

ABSTRACT

Transplantation of organ and/or tissue of human origin is an interesting global issue to be analyzed from many factors. As a medical treatment, transplantation is needed to cure the disease and healing process. On the other side, transplantation can raise problems from legal aspect. Based on that, this research has the purpose to analyze and to find the philosophy of regulation concerning the criminal act of transplantation of organ and/or tissue of human origin. Beside that also to find the better formulation on transplantation of organ and/or tissue of human origin for the future, specifically in the criminal law aspect.

This research is a legal research using conceptual, statute and comparative approach to find the legal rules, legal principles, and legal doctrines for answering the legal issues. The result of this research is consist of 3 (three) things which are : firstly, the philosophy of regulation concerning the criminal act of transplantation of organ and/or tissue of human origin is related with the concept of right to live, right to be health. It will be analyzed from the ethical, religion and legal perspective. Secondly, the regulation concerning the criminal act of transplantation of organ and/or tissue of human origin by identification the criminal act and discovering the background of regulation. Thirdly, the penal policy on regulation concerning the criminal act of transplantation of organ and/or tissue of human origin. The particular and comprehensive regulation relating with transplantation is needed including the availability assurances system to providing organ and/or tissue of human origin both easily and legally. Moreover the legal protection system for the parties (especially the donor and recipient) has to be created based on the Principle of Balancing Interest. With the appropriate system/mechanism for transplantation of organ and/or tissue of human origin, the enforcement of criminal law can work effectively as the last resource (ultimum remedium).

Keywords : transplantation, organ and/or tissue of human origin, criminal act, penal policy, legal protection.