

## ETHICAL CONCERNS AND THE ANALYSIS OF CHILD TRAFFICKING FOR PURPOSE OF ORGAN REMOVAL FOR TRANSPLANTATION

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### Abstract

*Trafficking in persons for organ removal, for the purpose of transplantation, is an unethical practice, a crime and a severe violation of human rights that affects the fundamental freedoms and dignity of the victim. Traffickers prey on vulnerable individuals, luring them with false promises of employment, education, or a better life, only to forcibly remove their organs and sell them on the black market. It is estimated that about 10% of all transplants occur illegally. While underprivileged and vulnerable men and women in developing countries are a major source of trafficked organs, who may be trafficked for the purpose of illegal organ removal and trade, children are at a special risk of this exploitation. The paper examines the unethical practice of child trafficking for the purpose of organ removal and the attendant human rights implication. It also discusses certain relevant legal frameworks of the subject and explores trafficking in persons for the purpose of organ removal in Nigeria and the UK, two countries that have seen significant cases of trafficking in persons for organ removal. The paper applied the doctrinal method of academic research. After a thorough discussion of the topic, it recommends a more coordinated global effort towards eradicating this menace and calls for further strengthening of relevant legal frameworks and institutions.*

### 1.0 Introduction

The Palermo Protocol identifies organ removal as one of the purposes for trafficking in persons.<sup>1</sup> According to this Protocol, 'Exploitation' shall include, at a minimum, the removal of organs.<sup>2</sup> Trafficking in Persons for the Removal of Organs (TPRO) includes the removal of organs as an end purpose of trafficking. This issue finds contemporary relevance in the recent arrest and imprisonment of a foremost Nigerian Senator, Senator Ike Ekweremadu, his wife and a middleman called Dr Abena Abita in the United Kingdom (UK). The three were arrested

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<sup>1</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, adopted 15 November 2000 by General Assembly resolution 55/25; Article 3(a)

<sup>2</sup> *Ibid*, art. 3(d)

and charged over their plan to bring a child into the UK to allegedly harvest the said child's organs.<sup>3</sup>

In biology, an organ is a fully differentiated structural and functional unit in a human being or animal that is specialized for some particular function.<sup>4</sup> The human body is composed of various organs which aid its proper functioning. These organs include the heart, kidney, pancreas, spleen, brain, liver to mention a few. Sometimes, these organs get damaged and stop functioning which usually affects the health status of the patient and may lead to death if nothing is done about it. Medically, to assist the patient, these damaged organs are removed and replaced by functioning ones sourced from other humans. Organ transplantation is one of the most remarkable medical inventions of the twentieth century. Ever since the first successful transplants in the 1950s, organ transplantation has saved and prolonged the lives of thousands of patients. Regarded as a risky and experimental procedure until the 1980s, today it is a worldwide practice, conducted in hospitals in almost 100 countries all over the world.<sup>5</sup> Survival rates of transplant patients have risen significantly over the past decades.

Human organs for transplants have two sources, deceased donors and living donors. Ultimately, human organs can only be derived from a human body, and thus any action in the field of organ transplantation must be carried out in accordance with the highest ethical and professional standards. Many societies have a system for organ donation, in which a living or deceased donor's organ are transplanted into a person with a failing organ. Organ transplantation is a medical procedure in which an organ is removed from one body and placed in the body of a recipient, to replace a damaged or missing organ. It is a therapy which aims at replacing the organ that has lost its function in the organism.<sup>6</sup> The donor and recipient may be at the same location, or organs may be transported from a donor site to another location. Organs that are transplanted within the same person's body are called auto transplantation. Transplants that are recently performed between two subjects of the same species are called allotransplantation.<sup>7</sup> Notably, both the source and method of obtaining the organ to transplant are major ethical issues to consider, and because organs as resources for transplant are always more limited than demand for them, various notions of justice, including distributive justice, are developed in the ethical analysis. This situation continues as long as transplantation relies upon organ donors rather than technological innovation, testing, and industrial manufacturing.

<sup>3</sup> L. Njoku & ors, 'UK Court Denies Ekweremadu, Wife Bail Over Child Trafficking, 2022, *The Guardian* < <https://guardian.ng/news/uk-court-denies-ekweremadu-wife-bail-over-child-trafficking-organ-harvesting/> > accessed 13/2/23

<sup>4</sup> R.N Nwabueze, 'Organ Donation and Transplantation', In I.O Iyioha and Nwabueze, *Comparative Health Law and Policy: Critical Perspective on Nigerian and Global Health Law* (Routledge, 2015) 219.

<sup>5</sup> UNODC, 'Trafficking in Persons for the Purpose of Organ Removal', (2015), *United Nations*, 7

<sup>6</sup> T. Schlich, *An Ancient Dream of Mankind?: The Historicity of Organ Transplantation, The Origins of Organ Transplantation: Surgery and Laboratory Science, 1880-1930*, (Boydell & Brewer, 2010) 3-13 ; *JSTOR*, < <http://www.jstor.org/stable/10.7722/j.ctt14brrgn.5> > accessed 14/3/23.

<sup>7</sup> Nwabueze (n 4)

Transplantation raises a number of bioethical issues, including the definition of death, when and how consent should be given for an organ to be transplanted, and payment for organs for transplantation.<sup>8</sup> Other ethical issues include transplantation tourism and more broadly the socio-economic context in which organ procurement or transplantation may occur. A particular problem is trafficking in persons for organ harvesting.<sup>9</sup> This problem is what this paper discusses and makes recommendations accordingly.

## 2.0 History of Organ Transplantation

Ancient Greek, Roman and Chinese myths feature fanciful accounts of transplants performed by gods and healers, often involving cadavers or animals. While these tales are considered apocryphal, by 800 B.C. Indian doctors had likely begun grafting skin—technically the largest organ—from one part of the body to another to repair wounds and burns. In the 16th Century, an Italian surgeon Gasparo Tagliacozzi, sometimes known as the father of plastic surgery, reconstructed noses and ears using skin from patients' arms. He found that skin from a different donor usually caused the procedure to fail, observing the immune response that his successors would come to recognize as transplant rejection. Further, in the early 1900s, European doctors attempted to save patients dying of renal failure by transplanting kidneys from various animals, including monkeys, pigs and goats. However, none of the recipients lived for more than a few days. Also, in 1905, Eduard Zirm, an Austrian ophthalmologist, performed the world's first corneal transplant, restoring the sight of a man who had been blinded in an accident and in 1912 Transplant pioneer Alexis Carrell received the Nobel Prize for his work in the field. The French surgeon had developed methods for connecting blood vessels and conducted successful kidney transplants on dogs. He later worked with aviator Charles Lindbergh to invent a device for keeping organs viable outside the body, a precursor to the artificial heart.<sup>10</sup>

*In 1936 Ukrainian Doctor Yurii Voronoy transplanted the first human kidney, using an organ from a deceased donor. The recipient died shortly thereafter as a result of rejection. However, in the late 1940s and early 1950s, a team of doctors at Boston's Peter Bent Brigham Hospital carried out a series of human kidney grafts, some of which functioned for days or even months. In 1954 the surgeons transplanted a kidney from 23-year-old Ronald Herrick into his twin brother Richard; since*

<sup>8</sup> WHO, 'Guiding Principles on Human Cell, Tissue and Organ Transplantation', 2010, Preamble; Retrieved from < <https://apps.who.int/iris/bitstream/handle/10665/341814/WHO-HTP-EHT-CPR-2010.01-eng.pdf?sequence=1> > accessed 16/3/23

<sup>9</sup> N.K Clare, 'Organ Trafficking and Transplantation Pose New Challenges', (2004)(82)(9), *Bulletin of the World Health Organization*, 715; World Health Organization, < <https://apps.who.int/iris/handle/10665/269242> > accessed 16/3/23

<sup>10</sup> History Stories, 'Organs Transplant: A brief History', < <https://www.history.com/news/organ-transplants-a-brief-history> > accessed 16/3/23

*donor and recipient were genetically identical, the procedure succeeded.<sup>11</sup> British immunologist Peter Medawar, who had studied immunosuppression's role in transplant failures, received the Nobel Prize for his discovery of acquired immune tolerance in 1960. Soon after, anti-rejection drugs enabled patients to receive organs from non-identical donors.<sup>12</sup>*

The first successful lung, pancreas and liver transplants took place in the 1960s. In 1967, the world marveled when South African surgeon Christiaan Barnard replaced the diseased heart of dentist Louis Washkansky with that of a young accident victim. Although immunosuppressive drugs prevented rejection. As transplants became less risky and more prevalent, the U.S. Congress passed the National Organ Transplant Act 1984 to monitor ethical issues and address the country's organ shortage. The law established a centralized registry for organ matching and placement while outlawing the sale of human organs.<sup>13</sup>

In 2005, Baltimore's Johns Hopkins Hospital pioneered the "domino chain" method of matching donors and recipients. Willing donors who are genetically incompatible with their chosen recipients are matched with strangers; in return, their loved ones receive organs from other donors in the pool and in 2010, Spanish doctors conducted the world's first full face transplant on a man injured in a shooting accident. A number of partial face transplants had already taken place around the world.<sup>14</sup>

Also, since ancient times, mythology has included tales of creatures made of an amalgamation of others, transferring body parts and skin. In the 1950s, with no other medical options for then incurable diseases, including nephritis, teams of scientists, surgeons, and generous patients started the field of organ transplant with the first successful kidney transplant in a human. The scientific discoveries and innovations since that first successful transplant in 1954 have turned the mythical concept of transplant into reality. The overall success and public acceptance of organ donation and transplant today is thanks to multidisciplinary teams of basic scientists, immunologists, surgeons, and public advocates. Today, research is propelling the field forward with advancements like face transplants, experiments of lab-grown organs, and much more. In the United States alone, over 800,000 patients have had their lives saved or significantly improved thanks to transplant since national recording began by the Organ Procurement and Transplant Network in 1988.<sup>15</sup>

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<sup>11</sup>S.Y Tan, 'Joseph Murray (1919-2012): First Transplant Surgeon', (2019)(60)(4), *Singapore Medical Journal*, 162.

<sup>12</sup> History Stories (n 10)

<sup>13</sup> *Ibid*

<sup>14</sup> History Stories (n 10)

<sup>15</sup> K.D Nordham & Ninokawa, 'The History of Organ Transplantation', (2021)(35)(1), *Baylor University Medical Center Proceedings*, 124

In Nigeria, there have been several records of organ transplantations; however, the first kidney transplantation was done at St. Nicholas Hospital, Lagos, in 2000.<sup>16</sup>

### 3.0 Child Trafficking as a Global Problem

Globally, one of the biggest problems in recent times is human trafficking. It is something that impacts hundreds of countries all over the world, including developed countries, and a significant proportion of human trafficking victims are children. According to information that has been published by the United Nations office on drugs and crime, approximately one out of every three victims of human trafficking are children.<sup>17</sup>

The nature of Child trafficking is complex. It is a crime against humanity. It dehumanizes the victims and they lose their freedom. It is also a sort of forced labour, sex trafficking, bonded labour, debt bondage, voluntary servitude and this makes the victims to lose their humanity.<sup>18</sup> Since the phenomenon is very complex, various definitions have been proposed. It involves a process of recruiting people from their native abode or country to other countries for forced labour and exploitation.<sup>19</sup> To some others, it is a process of people being recruited in their community and country of origin and taken to other destinations where they are exploited for purposes of forced labour, prostitution, domestic servitude and other forms of exploitation.<sup>20</sup> It could also be defined as illegal trade in human beings through abduction, threat, deception for the purpose of exploitation and forced labour. It is an illegal business and a social problem because it affects many people. UNICEF estimates millions of children are trafficked globally.<sup>21</sup> It affects different categories of people. It is also a social problem because of the magnitude, the trend and pattern it has taken over the years. This business has unleashed untold hardship on victims who are mostly women and children.<sup>22</sup>

Due to the secret nature of child trafficking, it is extremely difficult to get to the root of it and survivors are difficult to reach because of the stigmatization attached to being trafficked. Notably, its very nature is an underground criminal activity and the traffickers conceal the crime and the victims are often unable to report the crime due to lack of access to information and the barriers put on their ways.<sup>23</sup> Also, because of its clandestine nature and the hidden

<sup>16</sup> J. Lokulo-Sodipe, 'Organ Transplantation Tourism: Upholding the Donee's Right to Qualitative Health Care', (2022) (9), *Open Access Library Journal*, 1

<sup>17</sup> UNODC, '2020 Global Report on Trafficking in Persons: Chapter Three', (2021), *United Nations*, 81; < [https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTIP\\_2020\\_Chapter3.pdf](https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTIP_2020_Chapter3.pdf) > accessed 16/3/233

<sup>18</sup> D. Irabor, 'Trafficking in Humans in Nigeria: A Major Socio-Cultural Problem', (2019)(5)(7), *Journal of Advances in Social Science and Humanities*, 896

<sup>19</sup> A. Ohonba & Agbontaen-Eghafona, 'Transnational Remittances from Human Trafficking and the Changing Socio-Economic Status of Women in Benin City, Edo State Nigeria', (2019)(48)(5) *Women's Studies*, 531

<sup>20</sup> I.A Olubukola, 'Human Trafficking in Edo State, Nigeria: Experiences of Some Young Girls who have Survived Trafficking', (2020) (17)(2), *LWATI: A Journal of Contemporary Research*, 205

<sup>21</sup> UNICEF, 'State of the World's Children: Excluded and Invisible', 2019, < <http://unicef.org/sowc06/index.php> > accessed 24/1/23

<sup>22</sup> F. B. Okeshola & Adenugba, 'Human Trafficking: A Modern Day Slavery in Nigeria', (2018)(8)(2), *American International Journal of Contemporary Research*, 42

<sup>23</sup> I.A Olubukola (n 20) 206

economies in which trafficked victims are forced to work, accurate statistics on the magnitude of the problem are elusive and available statistics are notoriously unreliable.<sup>24</sup>

Child trafficking is a global phenomenon, which continues to grow against all odds due to the prevalence of push factors such as humanitarian crisis around the world, poverty, and exclusion amongst others.<sup>25</sup> Due to its global nature, children are trafficked and exploited in every region of the world, both online and offline.<sup>26</sup> This means every country is affected by the menace of child trafficking one way or another as a country may be a source, transit or destination country, or a combination of two or all three.

There are no once-and-for-all solutions to child trafficking.<sup>27</sup> This is because the methods employed by traffickers and their allies are transformative; they change as soon as law enforcement gets close or profits decline. But that is not to say that nothing is being done about it. Normative criminal sanctions exist in at least 166 countries including Nigeria. These strong laws aim to criminalize the practices and to protect the survivors, yet there are very few convictions in any country.<sup>28</sup> It is unsurprising therefore that the enslavement of children in Nigeria for exploitative purposes appears to be rampant; the trade is a major criminal activity, yet there are hardly any specific, holistic prevention measures in place, especially not for children.<sup>29</sup>

The purposes for child trafficking are varied and are an important element of child trafficking. In Nigeria, persons are trafficked *inter alia* for prostitution, to work as domestic servants, bus conductors, and street traders. They are exploited in agricultural work, brass melting, stone digging and scavenging.<sup>30</sup> Children are usually trafficked for different purposes, such as pornography, begging, marriage, and organ harvesting,<sup>31</sup> to mention a few.

#### 4.0 Ethical Concerns in Organ Transplantation: An Analysis of Child Trafficking for Organ Removal

Over the last few decades there has been a substantially higher percentage of successful organ transplants but also a significant imbalance between the demand for and the supply of organs, creating the basis for a highly profitable black market trade in human organs. Sometimes there are reports that children have been kidnapped, only to reappear later lacking one kidney, or that

<sup>24</sup> A.A Aronowitz, *Human Trafficking, Human Misery: The Global Trade in Human Beings* (Praeger Publishers, 2009)210

<sup>25</sup> I.O Ifeakandu, 'Child Trafficking and Rights Violations: Examination of Child Protection under International and Nigeria Legal Provisions', (2019)(10) *Beijing Law Review*, 1078

<sup>26</sup> ECPAT, 'Sale and Trafficking of Children for Sexual Exploitation', (2019)  
<<http://www.ecpat.org/what-we-do/sale-and-trafficking-of-children>> accessed 24/1/23

<sup>27</sup> J. Jones, and Winterdyk, 'Introduction, Human Trafficking: Challenges and Opportunities for the 21st Century', (2018)(8)(1). *Oñati Socio-legal Series*, 4.

<sup>28</sup> *Ibid*

<sup>29</sup> *Ibid*

<sup>30</sup> *Ibid*

<sup>31</sup> I.O Ifeakandu (n 25)



they simply disappear and are subsequently killed to have all their transplantable organs removed for profit. In organ transplantation, the demand for human organs has grown far faster than the supply of organs. According to the World Health Organization on the state of the international organ trade, 66,000 kidney transplants, 21,000 liver transplants, and 6000 heart transplants were performed globally.<sup>32</sup> On their own, these numbers can be stark; however, when compared to average wait times for organs in developed countries, one can start to better understand the demand being diverted to black markets. In Canada, it is estimated that the average wait time for a kidney is 4 years with some waiting as long as 7 years.<sup>33</sup> In the U.S., the average wait time for a kidney is 3.6 years according to the National Kidney Foundation.<sup>34</sup> In the U.K., wait times average 2 to 3 years but could be longer.<sup>35</sup> On the average, Over 3000 new patients are added to the kidney waiting list each month.<sup>36</sup> The worldwide shortage of kidneys from cadavers has resulted in illicit organ sales and even kidnapping and murder of children and adults to 'harvest' their organs.<sup>37</sup>

It was estimated that about 10% of all transplants occur illegally, with the internet acting as a facilitator.<sup>38</sup> This has opened the door for illegal organ trade and trafficking including from children. Some of the first accounts of organ purchases and sales date from the late 1980s by transplant doctors in the Gulf States who were confronted with patients with needs for medical follow-up, who had received transplants of purchased kidneys in India.<sup>39</sup> Organized crime groups and individual organ brokers exploit the situation and, as a result, black markets are becoming more numerous and organized organ trafficking is expanding worldwide. While underprivileged and vulnerable men and women in developing countries are a major source of trafficked organs, and may themselves be trafficked for the purpose of illegal organ removal and trade, children are at especial risk of exploitation.<sup>40</sup> With the confirmed cases of children being trafficked for their organs, child organ trafficking is a sad reality in today's world.<sup>41</sup> Body organs are taken from victims against their will in order to sell the organs illegally. The majority of victims likely die as a result of having their organs removed. A report by the United Nations Office on Drugs and Crime (UNODC) stated that children in extremely low-income

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<sup>32</sup> Y. Shimazono, 'The State of the International Organ Trade: A Provisional Picture Based on Integration of Available Information', (2007)(85)(12), *World Health Organization*, 955

<sup>33</sup> The Kidney Foundation of Canada, 'Organ Donation', < <https://kidney.ca/organ-donation> > accessed 7/2/23

<sup>34</sup> National Kidney Foundation, 'Organ Donation and Transplantation Statistics', <<https://www.kidney.org/news/newsroom/factsheets/Organ-Donation-and-Transplantation-Stats>> accessed 7/2/23

<sup>35</sup> NHS, 'Waiting list', 2015, <<https://www.nhs.uk/conditions/kidney-transplant/waiting-list/>> accessed 7/2/23

<sup>36</sup> National Kidney Foundation, 'Organ Donation and Transplantation Statistics', <<https://www.kidney.org/news/newsroom/factsheets/Organ-Donation-and-Transplantation-Stats>> accessed 7/2/23

<sup>37</sup> R. R Kishore, 'Human Organs, Scarcities, and Sale: Morality Revisited', (2005)(31), *Journal of Medical Ethics*, 362

<sup>38</sup> Global Financial Integrity, 'Transnational Crime and the Developing World', (2017), < [http://www.gfintegrity.org/wpcontent/uploads/2017/03/Transnational\\_Crime-final.pdf](http://www.gfintegrity.org/wpcontent/uploads/2017/03/Transnational_Crime-final.pdf)> accessed 7/2/23

<sup>39</sup> N. Scheper-Hughes, 'Theft of Life', (1990), *Society*, 6

<sup>40</sup> A. Bagheri, 'Child Organ Trafficking: Global Reality and Inadequate International Response', (2016)(19)(2), *Med Health Care Philos*, 239

<sup>41</sup> *Ibid*

families are particularly vulnerable to organ transplants, including in countries in West Africa, making up one of every three victims worldwide.<sup>42</sup>

Trafficking for organ removal raises concerns because it involves the transfer of healthy organs in one direction, depleting the regions where organs are bought. This transfer typically occurs from South to North, developing to developed nations, females to males, and from colored peoples to whites.<sup>43</sup> Traffickers orchestrate the recruitment of the donor often from a place of vulnerability, and victims are not necessarily properly screened for their qualifications to be a healthy donor. Desperate patients in need of an organ may fall prey to a trafficker who could be posing as a “reputable” representative of an altruistic organ matching organization. Financial exploitation plays a key part in both sides of this scenario. In addition, organ traffickers could also be involved in other forms of human trafficking, such as sex and/or labor trafficking. Cases are emerging where an organ donor may have been a victim of sex trafficking and/or labor trafficking as well as a victim of organ trafficking, creating a multi-level equation of exploitation.<sup>44</sup>

With a shortage of legally sourced organs around the world, it is estimated that the illegal trade of human organs generates about 1.5 billion dollars each year from roughly 12,000 illegal transplants.<sup>45</sup> This has serious consequences for human security, particularly for the most vulnerable populations, such as children, the unemployed, homeless people and migrants. Further, despite the general interest in this issue, the crime remains a hidden, underground activity and seems to be greatly underreported. Trends, patterns, modus operandi, the interaction of the various actors involved in the crime and other issues may not be well understood. This is not unusual for trafficking in persons cases in general, however, trafficking in persons for organ removal has some specific features that may make it even more difficult to identify and tackle the problem. Among those are the very technical nature of some of the processes and the possible involvement of professionals from the medical sector. Trafficking in persons for organ removal is definitely a quite distinct form of trafficking that requires special knowledge and skills to understand and address it.<sup>46</sup>

## 5.0 Trafficking in Persons for the Removal of Organs and Organ Trafficking

Terms like ‘organ trafficking’, ‘illegal organ trade’, ‘transplant tourism’, ‘organ purchase’ and others are often used interchangeably with trafficking in persons for the purpose of organ removal, even where they would not refer to the same phenomenon. According to the United Network for Organ Sharing, organ trafficking is defined as the purchase of a transplanted organ

<sup>42</sup> International Society for Human Rights, ‘Organ Harvesting’, < <https://ishr.org/organ-harvesting/> > accessed 7/2/23

<sup>43</sup> N. Scheper-Hughes, *The Last Commodity: Post-Human Ethics, Global (In)Justice, and the Traffic in Organs*, (Penang: Multiversity & Citizens International, 2008) 29

<sup>44</sup> C. Bain, ‘Organ Trafficking: The Unseen Form of Human Trafficking’, 2018, < <https://www.acamstoday.org/organ-trafficking-the-unseen-form-of-human-trafficking/> >, accessed 20/12/2022

<sup>45</sup> Global Financial Integrity (n 38)

<sup>46</sup> UNODC (n 5)



abroad while bypassing laws, rules or processes of any or all countries involved. The Istanbul Declaration offers definitions for organ trafficking. The Istanbul Declaration defines organ trafficking as the recruitment, transport, transfer, harbouring or receipt of living or deceased persons or their organs by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability, or of the giving to, or the receiving by, a third party of payments or benefits to achieve the transfer of control over the potential donor, for the purpose of exploitation by the removal of organs for transplantation.<sup>47</sup> The World Health Organisation defines organ trade as the buying and selling of organs outside of national medical systems and for profit.<sup>48</sup> In Nigeria, the most trafficked organ is the kidney.<sup>49</sup> From the year 2015 to 2020, a total of 651 kidneys were transplanted illegally from the country, Global Database on Donation and Transplantation reported. It is estimated that the illegal organ trade conservatively generates approximately \$840 million to \$1.7 billion annually, according to Global Financial Integrity. Unfortunately, even with the estimated flow of funds crossing \$1 billion annually from organ trafficking, it is difficult for both the law enforcement agents and anti-money laundering professionals to detect related financial activity, according to a report by the Association of Certified Anti-Money Laundering Specialists (ACAMS).<sup>50</sup> Most countries have laws which criminalize the buying and selling of organs, or the carrying out of medical procedures for the illegal organ trade.<sup>51</sup> These countries forbid the sale and purchase of organs except Iran. This middle eastern country is the only place in the world where citizens are allowed to buy and sell their organs legally.<sup>52</sup>

In 2008, the Council of Europe (CoE) and the United Nations (UN) agreed to prepare a “Joint Study on trafficking in organs, tissues and cells and trafficking in human beings for the purpose of the removal of organs”. The Joint Study was published in 2009 and identified a number of issues related to the trafficking in human organs, tissues and cells which deserved further consideration. In summary, the Joint CoE/UN Study concluded that organ trafficking and trafficking in persons for organ removal are different crimes, though frequently confused in public debate and among the legal and scientific communities. In the case of organ trafficking, the object of the crime is the organ, whereas in the case of human trafficking for organ removal, the object of the crime is the person. Organ trafficking may have its origin in cases of human trafficking for organ removal, but organ trafficking will also frequently occur with no link to a case of human trafficking. The mixing up of these two phenomena could hinder efforts to combat both phenomena and provide comprehensive victim protection and assistance.<sup>53</sup>

<sup>47</sup> The Declaration of Istanbul on Organ Trafficking and Transplant Tourism 2008; Definitions

<sup>48</sup> O. Ologunagbe, ‘Inside the \$1.7 billion global organ trafficking industry’, 2022, *BusinessDay*, <<https://businessday.ng/health/article/inside-the-1-7-billion-global-organ-trafficking-industry/>> accessed 7/2/23

<sup>49</sup> L. Ladelokun, ‘Organ Trafficking: A Thriving Illicit Trade in Nigeria’, 2022, *New Telegraph*; <<https://www.newtelegraphng.com/organ-trafficking-a-thriving-illicit-trade-in-nigeria/>> accessed 16/3/23

<sup>50</sup> O. Ologunagbe (n 48)

<sup>51</sup> A. Aronowitz & E. Isitman, ‘Trafficking of Human Beings for the Purpose of Organ Removal: Are (International) Legal Instruments Effective Measures to Eradicate the Practice?’ (2013)(1)(2), *Groningen Journal of International Law* 73.

<sup>52</sup> O. Ologunagbe (n 48)

<sup>53</sup> UNODC, (n 5) 18

Further, while trafficking in persons for the purpose of organ removal (TPRO) and organ trafficking are governed by separate legal frameworks, factual elements of these distinct crimes may overlap, in particular when an organ is illicitly removed from a living donor in the absence of valid consent. The issue of consent may arise in both TPRO cases and cases of organ trafficking. From a legal perspective, consent may be invoked as a defence strategy as a way of shifting focus from the perpetrator's behaviour to that of the victim. In the case of organ trafficking, establishing that an organ has been removed with the free, informed and specific consent of the person from whom it was removed, and that it was not done for financial gain, may be crucial to establishing whether or not the offence of organ trafficking has been committed. In cases of TPRO, according to the Trafficking in Persons Protocol, consent of victims to their organs being removed will be legally irrelevant in all circumstances where the illicit "means" stipulated in the Protocol have been used.<sup>54</sup>

## 6.0 Legal Framework of Child Trafficking for Organ Removal

This section discusses relevant international conventions on child trafficking for the unethical purpose of organ harvesting.

### 6.1 Palermo Protocol 2000

The Trafficking in Persons Protocol is the first international legal instrument that gives a definition of trafficking in persons for the purpose of organ removal. In order to ascertain whether a particular circumstance constitutes trafficking in persons, the definition contained in the Trafficking in Persons Protocol and the elements of the offence, as defined by it is instructive. The Protocol defined Child Trafficking, which is part of the general concept of trafficking in people, as the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation.<sup>55</sup>

According to the definition contained in the Trafficking in Persons Protocol,<sup>56</sup> the crime of trafficking in persons has three constituent elements which include the act, means and purpose. They are discussed hereunder.

**6.1.1 The Act (what is done):** This means the recruitment, transportation, transfer, harbouring or receipt of persons.

**6.1.2 The Means (how it is done):** This includes the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of

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<sup>54</sup> *Ibid*

<sup>55</sup> Palermo Protocol (n 1); art. 3

<sup>56</sup> Palermo Protocol (n 1); art. 3

vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person.

**6.1.3 The Purpose (why it is done):** This is usually for the purpose of exploitation. The Trafficking Protocol does not define exploitation but gives a non-exhaustive list of forms of exploitation. It provides that Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery, or practices similar to slavery, servitude or the removal of organs.

#### **6.1.4 The Issue of Consent**

Article 3(b) of the Trafficking in Persons 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) have been used, 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. Consent is the ethical cornerstone of all medical interventions and therefore also of particular relevance for the issue of organ removal.

#### **6.1.5 Trafficking in Children for Organ Removal**

The Palermo Protocol states that if 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.<sup>57</sup> Thus, 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.

Remarkably, this Protocol requires State parties, to criminalize trafficking in persons for organ removal as defined in article 3.<sup>58</sup>

### **6.2 The Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography 2000**

The Optional Protocol on the sale of children, child prostitution and child pornography (2000) to the UN Convention on the Rights of the Child (1989), requires States parties to prohibit, in the context of sale of children as defined in its article 2, offering, delivering or accepting, by whatever means, a child for the purpose of transfer of organs of the child for profit.<sup>59</sup>

### **6.3 Non-legally binding instruments**

There are also non-binding declarations and recommendations that seek to define and call for the criminalization of various conducts related to organ removal and transplantations –

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<sup>57</sup> *Ibid*, art. 3(c)

<sup>58</sup> Palermo Protocol (n 1); art. 5

<sup>59</sup> Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (2000), art. 3(1)(a)(i)(a.)

conducts that might be conducive to or amount to trafficking in persons for organ removal. These instruments set strong standards against illegal transplantations, being recognized and endorsed by transplant societies worldwide. They include the following;

### **6.3.1 World Health Organization Guiding Principles 2010**

According to the World Health Organization (WHO) Guiding Principles, the shortage of available organs has not only prompted many countries to develop procedures and systems to increase supply but has also stimulated commercial traffic in human organs. The evidence of such commerce, along with the related traffic in human beings, has become clearer in recent decades.<sup>60</sup> It provides guidance for organ transplantation from both deceased and living donors, including regarding standards of consent to donation and organ allocation, as well as regulating donation and transplantation activities to prevent organ sale and purchase.

This provision prohibits the trafficking of the human body and its parts as a source of financial gain. According to the commentary of Guiding Principle 5 provided in the WHO Guiding Principles, (as endorsed by the 63rd World Health Assembly in 2010, by resolution WHA63.22), 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.<sup>61</sup>

### **6.3.2 Declaration of Istanbul 2008**

TPRO, transplant tourism and transplant commercialism threaten to undermine the nobility and legacy of transplantation worldwide because of the reality associated with these practices. The vulnerable in resource poor countries (such as the illiterate and impoverished, undocumented immigrants, prisoners, and political or economic refugees) are exploited for their organs as a major source of organs for the rich patients who can afford and are prepared to purchase organs.<sup>62</sup>

These unethical practices were the subject of a Summit convened in Istanbul from 30 April to 1 May 2008 by The Transplantation Society (TTS) and the International Society of Nephrology (ISN). The result of these deliberations was the Istanbul Declaration on Organ Trafficking and Transplant Tourism.<sup>63</sup> The development of the Istanbul Summit and Declaration was derived from a direction by the World Health Assembly in 2004 as it adopted

<sup>60</sup> World Health Organization (n 8), Preamble

<sup>61</sup> World Health Organization, Guiding Principles on Human Cell, Tissue and Organ Transplantation of the World Health Organization (2010), Guiding Principle 3. <[https://www.who.int/transplantation/Guiding\\_PrinciplesTransplantation\\_WHA63.22en.pdf?ua=1](https://www.who.int/transplantation/Guiding_PrinciplesTransplantation_WHA63.22en.pdf?ua=1)> accessed 15/2/23

<sup>62</sup> Y. Shimazono, 'The State of the International Organ Trade: A Provisional Picture Based on Integration of Available Information', (2007)(85), *Bulletin of the World Health Organization*, 955

<sup>63</sup> Declaration of Istanbul (n 47)

resolution WHA57.18 urging member states to take measures to protect the poorest and vulnerable groups from transplant tourism and the sale of tissues and organs, including attention to the wider problem of international trafficking in human tissues and organs.<sup>64</sup>

The Declaration of Istanbul was created at the Istanbul Summit on Organ Trafficking and Transplant Tourism held from 30 April to 1 May 2008 in Istanbul, Turkey. The Declaration clarifies the issues of transplant tourism, trafficking and commercialism and provides ethical guidelines for practice in organ donation and transplantation. Since the creation of the declaration, over 100 countries have endorsed the principles. Some nations have subsequently strengthened their laws against commercial organ trade, including China, Israel, the Philippines, and Pakistan.<sup>65</sup> The Declaration emphasizes that organ trafficking and transplant tourism should be prohibited because they violate the principles of equity, justice and respect for human dignity. The Declaration asserts that because transplant commercialism targets impoverished and otherwise vulnerable donors, it leads inexorably to inequity and injustice and should also be prohibited.

The declaration has been endorsed by more than a 100 governmental and professional organizations, working in the field of organ transplantation, globally.<sup>66</sup> To promote and monitor the implementation of the declaration, the Declaration of Istanbul Custodian Group has been established in 2010, consisting of experts from various professional and geographical regions.<sup>67</sup>

## **7.0 Challenges Associated with Trafficking in Persons for the Purpose of Organ Removal**

Several challenges are associated with effectively detecting and responding to TPRO. In addition to the complexities of prosecuting TPRO under existing anti-trafficking frameworks, knowledge of the extent of this poorly detected and underreported phenomenon is limited. Data collection initiatives are scarce and distinction between cases of TPRO and cases of organ trafficking is a complex exercise. The limited visibility that TPRO has in the trafficking spectrum has resulted in a limited prioritization of this crime in national anti-trafficking programmes and policies, which, in turn negatively impacts the types of responses provided.<sup>68</sup> Traffickers exploit the fact that countries do not have transparent and transparently audited, regulatory transplant systems. An additional challenge in the investigation of TPRO is the transnational character of this form of trafficking, as illegal transplants are usually performed in different countries than the victims' countries of origin. In this context, the lack of systems to track transplantations and share information within and across States, as well as uncertainty regarding the limitations around medical professional confidentiality and the obligation for

<sup>64</sup> World Health Organization, 'Human Organ and Tissue Transplantation', (2004), (WHA 57.18); <[https://apps.who.int/gb/ebwha/pdf\\_files/WHA57/A57\\_R18-en.pdf](https://apps.who.int/gb/ebwha/pdf_files/WHA57/A57_R18-en.pdf) > accessed 16/3/23

<sup>65</sup> F. Ambagtsheer and Weimar, 'A Criminological Perspective: Why Prohibition of Organ Trade Is Not Effective and How the Declaration of Istanbul Can Move Forward', (2011) (12) (3), *American Journal of Transplantation*, 571-575

<sup>66</sup> L. C. Pullen, 'TenYear Celebration of the Declaration of Istanbul', (2018) (18) (11), *American Journal of Transplantation*, 2615

<sup>67</sup> UNODC, (n 5) 24

<sup>68</sup> ICAT, 'Trafficking in Persons for the Purpose of Organ Removal', <[https://icat.un.org/sites/g/files/tmzbd1461/files/publications/icat\\_brief\\_tip\\_for\\_or\\_final.pdf](https://icat.un.org/sites/g/files/tmzbd1461/files/publications/icat_brief_tip_for_or_final.pdf) > accessed 16/3/23

healthcare professionals and other actors to report on TPRO indicators when performing organ transplantations or caring for (potential) transplant recipients or organ donors, are obstacles to the successful identification of victims and prosecution of traffickers.<sup>69</sup>

Difficulties associated with establishing victimhood also exist due to the fact that, in some jurisdictions, the definition of trafficking in persons in domestic law does not necessarily contain all the illicit means listed in the Trafficking in Persons Protocol. As TPRO is based on the principle of supply and demand, a key concern in tackling this crime is reducing the demand for organs by illicit means. Given that the discrepancy between organ availability and demand remains incredibly high, weak national transplantation systems, the lack of government support to transplantation programmes and access to legal and ethical forms of organ donation are key challenges in preventing TPRO.<sup>70</sup>

Further, victims of TPRO are often in a situation of extreme vulnerability and might lack options or be otherwise forced to submit to the removal of organs through coercion, violence and other means. Situations of crises, such as conflict, economic crises, health and environmental emergencies, can further exacerbate existing vulnerabilities and societal inequalities and drive more victims into this form of exploitation.<sup>71</sup>

Again, the scarcity of evidence-based data on trafficking in persons for the purpose of organ removal can result in a lack of knowledge about the modus operandi of criminal networks, experiences of organ sellers, buyers and doctors, the criminal involvement of transplant professionals, the collusion and corruption within hospitals, and possible manipulation of medical insurers. Although research at the international, regional and national levels, exists and a number of experts have strong knowledge and information about trafficking for organ removal, this information is hardly reaching key stakeholders such as judicial authorities and law enforcement officials. For reasons related to the medical confidentiality, transplant professionals also do not share information when they encounter indications of potential illegal transplant activity, for instance regarding patients who return from alleged illicit transplant operations abroad.<sup>72</sup>

As a result of the lack of existing partnerships and exchange of information, there is little awareness of the crime among criminal justice and law enforcement practitioners as well as policy makers. Consequently, trafficking in persons for organ removal does currently not seem to be on the 'enforcement agenda' of key stakeholders. This hampers an effective enforcement of legislation that criminalizes the phenomenon in line with the Trafficking in Persons Protocol,

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<sup>69</sup> ICAT (n 68) 7

<sup>70</sup> *Ibid*, 8

<sup>71</sup> *Ibid*

<sup>72</sup> UNODC (n 5) 13



as well as non-legislative responses.<sup>73</sup> Allowing organized crime networks to continue organ-related crimes with impunity, however, allows the threat of victimization of the world's poorest and most vulnerable populations, especially children, to increase.

## 8.0 Trafficking in Persons for Organ Removal in Some Jurisdictions

### 8.1 Human Trafficking in Nigeria

Nigeria has been identified as a source, transit, and destination country for human trafficking, with the majority of victims being women and children.<sup>74</sup> Trafficking in persons for organ removal is one aspect of this problem, with traffickers targeting vulnerable individuals for their organs. According to the World Health Organization, Nigeria has one of the highest rates of organ trafficking in the world.<sup>75</sup> The Nigerian government has taken steps to combat human trafficking, including passing the Trafficking in Persons (Prohibition) Enforcement and Administration Act in 2003. This law criminalizes all forms of human trafficking and prescribes severe penalties for offenders.<sup>76</sup> The Nigerian government has also established the National Agency for the Prohibition of Trafficking in Persons (NAPTIP), which is responsible for coordinating efforts to combat human trafficking, including organ trafficking.<sup>77</sup> NAPTIP has conducted several operations to rescue victims of trafficking and arrest traffickers, including those involved in organ trafficking. In 2019, NAPTIP rescued six victims of organ trafficking in a joint operation with the Nigerian Police Force.<sup>78</sup>

However, despite these efforts, trafficking in persons for organ removal remains a significant problem in Nigeria, with many cases going unreported or undetected. There have been reports of children being kidnapped and trafficked for their organs.<sup>79</sup> This is due in part to the lack of awareness and education about the issue among the general public, as well as the lack of resources and infrastructure to effectively address the problem.

### 8.2 United Kingdom

The United Kingdom (UK) has also seen cases of human trafficking for the purpose of organ removal, with victims coming from a range of countries, including Albania, China, and India.<sup>80</sup>

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<sup>73</sup> *Ibid*

<sup>74</sup> UNODC, Global Report on Trafficking in Persons, (2018) < [https://www.unodc.org/documents/data-and-analysis/glotip/2018/GLOTIP\\_2018\\_BOOK\\_web\\_small.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/2018/GLOTIP_2018_BOOK_web_small.pdf) > accessed 9/3/23

<sup>75</sup> WHO, Trafficking of Organs, Tissues and Cells and Trafficking in Human Beings for the Purpose of the Removal of Organs, (2010)< <https://www.who.int/bulletin/volumes/88/11/10-082347/en/> > accessed 5/3/23

<sup>76</sup> National Agency for the Prohibition of Trafficking in Persons NAPTIP, Trafficking in Persons (Prohibition) Enforcement and Administration Act, (2003) <<https://www.naptip.gov.ng/wp-content/uploads/2018/12/TIP-ACT.pdf> > accessed 9/3/23

<sup>77</sup> NAPTIP, About Us, (2020) ,< <https://www.naptip.gov.ng/about-us/> > accessed 8/3/23

<sup>78</sup> J. Adekunle, Police, NAPTIP rescue 6 children from Organ Trafficking Syndicate in Enugu, (2019), *Vanguard*. Retrieved from < <https://www.vanguardngr.com/2019/07/police-naptip-rescue-6-children-from-organ-trafficking-syndicate-in-enugu/> > accessed 6/3/23

<sup>79</sup> A. Bagheri (n 40)

<sup>80</sup> National Crime Agency, National Referral Mechanism Statistics: End of Year Summary 2018; (2019) Retrieved from <<https://www.nationalcrimeagency.gov.uk/who-we-are/publications/318-national-referral-mechanism-statistics-end-of-year-summary-2018/file> > accessed 7/3/23

In 2015, the UK passed the Modern Slavery Act, which criminalizes all forms of human trafficking, including organ trafficking. The Act includes provisions for increased penalties for offenders and the creation of an Independent Anti-Slavery Commissioner to oversee efforts to combat trafficking.<sup>81</sup>

The UK has also established a number of institutions and initiatives to address human trafficking, including the National Crime Agency, which leads the UK's efforts to combat organized crime, including human trafficking.<sup>82</sup> The UK's National Referral Mechanism (NRM) provides support for victims of trafficking and ensures that they are not prosecuted for offenses committed as a result of being trafficked. Additionally, the UK is a signatory to the Council of Europe Convention on Action against Trafficking in Human Beings, which provides a framework for cooperation and collaboration in combating human trafficking.<sup>83</sup> The National Crime Agency (NCA) is the UK's lead agency for tackling serious and organized crime, including human trafficking for organ removal.<sup>84</sup> The NCA works closely with other law enforcement agencies, such as the police, and NGOs to identify and disrupt trafficking networks and prosecute offenders. The UK's NRM identifies and support victims of trafficking, including those trafficked for organ removal. In 2018, there were 6,993 potential victims of trafficking referred to the NRM, with 190 cases involving organ trafficking.<sup>85</sup>

## 9.0 The Human Rights Implications of Trafficking in Persons for Organ Removal

Human trafficking for organ removal is a severe violation of human rights that affects the fundamental freedoms and dignity of the victim. It involves the illegal transportation and exploitation of persons for the purpose of removing organs or tissues without the victim's consent or through deception, coercion, or other forms of abuse. The practice is a clear violation of the Universal Declaration of Human Rights, which states that "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment".<sup>86</sup> Human trafficking for organ removal has significant human rights implications. The practice undermines several fundamental human rights, including the right to life, physical integrity, personal liberty and security of the person, and the right to work and earn a living. These rights are enshrined in various international human rights instruments and are recognized as essential to the promotion of human dignity, equality, and social justice.

One of the primary human rights implications of human trafficking for organ removal is the right to life. Trafficked victims who are subjected to organ removal are exposed to significant

<sup>81</sup> UK Parliament, Modern Slavery Act 2015. < <https://www.legislation.gov.uk/ukpga/2015/30/contents/enacted> > accessed 10/3/23

<sup>82</sup> National Crime Agency, Organised Crime, (2020), Retrieved from <<https://www.nationalcrimeagency.gov.uk/what-we-do/crime-threats/organised-crime>> accessed 8/3/23

<sup>83</sup> Council of Europe, Convention on Action against Trafficking in Human Beings, (2005) Retrieved from <<https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/197>> accessed 8/3/23

<sup>84</sup> National Crime Agency (n 82)

<sup>85</sup> National Crime Agency (n 80)

<sup>86</sup> United Nations General Assembly, (1948), Universal Declaration of Human Rights. <<https://www.un.org/en/universal-declaration-human-rights/>> accessed 5/3/23

health risks, including infections, hemorrhaging, and death, due to the unregulated and unsterile conditions under which these operations are performed.<sup>87</sup> The illegal removal of organs without the victim's consent or through deception, coercion, or other forms of abuse puts the victim's life at risk and constitutes a grave violation of the right to life. The practice also denies victims the right to physical integrity, which is a fundamental human right recognized in international law.<sup>88</sup> Physical integrity is a fundamental human right that recognizes the inherent worth and dignity of the human body. The practice of human trafficking for organ removal denies victims the right to control their bodies and what happens to them. It exposes them to the risk of harm, pain, and suffering and denies them the right to make decisions about their own health and well-being.

These rights are based on the principle of respect for the individual and the assumption that each person is a moral and rational being who deserves to be treated with dignity. The Nigerian 1999 Constitution recognizes and upholds these rights. The right to life is founded on the premise of life being sacrosanct. Consequently, it is inviolable, inalienable and indivisible. The constitution guarantees the right to life.<sup>89</sup> It can be said to be a natural right (that is, a right that a person has by virtue of the fact that he is a human being. It provides that every person has the right to life, and no one shall be deprived of his life except in execution of the sentence of a court in respect to a criminal offence of which he has been found guilty in Nigeria. Furthermore, Section 34 guarantees the right to human dignity and provides that every individual is entitled to respect of the dignity of his person and accordingly no person shall be subjected to torture or to inhuman or degrading treatment.<sup>90</sup>

Human trafficking for organ removal is also a clear violation of the right to personal liberty and security of the person. This right is enshrined in several international human rights instruments, including the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. Trafficked victims are often subjected to deception, coercion, and force, and their freedom of movement and choice are severely restricted. They are denied the right to make choices about their own lives and are forced to work under conditions of exploitation and abuse. The practice also denies victims the right to work and earn a living, which is a fundamental human right enshrined in the International Covenant on Economic, Social and Cultural Rights.<sup>91</sup> The practice of human trafficking for organ removal denies victims the right to work and earn a living in safe and healthy conditions. It also denies

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<sup>87</sup> S. Cohen, 'Organ Trafficking and Transplant Tourism: A Commentary on the Global Realities', (2018)(18) (10) *American Journal of Transplantation*, 2489–2496; < <https://doi.org/10.1111/ajt.14987> > accessed 9/3/23

<sup>88</sup> European Convention on Human Rights, Council of Europe, (1950) <[https://www.echr.coe.int/Documents/Convention\\_ENG.pdf](https://www.echr.coe.int/Documents/Convention_ENG.pdf) > accessed 3/3/23

<sup>89</sup> CFRN 1999; s.33

<sup>90</sup> *Ibid*, s. 34(1)(a)

<sup>91</sup> United Nations General Assembly, International Covenant on Economic, Social and Cultural Rights, (1966) ; <<https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx> > accessed 2/3/23

them the opportunity to develop their skills and contribute to the development of their communities and countries.

The human rights implications of human trafficking for organ removal are further compounded by the fact that many victims are children. Children are more vulnerable to trafficking due to their age, lack of experience, and susceptibility to manipulation.<sup>92</sup> The practice denies children their rights to protection, education, and development, which are critical to their overall well-being and future prospects.

## 10.0 Conclusion

Unethical practices are an unintended consequence of the global shortage of transplantable organs. Due to the vastly increased demand for organs, transplantation has fallen victim to its own success. Organ shortage became a global issue despite efforts to increase the donor pool, and what began as a lifesaving procedure with the best of intentions now necessitates urgent international cooperation. Due to the severe organ shortage, desperate patients look for methods of obtaining organs illegally, outside of the regulations governing transplantation. Organs' potential profitability rises along with demand, which encourages some people to buy, sell, and trade them. As a result, a black market for organs coexists with charitable procurement methods for organ supply.

This paper examined the unethical practice of procuring human organs illegally through human trafficking, with a focus on the trafficking of children, to be used as failed human organ transplants. It is amazing that despite numerous efforts by governments and institutions to stop the trafficking of people for the purpose of removing their organs, it is still a major issue in Nigeria and other nations around the world. Organized crime groups can operate with a fair amount of impunity due to the complexity of the crime of human trafficking for the purpose of organ harvesting and the lack of awareness of the issue among those who could prevent and address it. Also, given that this problem involves the most fundamental forms of human exploitation and violation, this menace is an especially heinous crime; and the victim's fundamental rights and dignity are seriously violated when someone is trafficked for their organs. The practice impairs the victim's right to life, physical integrity, personal liberty, and security while also denying them the ability to work and support themselves.

As with all forms of human trafficking, preventing organ trafficking necessitates addressing its underlying causes in order to lessen people's susceptibility to becoming a victim of it in the first place. States should take action to address issues like poverty, underdevelopment, and lack of equal opportunity that put people at risk for trafficking. The demand for illicitly acquired organs should be taken into consideration when developing strategies to stop the trafficking of

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<sup>92</sup> UNICEF, Child Trafficking, (2018), < <https://www.unicef.org/protection/child-trafficking> > accessed 8/3/23

people for their organs. States would have to encourage a healthy lifestyle in order to lessen the demand brought on by organ failure. In addition, to effectively address this issue, it is critical to raise awareness and educate the public about it, as well as provide resources and support to victims and law enforcement agencies. A global, coordinated effort is also required to eliminate this heinous form of exploitation and abuse. Furthermore, it is pivotal to strengthen legal frameworks and institutions to combat trafficking in persons for organ removal and to protect and respect the human rights of victims, particularly children.