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ORGAN TRAFFICKING AND REMOVAL IN NIGERIA: AN APPRAISAL OF SENATOR IKE EKWEREMADU'S CASE

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ABSTRACT

Organ donation is a process recognized globally as a veritable practice that improves quality life. However, the process has been abused such that in many communities or societies today, the Organ Transplant Practice and Harvesting is already being seen as a curse than blessing. The reasons for this notion are legion. Whereas some persons harvest and remove organs illegally for sale, others remove and commercialize it for spiritual reasons a good number also harvest the organs on health reason to save life but contrary to the provisions of the enabling law in the state. This work reviews the problems and challenges faced by the organ donation practice in Nigeria with particular highlight of the case involving Senator Ike Ekweremadu and the wife Beatrice over the attempt to harvest the kidney of one Sunday Ukpo Nwamini from Izzi in Ebonyi State to assist their ailing daughter Sonia Ekweremadu. The research is aimed at looking at the concept of Organ Donation, the manner it is done in Nigeria and the laws regulating the process visa via the situation in United Kingdom, and the United States. In addition, the work made a comparison between the states of laws in these countries and found out their connecting and parties points and highlighted the strategies adopted by the countries to ensure a sound organ harvesting practice in their domains. The work found out that in Nigeria, consent is central to organ donation and harvesting just as is the case in UK and United States. However, it appears that under the NHA Act of 2014, there is a contention by many experts that the Act allows donation without consent for donors who are not under aged. In the case of England, the English Opt out Law of 2020 allows a donor to opt out or opt in while alive that his organ be donated or not when dead and register such option or tell his relations. The work also discovered that in United States many strategies are adopted by the state curb incidences of illegal organ removal and ensure awareness on the citizenry. Finally, the work concluded by stating that organ transplant is a viable system that improves healthy life but has been recklessly abused and the abuse cannot go unnoticed by law. The work recommended among other things that the NHA of 2014 should be amended to reduce the negative impact on Nigerian women who suffer complications and at times die due to "IVF" procedure which results in the harvesting of their ovarian eggs for cloning and out of the number harvested, a maximum of two is used and the rest sold and commercialized, cloned and thereafter the organs harvested making Nigeria and indeed many poor African States a veritable and viable organ market for the rich countries of the West.

Keywords: Organ, Organ Donation, Organ Transplant and Trafficking for Organ Removal.

Introduction

In most part of the world, Organ Donation as a process is a practice that is highly encouraged because of its relevance and importance in saving life. In the western societies, Organ Donation is a daily practice and there is increased number of people who have always shown indication to donate their tissue or organ or parts if doing so will help to reduce mortality rate and if such one single Donation will save a soul and human being. Thus, the attitude of the people is these climes is one that recognize organ donation and transplant as an essential tool and procedure towards helping those who still wish to live but who are endangered by their "sick and ailing" and "failing" tissues or organs so that their life can be revived or their probable and possible death extended over some reasonable number of years.

However, in other societies especially among the poor, backward and developing states, the emerging practice of Organ Donation is low. In addition to that, the awareness among the people on the concept is seemingly and clearly nothing to write home about. Regrettably in these societies, the seeming beneficial concept of organ donation or transplant has been approached in a manner that has left many concerned minds to ask questions as to whether the practice in the west is the same in the poor countries. Unfortunately, among the poor countries, Organ Donation which more or less has been recognized universally as accepted health practice has been reduced to the level of being a lucrative business and commercial enterprise. Thus, organ donation has several dimensions in the backward and developing states. It has also widened the scope of trafficking in persons such that some persons are trafficking for purposes of their organ being removed for sale and for other purposes. This has brought the new concept of Organ Harvesting or Organ Removal for purposes other than for saving lives.

In Nigeria, the knowledge about the concept of organ donation is still very low. According to a recent study supported by the United States Government on "Organ Donation, Knowledge Attitudes and Practice in Lagos Nigeria", there is still low rate of awareness about the concept in the state and significantly, the number of persons who showed willingness to donate were mainly among the educated and largely among the youths and the study suggested need to increase awareness of the concept in Lagos (Organ Donation, Knowledge, Attitude and Practice, 2023). It goes to show from the above that if the awareness over organ donation is low in Lagos, it invariably means that in many states, nothing is known about it especially in some states in the north and even other parts of the country. However, the concern mainly among the poor countries is that not only that the awareness on organ donation is low, there is clear disregard of the normal or legal procedure for it and the practice is that illegality is adopted and more or less, there is no consent among eventual donors or the consent is obtained in a manner not approved by law and accepted practice all over the world.

Recently, a siting Nigerian senator and former deputy senate president of the federal republic of Nigeria, Senator Ike Ekweremadu and his wife were docked before United Kingdom District court in Bridge Magistrate Court London for allegation of trafficking of one Sunday Uko Nwamini from Ebonyi State to London for the purpose of Organ removal particularly "Kidney" to be donated to their daughter "Sonia". Since that breaking news, there has been different sides

of the story and while some unverified group accuse the senator of trafficking the victim on the pretence that he is going to be offered job, other stories has it that Uko consented to the arrangement that he will donate one of his kidneys on the condition that he will be paid and was paid but that eventually, his kidney did not match with that of the patient "Sonia" and the donor demanded to be left to go his way in London which the senator refused and insisted on taking Uko back to Nigeria which made him to raise alarm. It is observed that the stories surrounding the Uko/Ekweremadu saga no matter how one looks at it appears realistic but the only conclusion is that the situation in Nigeria as it relates to Organ Donation or Organ Transplant is a complicated process such that no one position is completely safe and correct rather the proper perspective is that the situation is neither here nor there.

To worsen the situation, there are other stories coming up in Uko/Ekweremadu saga thrumped up by Nigerian politicians which is that Uko is "an adult" and not a "a minor", however, before making a conclusion on this argument, it is important to ascertain the position of law on Organ Donation in Nigeria and the situation in United Kingdom. The story has been laid to rest as the UK Court found as a fact that the defendants namely the senator, wife and Dr. Obinna Obeta facilitated the transportation of the victim to London for purposes of harvesting his organ without telling him at or his consent.

It is important from the forgoing that this research is aimed at ascertaining the procedure adopted or laid down for organ donation in Nigeria and to know whether that procedure has been adopted in the country. In addition, the research is also aimed at reviewing the laws if any in Nigeria concerning organ donation and organ transplant and find out the extent to which the practice of organ donation has fared in Nigeria. Furthermore, the research no doubt compares the practice in Nigeria and United Kingdom and perhaps looks at the responses of United States to Organ Trafficking.

The problem of this study is simple which is that organ donation is a modern innovation in medical science and technology but the concept has now been abused and has become a glorified criminal enterprise which the world and national governments must stand up and be above board to address and curb.

This problem is not farfetched, and introduces the concept of trafficking of persons with related crime of organ removal. To this end, the work provides answers as to (i) what are the remote causes or factors that make trafficking for organ removal prevalent in Nigeria (ii) are there laws in place in Nigeria against trafficking for organ removal (iii) what is the laid down procedure for organ donation (iv) is organ donation with consent or consent obtained by fraud, coercion, force or threat or by promise of reward consent within the purview of the extant laws, if they are not, is such consent not illegal, if they are, should the culprits involved not be held responsible or accountable for their acts.
The research answered all these questions and balanced them with the problem that is intended to be resolved and thereafter made valuable recommendations.

Conceptual Definitions

a. Organ

The following key concepts are defined for a comprehensive understanding of the topic. Abonyi and Ezema (2022) defined an organ to be

a human part or tissue that plays a specific role or purpose in the overall existence or survival of the person or individual. An organ from the definition above improves life and makes the individual's life span to go beyond such person's expectation. However, for such extended life to be achieved the organ or organs must itself or themselves be strong and alive instead of being sick, abnormal or damaged.
The organs that may be found in human body may be internal organs or tissues, exterior organs and others.

There are sensual organs, excretory as well as respiratory and even urinary organs. Another vital organ among human beings as well as other animals is the sexual organs or what is called reproductive organs. These organs are very important and their place in the survival of an individual cannot be overemphasized. A good example is the ovarian eggs.

Notwithstanding their value, the organs have been abused and misused in different societies including Nigeria and other countries including the developed countries, the poor and weak economies. The organs have become commercial products and items of trade among human traffickers and other persons who engage in the illegal cross border crimes of human trafficking, trafficking in persons (women and children) for purposes of organ removal or harvesting, prostitution and sex trade and eventual trafficking in organs etc. It is noted that more often than not, human organs are transplanted or removed from one person and infused in another as result of organ failure or damaged nor non-existence of it. Organ enhances a person's life and hence the need for donation or transplant to assist patients who have ailing organ (Emmanuel & Nabena, 2023).

b. Organ Donation

Organ donation is a precious gift that improves and saves the lives of thousands of people each year. Over millions of people across England and other parts of the world are alive today owing to the selflessness of individuals and their families who are willing to donate their organ (UK Department of health and social care). Notwithstanding the philanthropist disposition of some organ donors, there is still a desperate shortage of organs including kidney, liver, lungs and other vital organs compared with the increasing and rising number of those in need of organs.
From the above, it is important to define the concept of organ donation as a voluntary decision, choice or consent by an individual to give out a tissue or organ in his body to another who is either in need of such organ as a result of the following:

i. The failing or ailing condition of his or her own organ.
ii. The abnormal condition or malfunctioning of his own organ.
iii. Need to improve the life of the person whose organ has failed.

It is imperative to note that organ donation is a gift made by a selfless person to another to improve the others life (Emmanuel & Nabena, 2023). The word selfless is used because the donor consented to donate the organ without any condition attached or without placing any demand or expectation from the donee. It is a gift that is humorously made without anticipation of any benefit (Emmanuel & Nabena, 2023) The Donation is aimed at advancing humanity.

c. Organ Transplant:

According to Abonyi, (2023), organ transplant is the removal of a person's organ with the purpose of transplanting it to a living person whose organ is either diseased or has become bad or does not exist. This procedure is not known to ancient medicine and is therefore a modern development in medical and health care delivery system rapidly advancing and growing in many societies all over the world including Nigeria. From the definition above, it is essential to note that there are key issues and points to be noted over the concept of organ transplant namely:

i. It is the removal of a person's organ.
ii. The organ is removed for the purpose of transplanting same to a living person.
iii. Such a living person and recipient of the organ transplanted is either having a diseased organ or his or her organ has become bad or no longer exist.

What it means is that in any of the situations above, the need for the organ to be removed or transplanted becomes inevitable. Thus, organ transplant and donation are intertwined and have the singular purpose or significance of improving life and any other purpose outside this is completely illegal and unacceptable. Therefore, organ transplant is a modern procedure adopted to save humanity and indeed a salutary intervention by or of one person to save the life of another.

As earlier stated, organ transplant is a modern practice which not only save life but also improves the quality of life of many patients. As the demand for organ transplantation far exceeds the availability of organs, the transplant program is often saddled with many legal and ethical issues (ABUAB, n.d). This has created a lot of problems such that some persons in search of organs for different reasons have resorted to various methods or ways or sources which are sometimes outside the procedure approved by law. This has created confusion such that organ transplant, donation or removal has become a kind of criminal enterprise. This is the devastating aspect of the concept and many have lost their lives in the process while others smile to the banks as others dies with little or no trace of how the person died. The recent scenario is the one that Senator Ike Ekweremadu and the wife found themselves over the ailing kidney of their daughter in United Kingdom.

Emmanuel and Nabenna (2023) see organ transplantation as a procedure recognized as a criterion for end-stage failure. It has evolved over the years to become one of the innovative advancements in contemporary medicine, saving and prolonging lives as well as enhancing patients quality life. It is instructive to note that even though Organ transplant is a fundamental procedure that advances human life if it is done within the purview of the stipulations of law. Thus, any transplant outside the requirements laid down by law is to that extent invalid and cannot stand but a nullity. From the highlights above, it is imperative to observe that Organ transplant is a remarkable procedure or process which is an emerging idea in the quest for preserving quality human life. It is both morally and legally justifiable as a means of assisting individuals whose tissues or organs are either diseased or ailing and bad, or is damaged or is dead and no longer in existence. Thus, the process is pro-life and is seen as a gift by one individual recognized as "donor" to the person in need called and referred to as the patient or recipient. Where organ removal or transplant is not intended towards helping or aiding a needy patient or a person whose organ is ailing or dead or is no longer in existence, then such removal or

transplant does not fall within the category or categories permitted by law. To that extent, such removal or transplant as case may be will be an affront to the law and may either be described as organ trafficking or organ harvesting or at best illicit trading on organs for money. The position of this research fairly speaking is that such removal is illegal and amounts to a crime which offends the spirit of the law of the land.

d. Trafficking In Persons for Purposes of Organ Removal

Trafficking in persons for whatever reason or reasons is a crime punishable in Nigeria. Not only that the constitution of the federal republic of Nigeria protects and advance the right of life and dignity of all citizens, the constitution prohibits other citizens from depriving other citizens their life and subjecting them to inhuman treatment. In addition to the constitution aforesaid, there are other laws in Nigeria enacted against trafficking in persons and with particular reference to trafficking them for the purposes of removing and possibly selling the organs. The Edo state law for prohibition of trafficking in persons and prostitution of 2003 and the NAPTIP Act of 2015 made valid provisions over trafficking in persons for purposes of organ removal popularly known as organ harvesting (NAPTIP, 2015).

Trafficking in persons for purposes of organ removal or what is commonly called organ harvesting is the act of transfer of person or persons from their area of primary place of habitation to another place either by threat, promise of reward or luring of the individual to take narcotic which makes him or her unconscious of everything around him and in the process his or her organ removed. The trafficking process is more or less a criminal enterprise that works as a syndicate from countries of source or origin then to the transit countries up to the destination point or countries. Regrettably, the victims are promised better economic opportunities including juicy employment, better standard of living, quality education opportunities which are more or less, the more you look the less you see (Abonyi, (2022).

Trafficking for organ removal or organ trafficking is commonly used to refer to a range of criminal activities including illegal organ harvesting from a living or dead individual and the illegal sale and transplantation of human organs (US Congressional Research Service Report, 2023). Experts refer organ trafficking to include different forms of enslavement or coercion to obtain an organ donation. Veritable sources in the United States show that Us Government typically describes such crimes as trafficking in persons for the purpose of organ removal. The US Government see organ trafficking as a human rights abuse, a profitable transactional crime, and an activity in which US citizens or business may be directly or indirectly complicit, many in congress have sought to better understanding to address the practice. The congress has therefore gone further to improve the situation over the war against the illegal

Organ trade by making proposals including:

i. Enacting legislations to check the crime.
ii. Funding decisions targeted against the flourishing of the crime.
iii. And oversight hearing on the issue.

The congress also identified potential policy tools to address the crime. All the above efforts of Congress of US are intended and have indeed shown that trafficking in persons for purpose of organ removal or organ harvesting is an illegal act, a crime and a menace that have eaten deep into different categories of societies including the rich and poor countries and should be nipped in

the bud for the good of the society. Organ trafficking can now be considered as part of a broader market where tissues, cells and other human parts or organs are sold as products. Some refer this market as the "res market" (US Congressional Research Service Report, 2023).

e. Donation Of Organ with Consent of Donor

Organ donation is personal decision made by the donor voluntarily. If it is done under coercion or threat or for expectation of reward or benefit, such donation is without the consent of the donor. It is not among the donation recognized and permitted by law (Abonyi & Ezema, 2022). When the donor of an organ did not consent to the donation, the donation is without consent and is ipso facto illegal and amounts to offence. This is also known as organ trafficking for purpose of organ removal as is the case in the American Jurisdiction (Abonyi 2021). Where donation is consented, there is always the need for the members of family of the donor to know so that if the donor dies perhaps, his organ may be donated in line with his or her preference when alive which usually the family will like to respect (Department of Health and social Care, 2018). The donor must be conscious of his action and must understand the implication of his decision for a donation to be held to have been consented. Consent cannot be by proxy; thus, the donor must be physically and mentally stable at the time of making the decision or electing to donate or not to donate his or her organ (Department of Health and social Care, 2018). If consent is purportedly made or obtained when it is evident that the donor is sick or traumatized or is subjected to condition of threat or coercion or such a condition that consent becomes an alternative for his threatened life or safety of his life, such consent and donation arising from it cannot stand but shall be void (Department of Health and social Care, 2018).

f. Donation Of Organ Against the Wishes and Preferences of the Deceased Donor

The best practice in most western and developing economies is that the wishes and preferences of a donor of an organ must be made known to his or her families or family members and such preferences registered with relevant health authorities in the state in case the donation was not made until the supposed donor dies (Department of Health and social Care, 2018). What it means is that once a donor has indicated or registered his preference or consent to donate his organ or organs at death, his family is under a legal duty to observe and carryout his wishes to its letters without deviation or derogation from such wishes (Department of Health and social Care, 2018). The position above is based both on legal and moral principle that the wishes of the dead is solemn and must be carried out completely irrespective of the feelings of the family or any other relation of the deceased donor. Where a family fails to carry out the wishes of their deceased member donor or donates contrary or against his or her wishes, such donation or omission to donate in line with his clear wishes cannot stand in our considered opinion. Such donation or purported omission to donate as preferred b such deceased donor will be void and a nullity. This situation is akin to the Opt out Donation law of England of 2020.

Applicable Laws in Nigeria and Beyond on Organ Donation and Trafficking (Removal)

Laws for Organ Donation and Against Organ Trafficking in Nigeria exist as enacted in the country to regulate the process, procedure and concept of Organ Donation in Nigeria. Similarly, there are laws legislated to prohibit and

criminalize organ trafficking in Nigeria, there are also other laws beyond the shores of Nigeria.

i. There are a Number of Laws Promoting Organ Donation and Others Enacted against Organ Trafficking in Nigeria:

a. The 1999 Constitution of Federal Republic of Nigeria.
b. The National Health Act.
c. The Nigeria Medical and Dental Act
d. The NAPTIP ACT OF 2015 repealing the Act of 2004.
e. The Edo State Prohibition of Trafficking in Person, Prostitution and Related Matters Law 2003.
f. Lagos State Bill Against Organ Trafficking and Illegal Organ Harvesting Prohibition and other Related Matters.
g. Anti-Trafficking Laws from other jurisdiction and lessons from international instruments.

a. The 1999 Constitution of the Federal Republic of Nigeria:

The Constitution of the Federal Republic of Nigeria is the Supreme Law of the land and any law inconsistent with the constitution is to the extent of its inconsistency void and a nullity (CFRN, 1999 Sect 1 (3)). What the above signify is that the Constitution is the fulcrum or grand norm upon which other law or laws have their root and without which such other law or laws cannot. By extension also, the constitution is the organic law that serve as a backbone to all other laws in the country. The constitution of Federal Republic of Nigeria recognizes the life of citizens of Nigeria and citizens of other countries domiciled in Nigeria as sacrosanct and indeed sacred. Thus, what happens to one individual affects the state in totality as the constitution preserves the sanctity of life. According to Ucheagwu-Okoye (2025); Okaforcha, and Okeke (2020), it is as a result of the importance attached to human life whether a child born and even yet unborn, women, children and man himself that the constitution did not mince words nor did it make any pretense as to the value it attaches to human life, its protection and preservation and the criminalization of any act of taking life "out of any citizen" without recourse to law or contrary to the express permission by law.

The constitution of the Federal Republic of Nigeria reinforced the right of citizens to live and not to be killed unless in a manner permitted by law (CFRN, 1999 Sect. 33). Even the Holy Bible that preaches the gospel and the word of the only living God and the Godson Jesus Christ has repeatedly emphasized the importance and the value of life and why this life is sacred and should be protected and preserved. God did not end his project of creating the world until he said "Let's make man in our own image and our likeness". This is a very important adaptation from God and is a reflection of the value attached to human beings created by God to dominate all other creatures in everything, God said and told man "Go unto the world procreate and multiply". The community reading of the above bible verse with the provisions of the 1999 constitution is a pointer to the fact that taking life or not assisting or contributing to the survival of life or not supporting the improvement of life is a prohibited act. Any act that threatens the life and existence of life is not only divinely condemned but is legally sanctioned. A critical look at Section 33(1) and its relevant subsections will give credence to the fact that the constitution does not make pretense in its intentions or intendments to promote good, quality and healthy life among citizens and criminalized any act or omission leading to death. Thus, the constitution reinforces and give backing to Organ

or tissue donation in so far as that is intended to improve healthy and quality life but prohibited commercialsation or trading on organs which cannot be supported by any legal principle or practice.

Precisely, a review of Section 33 of the 1999 Constitution and other relevant sections will assist in the comprehensive understanding of the contention made. By section 33 subsection 1 of the 1999 constitution of the federal republic of Nigeria, every citizen of Nigeria has right to life and no one shall be deprived intentionally of his life save in execution of sentence of court in respect of a criminal offence for which the person has been found guilty in Nigeria. There are salient points from the foregoing subsection namely:

1. No one shall be deprived of his life intentionally.
2. It is only in the circumstances of the execution of sentence of a court in respect of offence for which a person has been found guilty by a court that the person can be deprived of his life.

The purport of the above provisions is that under no circumstances shall the life of any citizen be taken by another even if the person has consented unless the law has permitted the death of the individual or directly that the constitution itself recognized the importance of life. By extension, death arising from organ trafficking cannot be permitted by law. As for organ donation, there is a process laid by law and once the procedure and guideline prescribed by enabling laws have been followed, the constitution will see it as legitimate and completely valid.

Furthermore, it will not amount to deprivation of life where a citizen dies as a result of use of force by another which force is reasonable and under the circumstances permitted by law. We submit that this subsection is not attractive and have been abused severally by many security agencies in Nigeria in the pretence of criminal investigation and prevention of crime. The incidents of cases of killings of innocent civilians by different security outfits in Nigeria give credence to the above contention. There was public outcry against men and officers of the disbanded Special Anti-Robbery Squad "SARS" in Nigeria. In many parts of Nigeria, the officers attached to this unit were accused of one human right violation and other including serial killings of suspects, prolonged detention, dabbling into civil contracts, debt recovery and even land matters and branding it crime. Many citizens lost their innocent lives to the officers o this unit. The dreaded negative impact of "Awkuzu SARS" in Anambra and that of the Portharcourt Unit is still alive in the minds of Nigerians. Very recently and also most regrettable, there was an allegation of killing of suspects in the Rapid Response Squad (RRS) Awkuzu Unit in Anambra State in which three high ranking Police Officers were fingered for Organ Harvesting of Organ and tissues of detained suspects who are killed without recourse to the law and their organs harvested and sold. According to reports, the Anambra State Commander of the "RRS" CPS Patrick Agbazue, the Zonal Public Relations Officer, Zone 13 Ukpo Sp Nkeiru Nwode and Inspector Harrison Akama who are at the center stage of the saga were whisked to the office of the Inspector General of Police Abuja to appear before a Panel constituted to look into the allegations of killings, extortion and organ harvesting leveled against the senior police officers (The Christian Outlook Newspaper, 2023). From reliable and credible sources, the IG Panel has submitted its report and while the report is being awaited, the Governor of Anambra State has directed the Attorney General of Anambra State and her office to immediately

call up all case files handled by the said senior police officers (The Christian Outlook Newspaper, 2023).

The above incident in the RRS Office of the Anambra State Police Command is a replica of how the security formations in Nigeria and indeed all facets of the society in Nigeria has degenerated due to corruption and quest for fast money and other ritual activities. It is disheartening for a citizen who has been arrested sometimes for spurious and false allegation to meet their death in the hands of police security operations that are expected by the provisions of the Nigerian Constitution and even the Police Act and other legislation to be friends and promoters of life of citizens. The constitutional duty of the Police to protect life and property ordinarily by international standard best practices makes the police officers to be friends of the innocent citizens. Whether the activities of these officers reflect a friendly disposition or inhumanity against the citizenry is one question which the answer is still farfetched.

It is our reasoned view that a situation where police officers paid to secure lives and properties of citizens turn against the people and end up harvesting their organs for trade or for sell to ritualists is to say the least despicable and remain an aberration to the constitutional provisions that on no account should any citizen deprive the other his life unless under circumstances permitted by law. Simply, law in Nigeria permits organ donation but does not support trading on organs or tissue for whatever reason, pretence or disguise. Finally, it is instructive that the 1999 CFRN has made a comprehensive provision as it relates to protection and promotion of life of citizens and does not in any manner approve any act that will derogate that provision relating to life of citizens (CFRN, 1999 Sect 34, 1).

b. The National Health Act, 2014:

The law that governs the practice of organ harvesting and donation in Nigeria is the National Health Act of 2014 (Osegbue, 2019; Anushiem & Anushiem, 2023). The Act is the legislation that presently regulate organ and tissue donation in Nigeria. Between Sections 48 and 57, important provisions were made under the Act which governs organ transplant or tissue transplant in Nigeria. The Act prohibits the rendering of organ transplant services by a hospital in Nigeria unless such hospital is dully authorized by relevant authorities in Nigeria. In addition to such authorization, the Act also insists on the requirement that there must be a written consent of the medical doctor in charge of medical services of the hospital. What it means is that mere fact that a hospital is authorized to provide organ transplant services is not enough, the medical doctor in charge of medical services or clinical services of the hospital must give his written consent for the services to be provided. Thus, even where a hospital is authorized to provide such transplant services, it may well not do so where the medical officer in charge of the services in the hospital refuses or declines to give his written consent for the provision of the services. The Act prohibits the commercialization or commoditization of human organs to the extent that if a person is involved in the sale, procurement or distribution of human organs, he may run afoul of the Act as a result of which penal provisions were made for terms of imprisonment or fine for commercialization of organs and the offender if convicted and found guilty is liable to ₦1M fine or imprisonment not less than two years imprisonment ((Osegbue, 2019). It is our considered view that punishment for commercialization of human organ under the Act is to minimal considering the effect on the victim which is most often death. Not only that because of the profit and proceeds from the sale, the offenders are not deterred at all, and there is often possibility of repeat occurrence as the individual will

be moved to commit the offence and use the money made to get himself out of the hook in the criminal justice system. Thus, it is suggested that the punishment be reviewed and made to stiffer.

Anushiem and Anushiem, 2023) reasoned further that the National Health Act being reviewed prohibited tissue or organ donation of any kind without the consent of the donor. What it means is that consent according to the scholar is at the heart of organ donation and at the heart of all medical procedure to the extent that under no circumstances shall medical personnel touch or treat a patient without his consent and this is no matter how beneficial or harmless the procedure may be or how foolish the patients' decision maybe (Ezeaku & Okoye, 2025; Osegbue, 2022; Ibe, 2019).

Thus, in organ donation, you will find out that the consent must be informed and to that extent:

i. You must have told the organ donor the nature and purpose of the procedure.
ii. The risk involved in the donation.
iii. And the consequences of his action i.e., decision to donate.
iv. The consent must not be under duress or promise of an advantage.
v. Any act or organ harvesting or donation without consent will amount to assault and battery which is punishable not only battery which is punishable not only under the Act but under other criminal legislations in Nigeria (Okechukwu, 2025; Ugwaka & Igbokwe, 2023).

Primarily, the NHA of 2014 is the principal legislative instrument for the regulation, development and management of health system and standard and setting for rendering health services in Nigeria (Abonyi and Ezema, 2022). Section 48 (1) of the Act, provides that a person shall not remove tissue, from the body of another living person for any purpose except:

a. With the informed consent of the person from whom the tissue is removed, granted in prescribed manner.
b. The Act criminalizes in contravention of the forgoing provisions.

From the provisions of Section 48 (1) of National Health Act, the consent to donate by the donor of organ understand what he is doing, the risk and the consequences, it is done voluntarily and not otherwise by promise of reward, threat or coercion. If any of these later elements exist, then the donation or harvesting falls short of the prescribed manner under the NHA and shall to that extent be invalid and void. Ofozoba and Ofozoba (2023); Anushiem, (2023), noted that the provisions under Section 48 (1) and 49 gives permission one way or the other for donation and harvesting without consent especially when it allows harvesting for "medical investigation" and other ambiguous phrases that may be abused.

c. The Nigerian Medical and Dental Act

The Nigerian Medical and Dental Act is an enactment and bold effort of the Nigerian Parliament that is put in place to regulate medical and dental practice in Nigeria. It more or less makes provisions for the best practices and standards as well as procedure adopted or to be adopted by all medical personnel in the Nigeria health care system most particularly the medical doctors and dental practitioners. Both Anushiem (2017) and Iloka and Nwakoby (2025) rightly noted that the Act therefore made provisions that affect different categories of personnel in the health care system in Nigeria and prescribes the ethics, values and codes as it relates to how the cases or matters involving patients are handled and attended to. It is expected from these personnel to demonstrate high level of responsibility and utmost care in their dealings with patients in the health care system and medical negligence is highly condemned while any form of criminality on the part

of any medical personnel in course or in the discharge of medical services is prohibited and attracts both criminal and civil liability (Abonyi, (2020).

d. The National Agency Against Trafficking in Persons prohibition, enforcement and Administration Act (NAPTIP ACT) of 2015

This is the principal Act enacted in Nigeria by the Legislature to prohibit Organ Harvesting which has not followed the prescribed manner with the NHA Act of 2014 and the Act itself. The Act of 2015 repealed the similar Act of 2004 with major landmark provisions particularly the one that criminalized organ harvesting or Organ trafficking in Nigeria (NAPTIP ACT, 2015 Sect. 20).

Section 20 of the Act criminalized procurement or recruitment for organ harvesting by providing thus:

a. Through force, deception, threat, debt bondage or any form of coercion arising from a given circumstances or
i. Abuses a vulnerable situation or
ii. Through the giving or receiving of payment or benefit in order to induce or obtain the consent of a person directly or through another who has control over him, enlist transports, delivers, accommodates or takes in another person for the purposes of removing the person's organs commits an offence and is liable on conviction to imprisonment for a term of not less than 7 years and a fine not less than ₦5,000,000.

The community reading of Section 20 of the Act and its subsections including sub-section 1, 5 (a)-(b) show clearly that any person who procures or recruits another for the purposes of removing another's organ, and abuses such vulnerable situation, transplant, delivers or accommodates the person whose organ is to be removed are all guilty of the offence of organ harvesting in contravention of the Act. The same thing, according to Nonyem and Chimaa (2020), Ojimba, (2020), applies to who buys or sells organ or organs already removed. the Act also took account of the procurement of persons under the age of 18years and criminalized the act and provided punishment accordingly upon conviction for a fine not less than ₦5,000,000 and a term of imprisonment not less than 7 years. Thus, from the NAPTIP Act of 2015 it is immaterial that the person procured is underaged or is an adult in so far so they were taken, transported and accommodated for purposes of harvesting their organ without their knowing and did not consent or their consent wrongly obtained either by threat or coercion or by promise of reward to the extent that the consent could not have been said to be voluntarily.

Another interpretation from the Act is that it criminalized and punish the:

i. Actual act of removing the organ selling or buying of the it transporting and accommodating the person whose organ is harvested and
ii. Also attempt to remove, but, sell, transport and accommodate the person whose organ is being harvested.
iii. The removal or attempt to remove the organ of an adult or a person under the age of 18 years is also criminalized and hence it is not a defense that the person whose organ I to be harvested or was harvested is an adult, what is material is that if he is an adult his consent is prerequisite and must be "an informed consent" one done in accordance with the procedure prescribed by law and if not, it is a crime and for the underaged, it is a no go area at all.

e. Edo State Prohibition of Trafficking in Persons, Prostitution and Related Matters Law 2003

The Edo State law prohibiting trafficking in persons, prostitution and other related matters of 2003 was indeed the first indigenous legislation

in Nigeria prohibiting the procurement and transportation and trafficking of persons out of Edo State and Nigeria. The state law came as a response by government of the state against the incessant trafficking of young girls and middle-aged women of Edo State to western countries especially Italy for purposes of prostitution and greener pasture and they end up becoming victims of trafficking and organ harvesting, sex trade, slave bonding and other related crimes. The case of Edo became a national and international issue and there was no better measure than to enact the law of 2003. The Edo state law paved way for the enactment of the NAPTIP ACT of 2004 that was later repealed in 2015 by the Operative Act in force till date.

f. Anambra State Government has also made efforts through the office of the Attorney General towards fighting traffickers and Anti-Prostitution.

g. Lagos State Bill Against Organ Trafficking and Illegal Organ Harvesting Prostitution and Other Related Matters

This Bill was submitted to the house with intention to curb illegal trade in human parts in the whole of Lagos State. The bill according to the House Committee on Health captures the legal framework for regulation of Organ transplantation from donors either living or dead to patients in need. The bill has seven parts with 37 subsections and has scaled the second reading in the house and as a result will no doubt be passed into law. It is interesting to note that unlike in the NHA of 2014, the bill made provisions for organ donation by the dead like it is provided under the Organ Donation Opt out law of England of May 2020 which allows a living donor to either opt out or opt in to donate or not to donate when dead during his life time and register his option in the national Register.

h. Reviewing the Laws on Organ Donation and Harvesting in other jurisdiction and lessons from International Instruments.

There are laws on Organ Donation and harvesting in other jurisdictions and at the international level which should be highlighted for better understanding in this research.

i. The English Human Tissue Act of 2004.

This is the Act that regulates organ donation or organ transplant in United Kingdom. Under the Act, the only allowable organ donors and recipients are those who are genetically related. In case of persons not related, there is an exception that you must prove which is that the donation is not for commercial purpose and you must consent to the donation voluntarily not by threat, coercion or by deceit (National Health System Best Practice Guidance, n.d).

What it means is that under the English Human Tissue Act also known as the Modern Slavery Act, the age of the donor is not a vital issue for consideration, thus the defendant will not succeed by raising defence that the "victim" is an adult and should be deemed to have consented even when it is obvious that there was absence of consent or the "purported consent" was obtained "in the manners" or "manner" not permitted by law and procedure.

ii. Organ Donation Act of England of 2015.

The Act of 2015 of England made provisions that moved the organ procedure away and further from what is obtainable under the Human Tissue Act of 2004 to the effect that the Act of 2015 made provisions that a living person, is presumed to have consented that when he dies, he is donating his "relevant" organ unless he "opt out"

of the general provision of the law. Okoye (2021) noted that the purpose of this provision is that a living person is presumed to have consented that any of his relevant organ or organs be donated to any needing person of such organ or organs and this will be carried out unless he opted out that none of his organ or organs should be donated. Thus, if a person dies, and there is any of his organs that is still relevant, and be put into use by any person in need to sustain his life, such relevant or vital organ may be donated in so far as the deceased did not opt out. Hence, as stated by Nwankwo (2022); Ugwaka and Igbokwe (2020), the family members will not in any way stop the donation or purport to withhold the onset deemed to have been given by the deceased.

iii. The Council of Europe Convention on Action against Trafficking in Human Organs 2002.

This convention was opened as a treaty at War Saw on 16th May 2005 and came into force on the 1st February 2008. Following ratification by Eight member states and 2 nonmember states (Abonyi & Ezeama, 2022). The convention is a comprehensive treaty mainly focused on the protection of victims of trafficking and the safeguard of their rights. It is also aimed at preventing trafficking and prosecuting the traffickers. The convention applies to all forms of trafficking including organ trafficking which takes place within and transcends beyond national borders and this is notwithstanding whether the victims are women or children or even men and whether it is for sexual exploitation, forced labour or even organ trade. Azubuike (2024) noted that the convention also prevents and combats trafficking of all types and criminalizes any form of trafficking on organs and facilitates a united action against trafficking in human organs. Finally, the convention enjoys member states and non-member states to take legislative steps at domestic level to punish any intentional removal of organ from living or deceased donors without recourse to law and procedure and prescribe stiff penalties for purposes of deterrence.

iv. E. U. Council Framework Decision on Combating Trafficking in Human Organs by the European Union.

The decision, according to Anushiem, (2022). Obumse, (2022); Ofozoba (2020), was taken in furtherance of the European Union efforts in preventing organ trafficking and trafficking generally within and around all member states of the union. It also promotes collective efforts towards combating trafficking and involves collaboration and co-operation among member states in dealing with the menace of trafficking in individual member state which will spill over and spread to other neighboring member state. Commenting on this, Ojimba, (2024); Okeke, Okaforcha, and Ekwesianya, (2019) noted that where the vice is controlled in a member state it will reduce the possibility of birth or spread of it to other state, the high incidences of the scourge in one state will also affect the spread in other close neighbour states and indeed among the states in the union.

v. British Embryology Law.

This is a law enacted and in force in England that encourages cloning of human organs (Nwakoby & Iloka, 2025; Osegbue, 2021). This law permits using human eggs from African and those from Animals while banning the use of human eggs from Europe and America. It is estimated that at least 100 million ovarian eggs poached from 10 million Nigerian women would be required annually for adult five (5) years. These Nigerian women will die shortly thereafter from complications of "ovarian Hyper

stimulation syndrome as a result of the multiple hormonal injections that stimulate the ovaries given at "IVF" clinics. According to Onyekwelu (2024); Adinna and Onyekwelu, (2021), the ovarian eggs would be obtained through the process called "IVF" In Vitro fertilization. The IVF have become popular among Nigeria women and even men particularly among couple who for one reason or the other finds it difficult to bear children. Apart from this category of people, there are others that undergo the procedure of "IVF" for purposes of trading on the ovarian eggs, others do not even know that as IVF is done the eggs are taken for commercialization and hence, they ignorant of the fact that their eggs are used for the other purposes without their consent or their consent deemed to have been obtained.

The IVF clinics in Nigeria are proliferating under the sponsorship of foreign owners using Nigerians as fronts for ovarian egg harvesting. What makes the Nigerians to go for IVF? For this purpose, they instituted massive vaccination program funded by philanthropist billionaire and his related reputed international and national organization (Ezeaku (2019); Ekwesianya, Okaforcha and Okeke (2020). The billionaire bankrolled the UN agencies for over 20 years and under the banner of deception that captivates Nigerian officials, the billionaire established and owns over 90% of the embryonic stem cell research companies. The billionaire vaccine donations have laced common vaccine with infertility agent that reduces human chorinic gonatro pin (anti HCG) to cause miscarriage.

This has been done successfully with "tetanus vaccine" and other common vaccine. There is also the Talwar GP et al which is a vaccine that prevent pregnancy in women (human chorionic gonadotropin/birth control vaccine

It is disturbing that through the "IVF" the Ovarian egg could be poached after administering a set of hormonal injections. Faced with the challenge of barrenness, Nigerian women will go for "IVF" where 12 ovarian eggs could be poached and maximum of 2 used for trials. The rest "10" eggs are sold by IVF centers to western laboratories working on embryonic stem cell research. According to the European Union Report, Nigeria is the top country for export of human ovarian eggs (Enwezor, (2021; Onyekwelu & Adinna, 2022). About 10Milion Nigeria women could die in 2-3 years from complications called Ovarian Hyper stimulation Syndrome (liver failure, kidney failure, cancers and infections etc.). These criminal actions must be protected by amendment of the provisions of the NHA 2014 which directly or indirectly is an adaptation of the application of British Embryology law in Nigeria. It is on record that the NHA of 2014 was sponsored by Senator Ifeanyi Okowa and passed into law by Dr. Goodluck Ebele Jonathan and his administration

vi. International Instruments on Organ Donation/Harvesting

Instruments have been put in place as a response against human trafficking and particularly as it concerns organ trafficking and tissue removal for purposes of commercialization at international level. The instruments include:

a. The Palemo Protocol.

The UN Palemo Protocol is the principal UN international Instrumental against Organ Harvesting and Human Trafficking. The instrument also known as UN Convention Against Transnational Organized Crime was adopted by the general Assembly Resolution 55/25 of 15th November 2000 (United Nations Office on Drugs and crime (UNODC), 2022) and entered into force on 29th September 2003. Countries must become parties to the convention before they can become parties to the protocols.

Nigeria appended signature as a state party to the UN Palemo Protocol on the 13th of December 2000 and ratified same on June 28th 2001. The Protocol was signed at the Plazzo Di Giustizia in Palemo, Italy and thereafter at UN Headquatres in New York and has three additional protocols on trafficking on humans, one on smuggling of migrants and the last one against illicit manufacturing and trafficking in firearms, their parts and components and ammunitions (Abonyi & Ezema, 2022).

b. The ILO Convention.

The international Labour Organization was adopted in 1919 and covers hours of work, the most recent convention adopted in 2019 covers violence and harassment at work place. The ILO Convention covers a wide area of social and labour issues including relations, employment policy, social dialogue, social security and other issues. The ILO Convention made fundamental provisions prohibiting trafficking through forced labour, child bonding in employment, slavery and organ harvesting through prostitution (Abonyi & Ezema, 2022).

c. Other international instruments promoting organ donation and prohibiting organ trafficking or illegal trading on organs or tissue and relating to the health of the individual are

i. International covenant on economic, social and cultural rights (ICESCR) 1976.
ii. Convention on the elimination of all forms of discrimination (CERD) 1969.
iii. The convention on the elimination of all forms of discrimination against women (CEDAW) 2022.
iv. Convention on the rights of the child (CRC) 1990.
v. International convention on civil and political rights (ICCPR) 1996.
vi. Convention against torture and other.
vii. Convention against transnational crimes of 2000.
viii. Protocol additional to convention against transnational crimes.
ix. UN Resolution titled: strengthening and promoting effective measure and international co-operation on organ donation and transplantation to prevent and combat trafficking in person for purpose of organ removal and trafficking in human organs
x. UN Guiding principles on human cell, tissue and organ plantation.
xi. Geneva Conventions and its additional protocols on rules of conduct of warfare including health related obligation.
xii. **Istanbul Declaration** "which has its essence and aim of ensuring that the benefits of organ transplantation are maximized and shared equitably with those in need. As noted by Onyekwelu (2024); Adinna and Onyekwelu, (2021), the Declaration of Istanbul on Organ Trafficking and Transplant Tourism (Istanbul Declaration) arose from the International Summit on Transplant Tourism and Organ Trafficking convened by the Transplantation Society and International Society of Nephrology from April 30 to May 2, 2008. The summit, according to Okaforcha, and Iloka (2025) and Ekwesianya, (2022), sought to address "the urgent and growing problems of organ sales, transplant tourism and trafficking in organ donors," and the resulting Istanbul Declaration included principles and proposals relating to strengthening legal and ethical organ transplants and preventing organ trafficking, transplant commercialism, and transplant tourism (Congressional Research Service International Organ Trafficking, 2021). Provisions included

calls for countries to maximize the number of organs available for transplantation and prohibit advertising for organ trafficking. The declaration was updated in 2018.

xiii. **Regional Approaches**

As noted by Ibe, (2022); Okoye and Ezeaku (2025), some regional organizations have established frameworks relating to organ trafficking. For example, the Council of Europe's Convention against Trafficking in Human Organs, which entered into force in March 2018, sought to "prevent and combat the trafficking in human organs," protect victims, and facilitate national and international cooperation.29 The convention is open to non-European Union (EU) member states. According to Ucheagwu-Okoye (2021); Ezeaku, (2025), the Pan American Health Organization (PAHO) and WHO Regional Office for the Americas' Strategy and Plan of Action on Donation and Equitable Access to Organ, Tissue, and Cell Transplants 2019-2030 includes indicators relating to national standards to address organ trafficking and transplant tourism. The strategy asserts that "a high poverty index, and low educational levels predispose the Region to the risk of organ trafficking".

Conclusion/Recommendations

Organ Donation is a global practice which promotes quality life. It is done to save life. However, when organs are removed for purposes of trafficking and trading on them or for their commercialization and commoditization, the aim of the concept is defeated. In this stage it becomes contrary to all legal rules in a state including the constitution. In Nigeria, laws have been enacted to regulate the procedure of organ donation as reviewed above, the constitution of Nigeria preserves life and similarly other laws reinforce the importance of life of citizens. Whereas the NAPTIP Act of 2015, the Edo state Law of 2003, and other efforts have been made, it is however sad that the NHA 2014 which is the principal Act has recognized and promoted "IVF' process among Nigerian women which has indeed promoted organ trafficking in Nigeria as illustrated above.

Whatever the case may be, the conclusion in this research is that organ donation and harvesting is a veritable concept which saves life. However, it has been abused in Nigeria for economic and material benefits and the procedure has been used to exploit Nigeria and Nigerians by other rich western states. We also conclude that in the case of Ekweremadu, the argument which is the law is that he and the wife facilitated the travel of the victim "Sunday Uko" to UK for Organ Harvesting which was not known to him and by no means did he consent and whether or not he is an adult or minor could not have saved the couple, hence it is right under English Modern Slavery Law to convict them accordingly.

Thus, the sentiments by Nigerians for Ekweremadu and the wife and their innocent daughter is expected but does not remove the fact that Ekweremadu, his wife and their accomplice Dr. Obeta committed a crime prescribed by UK law and no matter the sentiment the law must take its course. We also observe and note that the former president Obasanjo wrote a letter to UK government over Ekweremadu but Obasanjo ought to know that plea for "alocutus" is made before the court not to the "executive" and can only be made by the convicts or their counsel. Obasanjo must be reminded too that Ekweremadu is before a UK court not Nigerian court where "anything can happen". This is the real situation and there is no regret on the

outcome the "victim Sunday is also loved by his own family just as the Ekweremadus love their daughter Sonia.

The findings in the research are as follows:

1. The position of Nigerian law and the UK law on the issue of consent for donation is similar, in the two jurisdictions consent is needed for donation or harvesting to be valid.
2. However, under the UK law, the age of the victim is immaterial and does not avail or act as a defence to the defendants.
3. In the case of Nigeria, the issue of donation for persons under the age of 18 years and that under 18 and above 16 years requiring confirmation of medical personal of his mental capacity and permission by court is not envisaged under UK law.
4. Also, the deemed consent presumed for a living person to have consented while living to donate upon death unless he opted out by either registering same in the National heath register or telling his relatives is not part of Nigerian law as is in UK law.
5. The Embryonic law of England and the National Health Act of 2014 in Nigeria recognized the "SCNT process" and approved ovarian collection of ovarian eggs form for purposes of cloning, however in England, the law forbids the "SCNT" experiment on European and American women but on Animals and Africans, the NHA 2014 encourages collection of Ovarian eggs of women for "IVF" Programme and uses 2 out of 10 ovarian eggs for the program and the remaining are sold and cloned as humans for organ exploit or sales. This technology thrives in poor African countries and is a big business for foreign investors.

The following recommendations are made:

a. Urgent and Immediate Amendment of the National Health Act of 2014:
There is the urgent need to amend this Act especially with regards the embryonic technology that introduced and encouraged the "IVF" process among Nigerian women. Not only that the women face serious health challenges and complications arising from the practice owing to hormonal injections they are meant to take to boost the cells, ignorantly and without their consent, over "7" out of their 10 ovarian eggs taken away during the "IVF" are sold and cloned for organ exploitation and trafficking.
b. The NAPTIP as an agency must partner further with other governmental and non-governmental institutions towards promoting the fight against trafficking in persons especially organ harvesting.
c. The National Human Rights Commission and Civil Society Organization must collaborate and organize advocacy seminars and workshop on the rights of victims of trafficking and organ harvesting and provide free legal aid and assistance to victims.
d. Punishments provided under the laws in Nigeria against trafficking and organ harvesting should be made stiffer for deterrence to avoid repeat occurrence in the commission of the crime.

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