

Posthumous Interests



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Daniel Sperling discusses the legal status of posthumous interests and their possible defeat by actions performed following the death of a person. The author first explores the following questions: Do the dead have interests and/or rights, the defeat of which may constitute harm? What does posthumous harm consist of and when does it occur, if at all? This is followed by a more detailed analysis of three categories of posthumous interests arising in the medico-legal context: the proprietary interest in the body of the deceased, the testamentary interest in determining the disposal of one's body after death and the interest in post-mortem medical confidentiality. Sperling concludes that if we acknowledge the interest in one's symbolic existence and legally protect it, not only do some interests survive a person's death but we should also enjoy a peremptory legal power to shape in advance our symbolic existence after death.

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