



PREVALENT ISSUES AND CHALLENGES TO SOLID ORGAN TRANSPLANTATION IN NIGERIA **

Abstract

Solid organ transplantation has overtime proven to offer the best form of treatment for persons battling with end stage organ failures, particularly kidney transplantation, for patients with end stage renal disease. However, this medical intervention is faced with a lot of cultural, religious, ethical and legal issues and challenges in Nigeria. Again, in Nigeria like in the rest of the world, donated organs still cannot meet its growing demand and as a result of low donation rate, patients requiring transplantation wait for a long time, relying on dialysis as is the case in Nigeria, which are both time consuming and costly. The Article analyses the prevalent issues and challenges to solid organ transplantation in Nigeria and recommends possible means of curbing these issues and challenges.

Key words: Transplantation, Solid organs, Issues, Challenges

1. Introduction

Solid organ transplantation as a medical procedure for person with end stage organ diseases though having emerged and is operational in Nigeria; some form of uncertainty still hovers around organ transplantation in the country. However, as Iyiowa *et al.* observed, such is normal against the backdrop of the novelty of organ transplantation in the country. They write further:

Developed countries like the United Kingdom and the USA, where organ donation and transplantation have become routine, passed through a similar phase about 60 years ago when organ donation and transplantation were still rudimentary in those countries, and their lawyers equally struggled to account for the legality of the procedure under their prevailing legal systems.

Again, as the demand for organ transplantation far exceeds the organ availability, organ transplantation procedure is often saddled with complex legal and ethical issues. The country is a more religiously conservative clime vis-a-vis the countries of the west. The two major religions in the country – Christianity and Islam – as well as traditional norms and values have over the years influenced the shaping of the domestic laws¹, and there is no evidence yet to assume that this would not apply to organ transplantation.²

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¹ C Okonkwo, *Nigeria: A Legal History* (Fourth Dimension, Enugu 1998) p. 7 – 12

² For instance, treatment of cadaver in Islamic religion presents its own ethical framework (Abubakar Bakari *et al.* Op. Cit.) while the religious idea of departing of the soul from the body is still of prominent influence among Nigerians as to what death is, and the cultural belief in the inviolability of the wishes of the dead is very strong.



2. Issues on Solid Organ Transplantation in Nigeria

2.1 Socio-Cultural Considerations

Nigeria is a multi-cultural and religious society with diverse views and beliefs. For this reason, the belief and culture practiced in the country plays a major role in the attitude of Nigerians with respect to organ donation and transplantation.

Culture enjoys a pride of place amongst the more than two hundred and fifty ethnic groups that make up the country, Nigeria, particularly the three major ethnic groups; the Igbo, the Hausa and the Yoruba. Family orientation, conviviality and bond is imbedded, preached and accepted amongst these groups, little wonder living organ donation for transplantation appears to be generally accepted as there are willing donors in both nuclear and extended family setups without coercion.

However, organ donation from a deceased has a lot of cultural, social and religious implications in Nigeria. The three major ethnic groups are not only deeply cultural, but a significant part of their culture relates to issues of cadaveric or deceased organ donation and poses as a barrier on the way of accessing non-regenerative organs from a deceased.³ Majority of Nigerian families do not allow autopsy, how much more the removal of organs from the body of their deceased loved one. This poses a huge problem to cadaveric organ donation in Nigeria.

Furthermore, among the cultures practiced in Nigeria, particularly the Igbo and Yoruba culture, there is the view that when an individual dies, the existence of the deceased individual, is not automatically extinguished, this belief is based on the jurisprudence that those who are dead, though not physically seen are alive in a different world and can reincarnate in a pattern of multiple births and rebirth.⁴

Another significant barrier is the belief that organ donation interferes with the bodily integrity of the deceased and the traditional funeral arrangements practiced in most cultures in Nigeria. The body of a deceased is held sacred, and in most Igbo societies, before a deceased is laid to the grave, the family members are expected to see his or her corpse and bade him or her final farewell as he or she journeys to the other realm.

The cultural belief therefore, that the deceased has merely transited to another realm makes it a taboo to seek to dismember any part of the deceased and strictly prohibits cadaveric organ donation, leaving only the option of living donation which as a result of the poor economic situation in Nigeria has the risk of being hijacked by the rich in the society as their source of organ for transplantation.

2.2 Religious Influence

Nigerians are highly religious and as such religion plays a major role on how people perceive and accept organ donation in the country. For purposes of this study, the researcher is going to be looking at the Christian and Islamic religion in Nigeria.

³ O B Adegbite, 'Corpse Mystification and Nigeria's Cultural Values on Cadaveric Organ Donation: Reflections on the Shifting Paradigms of Culture, Religion and Law', *International Journal of Law, Humanities & Social Science* (2019) Volume 3, Issue 3, 48-71.

⁴ Ibid.



a. Christianity

Christianity is one of the major religions practiced in Nigeria. Christians believe in eternal life and that nothing that happens to the body, before or after death can change their relationship with God.

Christianity preaches altruism and sacrifice for the good of others. This is in adherence to the teachings of Jesus Christ about love and sacrifice and saving of lives which he showcased by offering his own life so that all may be saved. Therefore Christianity supports organ donation and transplantation as it considers it as an act of love and a way of following the examples of Jesus as long as it does not violate either the right of the donor or recipient.

Though Christianity as generally practiced in Nigeria, accepts organ donation and transplantation through its teachings and doctrines, the same does not apply to all Christians in Nigeria. This is because the opinion of individual Christians are influenced either way by the culture and society in which they live.

b. Islam

The Islamic religion is one of the major religions in Nigeria. The practice is predominant in the Northern and some of the western part of Nigeria and has its origin in Saudi Arabia.

The practice of Islam does not explicitly allow or prohibit organ donation and transplantation.⁵ Muslim scholars and researchers have strived through research on the issue of organ donation and transplantation to arrive at a legal position in light of the Shari'ah⁶ which is one of the major sources of Islamic law in Nigeria. Consequently, two different opinions exist with respect to the permissibility of organ transplantation in Islam, among Muslim Scholars; those who throw legal support as to its permissibility and the other group who are of the opinion that it is non-permissible.⁷

The proponents of the legality of organ transplant in Islam, based their argument on religious justifications, stemming from verses of the Koran; verses that permit one to eat carcasses when in need. Therefore according to these proponents of the legality/permissibility of organ donation and transplantation in Islam, a person who is in need of an organ transfer can be likened to a person in need because his life is under the threat of death as in the case of renal failure.⁸

Another argument adduced by the proponents of the legality or permissibility of organ donation and transplantation in Islam is based on the general principle of Islamic law which implies thus; 'the more harmful detriment is removable by the less harmful one', 'when facing two evils, choose the less harmful one', 'when comparing between two ill deeds, consider which is the greater in harm and do the other'.⁹

On the other hand, minority scholars who are proponents of the illegality of organ donation and transplantation in Islam, equally base their belief of the prohibition on the

⁵ T O Aderibigbe, A K Adebayo, 'Contemporary Issues on Organ Donation and Transplantation in Nigeria; A Discussion,' *Journal of Legal Studies and Research* (2022) Volume 8, Issue 4, P 81.

⁶ A A Bakari, U S Abbo Jimeta, M A Abubakar, S U Alhassan and E A Nwankwo, 'Organ Transplantation: Legal, Ethical and Islamic Perspective in Nigeria', *Nigerian Journal of Surgery* (2012), 18(2), 53-60.

⁷ Ibid.

⁸ Ibid.

⁹ A A Sirajudeen, *Organ Transplant in Islamic Perspectives*, Germany, Lamber Academic Publishing (2011) P. 26.



verses of the Qur'an that proves that defacing the 'fair nature' created by Allah is prohibited, and transplantation (kidney transplant) is a form of this,¹⁰ and also on the logic that the organ which is transplanted is impure because it was taken from a living being and therefore it is not permissible for it to be used in medication because of its state of impurity.¹¹

These views on the issue of the permissibility of organ donation and transplantation in Islam, are all based on the general guideline and interpretation of the *Shari'ah* hence the differences of opinion do not carry any implication of being right or wrong as they are in accordance with the *Shari'ah*.¹²

From the foregoing therefore, it can be deduced that the practice of Islam neither allows nor prohibits explicitly, solid organ donation and transplantation.

3. Challenges to Solid Organ Transplantation in Nigeria

Solid organ transplantation faces a lot of draw backs in the country. Some of the major challenges to solid organ donation and transplantation in Nigeria are as follows:

3.1 Organ Shortage

Shortage of organ for transplantation is a global challenge. All over the world, the high rate of demand for organ far exceeds the availability. For countries that operate the waiting list system of organ donation, for instance the United Kingdom, and the United States of America, statistics shows that 7219 people are waiting for transplant in the UK¹³ and in the USA, there are more than 106,000 people on the national transplant waiting list with 92,000(87%) waiting for a kidney.¹⁴ Nigeria is not exempted from this global challenge. The situation in Nigeria is worsened by the fact that there is no national organ banks in Nigeria. Although few hospitals in the country have organ bank facilities, but these are privately owned. Again, people are generally not willing to donate organs for various reasons ranging from the desire to preserve the deceased relative's carnal wholeness even after death; lack of knowledge of what the wish of the deceased would have been and unwillingness to make such decision on behalf of the deceased. Also there is the fear of the uncertainty of the safety of the donation procedure as well as the issue of medical infirmities in some potential donors.¹⁵

Furthermore, the rate of donation is impaired by religious dogmas surrounding the morality of 'desecrating' a person's body which is regarded as a gift from God after death.¹⁶ There is also the fear that the organ donated might be needed in the future, or even that the donated organ may be used for diabolical or ritual purposes rather than transplantation purposes.

¹⁰ Ibid, A A Bakari. U S Abbo Jimeta, M A Abubakar, S U Alhassan and E A Nwankwo

¹¹ Ibid.

¹² M Y Rathor, A Shah, ' Review Article: Ethical Issues in Kidney Transplantation and 'An Islamic Perspective' *Bangladesh Journal of Medical Science* (2021) Volume 20, 245.

¹³ Statistics about Organ Donation, <https://www.organdonation.nhs.uk> accessed on 9/11/2023 at 4:00am.

¹⁴ Transplant Waiting List, <https://www.kidneyfund.org> accessed on 9/11/2023 at 4:46am.

¹⁵ O B Ben-David, *Organ Donation and Transplantation: Body Organs as an Exchangeable Socio-Cultural Resource* (Praeger 2005) 21.

¹⁶ F Moazam, *Bioethics and Organ Transplantation in a Muslim Society: A Study in Culture, Ethnography and Religion* (Indiana University Press 2006) 32.



3.2 High Cost of Transplantation

As the demand for organ continues to surpass the availability or supply of organs needed for transplantation, the trite rule of economics comes to play; the financial cost of transplantation becomes increasingly high. In Nigeria, solid organ transplantation procedures are very expensive and cannot be afforded by the average Nigerian. It is a struggle even for the rich in the country. With the economic situation in the country, a lot of people barely getting by on a daily subsistence basis let alone undertaking such cost-intensive project.

The cost of transplantation, particularly kidney transplantation, is one of the major challenges to solid organ transplantation in Nigeria¹⁷ with the average cost of the procedure in the range of 6–10 million Naira (US\$ 40,000–70,000), without considering the financial implications of postoperative immunosuppressant, and this in a country where more than 70% of the population live on below two US dollars daily¹⁸. This high cost is computed to include the cost of investigations of the patient and donor, the cost of the transplant itself, including anti-rejection drugs and routine check-ups.¹⁸ This has in recent times, led many individuals to solicit financial support from the public as a form of crowd-funding or fundraising through the social media in order to achieve a wider coverage and reactionary donations.

Although the Federal Government established the National Health Insurance Scheme to ensure that every Nigerian has access to quality and timely healthcare and alleviate the cost of healthcare, the scope of the Scheme does not extend to surgeries, particularly surgeries as cost-demanding as organ transplantation.¹⁹

3.5 Lack of Awareness

Nigerians are still largely ignorant regarding the importance of organ transplantation, the extent of the shortage of donors as well the high degree of success milestones which organ transplantation has recorded in recent times. The implication of this is the reduction in number of organs for donation. It is the researcher's belief that informed knowledge about the process could change the public perception towards organ donation. Some people are wont to not seek timely medical intervention for their ailment but rather resort to unorthodox and potentially harmful therapeutic; this is stemmed mostly out of ignorance or the fear of the medical diagnosis of the particular illness by orthodox medicine. Some of these persons are fortunate to survive and recover from the ailment after resorting to these alternative means of healing, while a good number of them unfortunately fall into even worse medical crises which often results in death. More so, it is trite knowledge in the Nigerian socio-cultural sensibility that organ harvesting or related acts on the body of a person is typically regarded as a maleficent activity, usually associated to ritual killings and organ trafficking that have become the order of the day.

¹⁷ J O Fadare and BL Salako, 'Ethical issues in Kidney Transplantation – Reflections from Nigeria' *Transplant Research and Risk Management* [2010] (2) (1) 87–91.

¹⁸ Y Shokunbi, 'Challenges of Kidney Transplant in Nigeria' <<http://independentnig.com/challenges-kidney-transplant-nigeria/>> accessed 16/10/2023 at 5:00am.

¹⁹ This is unlike what obtains in developed countries where the cost of transplants is covered under the insurance schemes. An example is the National Health Service (NHS) in England, which came into existence on 5 July 1948.



3.6 Lack of Adequate Facilities for Solid Organ Transplantation in Nigeria.

Solid Organ transplantation procedure is not a walk in the park. It is a capital-intensive venture in terms of the hospital setup, equipment and staff training. Most general hospitals in the country lack facilities to conduct effective transplantation, particularly kidney transplantation which is the most prevalent in the Country. As a result, the fortunate few who have the resources, travel outside the country to seek for better treatment wherein advanced and more sophisticated medical equipment are used. This leaves the rest of the populace who are unable to afford the expense of travelling outside the country for organ transplantation to resort to dialysis procedures, which in itself is very expensive while they await organs for transplantation and hope for a successful procedure. Either ways, it is a huge problem to persons who are in need of solid organ transplantation.

Although a few hospitals perform organ transplantation in the country, these hospitals are privately owned and expensive as well.

Again solid organ transplantation procedures have attendant risks ranging from the likelihood of post-surgery complications, which include: relapse or recurrence of pre-surgery malignancy, infections, retained bronchial secretions and mucous plugging, hemorrhage, rejection, phrenic nerve dysfunction, lung collapse, persistent air leaks, hemorrhage, respiratory failure, cardiac and hemodynamic complications.²⁰ Where there are no adequate facilities in place, these issues cannot be attended to.

3.7 Sale of organs

Due to the shortage or scarcity of organs for transplantation and the economic hardship in the country, some Nigerians have become involved in the business of selling their organs, particularly the kidneys, either within or outside the country for fund. This is a very serious issue in the country as this creates room for human trafficking, kidnapping, fraud as well as dire health complications or even loss of lives.²¹ The perceived lucrative advantage in selling one's organ as against donating such organs for free amongst the populace especially the youth in the country is a major challenge to organ donation in Nigeria, and with the economic situation in the country, even relatives of deceased persons would rather sell the deceased person's organs for profit rather than donate same. The poor or less privileged in the country are the most exploited of this situation. The harsh economic state of the nation has exposed the poor to these illegalities, most people are more than willing to sell their organs particularly the kidney in exchange for a better living which money can give.

3.8 Inadequate Data Record

There is no national database for organ donation in the country currently. This is a huge clog in the wheels of the success of organ donation and transplantation in the country. The need for this record cannot be overemphasized as it helps to keep a dossier of the level of growth of successful transplants, organ donors, organ recipients, and those still on the waiting list of organ reception if any, because Nigeria does not operate waiting list. This will go a long way towards increasing the level of public awareness of the existence of organ

²⁰ V Vinarsky, and LC Ginns, 'Postoperative Care and Early Complications' in AA Klein and others (eds.), *Organ Transplantation: A Clinical Guide* (Cambridge University Press 2011) 145–154.

²¹ J Alagbe, 'Nigerians Tricked into Selling their Kidneys Share their Experience' *The Punch*, Vol. 7240, No 174016 September, 2014, pp. 20–21



transplantation and donation in Nigeria. It will equally assist the lawmakers in carrying out their legislative functions on that subject matter.²²

3.9 Brain Drain

This is another major challenge to organ transplantation in Nigeria. The harsh economic situation in the country, incessant strike actions with little or no positive reaction by the government and most importantly the situation where professionals in crucial aspects of the economy are grossly underpaid, have resulted to massive exodus of highly skilled professionals, particularly medical practitioners from the country to western countries where their expertise would be better appreciated and compensated. This leaves Nigeria with the less competent medical practitioners who are now piloting the affairs of the medical sector. The result is a high rate of unprofessionalism and medical negligence in many hospitals thereby spiking the country's mortality rate to the high heavens.²³

4. Transplant Tourism

Transplant tourism involves the travel outside one's country where one resides to another country, with the aim of procuring an organ for transplantation, predominantly the kidney; and transplantation services.²⁴ Transplant tourism can be legal where it involves emotionally or biologically related individuals who have travelled outside their country of residence to receive an organ transplant in another country with more accessible and developed transplantation services. For instance, countries like the United Kingdom and the Republic of Ireland, operate official bilateral organ sharing programs, through this there are established cooperative agreements which are not considered to constitute transplant tourism.²⁵

However, with the rise in end stage kidney disease globally, and the resultant demand for organ which far exceeds the availability, people travel across international borders for transplantation and search of compatible organs. According to the 2008 Declaration of Istanbul, travel for transplantation can be regarded as a form of transplant tourism if it involves organ trafficking and/or commercialized transplantation activities, or if the country's capacity to fulfill its own citizen's transplant requirements is undermined as a result.²⁶

In Nigeria, transplant tourism have taken a tight hold in the country as patients in need of transplantation services especially kidney transplant, travel outside the country for treatment for reasons ranging from the incapacity of renal transplant system in the country, lack of confidence in the healthcare and while a few private and teaching hospitals in Nigeria, have varying degrees of the capacity to perform organ transplantation, the treatments are expensive. Again, organ donation network is currently not developed in Nigeria hence families of individuals in need of organ transplantation devise personal means

²² Aghanwa, *op. cit.*, 729.

²³ O O Olusegun, 'Challenges of Organ Transplantation in Nigeria,' *International Journal of Private Law* (2017) Volume 8 No.3/4, P. 205.

²⁴ G T Flaherty, N Nasir, C M Gormley, S Pandey, 'Transplant Tourism and Organ Trafficking: Current Practices, Controversies and Solutions', *International Journal of Travel Medicine and Global Health* (2021) 9(3) 102-106.

²⁵ *Ibid.*

²⁶ L C Pullen, 'Ten-Year Celebration of the Declaration of Istanbul: Significant Updates to Mark the 10th Anniversary of the Globally endorsed Declaration', *American Journal of Transplantation* (2018) Volume 18, Issue 11, 2615-2616.



of procuring organs for transplantation. The case of the former Nigerian Senator, Ike Ekweremadu, his wife Beatrice Ekweremadu, and a medical doctor who were convicted under the Modern Slavery Act 2015 for trafficking in person for organ removal is a case study. In that case, the defendants were alleged to have conspired to facilitate the travel of a Lagos based trader, Mr. David Nwamini to the United Kingdom for the purpose of harvesting his kidney for donation to Sonia Ekeremadu, daughter of former Nigerian Senator, Ike Ekweremadu and Beatrice Ekweremadu, who had been suffering from a kidney problem.²⁷ The defendants were found guilty and convicted by the Westminster Magistrate Court, presided over by Justice Jeremy Johnson of conspiracy, exploitation of vulnerable victims and trafficking in person for organ removal under Section 2 of the Modern Slavery Act, 2015 for the first time and Section 32 and 33 of the Human Tissue Act 2004.²⁸

Section 2 of the Modern Slavery Act²⁹ provides thus:

1. A person commits an offence if the person arranges or facilitates the travel of another person (“V”) with a view to V being exploited.
2. It is irrelevant whether V consents to the travel (whether V is an adult or a child).
3. A person may in particular arrange or facilitate V’s travel by recruiting V, transporting or transferring V, harbouring or receiving V, or transferring or exchanging control over V.
4. A person arranges or facilitates V’s travel with a view to V being exploited only if-
 - a. the person intends to exploit V (in any part of the world) during or after the travel, or
 - b. the person knows or ought to know that another person is likely to exploit V (in any part of the world) during or after the travel.
5. “Travel” means-
 - a. arriving in, or entering any country,
 - b. departing from any country,
 - c. travelling within any country.
6. A person who is a UK national commits an offence under this section regardless of –
 - a. where the arranging or facilitating takes place, or
 - b. where the travel takes place.
7. A person who is not a UK national commits an offence under this section if –
 - a. any part of the arranging or facilitating takes place in the United Kingdom, or
 - b. the travel consists of arrival in or entry into, departure from, or travel within, the United Kingdom.³⁰

By the provisions of section 3(4) of the Act³¹ a person is exploited in relation to organ removal, if ;

- (4) The person is encouraged, required, or expected to do anything-
 - a. which involves the commission, by him or her or another person, of an offence under Section 32 or 33 of the Human Tissue Act 2004 (prohibition of commercial dealings in organs and restrictions on use of live donors) as it has effect in England and Wales, or

²⁷ UK Court finds Ekweremadu, Wife, Others Guilty of Organ Harvesting, available at <https://www.vanguardngr.com.uk> , accessed on 11/10/2023 at 6:34am.

²⁸ Ibid.

²⁹ Modern Slavery Act, 2015.

³⁰ Ibid, Section 2.

³¹ Ibid, Section 3(4).



(b) which would involve the commission of such an offence, by him or her or another person, if it were done in England and Wales.

5. Conclusion

In conclusion, it is clear that solid organ transplantation is an effective solution to end stage organ failures. This fact has been proven to be true globally and as such the government of Nigeria, the legislature and of course the judiciary have a great role to play towards the harnessing the potentials of this medical intervention. It is recommended that people are sensitized on the issue of organ donation and the importance of transplantation. This will go a long way towards aiding the understanding and acceptance of the procedure; that way more people will be willing to donate their organs for transplantation. Again the government should provide advanced medical equipment for solid transplantation in government hospitals and make them easily accessible by everyone in terms of cost so as to curb the issue of transplant tourism in the country.