

Submission to the Australian Law Reform Commission

Review of Human Tissue Laws - Issues Paper

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Introduction

I welcome the opportunity to contribute to the Review of Human Tissue Laws. This submission is deeply personal. It arises from the tragic loss of my beloved son, David Cassai, who died on New Year's Eve 2012 as a result of a violent, unprovoked one punch.

In the same conversation of being told that David would not survive his injuries, my family was asked if we would consent to organ donation.

Despite the overwhelming grief, we agreed, knowing it is what David would have wanted. That decision gave others a second chance at life. But the experience also revealed deep flaws in the current legal framework, particularly around mandatory anonymity and the lack of autonomy for donor families.

The Human Side of Organ Donation

The request to donate a loved one's organs comes at the most fragile moment a family can face. The emotional weight of making such a decision while trying to process the death of someone you love is immense. That pressure is something no law can fully anticipate, but it is something the law must be sensitive to.

Agreeing to donate David's organs took away from the very last breaths David took as he was wheeled away to the operating theatre. Instead of being fully present with him in those final moments, we were navigating complex medical procedures - an impossible burden at a time of immense sorrow.

When we said yes to organ donation, we did so with love, pride, and pain. It gave us a small light in an otherwise dark time. What followed, however, was a legal wall that denied us the right to know who received David's organs—even if both parties wished for contact.

Why Mandatory Anonymity Must Change

Under current laws, donor and recipient identities cannot be shared—even when both parties want to meet or exchange details. I believe this law is unjust and unnecessarily rigid. If both the donor family and the recipient (or their family) consent, they should be allowed to connect.

In our case, I was contacted via social media by the mother of the young man who received David's left kidney and pancreas. After carefully reviewing the limited details provided, we agreed to meet. It was a bittersweet and powerful encounter.

To see someone alive because of David, to witness him become a father, was indescribably moving. We deeply respect each other's privacy and only connect occasionally, but the choice to do so has brought comfort and healing.

This law should not prevent meaningful, voluntary, and mutually respectful connections. We were fortunate that contact occurred, but it should not depend on coincidence or informal means. The law should enable, not block, such possibilities—with full consent from both sides.

Consistency Across States and Territories

Another critical concern is the lack of uniformity in legislation across Australia. Every Australian should be protected and empowered equally by the law, regardless of the state in which they live or die.

There must be nationally consistent laws that:

- Provide clarity on consent and rights of next of kin.
- Respect the wishes of donors and their families.
- Allow for contact between donor families and recipients, when mutually agreed.
- Support autonomy, transparency, and dignity in the donation process.

Final Thoughts

Organ donation is a gift of life. It should be honoured not only in the act of donation, but in the way we allow families and recipients to process, grieve and heal.

Next of kin are asked to consent to donation at the most traumatic time in their lives. Next of Kin make the decision when their loved one is brain dead. They should not then be denied the right to own or share that experience as they choose. The law must reflect the humanity behind donation, not just the logistics.

I respectfully urge the Commission to:

- Remove the legal barriers to consent-based contact between donor families and recipients.
- Implement nationally consistent laws that protect and empower all Australians.
- Acknowledge that compassion and autonomy can coexist with ethics and medical standards.

Thank you for considering this submission and for undertaking this important review. If you require any additional information please don't hesitate to contact me.

Sincerely
Caterina Politi