Strengthening Legal Frameworks to Combat Trafficking in Persons for Organ Harvesting: Lessons from Nigeria

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Abstract. Trafficking in persons for organ harvesting is a rapidly growing transnational crime that exploits vulnerable populations and exposes weaknesses in legal and enforcement systems. Nigeria, as a source, transit, and destination country for human trafficking, has seen increasing cases of organ trafficking, yet its response remains limited. Although the Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2015 provides a general framework, it contains few specific provisions on organ harvesting, making investigation and prosecution difficult. This paper examines Nigeria's legal framework on organ trafficking, assessing strengths, gaps, and enforcement challenges. It considers how weak transplant regulation, limited investigative capacity, corruption, and jurisdictional barriers sustain trafficking networks. Key cases and policy initiatives are reviewed to identify systemic failures in enforcement and judicial processes. Drawing on Nigeria's experience, the paper proposes reforms including stronger penalties for offenders, improved victim protection, and enhanced inter-agency coordination. It argues that strengthening legal and enforcement mechanisms is essential to disrupt trafficking networks, improve prosecution outcomes, and align national responses with global best practices in combating organ trafficking and protecting vulnerable populations.

Keywords: Organ Harvesting, Human Trafficking, Nigeria, Law Enforcement, Transnational Crime

1 Introduction

Trafficking in Persons for Organ Harvesting (TIP-OR) is a rapidly growing transnational crime that preys on vulnerable populations and exploits weak legal frameworks, poor regulatory oversight, and gaps in law enforcement. Nigeria has faced increasing cases of organ trafficking, yet implementing its legal framework remains challenging and inadequate in addressing the complexities of this crime. While the Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2015 (as re-enacted) provides a broad legal foundation for combating

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trafficking in persons, specific provisions addressing organ harvesting remain weak, making investigation and prosecution challenging. This paper examines Nigeria's existing legal framework on organ trafficking, assessing its strengths, gaps, and enforcement challenges. It explores how insufficient regulation of transplant practices, investigative capacity, corruption and jurisdictional barriers contribute to the persistence of organ trafficking networks. Additionally, the paper sheds light on areas where Nigeria's laws and enforcement mechanisms fall short.

Drawing lessons from Nigeria's anti-trafficking efforts, this paper proposes key legal and policy reforms for African governments to strengthen the fight against organ harvesting. Furthermore, the paper advocates for increased protection for victims, and greater inter-agency coordination to ensure effective enforcement. By implementing stronger legal frameworks and enforcement mechanisms, African countries can dismantle organ harvesting networks, improve prosecution rates, and align its laws with global best practices. While organ transplants have saved countless lives worldwide, the field is marred by the grim reality of TIP-OR. 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 a heart, can only be removed from a deceased donor (United Nations Office on Drugs and Crime [UNODC] et al., 2022, p. 6). In recent years other forms of trafficking in human body parts came to light, including human egg trafficking; skin trafficking; trafficking in human embryos; and blood plasma (Jones, 2009; Alexandru, 2014).

This crime involves the use of fraud, deception, abuse of power in the recruitment of persons and the use of money to induce consent for the purposes of removing 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 to have a quality life (UNODC, 2015, p. 28). In other cases, traffickers deceived victims in other ways, telling them they were to receive a routine medical checkup, that a medical examination or surgery is part of the process of obtaining a legitimate job, or that the donation of their organs was for altruistic reasons.

The complexities of TIP-OR, 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 (Global Activity in Organ Transplantation Estimations, 2019). Yet, as far back as 2007, the World Health Organization (WHO) estimated that 5-10% of these transplants involve illegally sourced organs (Shimazono, 2007). In 2011, experts estimated that the illicit organ trade generated illegal profits between USD 600 million and USD 1.2 billion per year (Haken, 2011). Compared to other forms of organized crime, TIP-OR 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 the compatibility between donor and recipient,

conduct medical procedures such as removing the organs or providing post-surgery recovery or treatment (United Nations Office on Drugs and Crime [UNODC] et al., 2022, p. 6).

2 Distinguishing Trafficking in Persons for Organ Harvesting from other forms of Organ Trafficking

TIP-OH is often clouded by semantics. While the various terms; organ harvesting, organ removal, organ trafficking, illegal organ removal, are sometimes used interchangeably, they carry distinct legal, medical, and policy implications. 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 (TIPPEA, 2015).
The United Nations uses the term organ removal in its Palermo Protocol (Palermo Protocol, n.d.), obligating signatory states to adopt measures to prevent and combat the crime, protect victims, and prosecute offenders.

It is important to note that the assertion that all trafficking in persons for the purpose of organ harvesting or removal constitutes organ trafficking, but not all organ trafficking equates to trafficking in persons for the purpose of organ removal, reflects a crucial legal and operational distinction that impacts how these crimes are addressed in policy, law enforcement, and health governance. TIP-OH is a subset of organ trafficking. Defined in the Palermo Protocol it requires three elements: Act (e.g., recruitment, transport); Means (e.g., coercion, deception, abuse of vulnerability) and Purpose (organ removal/exploitation) Thus, every TIP-OH case automatically qualifies as organ trafficking, because it involves the illegal procurement and trade of human organs.

By contrast, the term organ trafficking is a broader concept that includes the illegal trade and transplantation of organs, tissues, or body parts, with or without the trafficking of persons. For example, the commercial sale or purchase of organs where donors voluntarily offer organs for money (illegal in many jurisdictions) meaning they actively and knowingly sell their organs, they were not coerced or forced; also cases where deceased bodies are exploited for organ procurement without proper consent or medical oversight. In these instances, while the organ itself is trafficked, the person is not necessarily a victim of trafficking under the Palermo Protocol's three-part test (Palermo Protocol, Article 5, n.d.). This term is frequently referenced in medical and transplant ethics literature, and by organizations like the World Health Organization (WHO) (World Health Organization [WHO], 1989; World Health Organization [WHO], 1991; World Health Organization [WHO], 2010). Defined in the Declaration of Istanbul as involving the purchase and sale of organs or exploiting a donor through coercion or deception.

The Illegal Organ Removal refers specifically to the unlawful act of removing an organ from a living or deceased individual, especially when done without proper consent or legal procedures. Recognizing organ harvesting/removal as a form of exploitation under the trafficking in persons framework is essential, particularly in cases where an adult donor has not voluntarily consented to the procedure, or where consent is obtained through coercion, deception, manipulation of vulnerability, or any other means outlined in the legal definition of trafficking.

3 International and Regional Frameworks on Trafficking in Persons for Organ Harvesting

The international community has recognized TIP-OH 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 Organized 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 (Palermo Protocol, Article 3, n.d.). 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 criminalization of organ trafficking, protection of victims, and promotion of international cooperation. This convention also emphasizes the importance of ethical standards in organ transplantation and the need for states to establish transparent and regulated organ donation systems (Council of Europe, 2015).

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 (European Parliament and Council, 2011)

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 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 organizations and supervising health authorities, to discourage all practices which facilitate commercial trafficking in organs (World Health Assembly, 1989).

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 on ethical issues, including living donation, in order to update the Guiding Principles on Human Organ Transplantation and this led to the WHO Guiding Principles on Human Cell, Tissue, and Organ Transplantation (World Health Organization [WHO], 2010).

Consent is the ethical cornerstone of all medical interventions and therefore also 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.

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 protecting human rights in the biomedical field. The Convention's 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 (Council of Europe, 1997). 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"* (Council of Europe, 1997, Article 5). 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 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. Besides the legal frameworks previously discussed, there are also non-binding Declarations and Recommendations that aim to define and advocate for the criminalization 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 recognized 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 maximized 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 (Declaration of Istanbul, 2018). 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 should be prohibited and criminalized; organ donation should be a financially neutral act (Declaration of Istanbul, 2018, p. 3). 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 (Declaration of Istanbul, 2018).

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, the establishment of conditions of procurement and systems of traceability (European Parliament and Council, 2010). 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, characterization, procurement, preservation, transport and transplantation (European Parliament and Council, 2010). 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. The 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 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 allowable practices pertaining to organ transplantation, including those related to the recovery and donation of organs (Asia Task Force on Organ Trafficking, n.d.). 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 UNTOC 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.

4 National Legal Framework Governing Trafficking in Persons for 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. 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 (Vanguard Newspaper, 2023). 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 (Ugwu, 2023).

According to various news reports, the rising incidence of kidnapping for ransom in Nigeria is also fueling the illicit practice of organ harvesting. Victims, particularly those whose families cannot pay ransom, have been reported to have their organs harvested for sale (Punch Newspaper, 2022). In one instance, authorities apprehended a suspected criminal who allegedly used social media to facilitate the abduction of two women for organ harvesting (The Street Journal Newspaper, 2024). In 2023, a student from the University of Port Harcourt was reported to have killed his girlfriend and harvested her organs for ritual purposes (Business Day Newspaper, 2023). Another suspect was also arrested in connection to a similar crime (Punch Newspaper, 2023). 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 (Vanguard Newspaper, 2022). 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

National Health Act 2014 (NHA) provides a legal framework for the regulation, development, and management of Nigeria's Health System, which means that organ donation and harvesting should be done in a regulated way and should follow the Istanbul declaration. The Act is

implemented by the Federal Ministry of Health. Section 48-53 of the Act provides procedure for the removal and use of tissue, blood or blood products from living persons, prohibits the illegal transplantation of organs, and 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 by free will and without compulsion or financial inducement (NHA, 2014).

Section 48 of the Act provides that subject to the provision of section 53, a person shall not remove tissue, blood or blood product from the body of another living person for 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 (NHA, 2014, Section 53).

Section 51 of the NHA ensures that only authorized 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). While section 53 of the NHA prohibits any kind of sale of human organs. Thus, it is an offence punishable with imprisonment of 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 (NHA, 2014). 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 (The Sun Newspaper, 2024). 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 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, is 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. 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 (NHA, 2014, Section 51). 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.

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

Nigeria signed and ratified United Nations Convention on Transnational Organized Crime (UNTOC) and the Palermo Protocol in 2000 and 2001 respectively (United Nations Office on Drugs and Crime [UNODC] et al., 2022, p. 13). In 2003, Nigeria enacted the Trafficking in Persons Prohibition Enforcement and Administration Act, 2015 (as re-enacted). The Act provides for the criminalization 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). 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 offense. 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 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 defense for the perpetrator in Court.

5 Challenges in Combating Trafficking for Organ Harvesting in Nigeria

NAPTIP is the lead agency on human trafficking, while the Nigeria Police Force (NPF), Federal Ministry of Health. and medical regulatory bodies like the Medical and Dental Council of Nigeria (MDCN) play supportive roles. However, coordination remains weak and mandates sometimes overlap between NAPTIP and NPF.

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 case of *Federal Republic of Nigeria v Emmanuel Olorunlaye & 4 Others* (FCT/HC/CR/193/24, n.d.) Meaning there is limited jurisprudence in Nigeria addressing TIP-OH reflecting both the novelty and invisibility of the crime. Most trafficking convictions involve sexual or labor exploitation with no, landmark rulings related to TIP-OH. This absence of precedent makes legal interpretation uncertain. There is also the issue of victim non-cooperation, due to fear of retaliation, stigma, or re-traumatization. Furthermore, the TIPPEA Act, though comprehensive in its scope, lacks specific provisions tailored to the unique nature of organ harvesting. Also, there is no explicit guidelines on cross-border collaboration in investigating organ harvesting cases and there is no centralized national donor registry exists to track and monitor organ donations and transplants. 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.

2. Limited Law Enforcement Capacity: 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, poor inter-agency coordination hinders intelligence-sharing between law enforcement, health agencies, and border control authorities. The lack of coordination between agencies, such as health ministries, law enforcement, especially NAPTIP and NPF and judicial bodies, further weakens the ability to respond effectively to cases of organ trafficking as well as the unwillingness of NPF to transfer cases of organ harvesting to NAPTIP for diligent investigation and prosecution.

3. Socio-Economic Vulnerabilities: Poverty and socio-economic inequality play a significant role in driving organ harvesting in Nigeria. Many victims of TIP-OH come from rural and impoverished communities where access to education, healthcare, and employment opportunities is limited, thereby increasing susceptibility to TIP-OH schemes. 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 marginalized 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. Victims often consent under duress due to false promises of financial gain.

4. Public Perception and Awareness Gaps*:* Widespread misconceptions about organ donation create stigmatization of victims. Many people, particularly in rural areas, are misinformed about the realities of TIP-OH, often seeing it as a voluntary or even acceptable transaction between willing donors and recipients. This perception is fueled by misinformation and disinformation, with traffickers spreading false narratives about the safety and legality of selling organs.

5. Victim Identification and Protection: Identifying victims of TIP-OH 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 often require additional protection measures to ensure their safety and effectiveness as witnesses. In organ harvesting cases, kidney hunters and brokers, in particular, may pose open threats towards the safety of victims. There is no formal mechanism for identifying and assisting TIP-OH victims as well as assisting them with their socioeconomic vulnerabilities, stigma, and health complications long term.

6 Key Case Study: Federal Republic of Nigeria V Emmanuel Olorunlaye & 4 Others.

While Nigeria has made significant strides in enacting a comprehensive legislation to tackle human trafficking offences, the framework specifically addressing organ harvesting is only now being tested for the very first time in the case of Federal Republic of Nigeria v Emmanuel Olorunlaye & 4 Others. As a result, there is a noticeable absence of jurisprudence on this issue in Nigeria, underscoring both the emerging and hidden nature of the crime making legal interpretation uncertain. 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 of Alliance Hospital), and Dr. Aremu Abayomi, male (surgeon who perform the surgery to remove the victims' organs), including the hospital.

The defendants were arraigned on March 18, 2024 on an 11-count charge which bothers 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 defense counsel moved for a No Case Submission, leading to an adjournment of the matter till July 2nd, 2024. The defense counsel further requested for another adjournment. The case is still ongoing. However, so far, it has exposed critical loopholes in Nigeria's regulatory framework, underscoring the urgent need for stricter oversight of healthcare institutions, as well as comprehensive legislative and policy reforms:

1. Legislative Reforms: 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 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. 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 centralized 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.

2. Improving Law Enforcement and Institutional Capacity: Specialized 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 above-mentioned case, 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 enforcement and prosecutorial agencies 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 prioritized. Strict anti-corruption measures, including internal audits, oversight mechanisms, and whistleblower protections, to reduce bribery and collusion with traffickers within law enforcement agencies, should be implemented.

3. Addressing Socio-Economic Vulnerabilities: Economic Empowerment Programmes and social welfare programs 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 marginalized communities should be provided to decrease the likelihood of individuals resorting to selling their organs for economic reasons.

4. Public Awareness and Community Engagement: 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 to 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.

5. Changing Public Perception: It is important to humanize 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 emphasized. 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 to ensure accurate, and responsible reporting on organ trafficking cases.

6. Enhancing Cross-Border and Global Cooperation: Partnerships with international law enforcement bodies, such as Interpol, and health organizations to combat the cross-border nature of organ harvesting, 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 standardized procedures for donor consent, hospital compliance, and tracking transplants.

7. Victim Identification and Protection: Victims of organ harvesting experience severe physical, emotional, and socioeconomic trauma. To ensure victim's privacy and physical safety, they need to be provided protective measures such as accommodation, and other

justified needs. Provision of trauma-informed psychosocial services by trained professionals must be institutionalized, especially for children and highly vulnerable individuals. 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.

7 Recommendations African Governments Can Adopt to Strengthen Their Legal Frameworks Against Organ Harvesting.

No doubt, organ harvesting represents one of the most egregious forms of human rights abuse and organized crime. In Africa, these conditions are exacerbated by inadequate legal framework and regulation of medical practices and transplant procedures; limited regional cooperation, inadequate law enforcement expertise; and the criminal exploitation of marginalized populations, including refugees, migrants, and the economically vulnerable. Organ harvesting poses complex legal and ethical challenges. Victims are often unaware or coerced, and perpetrators exploit legal loopholes and the opacity of private medical sectors. Despite international conventions such as the UN Palermo Protocol and the WHO Guiding Principles and the Declaration of Istanbul, many African states lack harmonized, enforceable national legislation specific to organ trafficking. To respond effectively, African governments must move beyond fragmented interventions and adopt robust, rights-based, and enforceable legal frameworks. The following recommendations are designed to help governments strengthen their national responses while fostering cross-border collaboration to dismantle organ harvesting networks.

1. Harmonize National Legislation with International Standards

- Domesticate the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons (Palermo Protocol), WHO Guiding Principles on Human Cell, Tissue and Organ Transplantation, and the Declaration of Istanbul.
- Enact specific laws that criminalize trafficking in persons for the purpose of organ harvesting, distinguishing it from general human trafficking or organ trade offenses. Many laws treat organ harvesting as a sub issue of human trafficking leading to enforcement and prosecution gaps. There has to be clear definitions, specific offenses and tailored penalties.

2. Establish a Centralized and Transparent National Transplant Registry

   Create a digital, government-regulated registry for all organ donors and recipients, with mandatory reporting from hospitals and transplant centers. Enforce periodic audits, with penalties for non-compliance. A centralized system prevents organ harvesting and organ trafficking under the guise of “consensual” donations and enables oversight of all transplant activities.

3. Introduce Stricter Licensing and Regulation of Transplant Facilities

- Require organ transplant centers to obtain and regularly renew licenses subject to strict compliance audits. Illicit transplants often occur in poorly regulated or private clinics. Strict facility oversight reduces the risk of abuse.
- Mandate psychological and legal counseling for donors to ensure consent is truly informed and voluntary.

4. Develop a Victim-Centred Protection and Compensation Framework

- Legally recognize victims of organ trafficking as trafficking survivors entitled to medical care, psychosocial support, legal aid, and restitution. Victims are often criminalized or ignored. A robust support system encourages reporting and breaks the cycle of exploitation.
- Establish compensation funds sourced from asset forfeitures and fines imposed on convicted traffickers and complicit institutions.

5. Strengthen Cross-Border Cooperation and Intelligence Sharing

- Establish regional MOUs and task forces with neighboring countries for real-time intelligence exchange, joint investigations, and extradition.
- Leverage existing platforms like INTERPOL, Economic Community of West African States (ECOWAS), East African Community (EAC), and Southern African Development Community (SADC) to develop regional action plans and databases on organ trafficking networks. Organ harvesting is often transnational. Isolated national efforts are ineffective without regional coordination.

6. Train Law Enforcement, Judiciary, and Medical Personnel

   Institutionalize regular, multidisciplinary training on organ harvesting laws, victim identification, forensic investigation, and ethical standards for police, prosecutors, and judges. Also for medical professionals, including surgeons, nephrologists, and transplant coordinators. Frontline actors often lack the legal and ethical awareness to detect or properly prosecute these crimes.

7. Mandate Public Reporting and Awareness Campaigns

- Require Ministries of Health and Justice to publish annual reports on organ donation and organ harvesting cases. This supports evidence-based policymaking and strengthens prosecution.
- Launch public awareness campaigns targeting high-risk populations explaining the dangers and signs of trafficking for organ removal. Public knowledge is critical for prevention. Most victims are lured due to misinformation or desperation.

8. Promote Ethical and Equitable Organ Donation Systems

- Invest in public organ donation systems and awareness initiatives to increase voluntary, deceased donor rates.

- Incentivize ethical organ donation within the country to reduce dependence on illicit transplants. A transparent and ethical system reduces black market demand and protects the vulnerable.

African governments must urgently adopt comprehensive, coordinated, and victim-centered legal frameworks to combat this crime. By strengthening laws, reinforcing oversight, empowering victims, and fostering regional cooperation, African nations can not only dismantle trafficking networks, but also protect the most vulnerable and uphold the sanctity of life.

8 Conclusion

Combating trafficking in persons for organ harvesting requires a multi-faceted legal, institutional, and international approach. Nigeria must strengthen its legal framework, enhance law enforcement collaboration, and expand victim support mechanisms. By addressing legislative gaps and fostering international cooperation, any country can significantly improve its response to trafficking in persons for organ harvesting and set a precedent for broader anti-trafficking efforts in Africa.

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