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APPRAISAL OF TRAFFICKING IN PERSONS FOR ORGAN HARVESTING IN NIGERIA: LEGAL CHALLENGES AND STRATEGIC RECOMMENDATIONS

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ABSTRACT

Trafficking in persons for organ harvesting is an emerging and complex issue in Nigeria, exacerbated by socioeconomic and socio-political vulnerabilities, weak law enforcement, and gaps in legal frameworks. This paper explores the current domestic and international framework concerning trafficking for organ harvesting; identifies the enforcement and legislative challenges that hinder effective combat against this crime; proposes strategic solutions to strengthen Nigeria's legal and institutional capacities in addressing organ trafficking. It also examined organ trafficking in Africa and discussed two current landmark organ trafficking cases. The paper opines that despite the existence of the Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2015 (as re-enacted) which is the primary legislation prohibiting organ harvesting in Nigeria, enforcement remains hampered by several factors including inadequate enforcement and institutional challenges, public perception and misunderstanding of the crime of organ harvesting, lack of public awareness and education, and global and cross-border dimensions. While advocating for comprehensive reforms to close legal gaps, the paper proposes clearer definitions of trafficking for organ harvesting and stronger victim protection mechanisms. It further recommends improved law enforcement and institutional capacity, addressing socio-economic vulnerabilities, public awareness and education campaigns, changing public perception, enhancing cross-border and global cooperation This paper would contribute to the existing body of knowledge on human trafficking by focusing on the relatively understudied area of trafficking for organ harvesting in Nigeria which would improve the country's response to this crime and enhance the protection of vulnerable individuals and contribute to the global fight against human trafficking.

1. INTRODUCTION

Human trafficking remains one of the most pressing human rights challenges globally, with Nigeria being a critical focal point because of its status as a source, transit, and destination country for trafficking victims. While trafficking for sexual exploitation and forced labour has garnered significant attention, a more insidious form of trafficking—organ harvesting—has emerged as a growing concern in Nigeria.

While organ transplants have saved countless lives worldwide, the field is marred by the grim reality of trafficking in human beings for organ harvesting. Organs that a living donor may donate are: a kidney and, much less frequently, a liver lobe or segment. Rarely, also a lung, corneas (tissue), skin, small intestine, and pancreas might be donated by a living donor. Vital organs, such as the heart, can only be removed from a deceased donor.[1]

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This crime involves the use of fraud, deception, abuse of power in the recruitment of persons and the use of money to induce consent to remove that person's organs. "Kidney hunters" "brokers" "middlemen" "organizers", "connectors", as they are often referred to armed with misinformation and disinformation, target vulnerable individuals in rural and urban poor communities, coerce or deceive them into selling their organs because of financial difficulties, lack of education or access to reliable information to enable victims make informed decisions.

One of the well-documented tactics of traffickers is to claim that kidneys grow back after being removed, or that a person does not need two kidneys.[2] In other cases, traffickers deceived victims in other ways, telling them they were to receive a routine medical check-up, that a medical examination or surgery was part of the process of obtaining a legitimate job, or that the donation of their organs was for altruistic reasons.[3]

The complexities of organ trafficking, coupled with the severe implications for victims, underscore the need for robust legal frameworks and strategic interventions to address this issue. In 2019, the Global Observatory on Donation and Transplantation reported over 153,000 organ transplants worldwide.[4] Yet, as far back as 2007, the World Health Organization (WHO) estimated that 5-10% of these transplants involve illegally sourced organs.[5] In 2011, experts estimated that the illicit 'organ trade' generated illegal profits between USD 600 million and USD 1.2 billion per year.[6]

As compared to other forms of organised crime, trafficking in persons for organ harvesting is exceptional because it lies at the intersection of health and transplant law, with criminal law. It requires the involvement of the medical profession and healthcare facilities. Patients or criminal networks may try to use the services of the regular transplant systems by deceiving medical professionals and the screening mechanisms. Also, traffickers make use of medical staff for different purposes, including gaining access to hospital laboratories to test

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1 United Nations Office on Drugs and Crime (UNODC), International Office on Migration (IOM) and the Global Action Against Trafficking in Persons and Smuggling of migrants, *Toolkit on the Investigation and Prosecution of Trafficking in Persons for Organ Removal* (2022), 6

2 United Nations Office on Drugs and Crime Assessment *Toolkit: Trafficking in Persons for Organ Removal*, (2015), 28

3 https://icat.un.org/sites/g/files/tmzbdl461/files/publications/icat_brief_tip_for_or_final.pdf> accessed 7 September 2024

4 *Global Activity in Organ Transplantation Estimations (*2019). https://www.transplant-observatory.org/wp-content/uploads/2021/06/GODT2019-data_web_updated-June-2021.pdf accessed 2 September 2024

5 Y. Shimazono, 'Mapping Transplant Tourism' in *World Health Organizations Second Global Consultation on Human Transplantation* (Geneva 28-30 March, 2007)

6 J. Haken, Transnational Crime in the Developing World, (Washington DC: Global Financial Integrity, 2011).

the compatibility between donor and recipient, conducting medical procedures such as removing the organs or providing post-surgery recovery or treatment.[7]

Despite international efforts to combat human trafficking, Nigeria's legal and policy frameworks have not adequately addressed the specific issue of trafficking for organ harvesting. The rise of high-profile cases, such as that of Senator Ike Ekweremadu and others[8] who were convicted in the UK and the ongoing prosecution of the first ever trafficking for organ harvesting in Nigeria by the National Agency for the Prohibition of Trafficking in Persons (NAPTIP) in the landmark case of *Federal Republic of Nigeria v Emmanuel Olorunlaye & 4 Others*[9] involving Alliance Hospital & Services Limited, has highlighted the gaps in the country's ability to effectively combat this crime.

Trafficking in persons for the purpose of organ harvesting is a grave and growing issue that presents significant challenges to both national and international legal systems. This paper aims to analyse the legal challenges faced by Nigeria in combating trafficking for organ harvesting and to propose strategic solutions for improving the legal and enforcement frameworks. Specifically, the paper will evaluate the current domestic and international framework concerning trafficking for organ harvesting; identify the enforcement and legislative challenges that hinder effective combat against this crime; and propose strategic solutions to strengthen Nigeria's legal and institutional capacities in addressing organ trafficking.

2. GLOBAL PERSPECTIVE ON ORGAN HARVESTING

Organ harvesting under the Trafficking in Persons (Prohibition) Enforcement and Administration Act (TIPPEA), 2015 (as re-enacted), is human trafficking which involves the illegal removal of human organs for transplantation.[10] The United Nations defines organ trafficking as a crime in which individuals are exploited, coerced, or deceived into removing organs for sale. Trafficking in persons for organ removal is not a new phenomenon. Over the years, the crime has received significant attention from media, NGOs, academia and also from international and regional actors such as the Special Rapporteur on trafficking in persons, especially in women and children and the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Organisation for Security and Co-operation in Europe.[11]

The issue was also taken up at the UN Economic and Social Council and the General Assembly. For example, in 2013, the adopted resolutions that *inter alia* request UNODC to collect and analyse information on trafficking in persons for organ removal and encourage Member States to provide to UNODC evidence-based data on patterns, forms and flows of trafficking in persons, including for the removal of organs.[12]

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7 United Nations Office on Drugs and Crime (UNODC), International Office on Migration (IOM) and the Global Action Against Trafficking in Persons and Smuggling of migrants, *Toolkit on the Investigation and Prosecution of Trafficking in Persons for Organ Removal* (2022), 6

8 'Senior Nigerian Politician Jailed Over Illegal UK Organ-Harvesting Plot' (2023) <https://www.cps.gov.uk/cps/news/updated-sentence-senior-nigerian-politician-jailed-over-illegal-uk-organ-harvesting-plot> accessed 5 November 2024.

9 FCT/HC/CR/193/24

10 TIPPEA

11 United Nations Office on Drugs and Crime (UNODC), *Assessment Toolkit: Trafficking in Persons for the Purpose of Organ Removal* (2015) 5

12 ibid.

Despite the general interest in the issue, the crime remains a hidden activity and seems to be under-reported. Trends, patterns, modus operandi, the interaction of the various actors involved in the crime and other issues may not be well understood. That is not unusual for trafficking in persons cases in general. However, trafficking in persons for organ removal has some specific features that may make it even more difficult to identify and tackle the problem. Among those are, e.g., the very technical nature of some processes and the involvement of professionals from the medical sector. Trafficking in persons for organ removal is quite a distinct form of trafficking that requires special knowledge and skills to understand and address it.[13]

2.1. International Legal Instruments and Declarations

The international community has recognised organ trafficking as a serious violation of human rights, leading to the development of several legal instruments aimed at combating this crime. Key among these is the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (hereinafter referred to as the Palermo Protocol), which supplements the United Nations Convention against Transnational Organised Crime.

Palermo Protocol

The Palermo Protocol explicitly addresses trafficking in persons for organ removal, obligating signatory states in Article 5 to adopt measures to prevent and combat the crime, protect victims, and prosecute offenders as defined in Article 3[14]. Article 3(b) of the Palermo Protocol emphasizes that the consent of the victim to the intended exploitation shall be irrelevant where any of the means set forth in subparagraph (a) that is threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person have been used. Where the victim is a child, that is a person below the age of 18, consent is irrelevant regardless of whether any improper means (such as deception, force, abuse of a position of vulnerability) have been used. That means trafficking in children for organ removal only requires that there is an act (recruitment, transport, transfer, harbouring or receipt of a child) for the purpose of exploitation through organ removal.

The Council of Europe Convention against Trafficking in Human Organs

The Council of Europe Convention against Trafficking in Human Organs is another significant instrument, providing a comprehensive framework for the criminalisation of organ trafficking, protection of victims, and promotion of international cooperation. This

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[13] ibid 6.

[14] 'Trafficking in persons' shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs"

convention also emphasises the importance of ethical standards in organ transplantation and the need for states to establish transparent and regulated organ donation systems.[15]

Directive 2011/36/EU of the European Parliament and of the Council on Preventing and Combating Trafficking in Human Beings and Protecting its Victims

The Directive 2011/36/EU of the European Parliament and of the Council on preventing and combating trafficking in human beings and protecting its victims establishes minimum rules concerning the definition of criminal offences and sanctions in the area of trafficking in human beings. It also introduces common provisions, taking into account the gender perspective, to strengthen the prevention of this crime and the protection of the victims thereof. It further states that exploitation shall include, as a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, including begging, slavery or practices similar to slavery, servitude, or the exploitation of criminal activities, or the removal of organs.[16]

World Health Organization Guiding Principles

Similarly, the World Health Organization (WHO), Preventing the Purchase and Sale of Human Organs, WHA42.5, 15 May 1989; WHO Guiding Principles on Human Organ Transplantation, WHA44.25, 13 May 1991; WHO Guiding Principles on Human Cell, Tissue, and Organ Transplantation, WHA63.22, 21 May 2010, establishes conditions for organ donation, including valid consent from living donors, and the prohibition of organ removal in breach of these conditions.

The World Health Organization (WHO), Preventing the Purchase and Sale of Human Organs,[17] calls upon Member States to take appropriate measures to prevent the purchase and sale of human organs for transplantation. Additionally, it further recommends that Member States enact laws to prohibit trafficking in organs and, where this cannot effectively be prevented by other measures, recommends that Member States, in close cooperation with professional health organisations and supervising health authorities, discourage all practices which facilitate commercial trafficking in organs.

For over 17 years, the Guiding Principles on Human Organ Transplantation have greatly influenced professional codes and practices as well as legislation around the world. In the light of changes in practices and attitudes regarding organ and tissue transplantation, the Fifty-seventh World Health Assembly requested the Director-General to continue examining and collecting global data on the practices, safety, quality, efficacy and epidemiology of allogeneic transplantation and ethical issues, including living donation, in order to update the Guiding Principles on Human Organ Transplantation[18] and this led to the WHO Guiding Principles on Human Cell, Tissue, and Organ Transplantation.[19]

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15 'Council of Europe Convention against Trafficking in Human Organs 'Council of Europe Treaty Series (No. 216) Santiago de Compostela, 25.III.2015. <https://rm.coe.int/16806dca3a> accessed 2 September 2024

16 <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:101:0001:0011:EN:PDF> accessed 2 September 2024

17 Resolution of the World Health Assembly at the Forty-Second World Health Assembly, 15 May 1989

18 ibid 3

19 <https://iris.who.int/bitstream/handle/10665/341814/WHO-HTP-EHT-CPR-2010.01-eng.pdf> accessed 3 September 2024

Consent is the ethical cornerstone of all medical interventions and, therefore, of particular relevance for the issue of organ removal. The WHO Guiding Principles on Human Cell, Tissue and Organ Transplantation indicate in Guiding Principle 3 that "live donations are acceptable when the donor's informed and voluntary consent is obtained" and that "live donors should be informed of the probable risks, benefits and consequences of donation in a complete and understandable fashion; they should be legally competent and capable of weighing the information; and they should be acting willingly, free of any undue influence or coercion." The Principle emphasizes the need for a real and well-informed choice, "which requires full, objective, and locally relevant information and excludes any undue influence or coercion.

These principles are intended to provide an orderly, ethical and acceptable framework for the acquisition and transplantation of human cells, tissues and organs for therapeutic purposes. It requires that cells, tissues and organs should only be donated freely, without any monetary payment or other reward of monetary value. Purchasing, or offering to purchase, cells, tissues or organs for transplantation, or their sale by living persons or by the next of kin for deceased persons, should be banned. The prohibition on sale or purchase of cells, tissues and organs does not preclude reimbursing reasonable and verifiable expenses incurred by the donor, including loss of income, or paying the costs of recovering, processing, preserving and supplying human cells, tissues or organs for transplantation, it provides.[20]

Guiding Principle 5 of the WHO Guiding Principles on Human Cell, Tissue and Organ Transplantation further provides that payment for cells, tissues and organs is likely to take unfair advantage of the poorest and most vulnerable groups, undermines altruistic donation, and leads to profiteering and human trafficking. Such payment conveys the idea that some persons lack dignity, that they are mere objects to be used by others. However, the same principle allows for circumstances where it is customary to provide donors with tokens of gratitude that cannot be assigned a value in monetary terms.

It recommends that national law should ensure that any gifts or rewards are not, in fact, disguised forms of payment for donated cells, tissues, or organs. The Principle permits compensation for the costs of making donations (including medical expenses and lost earnings for live donors), lest they operate as a disincentive to donation. The need to cover legitimate costs of procurement and of ensuring the safety, quality and efficacy of human cell and tissue products and organs for transplantation is also accepted as long as the human body and its parts, as such, are not a source of financial gain.

Convention for the Protection of Human Rights and Dignity of the Human Being

The Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine (also known as the Oviedo Convention) is the only international legally binding instrument on the protection of human rights in the biomedical field. The Convention's

[20] Guiding Principle 5 of the WHO Guiding Principles on Human Cell, Tissue and Organ Transplantation.

starting point is that the interests of human beings must come before the interests of science or society. It lays down a series of principles and prohibitions concerning bioethics, medical research, consent, rights to private life and information, organ transplantation, public debate, etc.[21] Article 20 states that **"**no organ or tissue removal may be carried out on a person who does not have the capacity to consent under Article 5"[22]. Article 21 of the Convention states that "the human body and its parts shall not, as such, give rise to financial gain".

Protocol to the Convention on Human Rights and Biomedicine concerning Transplantation of Organs and Tissues of Human Origin

The Additional Protocol to the Convention on Human Rights and Biomedicine concerning Transplantation of Organs and Tissues of Human Origin[23] states, in Article 21, that the human body and its parts shall not, as such, give rise to a financial gain or comparable advantage. However, the Article shall not prevent payments which do not constitute a financial gain or a comparable advantage, in particular:–compensation of living donors for loss of earnings and any other justifiable expenses caused by the removal or by the related medical examinations;–payment of a justifiable fee for legitimate medical or related technical services rendered in connection with transplantation;–compensation in case of undue damage resulting from the removal of organs or tissues from living persons. The Article further states that advertising the need for, or availability of, organs or tissues, with a view to offering or seeking financial gain or comparable advantage, shall be prohibited, and Article 22 outrightly prohibits organ and tissue trafficking.

In addition to the legal frameworks previously discussed, there are also non-binding Declarations and Recommendations that aim to define and advocate for the criminalisation of various actions related to organ removal and transplantation—actions that could facilitate or constitute trafficking in persons for organ removal. These instruments establish robust standards against illegal transplantations and are widely recognised and endorsed by transplant societies across the globe as follows:

The Istanbul Declaration on Organ Trafficking and Transplant Tourism 2018

The Declaration of Istanbul expresses the determination of donation and transplant professionals and their colleagues in related fields that the benefits of transplantation be maximised and shared equitably with those in need, without reliance on unethical and exploitative practices that have harmed poor and powerless persons around the world. It aims to provide ethical guidance for professionals and policymakers who share this goal.[24]

The Declaration calls on governments to develop and implement ethically and clinically sound programs for the prevention and treatment of organ failure, consistent with meeting the overall healthcare needs of their populations; that the optimal care of organ donors and transplant recipients should be a primary goal of transplant policies and programs; trafficking in human organs and trafficking in persons for the purpose of organ removal

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21 <https://rm.coe.int/168007cf98> accessed 3 September 2024

22 An intervention in the health field may only be carried out after the person concerned has given free and informed consent to it. This person shall beforehand be given appropriate information as to the purpose and nature of the intervention as well as on its consequences and risks. The person concerned may freely withdraw consent at any time.

23 <https://rm.coe.int/1680081562> accessed 3 September 2024

24 <https://www.declarationofistanbul.org/images/Policy_Documents/2018_Ed_Do/2018_Edition_of_the_Declaration_of_Istanbul_Final.pdf> accessed 3 September 2024

should be prohibited and criminalized; organ donation should be a financially neutral act.[25] It further impresses on each country to develop and implement legislation and regulations to govern the recovery of organs from deceased and living donors and the practice of transplantation, consistent with international standards.[26]

Directive 2010/45/EU of the European Parliament and of the Council on Standards of Quality and Safety of Human Organs Intended for Transplantation

This Directive, although having as its first objective the safety and quality of organs, contributes indirectly to combating organ trafficking through the establishment of competent authorities, the authorisation of transplantation centres, and the establishment of conditions of procurement and systems of traceability.[27] It lays down rules to ensure quality and safety standards for organ transplantation; seeks to ensure donors and recipients are guaranteed the same quality, safety and legal standards no matter where they live and covers organ donation, testing, characterisation, procurement, preservation, transport and transplantation.[28]

Paragraph 9 of the Directive states that "to reduce the risks and maximise the benefits of transplantation, Member States need to operate an effective framework for quality and safety. That framework should be implemented and maintained throughout the entire chain from donation to transplantation or disposal, and should cover the healthcare personnel and organisation, premises, equipment, materials, documentation and record-keeping involved. The framework for quality and safety should include auditing where necessary. Member States should be able to delegate the performance of activities provided for under the framework for quality and safety to specific bodies deemed appropriate under national provisions, including European organ exchange organisations."

Recommendations on the Prohibition, Prevention and Elimination of Organ Trafficking in Asia (Taipei Recommendations)

These recommendations resulted from the work of the members of the Asia Task Force on Organ Trafficking, and they are aimed at making practices in organ donation and transplantation ethical and just, through reducing the vulnerability of persons to organ-related crimes. The members resolved to: urge relevant organizations and governments to promote greater awareness of the ethical, legal and social issues relating to organ trafficking in Asia through education; urge the passage of legislation or an international treaty, which would be necessary for the effective implementation of international norms that relate to the organ trafficking; call on all countries to pass legislation clearly defining prohibitions as well as

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25 Istanbul Declaration on Organ Trafficking and Transplant Tourism 2018**,** 3

26 ibid

27 <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:207:0014:0029:EN:PDF#:~:text=This%20Directive%20lays%20down%20rules, level%20of%20human%20health%20protection> accessed 4 September 2024

28 ibid

allowable practices pertaining to organ transplantation, including those related to the recovery and donation of organs.[29]

The members further called for the support of Asian countries in their commitments to prohibit and prevent organ trafficking and undertake full implementation of the United Nations Convention Against Trans-National Organized Crime and its Protocols; as well as rely more on deceased donation in order to increase supply and to identify alternative solutions in order to decrease organ demand, such as prevention and treatment of organ failure, amongst many other recommendations. Despite these international frameworks and declarations, enforcement remains a challenge due to varying levels of commitment among countries, differences in legal systems, and the transnational nature of organ trafficking.

2.2 Regional Overview: Organ Trafficking in Africa

Africa faces significant challenges in combating organ trafficking because of a combination of weak legal frameworks, poverty, corruption, and limited law enforcement capacity. According to the report on Trafficking of Human Beings for the Purpose of Organ Removal in North and West Africa by ENACT and Interpol,[30] it is suggested that the modus operandi for trafficking for organ removal in North and West Africa varies from organized and structured group techniques to coerce victims to sell an organ to individuals who seize opportunities to act as intermediaries either to recruit a victim-donor or to liaise with an organ buyer. The report further highlights that some countries in West Africa have reported that trafficking for organ removal occurs in their territory, and it is most often related to ritual practices. For instance, in Benin, offenders specialised in Internet scams have allegedly resorted to trafficking for organ removal for ritual purposes in the country.

Transplant tourism appears to be related to trafficking for organ removal in North and West Africa, either through transplants performed in North Africa with organs illegally sourced locally or through transplantations done elsewhere with illegally sourced organs from nationals from North and West Africa. Sometimes, organised criminal gangs have connections with the medical sector and work with local recruiters to approach a victim-donor; in other cases, organised criminal gangs lure victims with the promise of work opportunities abroad but traffic them for labour and sexual purposes, and their organs are removed, the report states.

Countries like Egypt and South Africa have reported cases of organ trafficking, often linked to organised crime networks that exploit vulnerable populations, including migrants and refugees. An investigation in Egypt revealed how an organ trafficker and his gang arrange 20-30 illegal kidney transplants every week. African migrants and refugees, who are trying to raise money to move from Egypt to Europe, were said to have sold their kidneys, mostly. The investigation further revealed that almost half of the donors don't get paid after the operation.[31]

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[29] <http://www.cbme.ntu.edu.tw/?mbt_book=recommendations-on-the-prohibition-prevention-and-elimination-of-organ-trafficking-in-asia> accessed 11 September 2024

[30] ENACT and Interpol, *Trafficking of Human Beings for the purpose of Organ Removal in North and West Africa* (2021) <https://www.interpol.int/content/download/16690/file/2021%2009%2027%20THBOR%20ENGLISH%20Public%20Version%20FINAL.pdf> accessed 2 September 2024

[31] 'Egypt's Organ Traffickers: I Woke Up Screaming' *BCC News* (London, 14 September 2020) <https://www.bbc.com/news/av/world-middle-east-54150076> accessed 4 September 2024

Furthermore, migrants have shared numerous stories of being deceived or coerced into selling their kidneys in desperation to make the sea crossing to Europe. Additionally, organ brokers approach migrants with the offer of a passage to Europe in exchange for donating an organ. The trade appears to be flourishing in Egypt, bolstered by a clampdown on refugees by security forces. There, the hostile environment created by the arbitrary detention of migrants and the hike in smugglers' fees is presenting organ brokers with an opportunity to profit from those desperate to raise funds to cross the Mediterranean.[32] In South Africa, the trade continues to blossom as it remains the most preferred destination for international patients keen on getting an illegal organ transplant, with patients from Brazil, Israel and Eastern Europe forming the bulk of the customers. Many documented cases of trafficking-related murders involve even respected hospitals being implicated in the syndicate. According to police records, St. Augustine Hospital, in Durban, conducted over 100 illegal kidney transplants between 2001 and 2003.[33]

These cases illustrate the broader challenges faced by African countries in addressing organ trafficking, which is driven by a combination of socio-economic and socio-political factors and institutional weaknesses. High levels of poverty, unemployment, and lack of access to healthcare create an environment where individuals are vulnerable to exploitation by organ traffickers. Additionally, weak legal frameworks and limited resources and capacity for law enforcement agencies hinder the effective prosecution of organ trafficking cases.

Furthermore, the lack of public awareness and education about the dangers of organ trafficking contributes to the perpetuation of the crime. In many African countries, there is a limited understanding of the risks associated with illegal organ transplants, leading to a lack of vigilance among potential victims and communities. Myths and misconceptions surround human trafficking for organ harvesting. Organ brokers are motivated by financial gain and are good at deceiving people. They manipulate people into agreeing to sell their organs by telling lies about the surgery. The most common lie told is that *your kidney will grow back* when, in reality, once removed, the kidney cannot grow back.[34]

Other lies include: *The surgery is very light and it won't hurt,* but patients may experience a long recovery from the ordeal and be left with lifelong pain and health problems. *You can live a normal life with one kidney.* Actually, sellers are not being lied to, but they are not fully informed. One can live a normal life with one kidney, but only if the procedure is done correctly in a sterile environment and sufficient aftercare is provided. Most people who sell an organ receive little or no aftercare, and there is a serious risk of postoperative infection.

If you have a single kidney, injuring it can be a big problem as there isn't another one to compensate. If the injury is severe and your kidney stops working completely, you would need dialysis or a kidney transplant to survive.[35] For living organ donors, possible long-term

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32 'Organ Trafficking in Egypt: They Locked me in and Took my Kidney' *The Guardian Newspaper* <https://www.theguardian.com/global-development/2019/feb/09/trafficking-people-smugglers-organs-egypt-mediterranean-refugees-migrants> accessed 4 September 2024

33 'A Penny for a Kidney - Illegal Organ Trafficking in Africa'. *Fair Planet* (London, 16 July 2018) <https://www.fairplanet.org/story/a-penny-for-a-kidney-illegal-organ-trafficking-in-africa/> accessed 4 September 2024

34 <https://stopthetraffik.org/landing-page/organ-trafficking/#Organ>accessed 4 September 2024

35 ibid

risks associated with donating a lobe or segment of the liver may include wound infections, hernia, abdominal bleeding, bile leakage, narrowing of the bile duct, intestinal problems, including blockages and tears and organ impairment or failure that leads to the need for transplantation.[36] *When you sell, you will get big money. You can send some money to your family, and you and your family can live a good life when you have the money.* Even if full payment is received, it rarely results in a good life. Many sellers who received the payment claim that they spent it within 3-5 months and that they could not maintain future employment because of health problems caused by the surgery.[37]

3. ORGAN HARVESTING IN NIGERIA

Nigeria's black market for organs, especially kidneys, is booming because of hypertension and renal failure, which affect 20 million Nigerians, with one in five needing urgent transplants. Since humans only need one kidney for survival, they can donate the other to a sick person.[38] The harrowing world of human organ harvesting in Nigeria is dark; its impact on individuals, families, and society is palpable. The illegal trade of human organs is a growing global concern. Like many other countries, Nigeria has unfortunately not been spared from this dark reality.

It has become a lucrative business involving complex networks of recruiters, middlemen, doctors, and corrupt officials. The absence of strict regulations and law enforcement contributes to the flourishing of the illicit trade. Socioeconomic factors like poverty, inadequate healthcare, and limited access to legal organ transplantation drive the demand for organs, forcing many Nigerians to seek them illegally.[39]Many Nigerians have voiced growing concerns over the apparent rise of a black market and illicit activities surrounding organ donation, harvesting, and transplantation in the country. This concern stems from increasing reports of organs being illegally removed from individuals without their consent, typically for transplantation or commercial sale. Recently, Nigeria has seen a surge in cases of organ harvesting, with organs such as kidneys, livers, and hearts being extracted for illegal trade. These alarming developments have sparked widespread fear and highlighted the urgent need for stronger regulations and enforcement to combat the practice.[40]

According to various news reports, the rising incidence of kidnapping for ransom in Nigeria is also fuelling the illicit practice of organ harvesting. Victims, particularly those whose families cannot pay ransom, have been reported to have their organs harvested for sale.[41] In one instance, authorities apprehended a suspected criminal who allegedly used

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36 United Nations Office on Drugs and Crime (UNODC), International Office on Migration (IOM) and the Global Action Against Trafficking in Persons and Smuggling of migrants, *Toolkit on the Investigation and Prosecution of Trafficking in Persons for Organ Removal* (2022), 17

37 ibid

38 Temi Iwalaiye, 'The Booming Business of Organ Harvesting, Trafficking in Nigeria'. *Business Insider Africa* (Lagos, August 13 2023) <https://africa.businessinsider.com/local/markets/the-booming-business-of-organ-harvesting-trafficking-in-nigeria/gnp23g1> accessed 18 August 2024

39 'Organ Trafficking: Nigeria's Silent Crisis'. *Vanguard Newspaper* (Lagos, 23 September 2023) <https://www.vanguardngr.com/2023/09/organ-trafficking-nigerias-silentcrisis/#:~:text=The%20illegal%20trade%20of%20human,%2C%20doctors%2C%20and%20corrupt%20officials> accessed 4 September 2024

40 Francis Ugwu, 'Concerns Mount Over Unregulated Black Market Organ Trade in Nigeria' *The Daily Post Newspaper* (Lagos, 3 November 2023) <https://dailypost.ng/2023/11/03/concerns-mount-over-unregulated-black-market-organ-trade-in-nigeria/> accessed 4 September 2024

41 'Kidnappers Now Harvest, Sell Victims' Organs – Rivers Survivor' *Punch Newspaper* (Lagos, 7 March 2022) <https://punchng.com/kidnappers-now-harvest-sell-victims-organs-rivers-survivor/> accessed 6 September 2024

social media to facilitate the abduction of two women for organ harvesting.[42] In 2023, a student from the University of Port Harcourt was reported to have killed his girlfriend and harvested her organs for ritual purposes.[43] Another suspect was also arrested in connection with a similar crime.[44] There are growing concerns that the activities of so-called "unknown gunmen" may be tied to a broader network involved in organ trafficking for ritualistic purposes.[45]

3.1. National Legal Frameworks

The national legal framework governing organ harvesting in Nigeria is a critical area of concern, given the rising reports of organ harvesting and the exploitation of vulnerable individuals. Understanding and strengthening the legal framework is essential to protect citizens from exploitation, ensure ethical medical practices, and address the burgeoning black market in human organs.

National Health Act, 2014

The National Health Act 2014 (NHA) provides a legal framework for the regulation, development, and management of Nigeria's Health System,[46] which means that organ donation and harvesting should be done in a regulated way and should follow the Istanbul declaration. Sections 48-53 of the Act provide a procedure for the removal and use of tissue, blood or blood products from living persons, prohibit the illegal transplantation of organs, and provide the procedure for the removal, use or transplantation of tissue. Donors are expected to sign a consent form in the presence of two adults and swear an affidavit stating their age and affirming that their decisions are made by free will and without compulsion or financial inducement.

Section 48 of the Act provides that subject to the provision of section 53[47], a person shall not remove tissue, blood or blood product from the body of another living person for

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42 'Man Arrested for Kidnapping Two Ladies for Organ Harvesting Shot Dead by Police While Attempting Escape' *The Street Journal Newspaper* (1 June 2024) <https://thestreetjournal.org/man-arrested-for-kidnapping-2-ladies-for-organ-harvesting-shot-dead-by-police-while-attempting-escape/>

43 'Murder, Organ Harvesting Shock UniPort Community' *Business Day Newspaper (*27 October 2023) <https://businessday.ng/news/article/tragic-murder-and-organ-harvesting-shock-uniport-community/> accessed 6 September 2024

44 'Three Nabbed for Alleged Murder, Organ Harvesting in Rivers' *The Punch Newspaper* (18 September 2023) <https://punchng.com/three-nabbed-for-alleged-murder-organ-harvesting-in-rivers/> accessed 6 September 2024

45 'Unknown Gunmen Now Known; They're Igbo Who Kill for Human Organs – Soludo'. *Vanguard Newspaper (*23 August 2022) <https://www.vanguardngr.com/2022/08/anambra-unknown-gunmen-now-known/> accessed 6 September 2024

46 <https://scorecard.prb.org/wp-content/uploads/2019/06/Nigeria-National-Health-Act-2014.pdf> accessed 6 September 2024

47 It is an offence for a person- who has donated tissue, blood or blood product to receive any form of financial or other reward for such donation, except for the reimbursement of reasonable costs incurred by him or her to provide such donation; and to sell or trade in tissue, blood, blood products except for reasonable payments made in appropriate health establishment for the procurement of tissues, blood or blood products.

any purpose except; (a) with the informed consent of the person from whom the tissue, blood or blood product is removed granted in a prescribed manner; (b) that the consent clause may be waived for medical investigations and treatment in emergency cases; and (c) In accordance with prescribed protocols by the appropriate authority. The same section further provides that a person shall not remove tissue which is not replaceable by natural processes from a person younger than eighteen years and a person who contravenes this section or fails to comply therewith is guilty of an offence and liable on conviction: in the case of tissue, a fine of Nl,000,000 or imprisonment of not less than two years or both fine and imprisonment; and in the case of blood or blood products, a fine of N100,000 or imprisonment for a term not exceeding one year, or both fine and imprisonment.[48]

Section 51 of the NHA ensures that only authorised and specifically licensed hospitals can provide transplantation services, and even in such hospitals, no transplantation procedure can take place without further internal controls, such as consent of the appropriate officer of the hospital (usually the doctor in charge of clinical services). Section 53 of the NHA prohibits any kind of sale of human organs. Thus, it is an offence punishable with imprisonment or fine (or both) for a person who has donated an organ or tissue to receive any form of financial or other reward for such donation or to sell or trade in tissue.

The NHA plays a critical role in shaping the legal and ethical framework for health-related issues, including organ transplantation. While the Act provides essential regulations governing healthcare delivery, it appears that its provisions on organ donation and transplantation may have loopholes or gaps that could inadvertently contribute to fostering illegal practices like organ harvesting.

Recently, the Global Prolife Alliance (GPA) in a petition to the Presidency, National Assembly, amongst others, stated strongly that the content and character of the NHA 2014 surreptitiously endorsed human organ trafficking and therefore urged the National Assembly to repeal the NHA 2014.[49] The group further highlighted that section 48(1)(b) of the NHA 2014 ensures that organs can be collected without consent because the consent clause may be waived for medical investigations and treatment in emergency cases, meaning the donor has no right to give consent for his/her organ to be taken, rather the medical director of the hospital was given the right to authorize organ transplantation in section 51.[50]

A more pressing issue is the fact that the NHA 2014 did not define what constitutes ‘medical investigations and treatment in emergency cases’ under Section 48 (1)(b), and that is where the gap lies. Also, it is relevant to state that informed consent functions within certain

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48 <https://scorecard.prb.org/wp-content/uploads/2019/06/Nigeria-National-Health-Act-2014.pdf>

49 ‘National Health Act Endorses Organ Trafficking, Ovarian Eggs Poaching’ *The Sun Newspaper* (16 July 2024)<https://thesun.ng/national-health-act-endorses-organ-trafficking-ovarian-eggs-poaching-by gpa/#:~:text=National%20Health%20Act%20endorses%20organ%20trafficking%2C%20ovarian%20eggs%20poaching%2C%20by%20GPA&text=The%20Global%20Prolife%20Alliance%20(GPA,trafficking%20and%20ovarian%20eggs%20poaching> accessed 6 September 2024

50 A person shall not remove tissue from a living person for transplantation in another living person or carry out the transplantation of such tissue except: (a) in a hospital authorized for that purpose; and (b) on the written authority of: (i) the medical practitioner in charge of clinical services in that hospital or any other medical practitioner authorized by him or her; or (ii) in the case where there is no medical practitioner in charge of the clinical services at that hospital, a medical practitioner authorized thereto by the person in charge of the hospital. (2) The medical practitioner stated in subsection (1)(b) of this section shall not be the lead participant in a transplant for which he has granted authorization under the subsection. (3) For the purpose of transplantation, there shall be an independent tissue transplantation committee within any health establishment that engages in the act and practice of transplantation as prescribed.

constitutive elements or conditions, including whether the individual from whom consent is sought has the necessary competence to do so. To be competent to provide consent, the patient must have the mental capacity to consent and must have attained the age of majority, which is 18 years in Nigeria.

Consent and questions around it are often the dividing line between the trafficking in persons for organ harvesting and legitimate organ donation. This is mainly due to the unique nature of organ removal as a form of exploitation, and because organ removal for commercial purposes is considered a criminal offence.[51] The act of organ removal for the therapeutic purpose of transplantation is considered one of the highest expressions of altruism, as long as it is voluntary. The organ removal is unlawful if some type of payment for the organ has been made, and/ or exploitative if the donor was forced, coerced or taken advantage of in order to have an organ removed.[52]

One key issue is the lack of comprehensive, clear, and enforceable guidelines specifically addressing organ donation, procurement, and transplantation. The Act does not sufficiently define or regulate the processes for consent in organ donation, especially for vulnerable populations. This ambiguity creates room for exploitation by criminal networks that engage in illegal organ harvesting and trafficking. Moreover, enforcement mechanisms under the Act are weak, with inadequate oversight and monitoring systems in place to prevent illicit organ trade.

One function of the Nigerian Medical Association is that it establishes and enforces ethical guidelines and professional standards for medical practice in Nigeria. The professional body provides guidance to doctors on ethical issues, patient care, confidentiality, and professional conduct. The association also investigates and takes disciplinary actions against doctors found to have violated these standards.[53]

Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2015 (as re-enacted)

Nigeria signed and ratified the United Nations Convention on Transnational Organized Crime (UNTOC) and the Palermo Protocol in 2000 and 2001, respectively.[54] In 2003, Nigeria enacted the Trafficking in Persons Prohibition Enforcement and Administration Act, 2015 (as re-enacted). The Act provides for the criminalisation of organ harvesting. NAPTIP plays a regulatory role because its enabling Act empowers it to prosecute offenders involved in organ harvesting who are either procurers or end users of the illicit and clandestine trade.

The principal provision of the Act is section 20 of the Act which prohibits the recruitment of persons for organ removal. It defines organ trafficking as any person who- (a) through force, deception, threat, debt bondage or any form of coercion- (i) abuses a position of power or situation of dominance or authority arising from a given circumstances; or (ii).

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51 United Nations Office on Drugs and Crime (UNODC), International Office on Migration (IOM) and the Global Action Against Trafficking in Persons and Smuggling of migrants, *Toolkit on the Investigation and Prosecution of Trafficking in Persons for Organ Removal* (2022), 13

52 ibid

53 <https://nmafct.org/>

54 Adopted by the UN General Assembly in 2000 and entered into force in 2003. Nigeria signed UNTOC in 2000 and ratified it in 2001.

abuses a vulnerable situation; or (b) through the giving or receiving of payments or benefits in order to induce or obtain the consent of a person directly or through another person who has control over him; enlists, transports, delivers, accommodates or takes in another person for the purpose of removing the person's organs, commits an offence.

The Act provides the punishment of imprisonment for a term of not less than 7 years and a fine of not less than N5,000,000. The penalty provides for a minimum punishment and not a maximum punishment, leaving it to the discretion of the judge to apply the appropriate penalty based on the gravity of the offence. Furthermore, Section 20 further provides in sub-section (2) that a person who procures or offers any person, assists or is involved in any way in the removal of human organs; or buying and selling of human organs, commits an offence and is liable to the same punishment of not less than 7 years imprisonment and a fine of not less than N5,000,000. This sub-section applies to collaborators like doctors, nurses, hospital administrators, complicit hospital staff, middle persons, etc.

The same Section 20 also provides for the removal of the organs of a person under the age of 18 years and provides that any person who enlists, transports, delivers, accommodates or takes in another person under the age of 18 for the purpose of removing the person's organs commits an offence. In the case of a child, it does not matter whether consent was obtained through force, threat, deception, or coercion. Consent is immaterial because, under the law, a child cannot give consent. Moreover, the consent of the (adult) trafficked person to the intended exploitation is irrelevant where deceptive, coercive or other illicit means have been used. It is also well established that a victim's consent cannot serve as a defence for the perpetrator in Court.

3.2. Case Studies

Federal Republic of Nigeria v Emmanuel Olorunlaye and 4 Others[55]

On May 6, 2024, NAPTIP began the very first organ harvesting case Nigeria has seen, presided over by Hon. Justice Keziah Ogbonnaya in the FCT High Court, Abuja. The case involves 5 defendants: Dr. Christopher Otabor, male (Chief Medical Director and owner of Alliance Hospital & Services Ltd, Garki, Abuja), Emmanuel Muyiwa Olorunlaye, male (an agent of the hospital, responsible for enlisting, transporting and delivering the victims to the hospital), Chikaodili Ugochukwu, female (a staff member of Alliance Hospital), and Dr. Aremu Abayomi, male (surgeon who performed the surgery to remove the victims' organs), including the hospital.

The defendants were arraigned on March 18, 2024, on an 11-count charge which borders on the organ harvesting (specifically kidney harvesting) of three young male Nigerians. The offenders all pleaded not guilty to the charges, and the Court granted them bail. The presiding Judge directed them to deposit their travel documents with the Court and sign a register on a daily basis at the NAPTIP headquarters for as long as the case subsists. NAPTIP closed its case on May 21st, 2024, after leading 8 witnesses in evidence. The defence counsel moved for a No Case Submission, leading to an adjournment of the matter till July 2nd, 2024. The defence counsel further requested for another adjournment. The case is still ongoing.

Rex and Obinna Obeta, Ike Ekweremadu & Beatrice Ekweremadu

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[55] Supra Note 9.

This case involves former Deputy Senate President Ike Ekweremadu, his wife, Beatrice, and a medical doctor, Obinna Obeta, who were charged with conspiring to facilitate the illegal harvesting of a young Nigerian man's kidney. The Ekweremadu's sought to transplant the organ into their ailing daughter in the United Kingdom. The young man, believed to be 21 years old, was reportedly recruited from Nigeria under the false pretence of work in the UK, but was intended to be a kidney donor.[56] Upon his arrival in the UK, the donor underwent medical tests at a London hospital, where it was discovered that he had been misled about the nature of his visit and the procedure. He later raised an alarm, leading to an investigation by British authorities. On the 5th of May 2023, the Ekweremadu's and Dr. Obeta were convicted by a UK court for violating the Modern Slavery Act, which prohibits trafficking for organ removal.[57]

During sentencing, Mr Justice Johnson, presiding judge of the Central Criminal Court, described Ekweremadu as someone of high office with multiple properties, domestic staff, maids, chefs and drivers, compared with the victim who could not afford a £25 ticket to travel to Abuja. Obeta, he said, had lied to doctors and falsely claimed the young potential donor was a cousin of the senator's daughter who urgently needed a transplant. The three had left the potential donor facing a "substantial and long-term impact on his daily life", he said. People-trafficking across international borders for the harvesting of human organs is a form of slavery, the judge added.[58]

Ike Ekweremadu, who was described by the judge as the "driving force throughout", was sentenced to 9 years and eight months in prison. Dr Obeta was sentenced to 10 years after the judge found he had targeted the potential donor who was young, poor and vulnerable, and Beatrice Ekweremadu was jailed for four years and six months due to her more limited involvement.[59] The case drew significant attention because of the high-profile status of the Ekweremadu's and the ethical and legal complexities surrounding organ transplantation, consent, and trafficking. The verdict underscored the importance of adhering to legal and ethical standards in organ transplantation and the need for robust frameworks to prevent such exploitation.

4. CHALLENGES IN THE INVESTIGATION AND PROSECUTION OF ORGAN HARVESTING IN NIGERIA

Organ harvesting remains a growing and complex issue in Nigeria, exacerbated by a myriad of legal, socio-economic, and institutional factors. Despite the existence of legislation such as the TIPPEA Act, the challenge of curbing organ trafficking is multi-dimensional.

4.1 Weak Legal and Regulatory Frameworks

While Nigeria has made significant strides in legislating against human trafficking, the legal framework addressing organ harvesting is currently being tested for the very first time in the

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[56] 'Senior Nigerian Politician Jailed Over Illegal UK Organ-Harvesting Plot' (5 May 2023) <https://www.cps.gov.uk/cps/news/updated-sentence-senior-nigerian-politician-jailed-over-illegal-uk-organ-harvesting-plot> accessed 6 September 2024

[57] ibid

[58] Tom Symonds, 'Nigeria: Kidney-plot Politician Ike Ekweremadu Jailed.' *BBC News* (London, 5 May 2023) <https://www.bbc.com/news/uk-england-london-65494027> accessed 6 September 2024

[59] ibid

case of Federal Republic of Nigeria v Emmanuel Olorunlaye & 4 Others, meaning this area of adjudication is completely new to the judiciary. The TIPPEA Act, though comprehensive in its scope, lacks specific provisions tailored to the unique nature of organ harvesting.

4.2 Inadequate Enforcement and Institutional Challenges

A major barrier to combating organ trafficking in Nigeria is the weak enforcement of existing laws. Law enforcement agencies often face resource limitations, including a limited pool of trained personnel, inadequate funding, and insufficient technological tools to monitor and investigate trafficking networks. Corruption within law enforcement agencies also impedes efforts to tackle the issue, with traffickers sometimes bribing officials to avoid detection or prosecution. In addition, the absence of a central organ donation registry or tracking system in Nigeria makes it difficult to monitor legal organ donations and distinguish them from illegal activities, meaning law enforcement cannot share real-time, on-time information on organ harvesting, which contributes to the limited country data and research in this area.

The lack of coordination between agencies, such as health ministries, law enforcement, especially NAPTIP and the Nigerian Police Force, and judicial bodies, further weakens the ability to respond effectively to cases of organ trafficking as well as the unwillingness of the Nigerian Police Force to transfer cases of organ harvesting to NAPTIP for diligent investigation and prosecution.

4.3 Socio-Economic Factors and Vulnerability

Poverty and socio-economic inequality play a significant role in driving organ harvesting in Nigeria. Many victims of organ trafficking come from rural and impoverished communities where access to education, healthcare, and employment opportunities is limited. Human traffickers exploit these vulnerabilities, luring individuals into organ trafficking schemes with false promises of financial gain or better living conditions. In particular, human traffickers target young people and those from marginalised communities, often deceiving them into believing that selling an organ will improve their financial situation. The lack of economic security makes it easier for traffickers to manipulate individuals, and the absence of robust social safety nets further exacerbates the problem.

4.4 Public Perception and Misunderstanding

Public perception of organ harvesting in Nigeria poses another significant challenge. Many people, particularly in rural areas, are misinformed about the realities of organ trafficking, often seeing it as a voluntary or even acceptable transaction between willing donors and recipients. This perception is fuelled by misinformation and disinformation, with traffickers spreading false narratives about the safety and legality of selling organs.

4.5 Lack of Public Awareness and Education

A lack of awareness about the dangers and illegality of organ trafficking is prevalent across Nigeria, especially in remote and underserved communities. Many individuals are unaware of their rights regarding organ donation and the long-term health risks associated with illegal transplants. The absence of widespread public education campaigns means that individuals are more susceptible to the tactics of traffickers. Awareness campaigns targeted at young people, particularly in rural and urban poor areas, are essential to counteract the deception

used by traffickers. However, such campaigns are currently insufficient in scale and impact, leaving large segments of the population vulnerable to trafficking.

4.6 Global and Cross-Border Dimensions

Organ harvesting is not only a national issue but also a transnational one, with trafficking networks operating across borders. Nigeria faces challenges in coordinating with other countries to combat cross-border trafficking effectively. Differences in legal frameworks and poor information-sharing between countries create significant hurdles in tracking organ traffickers and prosecuting them.

4.7 Victim Identification and Protection

Identifying victims of trafficking for organ harvesting is challenging because of the clandestine nature of the crime. Once identified, providing adequate protection and support for these victims is another significant hurdle. Victims who can contribute to the investigation and prosecution of traffickers might require additional protection measures to ensure their safety and effectiveness as witnesses. In organ harvesting cases, kidney hunters and brokers, in particular, may pose an open threat towards the safety of victims.

The challenges in combating organ trafficking in Nigeria are complex and multifaceted, requiring a coordinated and sustained effort from various stakeholders. Crucial to effectively combat organ trafficking is the addressing of gaps in legal frameworks, enhancement of law enforcement capabilities, and improvement of public awareness. Collaboration between national and international actors, alongside targeted socio-economic interventions, will be key to addressing the root causes of vulnerability and exploitation in the organ trafficking trade.

5. RECOMMENDATIONS FOR OVERCOMING CHALLENGES IN COMBATING ORGAN HARVESTING IN NIGERIA

To effectively address the challenges of organ trafficking in Nigeria, a multi-pronged approach is necessary. This requires targeted reforms, capacity building, public awareness, and international cooperation. Below are concrete recommendations to overcome the identified challenges:

Strengthening the Legal and Regulatory Framework

The TIPPEA Act is a robust legislative framework with significant potential to combat organ trafficking in Nigeria, as long as authorities effectively and efficiently implement it to hold offenders accountable. However, for the Act to be effectively enforced, law enforcement agencies must collaborate strongly. The TIPPEA Act should be amended to differentiate clearly between organ harvesting, organ removal, organ trafficking, illegal organ trade, and organ purchase in line with international standards. Besides defining prohibitions, the Act should further clearly provide for allowable practices pertaining to organ harvesting and transplantation. Gaps in the Act, particularly in areas of enforcement and victim protection, leave room for exploitation and corruption. The Act should be amended to make sufficiently clear that consent to the organ removal is irrelevant where one of the prohibited means is present.

Furthermore, targeted awareness campaigns should be conducted, specifically aimed at young people in rural and urban poor communities who are often deceived by traffickers. Public perception of organ harvesting tends to skew towards empathy for the recipients, which can inadvertently normalise the crime and shift blame onto the victims, who are viewed as complicit or greedy. This misperception is largely driven by misinformation and disinformation about trafficking in persons for organ harvesting, underscoring the need for comprehensive public education efforts.

The NHA requires revision to include stringent regulations on organ donation and transplantation, clear guidelines on obtaining informed consent, a robust enforcement mechanism, and protection for vulnerable populations. Strengthening these aspects would help curb the rise of organ trafficking and harvesting in the country. In addition, there should be established a centralised national organ donation registry to monitor all legal donations and prevent illicit trade. This system should ensure that donations are consensual, tracked, and documented, with robust checks to identify and flag potential trafficking incidents.

Improving Law Enforcement and Institutional Capacity

Specialised training should be provided to law enforcement officers, prosecutors, and judges for the purpose of investigating, prosecuting, and adjudicating cases related to organ trafficking. Training should focus on detecting trafficking networks, gathering evidence, and prosecuting offenders effectively. Officers of NAPTIP and the Nigeria Police Force must be adequately trained to effectively and efficiently investigate and prosecute cases of trafficking for organ trafficking. The ability to identify the elements of this crime is essential to understanding the difference between organ harvesting and other crimes. In the case of Federal *Republic of Nigeria v Emmanuel Olorunlaye & 4 Others,* the Police initially dismissed the crime as a contractual relationship gone wrong and concluded that no crime had been committed. However, when the same crime was reported to NAPTIP, it led to a different outcome.

There should be adequate funding and resources for investigations and prosecutions of cases, bearing in mind that organ harvesting involves a very sophisticated trans-border criminal network with unlimited funds and access to the most expensive legal representation. Tackling corruption within law enforcement agencies should be prioritised. Strict anti-corruption measures, including internal audits, oversight mechanisms, and whistle-blower protections, to reduce bribery and collusion with traffickers within law enforcement agencies, should be implemented.

Addressing Socio-Economic Vulnerabilities

Economic Empowerment Programmes and social welfare programmes targeting at-risk populations in rural and urban poor communities should be scaled, including vocational training and educational scholarships for youths. These programmes should focus on creating job opportunities, providing access to quality education, and offering financial literacy training to reduce the lure of organ trafficking. The health insurance coverage should be strengthened, and accessible medical services for marginalised communities should be provided to decrease the likelihood of individuals resorting to selling their organs for economic reasons.

Public Awareness and Education Campaigns

A nationwide, government-led public awareness campaign to educate citizens about the dangers of organ trafficking, the legal process for organ donation, and the tactics traffickers use to deceive victims should be launched. Campaigns should target both rural and urban communities and use local languages to increase accessibility. In doing this, community leaders and influencers should be engaged to amplify awareness raising. Their involvement can help shift cultural perceptions and provide trusted voices to combat misinformation and disinformation. The use of digital platforms, especially social media, is an invaluable tool in reaching young people about the risks of organ trafficking and the legal rights surrounding organ donation.

Changing Public Perception

It is important to humanise the victims of organ harvesting. Campaigns that challenge the stigma around organ trafficking victims should be enhanced. Their vulnerability should be highlighted, and the coercive tactics traffickers use to counter the narrative that victims are complicit or greedy should equally be emphasised. Sensationalist reporting can distort public perception; therefore, media outlets should be trained to handle these stories with care, focusing on the crime rather than vilifying victims and ensuring accurate and responsible reporting on organ trafficking cases.

Enhancing Cross-Border and Global Cooperation

Partnerships with international law enforcement bodies, such as Interpol, and health organisations to combat the cross-border nature of organ trafficking should be strengthened. Regular information exchange, joint investigations, and coordinated law enforcement actions are key to dismantling trafficking networks. Nigeria should establish bilateral agreements with other high-risk countries to combat transnational organ harvesting. These agreements should include joint monitoring at borders, mutual legal assistance, and extradition procedures for traffickers. Nigeria should adopt international good practices in organ donation, and this includes implementing standardised procedures for donor consent, hospital compliance, and tracking transplants.

Victim Identification and Protection

To ensure victims' privacy and physical safety, they need to be provided with protective measures such as accommodation and other justified needs. It is not uncommon for victims and their family or friends to receive threats and intimidation after the traffickers are found guilty; as such, post-trial witness protection should be considered. As already discussed, victims would usually experience long-term medical issues and would need sophisticated medical care, which a lot of them cannot afford, considering their socio-economic backgrounds.

6. CONCLUSION

The fight against trafficking in persons for organ harvesting in Nigeria is complex and multifaceted. While the existing legal framework provides a solid foundation, significant challenges persist. By strengthening law enforcement, raising public awareness, enhancing victim support, improving judicial processes, addressing socio-economic issues and fostering international cooperation, Nigeria can make substantial progress in combating this heinous crime and protecting its citizens. This paper has explored the various legal and regulatory

challenges associated with combating organ trafficking in Nigeria, including weak legal frameworks, poor enforcement mechanisms, socio-economic vulnerabilities, and public misconceptions about organ donation and trafficking. The paper further identified challenges in the investigation and prosecution of organ harvesting in Nigeria, like critical institutional gaps, such as insufficient resources and training for law enforcement, lack of coordination between agencies, and the absence of a centralised system to regulate and track organ donations, amongst others.

In response to these challenges, the proposed recommendations emphasise the need for a strengthened legal and regulatory framework that specifically addresses organ harvesting, along with better enforcement and institutional coordination. Targeted public awareness campaigns are essential for counteracting misinformation, particularly in vulnerable communities where traffickers are most active. Moreover, improving socio-economic conditions through education, healthcare, and job opportunities will reduce the vulnerabilities that traffickers exploit. International cooperation, both within the region and globally, is crucial in tackling the cross-border dimensions of organ trafficking. Collaborative efforts in law enforcement, information sharing, and capacity building can significantly enhance Nigeria's ability to confront this issue.

Finally, the fight against trafficking in persons for organ harvesting in Nigeria requires sustained political will, and a holistic approach that involves all sectors of society; a whole of government and whole of society approach. Government at the highest level should formally engage the medical community to develop working methods and Practice Manuals to address what is likely to be an increasing area of victim vulnerability and exploitation in the future, starting with the National Health Act 2014. By addressing the root causes and implementing targeted interventions, Nigeria can make meaningful progress in eradicating this heinous crime, protecting vulnerable populations, and ensuring that justice is served.