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## Compensating Organ Donors: Commodification or Freedom?

The Commonwealth government has [today announced](#) a 'grant' scheme for live organ donors. The scheme will pay live organ donors the minimum wage for six weeks following donation, with the aim of supporting them financially.

Such a decision is likely to ignite the debate over the morality of payment for 'transactions' involving the human body. There are two sides to this debate: the risk of commodification of the human; and the freedom and autonomy of donors to choose how they deal with their body.

### Commodification

One of the perceived risks in providing payment for organ or tissue donation is that the human body is commodified, or that it somehow becomes property. This fundamentally conflicts with widely regarded notions of dignity in the human.

In fact for this reason, the common law tends to operate from a presumption that there is no property in the human body. Having said this, the courts have often steered around this, finding a 'quasi-property' or a 'right to possession' in a human body (including a corpse) or its parts.

Altruism seems preferred as a basis for giving tissue or organs. For example, blood donations in Australia are an important part of our health care system, but [donors are not paid](#) - in contrast to other jurisdictions.

The foundation of the commodification argument can be explained with reference to philosopher [Immanuel Kant](#). He argues that it is immoral to treat humans as means to an end. Rather humans must be treated as ends in themselves. On this argument, payment for donation of body tissue or organs may be interpreted by some as using a human as a means to an end - thereby breaking a fundamental moral code.

That the 'grant' is nominal is likely to be an important aspect of the government's decision. Allowing *compensation* is seen as an [acceptable boundary to the morality of payment](#), avoiding the issue of financial *profit* from the arrangement. This is the basis on which altruistic surrogacy arrangements permit reimbursement of the birth mother's costs, but prohibit '[payment, reward or other material benefit or advantage](#)'.

There is an associated perceived risk with payment, in the capacity for exploitation of donors. This argument posits that if financial gain is permitted, the 'rich' will be able to buy their way to a new organ, taking advantage of the 'poor'. Exploitation seems less likely to occur if payment is limited to mere compensation.

### Bodily Autonomy, Freedom and Markets

On the other hand, others argue that people should be able to deal with their bodies as they see fit as an expression of their bodily autonomy and freedom - including freedom to contract.

#### About Me



#### Kate Galloway

I lecture in land law at James Cook University and I write and think about the nature of property and its representations in the law; about issues affecting women; about justice generally; and about legal education.

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In contrast to the Kantian notion that the donor is merely a means to an end (the end being the health of the recipient), the [bodily autonomy argument](#) suggests that the donation is an expression of dignity through the exercise of free choice over the use of the donor's own body.

This is a liberal approach to the issue, and tends to be argued also in the context of an economic argument. Economics would suggest that the [market mechanism is the most efficient means of allocation](#) of scarce resources (including human tissue and organs). Monetary incentives (profit, rather than compensation) would drive the market. Similarly, it is suggested that within a market, those [most able to bear the cost](#) of donation (both physically and financially) will be those who participate.

### Health Economics

While the government's announcement occurs within the context of this debate, there is likely to be a pragmatic system-wide reason behind the decision - namely that the health costs of supporting those waiting for an organ donation will be reduced if more organ transplants occur. In this way, the grants may be cheaper than the alternative and benefit on a large scale. This contrasts with the more individual analysis of commodification and individual freedom.

### Leading the Way

On balance, this decision could well represent a step that helps to break a stand-off between these two arguments. If well implemented with full regard for the dignity and autonomy of the donors and their recipients, this decision could lead the way for policy advances in many presently-contested areas of health and bio-ethics.

Posted by [Kate Galloway](#) at [10:54](#)

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