

BOOK IV

SPECIAL SITUATIONS

CHAPTER 29

ON ORGAN AND TISSUE ABLATION FOR TRANSPLANTATION

Art.-482 In organ transplantation, ethics is governed by the following principles:

Paragraph a) Dignity and mutual respect

Paragraph b) Justice and solidarity

Paragraph c) trust and informed consent.

Art.-483 Persons shall be recognized the intrinsic value of dignity which imposes the obligation to consider them an end in themselves and not a means, in their capacity as autonomous, unique and unrepeatable moral subjects. The principle of human dignity imposes obligations such as the respect for the human being's autonomy and inviolability.

Art.-484 Solidarity is the social dimension of the principle of dignity. It is implicit in people's equality condition and promotes social development and cooperation.

Art.-485 The distribution of slender resources such as organs for transplantation implies the inescapable application of principles of distributive justice seeking fair balance without arbitrary distinctions regarding right and duty allocation. Transparency, advertising, and pluralism are guarantees for decision-making affecting the distribution of resources from the point of view of equal opportunities.

Art.-486 Trust implies recognition for self-determination and autonomy where respect for the other's personality is made evident. Then, the free Informed Consent becomes a sine qua non condition to guarantee the respect for the abovementioned principles.

Art.-487 The donation of organs and tissue implies exercising a strictly personal right of an extra patrimonial nature. Giving organs or tissue for a reward would generate a system of inequality where the economic situation would determine access priority to the detriment of the most underprivileged members of society.

Art.-488 The rule of confidentiality affecting the donor and receptor's identity and medical data shall be respected to guarantee public trust.

Art.-489 The definition and the scientifically validated medical criteria that are used to determine death should not be conditioned by purposes other than those guaranteeing people's protection and due care.

Art.-490 As regards the nature of the human body, organs and tissues, respect and care for them is essential according to the cultural cosmovisions on the symbolic value of the body in terms of its final disposal. After an ablation, the body shall be guaranteed care and respect. Its physical and esthetic indemnity shall be repaired to preserve its integrity.

Art.-491 The hypothesis of organ donation between living persons shall be limited to individuals that are related by affinity and consanguinity. In the assumption that the scope were widened to include subjects that are not related, the rule of confidentiality shall be preserved and non commercialization of organs shall be guaranteed.

Art.-492 The capacity to donate shall necessarily be articulated with the right to exercise autonomy, and the levels of competence shall be duly assessed, especially in cases involving minors or persons lacking legal capacity.

Art.-493 The therapeutic use of xenografts shall previously pass through all the basic and preclinical research stages.

Art.-494 The potential application of xenografts shall take into account the integrity and genetic individuality of the involved species, shall favor the protection of biodiversity and prevent disease transmission resulting from crossing genetic material among species.