

Contents

<i>Acknowledgements</i>	xii
<i>Abbreviations</i>	xiv
<i>Note on referencing style</i>	xv
<i>A child-friendly summary</i>	xvi
Introduction	1
<i>I.1 'It is my body, and only I have the right to decide what goes into it': Enabling and listening to children's voices</i>	<i>1</i>
<i>I.2 A new conceptual model of children's decisional privacy</i>	<i>3</i>
<i>I.3 The central argument and its development</i>	<i>7</i>
<i>I.4 The relevance and significance of children's right to decisional privacy in Australian family law</i>	<i>19</i>
<i>I.5 The aims of this book</i>	<i>24</i>
<i>I.6 The structure of this book</i>	<i>24</i>
PART A	
Privacy and children's rights: A theoretical perspective	29
1 The meaning and value of privacy	31
<i>1.1 Introduction</i>	<i>31</i>
<i>1.2 What is privacy?</i>	<i>32</i>
<i>1.3 Understanding the value of privacy</i>	<i>37</i>
<i>1.4 Capacity, rights and the challenge of (re)conceptualising children's decisional privacy</i>	<i>41</i>
<i>1.5 Conclusion</i>	<i>51</i>
2 A children's rights approach to decisional privacy	53
<i>2.1 Introduction</i>	<i>53</i>
<i>2.2 Children's rights: A still-contested notion</i>	<i>54</i>

- 2.3 *The fundamental principles of a children's rights approach to decisional privacy* 57
- 2.4 *Factors shaping judges' willingness and ability to engage with children's rights in their decision-making* 66
- 2.5 *Conclusion* 75

3 Re-reading court judgments from a children's rights perspective 76

- 3.1 *Introduction* 76
- 3.2 *Selecting and framing the issues 'through the eyes of children'* 77
- 3.3 *Child-friendly court procedures* 79
- 3.4 *Using the CRC as a legal and normative framework for reasoning and analysis* 86
- 3.5 *Communicating the court's decision: A judgment that 'makes sense to the person most closely affected'* 89
- 3.6 *Conclusion* 95

PART B

Children's right to decisional privacy in practice 97

4 Medical treatment for gender dysphoria as a 'special medical procedure' 99

- 4.1 *Introduction* 99
- 4.2 *Parental responsibility to consent to children's medical treatment* 101
- 4.3 *The welfare jurisdiction under section 67ZC of the Family Law Act* 103
- 4.4 *Judicial validation of gender identity* 118
- 4.5 *Conclusion* 120

5 'Harsh' but 'bound': Re-reading the Full Court's judgment in *Re Jamie* 122

- 5.1 *Introduction* 122
- 5.2 *The *Re Jamie* proceedings: A brief history* 123
- 5.3 *A children's rights analysis of the Full Court's judgment in *Re Jamie** 126
- 5.4 *Conclusion* 147

6 The 'greatest advancement in transgender rights' for Australian children? Re-reading the Full Court's judgment in <i>Re Kelvin</i>	149
6.1 <i>Introduction</i>	149
6.2 <i>Growing dissatisfaction and an 'urgent need ... to undo the consequences' of <i>Re Jamie</i></i>	151
6.3 <i>The <i>Re Kelvin</i> proceedings: A brief history</i>	153
6.4 <i>A children's rights analysis of the Full Court's judgment in <i>Re Kelvin</i></i>	154
6.5 <i>Conclusion</i>	170
7 Validating treatment that 'goes to the heart of an individual's identity': Re-reading the Court of Appeal's judgment in <i>Bell v Tavistock</i>	172
7.1 <i>Introduction</i>	172
7.2 <i>Children's capacity to consent to medical treatment in the UK: The legal framework</i>	174
7.3 <i>The <i>Bell</i> proceedings: An overview</i>	176
7.4 <i>A children's rights analysis of the Court of Appeal's judgment in <i>Bell</i></i>	182
7.5 <i>The limited 'symbolic value' of the Court of Appeal's judgment for TGD children's rights</i>	196
7.6 <i>Conclusion</i>	200
8 Recognising and respecting children's right to decisional privacy: Conflicts, complexities and opportunities	203
8.1 <i>Introduction</i>	203
8.2 <i>Child versus parents? Constructing a false dichotomy of interests</i>	204
8.3 <i>Beware a child mutiny! Delimiting the boundaries of children's right to decisional privacy</i>	209
8.4 <i>From theory to practice: Reconceptualising children, reconfiguring institutional structures</i>	215
8.5 <i>Conclusion</i>	220
Conclusion	222
Index	227