

Transplantation, Following the Life

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Abstract: The article contains the results of a study of legislation on transplantation of human organs and tissues in modern Russia. The regulatory legal acts regulating the activity on conducting donor organ transplant operations have been studied, problems have been studied and shortcomings in the field of legal regulation of transplantology have been reflected. Ways and methods for improving the system of organ donation have been identified, and recommendations for introducing changes in the current legislation have been proposed.

Keywords: transplantation, organ donation, purchase and sale of organs and tissues, transplantation of crime, "waiting list", a children's transplant, donor insurance.

Transplantation of human organs is an acute socially significant problem, which without exaggeration can be called "a matter of life and death." Discussion of this topic always assumes a wide resonance in opinions. Some call operations for the transplantation of donor organs a breakthrough into the future, others call it an immoral and antisocial act. At the legislative level in the Russian Federation transplantology is perceived from a positive point of view and is seen as a significant success of modern medicine and a way of reducing mortality among the population.

Transplantation is associated with the right, in fact, from the very beginning of its introduction into medical practice. It can not be said that this phenomenon is not regulated by Russian legislation, but it also can not be said that the state has made every effort to fully legalize this issue.

So, the term "transplantation" comes from the lat. Transplantare - transplant. Thus, transplantation is a transplantation of organs and (or) tissues to another part of the body of the same or another organism.

The founder of the experimental transplantation of vital organs, particularly the heart, became a Russian scientist Vladimir Demikhov that in 1951 the world's first transplanted a donor heart dog. His first successful organ transplant from person to person, namely the kidneys, was carried out in December 1954, between the two identical twins by Dr. Joseph Murray. Since then, a huge number of such operations, completed in most cases, a positive result. Undoubtedly, transplantation was one of the most outstanding and promising achievements of the science of the 20th century. However, having appeared, she set before the society fundamentally new moral, ethical, legal and socio-economic problems.

Law of the Russian Federation No. 4180-1 of December 22, 1992 "On transplantation of human organs and (or) tissues" (hereinafter - the Law on Transplantation), and specifically Article 1 determines that organs and (or) tissues of a person can not be bought -Sales. Purchase and sale of human organs and (or) tissues entails criminal liability in accordance with the legislation of the Russian Federation.

It is interesting to note that in the current Criminal Code of the Russian Federation there is no article that would prohibit the sale and purchase of human organs and tissues. In my opinion, this is a gap in the legislation. There is an opinion that this innovation will not be advisable, as item "n" part 2 of Art. 105 of the Criminal Code of the Russian Federation specifies the punishment for murder in order to use the organs and tissues of the victim. However, practice shows that the "donor-recipient" scheme is incomplete, and there may be several additional links between these two entities. Thus, organs and tissues pass through several mediators. The absence of a criminal law norm is fraught with the fact that the purchase and sale of organs and tissues is not punished.

Although in our country there are factors that stimulate the commission of such crimes, but there are other factors, the influence of which makes the organization of criminal transplantation in modern Russia very unlikely.

Firstly, in Russia there are not many highly professional doctors who could confidently perform surgery for organ and tissue transplantation.

Secondly, dozens of specialists from different medical specialties should participate in the preparation and conduct of the operation for illegal organ transplantation, as well as in post-operative care of the patient.

Third, there is a purely technical problem of tissue compatibility. In no case can you imagine that anyone can be transplanted to anybody's body. To find the right organ for transplantation to a specific rich customer, we need to check (to get through many special tests) dozens or even hundreds of potential donors. It is unlikely that any criminal group will kill at random dozens of people in the hope of finding the one whose bodies are suitable for a particular customer.

Fourth, it is those categories of people who have the easiest way to illegally remove donor organs and tissues, the least suitable for this in terms of medical indicators. Homeless people, drug addicts, just poor people rarely have really healthy organs and tissues.

Fifthly, organs removed from the human body can be stored (even in special solutions) for a very limited time. The recovered kidney is stored up to 48 hours, the liver - no more than 12 hours, the pancreas - a maximum of 8, the heart and lungs can be stored at best 10 hours. After the expiry of these terms, the organs are unsuitable for transplantation.

Sixthly, the organ harvesting operation, which lasts no less than 2-4 hours, requires special conditions. It is impossible to spend it somewhere in a secret cellar, without having any special expensive equipment.

However, the proof of the presence of the "underground market" are ads (for example, in the global Internet): "I'm selling a kidney. Healthy 100%. 90 thousand euros "or" I will buy a kidney. Urgently. Any price. " Also, more than once the question was raised that if there is any trade in organs, is it possible to legalize it? In the event that such a law was adopted, some desperate poor man could easily ask a doctor to remove one of the paired organs, a bone fragment, a joint or something else. This can not be allowed.

Still, the problem of illegal trade in organs / tissues in Russia is - true, so much is not real, but potential. While it is not fully realized, it can and must be prevented. Indeed, the true effectiveness of law enforcement protection is not in punishment for committed crimes, but in their prevention.

The main legal problem of Russian transplantology is not the deliberate killing of people for the sake of removing organs from them, but the difficulty of obtaining donor organs on legal grounds.

According to the same Law on Transplantation, the source of the transplant material can be either a living person or a human body. The problem of organ transplantation in clinical practice in each case is connected with the decision of destinies of two people - the donor and the recipient - and therefore is one of the most dramatic in medicine.

Currently, there are two official channels for obtaining organs and tissues for transplantation:

1. Gratuitous receipt of organs from relatives of the patient;
2. Free of charge removal of organs from dead people.

However, it is impossible to strictly restrict the range of potential donors only to relatives. This is the culmination of several possibilities to address the issue of the lack of donor organs / tissues.

For example, in a number of Islamic and European countries, the so-called "emotional donation" is allowed, from the spouse to the spouse. And we, even with the physiological compatibility and great desire of one of the spouses, he does not have the right to help his beloved loved one, because the legislator decided so. They also do not have the right to sacrifice the integrity of their bodies for the sake of saving loved ones and adopted children, and adoptive parents.

The next option, which could also be used to save lives, is the so-called "cross-donation". This is when there is, for example, a couple - mom and daughter - and my mother is ready to give her daughter's kidney. But they do not pass for compatibility tests. But there is another pair - also mother and daughter. And with incompatibility. In this case, the kidney from my mother "number one" suits my daughter "number two", and vice versa. Russian medicine in this case does not help, and for example, in Holland, cross-donation is sufficiently developed.

These so-called "snags" in the legislative regulation contribute to the fact that every year in Russia, according to unofficial statistics, every second in the "waiting list" dies, and without the chance to survive.

The next problem is the deadly diseases in children requiring organ transplants. In the world, this problem was decided long ago: a child in need of transplantation receives the organ of a deceased peer. In Russia, at the legislative level, etc. etskoe posthumous donation, we are not permitted. With this troublesome topic, they preferred not to get involved. For lost years our country lost thousands of children's lives.

It is often said in the media about corruption. In my opinion, it is present in every sphere, including in the medical sphere. Although the Constitution of the Russian Federation also declares that all are equal before the law and the court and all have equal access to the exercise of their rights, however, as Vladimir Ilyich Lenin said, "equality by law is not equality in life." This applies to organ transplants. The advantage in most cases is for someone who has money. After all, in a situation where the body you need to wait a long time, the best way out is not a criminal operation with an increased risk for health, freedom and reputation. It is much simpler to bribe those doctors who lead a "waiting list" in order to obtain legal access to a suitable organ taken from the corpse faster.

It should be noted with bitterness that the mass media of our country have made their "contribution" to creating a sharply negative attitude to posthumous donorship. It all began with the controversial "things transplant doctors" when four doctors 20th city hospital of Moscow in spring 2003 in the preparation of the investigation blamed the murder. The whole country was informed that allegedly doctors were trying to remove the kidney for a transplant from a still living person. It was after these events that paid transplantation operations in Russia almost stopped: doctors did not officially forbid anything, but they began to greatly fear the visit of "people wearing masks". As a result, dozens of patients who needed donor organs died, but they did not wait for them.

The Transplantation Act proclaims the Presumption of consent to the removal of organs and / or tissues, which means that removal of an organ is prohibited if the medical institution is informed that during the life of the person, or his close relatives or legal representative, they declared their disagreement Removal of his organs and (or) tissues after death. Special consent of relatives is not required. This is a controversial position. Moreover, it remains unclear where and in what form a person should declare disagreement on the use of his organs, tissues after death; Who in

the institution of public health should be informed of the will of the deceased; Who is related to close relatives - this is not spelled out in regulatory enactments.

In addition, I would like to say that there are no provisions in the Russian legislation on health insurance for a living donor, in case he needs additional treatment or rehabilitation after the operation. It would be prudent to provide for a living donor benefits similar to those that have blood donors (temporary disability allowance, annual cash payments, the allocation of medical and resort permits, etc.)

All these problems associated with organ transplant led to the fact that Russia was among the world's outsiders in the field of transplantology.

But even with the law in Russia will be all right, go out on a serious level of Russian transplant will not succeed as long as we will not have created a federal program for the development of organ donation and transplantation, until you create a modern service organ donation across the country, with rapid communication and the delivery of medical and organ to the recipient, with a strong system of rehabilitation, monitoring and analysis of results. We also need training programs for medical students, since there are no courses on transplantology in medical schools. All doctors learn either independently, from books, or from abroad. Moreover, even with the Moscow Health Committee there is no department to deal with these issues! At the moment, there is little or no propaganda to explain the importance of transplantation of organs and tissues among the population. The task of forming public opinion in this area should be undertaken by the state. It is necessary to radically change the attitude of society towards transplantation. In the United States and Europe have long come to understand that organ transplant is a normal way of helping a person, a way of saving lives. The main thing is for the relatives of the dead to realize that the dead person as such does not need organs, and thanks to the transplant, it is possible to prevent tragedies in many families and give life to people that seemingly doomed to death.

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