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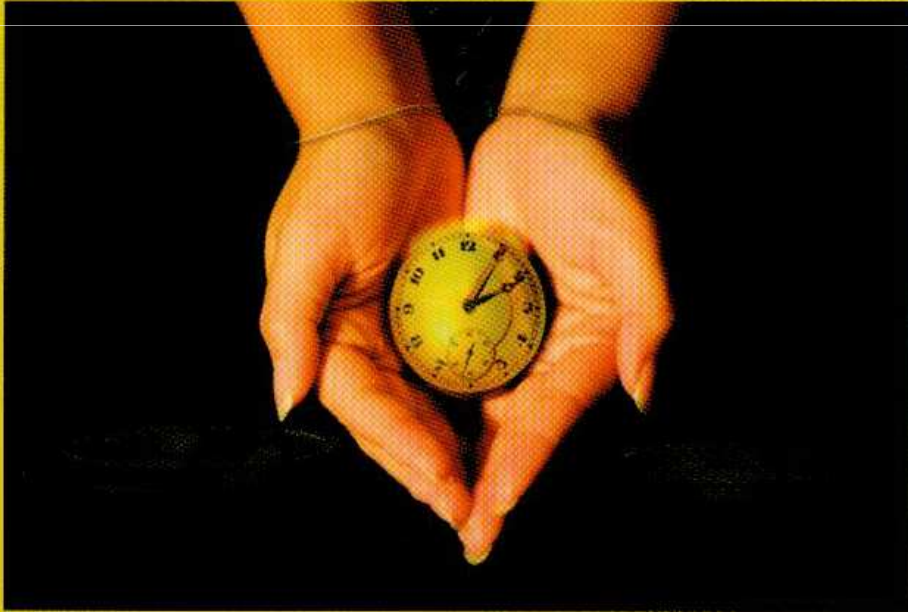
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ORGAN VE DOKU NAKLİNDE TIP ETİĞİ VE TIP HUKUKU SORUNLARI

PROBLEMS OF MEDICAL ETHICS AND LAW IN ORGAN AND TISSUE TRANSPLANTATION

I. ULUSLARARASI TIP ETİĞİ VE TIP HUKUKU KONGRESİ BİLDİRİ KİTABI

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ETHICAL REFLECTION ABOUT THE TISSUES AND ORGANS DONATION: BETWEEN THE RESPECT FOR AUTONOMY AND THE IMPERIOUS SOLIDARITY

ORGAN VE DOKULARIN BAĞIŞLANMASINDA ETİK YANSIMA: OTONOMİYE SAYGI VE OTORİTER DAYANIŞMA ARASINDA

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The transplantation of cells, tissues and organs is, nowadays, unanimously recognized as a successful technique in the context of present medicine. The transplantation tested for centuries as the anticipation of the realization of a visionary wish finds only in the XX century conditions for the desirable success, through the understanding of the histocompatibility system and the discovery of immunosuppressive drugs. Dating from then, the rejection of the organs by the receiver, which constantly have determined the death of the patient and the failure of the intervention becomes, generally, controllable. The transplantation converts itself from a prosperous experimental domain into a therapeutic technique with a growing success.

Now, vital organs as the kidney or the heart, in the process of accelerated and irreversible failure and with eminent risk of stopping working, provoking inevitably the death of the patient, can be replaced by organs in well conditions, coming initially from cadaveric donors, allowing the receptor to have a longer time to live and a higher quality of life. This technique constitutes, unquestionably, one of the most outstanding progresses of the XX century medicine through which thousands of lives are saved in the entire world every year.

Almost paradoxical is this major success of transplantation which drags with itself its huge limitation: the severe lack of organs for transplantation. Furthermore, one may say that in order to perform a transplantation we need to have healthy organs which correspond to the physical needs and to the biological profile of the patients. The more transplants are made and the higher the success rates are, the more it increases the search and the lack of organs for transplant.

In fact, the transplantation domain is nowadays characterized by two distinct facts which are the opposite of one another. On one side, it is obvious the general lack of organs to transplant, that refers both to different types of transplantable organs and to the countries in which the human transplantation occurs. On the other side, the number of candidates to transplant rises significantly, due to the medical progresses in maintaining and prolonging life, therefore the waiting lists are growing excessively. So, there is a literally fatal discrepancy between the number of candidates to transplantation and the number of transplantable organs. Unfortunately, many of the patients on the waiting list end up dying before getting a transplant.

In this context, the major priority is to draw means of action which result in the growth of the available organs to transplant which constitutes not only a technical-scientific challenge but also and mainly an ethical challenge.

From the technical-scientific view, we point out the expression of the criterion of brain death and the settlement of the clinical-legal rules for its determination as the most relevant stage for the raise of the offer of organs to transplant.

From the ethical point of view, it is possible to systematize several fundamental moments which increased the number of organs for transplantation. One of them was the passage from the demand for a previous declaration of consent for donation to the presumption of the approval if no document was signed. Another moment was the admissibility of organs' donation by living people and not simply taken from cadaveric donors. Finally, the restriction of transplantation with living donors to family members to its opening to all possible volunteers was another turning point towards transplantation.

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Almost paradoxical is this major success of transplantation which brings with itself its biggest limitation: the scarce lack of organs for transplantation. Furthermore, one may say that in order to perform a transplantation we need to have healthy organs which correspond to the physical and biological profile of the patient. The great hospitals are unable and the high success rates are, the more it increases the search and the lack of organs for transplantation.