE approaches is one key area to explore further, as property rights can be key influential components that can facilitate CE transitions by influencing resource and waste management.

This Special Issue presents selected papers presented at the *Rethinking Property Approaches in Resources for the Circular Economy Conference* hosted at Coventry University on 21 June 2019 and funded by a Society of Legal Scholars Small Projects and Events Fund award. The aim of this conference was to begin bridging knowledge gaps in effecting CE transitions and the kind of property systems that can promote and sustain them. The starting point was that we need to (re)evaluate and (re)configure traditional issues about the nature and distribution of property rights, which in turn might require a reconceptualisation of wastes and resources. The Special Issue articles provide a springboard for identifying the wide array of issues relating to the knowledge gaps warranting further exploration and examination.

The first article, Zhao's *China in Transition towards a Circular Economy: From Policy to Practice*, examines one of the seminal examples in which CE objectives are legislated. It investigates the development of top-down approaches to the implementation of different manifestations of CEs focused predominantly on business and commercial wastes. Central to the current approaches of such private sector entities to circularity are issues of control and value, as investigated by Thomas in *Waste, Marginal Property Practices, and the Circular Economy*. Thomas uses freeganism as a lens for investigating marginal property practices to conclude that corporate control of down-stream goods is necessary to achieve CE policy aims. In contrast, Steenmans and Malcolm in *Transitioning towards Circular Systems: Property Rights in Waste* argue that alternative property regimes could facilitate wider implementation of circularity. They argue that current European Union waste law favours classic forms of private ownership, which tend towards commodification and linear systems, but lacks the disruptive force needed to facilitate widespread CEs. Challenges of current predominant property systems are identified by Ahuja, Dawson and Lee within a particular context in *A Circular Economy for Electric Vehicle Batteries: Driving the Change*. Their analysis provides a potential solution within the context of Electric Vehicle Batteries through proposing a new servitisation-based ownership model, with the batteries remaining the property of and in the stewardship of the manufacturer. The final paper then demonstrates how the value of CE is not

constrained to the ‘traditional’ way in which the limited literature so far explores property rights in relation to CE. Instead of approaching it from the perspective of what property rights can do for CE, Bottomley in *Property’s Competing Values: The Public House Recycled as a Community Asset* examines how the image of CE can help understand the holding of community assets, with the focus on public houses.

Collectively, these articles cover some of the diverse contexts in which the CE concept can be useful and beneficial. To realise these opportunities, they demonstrate that many challenges remain, including those for which property law can provide an avenue to disrupt the current linear status quo and effect systemic change. There is no one-size-fits-all approach for CE implementations – from radical marginal property practices to communal ownership to servitisation models – as a result of the many diverse contexts in which circularity may be applied. Simultaneously, the articles only skim the surface of the many opportunities for property law to inform and enable CEs. Many questions remain including: Do we need to re-think the relationship between property and responsibility? What are the human rights implications of resource ownership within a CE? How is liability associated with the implementation of CE policies distributed across different actors in complex supply chains? How do different models of stewardship and public trusteeship sit with CE initiatives?

References

- Geissdoerfer, M., Savaget, P., Bocken, N. M.P., Hultink E. J. (2017), “The circular economy – A new sustainability paradigm?”, *Journal of Cleaner Production*, Vol. 143, pp.757-768.
- Greenwood, L. Nash, T. and Whitehead, E. (2018), *Transforming our economy: Financing the social enterprise sector in Aotearoa New Zealand*, The Impact Initiative, New Zealand.
- Gregson, N., Crang, M., Fuller, S. and Holms, H. (2015), “Interrogating the circular economy: The moral economy of resource recovery in the EU”, (2015) 44(2) *Economy and Society*, Vol. 44 No. 2, pp.218-243.
- Kirchherr, J., Reike, D. and Hekkert, M. (2017), “Conceptualizing the circular economy: An analysis of 114 definitions”, *Resources, Conservation & Recycling*, Vol. 127, pp.221-232.
- Enock, K., Darko, F.D. and Osumanu, I.K. (2019), “Looking into the past: Rethinking traditional ways of solid waste management in the Jaman South Municipality, Ghana”, *Ghana Journal of Geography*, Vol. 11 No.1, pp.228-244.