An Examination of the Nexus between Law and Medical Ethics in the Procurement and Transplantation of Human Organs in Nigeria

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Abstract: **The interaction subsisting between law and medical ethics, more particularly, legal control of procurement and transplantation of human organ in Nigeria is attractive premised on grounds of its history and the resultant effect of the conundrum in a heterogeneous society, largely made up of different religious beliefs. Against this backdrop, the authors examined the relational basis for the overall interaction between law and medical ethics, regard been had to the fact that medical practitioners are in the main saddled with the responsibility of procuring and transplanting of human organs aimed at restoring and where applicable reviving the health conditions of patients, notwithstanding the socio-cultural religious belief system of the individuals comprised in the Nigerian society. The authors argued that law should be a supportive instrumentin providing a stabilising effect on all aspects of practice of medicine, inclusive of the process of obtaining consent of the patient, procurement and transplantation of human organs. Consequently, the paper therefore maintained the imperatives of having various social and legal systems evolve a similitude of standardised proceedings and ethos relating to the protection of the health of its population, even at the detriment of socio- cultural and religious systems as applicable in Nigeria. The institutionalisation of the medical regime sector will invariably lead to the control of medical practice in the process of obtaining consent, procurement and transplantation of human organs in a developing multicultural society.**

I. INTRODUCTION

This examination focuses on the daily general interactions forming the bulwark of benign relational basis subsisting between law (as a form of definite and defined control in the overall display of medical ethics, duties of medical practitioner in the course of rendering both specialised and general services in accordance with the jurisprudence of clinical judgment) and the procurement and transplantation of human organs and consent by benefactors to so donate. In the light of the above, there is need for a proper appreciation of the gamut of usual interactions subsisting between law on the one hand and the entire medical regime, specifically, ethical issues in human organ procurement and transplantation. The above nonetheless, requires a profound and robust understanding of the intricate normative ethics associated with the prevalent medical regime as well as the desired need for legal control necessary in ensuring that „fairness‟ to the „hybrid art and discipline incidental to ethical issues and human organ procurement and transplantation‟ is maintained at all material time, with an aim of ensuring a delicate balance necessary for this manuscript.

II. THE NATURE AND SCOPE OF MEDICAL ETHICS

Ethics are rules of conduct established by interest groups or associations. Most professions have enforceable codes for their members. The word ethics takes its root from the Greek expression '*ethikos'*, a word which signifies 'custom' or 'usage'. From this, it would appear that ethics is a subject matter in philosophy, sociology or in some aspects, anthropology but not Law.

As an aspect of philosophy, it assists in the study of values like right, wrong, justice andresponsibility among others. Put in the light of a profession, it includes values in practice relating to what is right, wrong, just and indeed what can give the public confidence in the practitioners of the profession.

Ethics do not have the status of laws in terms of legislative creation. For this reason, such values that constitute the ethics of a profession do not have legislative sanctions. For instance, if an ethical code is broken, there is no possibility of state sanctions likeimprisonment, fines or other forms of punishment. The nebulous nature of ethics is painted by Bliton and Bartlett whose opinion was that the crucial elements of the originof clinical ethics was as a result of old researchers in this field moving beyond initial boundaries, providing detailed investigations and sustaining rigorous practice.[1] Generally, failure to comply with a code of professional ethics may result in suspensionor expulsion from that profession. Even at that, the legal procedure of a quasi-trial mustbe fulfilled. The rudiments of this start with the fair trial of the derelict. For instance, inthe medical profession, if a medical practitioner is unable to help his patient in his malady, he has an ethical responsibility to refer him to a specialist but there is no law on this. It is just a value of fairness and right to the patient to avail him the possibility of anexpert in the patient‟s ailment who may be able to provide a panacea to him.[2]

The strength of ethics is its ability to provide some measure

of internal cohesion among its adherents which guarantees compliance and fulfilment of the ethical values. Its weakness is mainly in its lack of statutory or state sanction.[3] Happily enough, some of the ethics in the medical profession have transformed into law. Examples of these are many. The ethics of communication between doctor and patient in recent years has beenstrongly influenced by the concept of informed concept. In addition, the issue of disclosure of confidential information of a patient by a medical practitioner may only be mitigated by issues bordering on the security of the state.

The practice of medicine reflects a symbiotic existence between medicine and other disciplines. These include philosophy, culture, sciences, politics and most importantly, law. In this relationship, there are usually conflicts. As regards philosophy, an evident bearing is made on morality, which to date, has a strong influence on medical practice. For instance, various situations occur that create conflicts between morality and medicine. The case of euthanasia readily comes up in this respect. The practitioner is placed in a dilemma between morality (assisting the patient to die instead of suffering) and medicine (providing the requisite care while the patient is still breathing). Another example in this respect is abortion. In this instance, the important issue is whether a medical practitioner may carry out an abortion on a patient and under what circumstances. The most important thing in this situation is whether the medical practitioner could terminate a pregnancy in life-saving circumstances or when there is a foetal defect. The argument amplified by Blackstone[4] still exists that life begins in the contemplation of the law as soon as the infant is able to stir in the mother‟s womb.

The clash between law and morality occurs where there are the two options of removing a life-threatening foetus in order to save the life of the living person or living the foetus in order to protect it. This conflict is usually difficult to settle. One thing is however clear. The medical practitioner has the ethical duty of providing care to the patient, in this case, the pregnant woman.

In the case of science, the medical practitioner is confronted with the emergence of new methods and drugs. Drugs must undergo clinical trials before they are clinically recommended by medical practitioners. The conflict comes up on who bears the consequences in case the clinical trials end up having negative effects.

As for culture, that provides a more complex result. In some cultures, women are not allowed to interact with men freely and indeed, they are kept in confines. If this culture is taken strictly, female patients cannot be attended to by male medical practitioners andvice versa. Notwithstanding this, the medical practitioner has an ethical duty to care for the patient. In some cultures, the body of a dead person must not be desecrated. In this situation, such a culture will not approve of the removal of a body organ from a brain- dead person for research or possible transplantation purposes.

Law appears to provide a stabilising effect on all these by providing control on various aspects of practice of medicine. For instance, there are statutes regulating medical practice in all jurisdictions. In Nigeria, some of the statutes include;

A. National Health Act[5]
B. Medical and Dental Practitioners Act[6]
C. Nursing and Midwifery Act[7]
D. Pharmacy Act[8]
E. Radiographers Registration Act[9]
F. University Teaching Hospitals Act[10]

In South Africa, some of the applicable statutes are:

A. Medical Schemes Act[11]
B. National Health Act[12]
C. Mental Health Care Act[13]
D. Health Professions Amendment Act[14]
E. Choice on Termination of Pregnancy Amendment Act.[15]

Each jurisdiction attempts to have a set of standardised criteria relating to the practice of medicine, protection of the person, physical integrity of the patient and healthcare generally. All these had existed as far back as the ancient civilisation in Greece, Rome and Africa, when there was no fixed regime for medical practice.

Medical education, curriculum and practice have varying contents all around the world. This notwithstanding, for a person to qualify to practice as a medical practitioner, he must have been admitted to a medical school, and would pass through supervision in practice which is usually referred to as „houseman ship.‟ Plato,[16] while admitting that his sources were imperfect, posited that medicalcurriculum commenced from composed medical lectures to less technical demonstrations indebted to the methods of the sophists which cover a wide range of medical themes and topics. Plato recorded that Hippocrates interpreted the human frameas an interrelated organism from which he (Hippocrates) founded his medical theories. These theories have greatly influenced medical curriculum through time all over theworld.

In Nigeria, to qualify as a medical practitioner, an individual must have successfully completed the curriculum in a recognised medical school situate in any of the private, state or federal university in Nigeria or other countries.[17]

Various social and legal systems evolved a similitude of standardised proceedings and ethos relating to the protection of the health of the population, which invariably must have led to the control of medical practice in contemporary times. The acknowledged father of medicine, Hippocrates (460-377 BC) provided a set of principles for medical practice which today, form the basis of the oath taken by every medical practitioner without which such a person cannot practice.

This oath is notable for its covenant to respect, and if necessary teach other members of the physicians‟ profession with emphasis between the teacher and pupil. The Oath provides moral requirements and behaviour expected of health

professionals which bestows on them higher responsibility over other persons. It is noteworthy that after this, the responsibility received severe shock after the famous Nuremberg Trials which revealed the atrocities of German health professionals in the Nazi regime. One of the effects of the trials was the Nuremberg Code which stipulated the basic requirements for the ethical conduct of research on human beings.

The permanent feature of this oath is its insistence upon standards of medical practice and upon the physician"s responsibility to his patients, their families and to the community in general. It laid the foundation, not merely of the knowledge, but of the ethics of medical practice which have grown in the course of time and it underscores medical practice even today.[18] A contemporary and more concise version of this oath is the Geneva Declaration.[19] Admittedly, this oath is meant to direct medical practitioners to maintain acceptable professional standards in the course of their practice. Medical ethics started with Hippocrates and his oath. In contemporary times, it covers an unimaginable range of issues in healthcare and related fields, especially the study of moral values as they apply to medicine.[20]

This range of issues include but is not limited to the following broad topics; physicians" paternalistic deceptions and violations of patient confidentiality; the rights of patients or their surrogates to refuse life sustaining treatments or request assistance in dying, drug experiments on children, demented or dying patients, and other incompetent or desperate patients; bias-free definition of health, death, disease and futility of treatment;removing viable organs from patients who are brain-dead or in cardiac arrest; grounds for foetal test, selection and abortion; involuntary hospitalization and treatment of mentally disturbed persons, conflicts of interest between physicians and their employersand third-party payers, public and private.[21]

From these broad topics, some ethical values are bound to arise. These are values which inform judgment in clinical practice. Some of these values are;

A. Beneficence-acting in the best interest of the patient
B. Non-maleficence–do not harm
C. Autonomy–the patient has the right to refuse or choose his treatment.
D. Justice–the distribution of scares health resources and the decision on the type oftreatment to each patient.
E. Dignity – the right of dignity of the patient and the practitioner
F. Truthfulness and honesty–telling the patient the truth about his / her medical history and circumstances

These ethical principles heavily govern medical practice and in most cases, it is difficultto discern what is ethically correct. Advances in technology, new inventions and experiments appear to be some of the reasons for the difficulty in tracking the discernment of what is ethically right or wrong. For example, Soulsby[22] cites theexample of hand-washing as once being a common courtesy but now, failure to do so would be seen as unethical. The reason for this is the result of the discovery of "superbugs" which are potentially fatal due to their resistance to available antibiotics. The medical practitioner"s duty and the application of medical ethics commence immediately a person obtains a consultation card. At that point, the person assumes another status. He becomes a „patient" to whom the medical practitioner must endow all the benefits of existing ethics of the medical profession. From that point, the patient issubject to medical interview.

The components of medical interview are:[23]

A. Chief complaint–the reason for the current medical visit. From this, the practitioner is able to detect the symptoms in the patient and record the patient"sown words. This is referred to as „presenting complaint"
B. History of present illness/complaint, that is, a chronological order of occurrence of symptoms and clarification of symptoms
C. Current activity; occupation, hobbies etc.
D. Medications and allergies – what drugs the patient takes including herbal remedies.
E. Past medical history

From each of these components, issues in medical ethics arise. These issues manifest in two main ethical theories[24] as follows:

A. Consequentialism
B. Deontology

Consequentialism holds that the moral theories that hold that the consequences of a particular action form the basis for any valid moral judgment about that action.

Deontology examines the extent and content of rightness or wrongness of actions as against their consequences.

A practical clinical example of the two theories is where, for instance, the doctor has to comment to the family of a patient who was transformed from a traumatic pain to death. The doctor may lie and say, „he died peacefully."[25]

Flowing from the above, it follows that with the increasing number of patients being offered kidney transplantation, for instance, there is a corresponding ethical and legal issues arising therefrom. These issues though codified in some jurisdictions, are however, subsumed in other issues which go beyond pure medical issues to economics of demand and supply.[26] As admitted by Ajayi et al, the main issues revolve around incentives for donors, organ trade and trafficking, the economics of eliminating waiting list (of donees) and the criminal activities of organ transplantation.[27]

Basically, ethical theories and principles that govern medical practice act as a framework in taking medical decisions. These principles do not provide answers to medical dilemmas. They only act as guide in handling particular situations in

medical interviews. As may be expected, oftentimes, moral values conflict with ethical values inmedical practice and vice versa.

The autonomy of the patient may clash with the beneficence of the medical practitioner where, for instance, the patient refuses blood transfusions or replacement of an ailing part with another, either provided by the government, private hospital or from a relation. Another example of this clash is in cases of patients with terminal diseases. In spite of the seeming waste of resources and time on such a patient, even when the patient refuses to be treated and seeks to be left alone to die, the doctor still has the duty to act in the best interest of the patient, that is, to do all to save his life.

III. THE PHILOSOPHICAL BASIS FOR THE INTERACTION BETWEEN LAW AND MEDICAL ETHICS

Law provides legal authority to practise medical profession to persons who have been trained as physicians, with specific professional qualifications and have been so accredited by national standards. Law establishes social rules of conduct, the violation of which may create criminal or civil liability. Medical ethics are enforced by law and professional standards while they are expressed through institutional policies and practise, professional standards and policies as well as fiduciary obligations. Due to space constraints, law is defined as „the sum of the conditions of social life in the widestsense of the term, as secured by the power of the state through the means of external compulsion."[28] Law comprises of the rules of conduct that have been approved by the government and which must be obeyed by all persons in that territory. Violation of these rules could lead to government action such as imprisonment or fine, or private action such as a legal judgement against the offender obtained by the person injured by the action prohibited by law. Law also consists of the body of unwritten law in those states that recognise common law.[29]

Drawing attention from the above premise, there is a socio-definition assumption that the ultimate security of law remains the „power of the state."[30] Flowing from the above, there is need to transmute the assumption that the basis of law in the control of medical ethics is to produce normative control of medical ethics through legislations, judicial decisions and the enforcement of professional ethics.[31] These regulatory laws carry specified consequences for compliance and non-compliance.

In respect of medical ethics, law serves both utilitarian and paternalistic purposes. Bentham"s utilitarian theory is helpful along these lines. Bentham looked at the consequences of an act in terms of the pain or evil which must be discouraged. He mirrored into the concerns of the legislator which are both primary and secondary.

The essence of the law therefore is to assist in procuring total happiness to the societyby discouraging acts that will produce evil. The basis of law as control for medical ethics is therefore to produce rules, by way of codes, rules and regulations and legislations for the protection of the society who in this case are patients and the medical practitioners as well. The justification for this is the prevention of the Benthamite „secondary evil" of protection of the lives of members of the society.[32] Ancillary to this argument is the paternalistic approach to law. Paternalism is a coerciveintervention to the behaviour of a person in order to prevent an individual from causing harm to himself or herself.[33] The basic components of this definition are: coerciveintervention and aim of preventing self-harm.

Significantly, Dworkin gives a general impression of this aspect. Dworkin[34] argued that legal paternalism is the view that it is permissible for the state to legislate, when necessary, to prevent individual harm on them-selves. Particularly, Dworkin asserted that paternalism is sometimes justified.

Flowing from the above, the paternalistic inference with a person"s liberty of actions is justified by reasons referring exclusively to the protection, welfare, good, happiness, needs, interests or values of the person being coerced.[35] For this reason, for instance, a law requiring for a measure of duty from a medical practitioner in the practice of his profession is paternalistic. Dworkin concludes that there are goods, such as health, among others, which any rational adult needs to pursue.[36] These goods can legitimately be promoted in certain circumstances by using the ultimate coercive force of the state. Drawing attention from the legal discourse above, it is worthy to note that law serves as the fulcrum for the legal control of medical ethics.[37]

In the light of medical ethics, law enters the scene in order to enforce ethical codes and oaths, which in themselves are statements of moral principles and values that govern medical practice, in terms of duty of care, compassion for the suffering, respect for the dignity and liberty of the human person, as well as the highest standards in transplantation of organs, clinical trials and general medical practice. They give medical practice the high standard of conduct to which to strive.

Some of the ethics in reference include the respect for secrets (confidentiality) health of the patient as first consideration (duty of care this includes replacement of ailing parts diagnosis and administration of drugs), respect for human life (dignity of the person).

It is noteworthy that some jurisdictions include the basic tenets in teaching medical ethics in their Code of Ethics of Practice. For instance, in the Code of Ethics for Medical and Dental Practitioners of the Pakistan Medical and Dental Council states that in Part 111, 10 (1) and (2) as follows:

A. The curriculum committee of the Council will ensure that adequate information on the Code of Ethics is included in the undergraduate college curriculum and that case studies have been prepared and disseminated

to provide guidance to medical and dental practitioners.

B. The goal of teaching medical ethics shall be to improve the quality of patient care by enhancing professional performance, through consideration of clinician's values, beliefs, knowledge of ethical and legal construct, ability to recognise and analyse ethical problems and interpersonal communication skills and consideration of the patients, whereby students shall be able to identify, analyse and attempt to resolve common ethical problems of medical and clinical nature.

In Nigeria, the extant law on transplantation is the National Health Act 2014. The Act regulates organ procurement and transplantation. It prohibits organ donation by minors, and makes the sale of organs punishable by a fine or jail term. Indeed the Code of Medical Ethics in Nigeria, 2004 Edition, discusses the duties of the Medical Doctor with reference to the care of the patient. Rule 28[38] deals with professional negligence extensively. It states that "medical practitioners and dental surgeons owe a duty of care to their patients in every professional relationship. The particular skill which training and eventual recognition and registration bestow on a practitioner is to be exercised in a manner expected of any practitioner or any member of the profession of his experience and status. It is required that a practitioner upgrades his skill as best as possible in the light of advancing knowledge in the profession..."

IV.THE PROCUREMENT AND TRANSPLANTATION OF HUMAN ORGANS

An organ in a human being refers to a part of the body that has a particular purpose,such as the heart or the brain.[39] From this literary definition, it is easy to deduce that an organ, to be so referred to, must have a specific purpose and function in the body. It is different from a tissue which Berube[40] aptly defines as an aggregation of morphological similar cells and associated intercellular matters acting together to perform certain specific functions in the body. These include the skin, muscles, bone and stem cells among others. The same author referred to a human organ as any differentiated part of the human body that performs a specific function.[41]

Medically, an organ is defined as a mass of specialised cells and tissues that work together to perform a function in the body.[42]Any part of the body that performs a specialised function is an organ. The eyes are organs because their specialised function is to see, skin is an organ because its function is to protect and regulate the body and the liver is an organ that functions to remove waste from the blood.[43] The National Health Act, 2014[44] defines an organ as 'any part of the human body adapted by its structure to perform any particular vital function, including the eye and its accessories, but does not include skin and appendages, flesh, bone, bone marrow, body fluid, blood or gamete. [45] In view of all the above, we shall suggest the definition of an organ as a structural and independent unit in a human being for a specialised function but operating in harmony with other organs of the body. In other words, there is a symbiotic existence among organs in the body. All organs perform important functions in the body. For various reasons, it might be imperative and expedient to replace an organ. The reasons include but are not limited to sub-optimal functioning of an organ, injury, preventive measure against anticipated malfunctioning of an organ and in extreme cases, irreversible failureof an organ.

The transfer of an organ from one human being (dead or living) to another is referred to as transplantation.[46] Transplantation of tissues came before that of organs. Jacques Louis Reverdin, a Swiss Surgeon successfully performed the first operation of skin transplantation in 1869 while Edward Sirm, a medical doctor performed the first corneal transplant.[47] The first living kidney transplant was performed in 1954 by Joseph Murrayand John Harrison, both of them at that time, surgeons at Peter Bent Brigham Hospital, Boston, while the first cadaveric kidney transplant was performed at the same Hospital in 1962.[48] In South Africa, the first heart transplant was performed by Dr. Christiaan Bernard on a certain Louis Washkansky, in 1967.[49]

Organ transplantation has become a life-saving procedure for many disease conditions hitherto considered incurable. The effects are manifold. The most glaring is that it prolongs life and assures better quality life in nearly helpless situations.[50]

There is little data on cases of transplantation in Nigeria unlike in other jurisdictions. The reason for this could be slow development of technology, culture, workforce and organs. Fadare and Salako[51] maintained that in Nigeria, just over hundred kidney transplants have been carried out in a limited number of centres.[52] There are no comprehensive records of transplantation of other organs in Nigeria.

In all these circumstances, there is the imperative of procurement of an organ. The procurement is from a donor source. Kanniyakonil attempted four types of transplantation of organs as follows; autograft, homograft, isograft and xenograft.[53] He further argued that autograft is the transplanting of an organ within the same individual from one part of the body to another while isograft is the transplantation of organs between two genetically identical individuals, such as identical twins. She also notesthat homograph is the transplantation of an organ from one individual to another within the same species while xenograft is the transfer of organs from animals to human beings.[54] From Kanniyakonil"s presentation, it can be distilled that autograft, isograft and homograft involve transplantation of organs between human beings while xenograft involves the transplantation of organs from animals to human beings. This means transplantation of organs from one specie to the other.

From the above, it can be easily discerned that there are two sources of procurement of organs for transplantation. These are from human beings and animals. The fall-back in this

categorisation of sources is the complete neglect of artificial organs which may be obtained from government sources or registered organisations who take interest intransplantation of organs.[55]

As for human beings, again, there is the need for categorisation in terms of sources of procurement. In this respect, procurement could be from living donors and cadaveric sources. Procurement of organs from living sources, even when they are minors, does not pose legal challenges unlike some cases in cadaveric procurement. The reason for this is not far-fetched. The living source has the opportunity of giving express consent. This is not obtainable in cadaveric situations although consent might be discerned from documents like a Will or single document on wish from a person on how to treat his cadaver when he eventually passes on. In terms of the cadaveric source, the testamentary wish of the dead person just before his death could also form the basis for procurement consent. The relations may however choose not to obey such wish.[56]

V. LEGAL FRAMEWORK ON PROCUREMENT AND TRANSPLANTATION OF HUMAN ORGANS

The National Health Act[57] establishes for the Federation of Nigeria a framework for standards and regulation of health services without prejudice to extant professional regulatory laws. It specifically provides for the use of organs obtained from deceased persons.[58] In terms of competency to donate an organ, section 55 of the Act provides as follows;

A. A person who is competent to make a Will may-(i) in the Will (ii) in a documentsigned by him and at least two witnesses or (iii) in a written statement made in the presence of at least two competent witnesses, donate his or her body or any specified tissue thereof to be used after his or her death, or give consent to the post mortem examination of his or her body, for the purpose provided for in this Act.[59]
B. Mental and legal capacity to make the decision
C. Consent without duress, undue influence and any form of coercion or misrepresentation

It should also be noted the need for the availability of sufficient information on the proposed surgery to ground a decision. See generally Stauch M, et al Sourcebook on Medical Law, 2nd edition (London: 2000):119. See again, *Medical and Dental Practitioners Disciplinary Tribunal v Okonkwo* (2001) FWLR (Pt. 44) 542, on consent, breach of Medical ethics, procedure of adjudication by the Medical and Dental Practitioners Disciplinary Tribunal. Furthermore, the justices in the case of Dr. Amos Adebayo v Chairman, Medical and Dental Practitioners Investigative Panel & Ors (2018) LPELR 45537 (CA) relied on some of the rationes in the case of Medical and Dental Practitioners Disciplinary Tribunal v Okonkwo. It was decided inter alia that it was an act of professional negligence if a medical practitioner failed to obtain the consent of the patient (informed or otherwise) before proceeding on any surgical procedure, or course of treatment when such consent was necessary.

This provision does not seem to take cognisance of the illiterate donor. Particularly, section 3 of the Illiterates Protection Act provides that where a person writes a letter or document at the request of, on behalf of, or in the name of an illiterate person, then the writer must write his name and address on the document in order for the illiterate to be bound by the document. Where the document is prepared by a Legal Practitioner, it is humbly submitted that the provision of a jurat to show that the contents of the document were read to the understanding and hearing of the illiterate person will suffice.

Section 57 of the same Act provides the procedure for the revocation of any donation asfollows; 'A donor may, prior to the removal for transplantation of the relevant organ into the donee, revoke a donation in the same way in which it was made or, in the case of a donation by way of a Will or other document, also by the intentional revocation of that Will or codicil or document'.

What appears close to the National Health Act is the Corneal Grafting Act.[60] With specific mention of the eyes, section 3 provides that a person may have his eyes removed for therapeutic purposes after his death if he, either in writing at any time during his lifetime or orally, in the presence of two or more witnesses during his last illness, expressed a wish that his eyes be so used unless there is reason to believe that the wish was subsequently withdrawn. Section 1(1) and (2) of that law allows a person who is in lawful possession of the body of a deceased person to authorise the removal ofthe eyes from the body for therapeutic purposes unless that person has reason to believe that the deceased had an objection to his eyes being so dealt with after his death which was not withdrawn or that the surviving spouse or any surviving relation objects to the deceased"s eyes being so dealt with. In Nigeria, the Anatomy Act[61] provides as follows; „It shall be lawful for any executor or other person having lawful possession of the body of any deceased person and not being an undertaker or other person entrusted with the body for the purpose only of internment, to permit the body of such deceased person to undergo anatomical examination, unless to the knowledge of such executor or other person such deceased person shall have expressed his desire, either in writing at any time during his life or verbally in the presence of two or more witnesses during the illness whereof he died, that his body after death might not undergo such examination, or unless the surviving husband or wife or any known relative of the deceased person shall require the body to be interned without such examination.[62]

It is noteworthy that the Nigerian Laws on cadaver are specific in terms of subject matter. For instance, the Corneal Grafting Act[63] relates specifically to the eyes. The Anatomy Act[64] does not discuss the removal of an organ. It is specific on anatomical examination.

This makes a sharp difference between South Africa and

Nigeria which might be a manifestation of the existence of acquired technology on organ transplantation in South Africa as against Nigeria.

Notwithstanding this disparity, it is clear that in both Nigeria and South Africa, the 'opt in' regime in organ donation exists. By this system, the donor gives a voluntary consenton what is to be done to his body when he eventually dies.

One weakness in the 'opt in' method is the role of relatives as provided in the National Health Act.[65] Grieving relatives as envisaged in section 62(2) of that law may not be forthcoming with consent to remove an organ from their deceased relation. The organ becomes useless except for research purposes hours after brain death. Documentary donation of an organ in a will therefore is of no use to a needy patient if the organ is not removed, preserved and used soon after the death of the donor.

In theorising on this matter, the lacunae in the National Health Act No 61 of 2003 is that it makes no mention of the consenting party in the case of a living person though in its Regulations, there is a provision that tissue, blood or gametes may not be removed from the body of another living person unless written consent has been granted by donors themselves.[66] Blackbeard[67] attempted to distinguish between the strong express consent system and the weak express system. Blackbeard's view is that a strong express consent system usually disregards the views of relatives in favour of the wishes of the deceased while the weak express consent system gives consideration to an objection from a relation who may be uncomfortable with the removal of an organ from the body of his relation. Blackbeard's conclusion in these circumstances is that there is a weak express consent system in South Africa. If we use these premises for our argument on the regime of consent in Nigeria, it is safe to conclude that the system in Nigeria is weak consent.

In the 'opt out' system, individuals are presumed to have agreed to the donation of their organs unless they have indicated otherwise. Blackbeard[68] appears to have carried out considerable research in consent to organ donation. He attempts a distinction between the strong and weak presumed consent jurisdictions. He suggests that in strong presumed consent jurisdictions, relatives' views are not considered against the express intention of the deceased as contained in his will.

In this instance, he cites Austria, Switzerland and Poland that have implemented that consent method.[69] In weak presumed consent systems, like Norway, where there is no objection to the removal of an organ by a relation, it would be presumed that the deceased had agreed to consent before his death. Among other issues one thing thatmust be discussed is the ownership of the cadaver.

In a survey carried out in 2008 by the Organ Donation Task Force in the United Kingdom, it was revealed that 90% of adults were in favour of becoming organ must donors. This must have influenced the recommendation of the Task Force that while presumed consent was ethically acceptable, an improved opt-in system or a system of mandated choice may be a better way of ensuring that the wishes of the donor were honoured.[70] What may probably hinder this genuine suggestion is the family overrule where families prevent donation from a registered organ donor even in an 'opt out' jurisdiction. As correctly noted by Shaw, the main distinction between the overrule in an opt-in system and the overrule in an opt out system is that in the former, the family is contradicting a recorded wish of a patient, while in the latter, the family is contradictingpresumed or deemed consent.[71]

The issue of consent to donate does not arise in artificial organs. This is because the source is the government, corporate entity or charity organisation. Artificial organs are still at their evolutionary stages and are mainly available in false dentition, limbs, and synthetic lenses and pace makers among others. These are usually expensive and may keep the person alive until a suitable organ donor is found.[72]

The shortage of human organs for the purpose of transplantation has pushed research to the use of animal organs in human beings. In this respect, organs from primates like baboons, chimpanzees and gorillas have been found to be expedient in replacement for ailing human organs. Pigs have also been considered for this purpose because of the possibility of extinction for the primates.[73] This is referred to as xenotransplantation. Consent for donation cannot be given by an animal but the recipient ought to beinformed in order to save him from the psychological torture of the knowledge that he carries an animal organ in his body.

It has been argued that the present state of transplants between species does not justify experiments which do not offer hope of therapeutic benefits to human beings. The premise for this argument is that it can only be justified if other alternatives are available.[74] Attempts are also being made to breed new species of animals like pigs so that their organs can be transplanted into humans with less risk of rejection.[75] If this is successful, the scientist involved hope that this will overcome the large shortage of human donor organs.[76]

In terms use of animals for extraction of organs for use in human beings, there are no Nigeria laws. However, the Nigerian Criminal Code[77] makes provisions for cruelty against animals along with sanctions against culprits. It is greatly debatable if removing an organ from an animal for use in a human being will amount to cruelty as defined in the Criminal Code. What will not be in doubt is that, the life of a human being is worth more than that of an animal. In view of this, removing an organ in an animal for the purpose of transplantation into a human being may not fall into the category of acts referred to in section 450 of the Nigerian Criminal Code.[78]

It is safe to conclude on this that any legislation, including the methods of organ procurement, has to accommodate all

various religions and cultures, without unreasonably limiting the rights of others or placing burden on them.[79]

VI. CHALLENGES TO PROCUREMENT AND TRANSPLANTATION OF HUMAN ORGANS

In order to appreciate the challenges to the procurement and transplantation of human organs in Nigeria, there is the need to examine the following factors.

I. These are medical and perhaps, scientific. Along these lines, Abouna noted that donor evaluation, both medical and psychological must be carried out in accordance with accepted protocols and that the consent of the donor must be received before procurement is finalised.[80] The process is deeply technical, complex and intricate and could end up being counterproductive if not fatal. The authors hereby adopt the determining factors for the transplantation of organs outlined by Davis and Wolitz:[81]

A. Blood types of donor (and potential recipient)
B. Histocompatibility, that is, the degree of match between the procurement matchand the recipient.
C. The degree to which both the donor and recipient are sensitized
D. Size and condition of the donor organ
E. Age of the donor
F. Classification of the urgency of the need of the organ
G. The length of time the potential recipient has spent on the waiting list
H. The distance between the potential recipient‟s location and the owner of theorgan to be procured (the donor)
I. Whether the recipient had donated an organ before then.

Davis and Wolitz[82] affirmed that blood type is a key factor in the process of transplantation. For this reason, they identify the four major types of blood as A, B, AB and O with each type containing a rhesus factor that is either positive or negative.

2. Procurement for transplantation depends on compatibility between the recipient and donor blood types. It is clear that organs can be procured from persons with blood type O for transplantation in potential recipients with blood type O. However, organs can be procured from an O blood type donor for transplantation in a recipient of any blood type. In other words potential recipients with O blood type have fewer chances of procuring organs for the purpose of transplantation.[83]

In terms of histocompatibility, the human leukocyte antigen[84] plays a critical role. There are six different *hlas* with ranking on mismatch scaling from O to 6. It is agreed that the lower the scale, the higher the chances of compatibility of the organ to be procured with the recipient.[85] The authors[86] stress that histocompatibility testing is important in kidney and pancreas allocation but plays virtually no role in liver, lung and heart allocation.

Some of the issues raised by Davis and Wolitz are likely to be mitigated by procurement from blood relations when they are willing to donate. Of importance is the degree to which the donor and recipient are sensitised. By this, we mean that the donor must be aware that he is making a donation of his organ in order to sustain another person and the recipient must be aware that an organ in his body is being replaced by another from another person‟s body. The age of the donor is also important. This is because when it is a minor that is involved, consent takes a difference dimension.

3. There is the need for sensitisation. Sensitisation cuts across all age strata, the age of the donor may present some complexity. For instance, if an organ is to be procured from a minor, the parents must be sensitised and they must give their consent. Without this consent, ethical and legal issues may arise.

4. The issue of classification of urgency and length of time of wait are also important. In extreme and urgent cases of need for an organ, procurement becomes an issue of emergency with the only determining factor of blood groups and histocompatibility playing important roles and length of time playing lesser role. Where for instance, there is acute haemorrhage due to injury from an accident, procurement would be from any source provided the blood group is the same and the chances of mismatch in histocompatibility are nil or nearly nil.

For the fact that the use of a procured organ for the purpose of transplantation is determined by the blood type, rhesus and histocompatibility, it can be safely concluded that these criteria play the most important considerations in the procurement of organs.

5. In Nigeria (and South Africa), cultural beliefs tend to play down the wishes of a person in ‘opt in’ cases. In South Africa, one of the reasons for this is the desire of the black South African to be wholly buried and not mutilated due to surgery for the excision of an organ. In Nigeria, death and organ donation are impacted by cultural beliefs and practices as well as veneration of dead bodies.[87] The Nigerian situation is dictated by the various ethnic nations that constitute the nation. For instance, among the *Yoruba* of the South West, it is an abominable thing to be buried without the complete body. Indeed, it is usually alleged that before a person who is a member of a cult is interned, his spirit will be invoked while his body will be checked by his colleagues to be sure that no parts of his body are missing.

For the fact that the operating rules are customary, they are not formal or written. This is not to assume that they are issues for rule of the thumb. The average South Westerneris a product of the community. In some cases, there are communal activities for the betterment of the community. It is in light of this that consent for donation of an organ can be viewed. The

situation will certainly be novel, in a local setting like *Oyo* in the northern part of the South West of Nigeria or *Ekiti* in the north eastern part, to give consent from the relations of a deceased for the removal of an organ from their demised or living relation. The situation may be different in the metropolis like Lagos where people are mostly educated. In the rural communities, removal of organ from either a living or a dead person will not gain consent as the use might have fetish connotations.

The Edo people of the South West see the body as sacred and not to be dismembered or violated. They believe in reincarnation and that the body is only a vehicle for the soul or human spirit. For this reason they comfort relations of the deceased that the deceased is not dead but has only transcended this life as his/her soul has gone beyond human perception. This is captured in the following *Edo* expression: *'waghe vie banwen no wu.* '[88]

It is therefore believed that dismembered body may be missing in subsequent reincarnation. This is how the Edo people explain birth defects. These ancient traditional beliefs are gradually giving way to modern thinking that organ donation saves and prolongs the lives of the recipients and as such should be encouraged. There is really no scientific basis to link the violation of the body for the purpose of extracting an organ for the use of another person with the possibility of reincarnation of the

[88].This literarily translated means „the transcended soul reincarnates fourteen times to atone for perceived sins before going into sublimation or eternity." By this, relations are consoled with the fact that their dead relation will still return to them person.

This occurs as well in the North and the Eastern parts. Among the Hausa/Fulani and the Igbos respectively, there is more respect for the dead body than the living person. For this reason, it will be seen as a terrible act to violate the body of a dead person.

The Northern part of Nigeria is inhabited predominantly by Muslims. The Islamic culture is that a dead person must be interned before the next sunset. In this case, it will be difficult to approach a freshly grieving family for consent to remove an organ from a dead relation. The position will not be different if such a demand is made to a living person who probably never heard of transplant. The only way out of this situation is mass enlightenment focused on the gains of giving consent for the removal of an organ for use by a person who is in dire need of it as against considerations for a dead person who no longer needs it**.**

VII. CONCLUSION

The investigation into the relationship subsisting between law and medical ethics in course of procurement and transplantation of human organs extends to the regime of normative ethics underlying medical regime in the Nigerian society and also informed the requirement for legal control that has effected 'fairness' to the hybrid art and discipline incidental to ethical issues and human organ procurement and transplantation, in the Nigerian context.[89]

It was demonstrated and/or maintained that the complex and complicated regime of medical ethics constituted a systemic and dynamic divide subsisting between medical practitioners-inclusive of the jurisprudence of legal control of procurement and transplantation of human organs in a multicultural society on one hand and patients related issues, ranging from pre-and-post consultation matters, such as right of privacy, duty of care as well as giving of consent on the other hand. The paper further demonstrated that in between the said divide, the harmonisation of the relational basis that between medical practitioners and patients in Nigeria, was considered imperative. However, beyond this harmonised sphere exists the need for an interfaced operational and functional law for the overall control of the system.

The investigation pointed out apparent challenges ranging from medical and scientific issues incidental to consent, the compatibility issue in respect of procurement for transplantation existing between the recipient and the blood types of the donor. Furthermore, the challenge of sensitisation in respect of the age bracket of the donor and the recipient is a strong case militating against the overall relationship between law medical ethics-in the routine procurement and transplantation of human organs in Nigeria. In the light of the above, it is suggested the need for sensitisation. Sensitisation cuts across different age strata.[90] Finally, there is pervading socio-cultural and religious belief systems that will continue to constitute strong factors in the relational basis subsisting between law and medical ethics pointedly aimed at achieving great success in the procurement and transplantation of human organs in a multicultural society.

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[2]. If for instance, an automobile accident patient is brought to a medical practitioner with serious loss of blood, it would be unethical for the practitioner to refuse to administer blood drips on him. If the patient dies of loss of blood, the medical practitioner may face the Ethics Panel which, after examining the matter and giving him a fair trial, may suspend or expel him from the practice of the profession or exculpate him entirely from the allegation depending on the circumstances

[3]. The exception to this assertion is where a patient refuses blood transfusion, on personal basis. See the case of Medical and Dental Practitioners Disciplinary Tribunal v Okonkwo [2001] FWLR (pt. 44) 542 and Dr Obioma Azubuike Okezie v Chairman, Medical and Dental Practitioners Disciplinary Tribunal (2010)LPELR-4717 (CA)

[4]. Blackstone"s Commentaries 1 129: Blackstone must have relied on Saint Thomas Aquinas" view that the time of animation of the foetus began with quickening; Suma Theological Part 1 Question 75 Article 1 available at https://spot.colorado.edu/~pasnau/westview/st1a75-76.htm accessed 29 May, 2019

[5]. 2014.

[6]. Cap. 221 [Laws of the Federation of Nigeria 2004]

[7]. Cap 332 [Laws of the Federation of Nigeria 2004]

[8]. Cap. 357 [Laws of the Federation of Nigeria 2004]
[9]. Cap. 386 [Laws of the Federation of Nigeria 2004]
[10]. Cap. 463 Laws of the Federation of Nigeria 2004]
[11]. Cap.131 of 1998 (SA)
[12]. Cap. 61 of 2003 (SA)
[13]. 2002 (SA)
[14]. Cap.29 of 2007 (SA)
[15]. Cap.1 of 2008 (SA)
[16]. Plato Phaedrus 270 c-d available at http://www.english.hawaii.edu/criticalink/plato/guide12.html accessed 28 May, 2019
[17]. The admission qualifications are at least, 5 credit level passes at not more than two sittings in Physics, Chemistry, Biology, Mathematics and one other subject in the West African School Certificate Examination or National Examination Commission. This is exclusive of the Joint Admissions and Matriculations Examination in which a candidate must score not less than 180 points to qualify. The final point for admission is the Post-Universities Matriculations Examination which is administered by individual universities. The minimum score for admission is usually locally determined. The duration of study is 6 years with one year mandatory „houseman ship" after which the candidate is awarded the Bachelor of Medicine and Bachelor of Surgery (MBBS or MB ChB). After this, a person may be referred to as a Physician or Medical Doctor. The situation in South Africa is not different in that there are sacrosanct entry requirements for admission to study medicine. For a candidate to convert a Grade 12 score for admission into medicine, an admission point of 28 is required with an achievement level of 5 (60%) in Physical Sciences and Mathematics respectively and 4 (50%) in English Language.
[18]. In referring to previous epochal works on Ethics, Mark J, and Virginia L. Bartlett, I „.Exploring Clinical Ethics Past to Imagine its Possible Future(s)", volume 18, 2018 – Issue 6 page 55 noted as follows„„…contributing to moving beyond initial boundaries of the field, to providing investigations and to sustaining rigorous practice are crucial elements of clinical ethics origin stories and so deserve considerably more attention…"
[19]. Adopted by the General Assembly of the World Medical Association, September 1948. It reads; I solemnly pledge to concentrate my life to the service of humanity, I will give to my teachers the respect and gratitude which is their due. I will practice my profession with conscience and dignity. The health of my patient will be my first consideration; I will respect the secrets which are confided in me, even after the patient has died, I will maintain by all means in my power, the honour and the noble tradition of the medical profession. My colleagues will be my brothers; I will not permit considerations of religion, nationality, race, party politics or social standing to intervene in my duty and my patient, I will maintain the utmost respect for human life from the time of conception. Even under threat, I will not use my medical knowledge contrary to the laws of humanity. I make these promises solemnly, freely and upon my honour.
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[25]. The consequentialist"s view on this is that the family"s burden of the pain on their kin is lighter, knowing, at least, that he had died peacefully. The deontological approach is entirely different. The deontologist believes that lying is fundamentally wrong and that the family members are entitled to the truth about the circumstances of the death of their kin.
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[27]. Ibid, at P. 125. See also Abubakar A Bakari, Umar S Abbo Jimeta, Mohammed A Abubakar, Sani U Alhassan and Emeka A Nwankwo, "Organ Transplantation: Legal, Ethical and Islamic Perspectives in Nigeria," Nig. J. Surg. 18 (2) (2012): 53-60
[28]. The question may be asked, „whether law must possess a coercive element by way of sanction." Is law devoid of its character as law on grounds of lacking an incidental element of sanction. Is „obedience" a necessary ingredient of law. It should be noted however, that compliance to effective laws is not in any an infraction to the existence of the given law.
[29]. Law Dictionary <http://www.lawinfo.com/lawdisctionary/dict-l.htm/l> accessed 7 January, 2019.
[30]. The state as a matter of fact, and through its legislative arm is charged with law-making. Baring all odds, some jurisdictions are usually inclined in accommodating bills of private individuals, in the course of enriching its legal system.
[31]. There is need to emphasis the fact that laws aimed at achieving control of medical profession and incidental ethics are constitutive and manifesting forms of positive laws.
[32]. In this instance, he cited the case of a robber who inflicts an evil upon his victim who loses his money. This is primary evil. The secondary evil aspect of it is that a successful robbery will give the impression that robbery is easy. The effect of this is to weaken the sanctity of life and property in the community. The secondary evil aspect is more important than the primary evil in that the actual loss to the victim may well be considerably less than the harm against security, property and life, which are against the society at large.
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[34]. Dworkin, Paternalism: Some Second Thoughts (University of Minnesota Press, 1983): 107
[35]. Ibid.
[36]. In the practical sense, paternalism is a limitation of the right of the individual up to the point at which he ought to be protected by the State. Some of the ways of protecting the individual are contained in Chapter Four of the 1999 Constitution of the Federal Republic of Nigeria and Chapter two of the Constitution of the Republic of South Africa, 1996. The same type of provisions exist in jurisdictions where there are written constitutions like Ghana, America, Finland among others. These provisions protect the rights of individual from interference by the State and other persons. As was noted by the European Court of Human Rights in Neimeitz v. Germany 16 December 1992 paragraph 29, the rights ensure „the development without outside interference, of the personality of each individual in his relations with other human beings."
[37]. Notwithstanding the teleological paternalism of law, there are however, limits as observed by Dworkin. (1)The state must show that the behaviour governed by the proposed restriction involves the sort of harm that a rational person would avoid. (2) The calculations of a fully rational person, the potential harm restriction outweighs the benefits of the relevant behaviour. (3) The proposed restriction is the least restricted alternative for protecting against the harm. See generally Dworkin R, Ibid, at Pp. 109, 111.
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[43]. Ibid, at Pp. 7, 11.
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[48]. Ibid.
[49]. Ibid. Cf. with Nigeria, it is a known fact that the pioneer kidney transplant in Nigeria was carried out in 1999 at the University College Hospital, Ibadan. After this, Teaching Hospitals with facilities for kidney transplant in Nigeria have increased. They include the Obafemi Awolowo University Teaching Hospital, Ile-Ife, Ahmadu Bello University Teaching Hospital, Zaria, Bayero University Teaching Hospital, Kano and lately St. Nicholas Hospital, Lagos.
[50]. Fadare J. and Salako B., "Ethical Issues in Kidney Transplantation-Reflections from Nigeria," Dove Press Journal (2010): 87.
[51]. Ibid.
[52]. In the communiqué issued at the first Scientific and Biennial meeting of the Transplant Association of Nigeria on 24 October, 2012, the Association noted that 160 kidney transplantations had been successfully performed in Nigeria. See also Ifeoma Ulasi and Chinwuba K. Ijoma, Transplantation, April 2016. Volume 100. Number 4 where it was asserted that only living donation is offered in Nigeria and that a total of 201 kidney transplants have been performed between 2000 and 2014. This may be compared with a 2009 report that at least 1000 kidney transplants are done in Egypt in a year. See Delmonico L. Francis, The Implications of Istanbul Declaration on Organ Trafficking and Transplant Tourism, Current Opinion on Organ Transplantation: April 2009-Volume 14-Issue 2- page 116-119.
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[55]. See for instance, the Organ Donation Foundation of South Africa, Transplant Links Charity of the United Kingdom, United Network For Organ Sharing of the United States and other organisations with such interest
[56]. Space constraint will not permit us do an in-depth investigation on consent. However, the following are the important factors to be considered in respect of consent. A. Mental and legal capacity to make the decision B. Consent without duress, undue influence and any form of coercion or misrepresentation It should also be noted the need for the availability of sufficient information on the proposed surgery to ground a decision. See generally Stauch M, et al Sourcebook on Medical Law, 2nd edition (London: 2000):119. See again, Medical and Dental Practitioners Disciplinary Tribunal v Okonkwo (2001) FWLR (Pt. 44) 542, on consent, breach of Medical ethics, procedure of adjudication by the Medical and Dental Practitioners Disciplinary Tribunal. Furthermore, the justices in the case of Dr. Amos Adebayo v Chairman, Medical and Dental Practitioners Investigative Panel & Ors (2018) LPELR 45537 (CA) relied on some of the rationes in the case of Medical and Dental Practitioners Disciplinary Tribunal v Okonkwo. It was decided inter alia that it was an act of professional negligence if a medical practitioner failed to obtain the consent of the patient (informed or otherwise) before proceeding on any surgical procedure, or course of treatment when such consent was necessary.
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[58]. Section 54 provides that „Human organs obtained from deceased persons for the purpose of transplantation or treatment or Medical or dental training, shall only be used in the prescribed manner.
[59]. Section 56 provides for the purposes recognised under the Act for donation of the body as follows;(a) training of students in health sciences (b) health research (c) advancement of health sciences (d) therapy, including use of tissue in any living person; or (e) production of therapeutic, diagnostic and prophylactic substance.
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[61]. Cap A16 Laws of the Federation of Nigeria of 2004. Nigeria being a federation of states, each state has its Anatomy Law. For instance, there is the Anatomy Law of Ogun State Cap 12 Laws of Ogun State of Nigeria of 2006, Anatomy Law, Cap 11 Revised Laws of Enugu State of Nigeria, 2004.
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[73]. It is doubtful if Animal Rights Organisations will agree to the removal of organs from animals as they may perceive that as cruelty against animals notwithstanding the positive effects on humanity.
[74]. Ibid at f/n 88
[75]. Ibid.
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[77]. Cap C38 Laws of the Federation of Nigeria 2004. Section 450 provides that: Any person who wilfully and unlawfully kills, maims, or wounds, any animal capable of being stolen, is guilty of an offence and is liable for imprisonment for seven years if found guilty. 459 (i)(a) „any person who cruelly beats, kicks, ill-treats, over-rides, over-drives, over-loads, tortures, infuriates, or terrifies any animal, or causes or procures, or being the owner, permits any animal to be so used" Or (e) „subjects, or causes or procured, or, being the owner, permits to be subjected, any animal to any operation which is performed without due care and humanity is guilty of and offence of cruelty and is liable to imprisonment for six years or to a fine N50 or to both such imprisonment and fine."
[78]. Cap C38 Laws of the Federation of Nigeria 2004
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[82]. Ibid at p. 4
[83]. See generally note 58 at P. 34
[84]. [Hereafter, HLA]
[85]. Note 58 at P.36
[86]. Ibid.
[87]. 87Ifeoma I, Ulasi and Chinwuba K. Ijeoma, Transplantation, April 2016, Volume 100. Number 4 page 695
[88]. 88.This literarily translated means „the transcended soul reincarnates fourteen times to atone for perceived sins before going into sublimation or eternity." By this, relations are consoled with the fact that their dead relation will still return to them.
[89]. 89 See generally, the legislations on Health in Nigeria. See specifically, National Health Act, Medical and Dental Practitioners Act, Nursing and Midwifery Act, Pharmacy Act, Radiographers Registration Act and University Teaching Hospitals Act.
[90]. It should be noted that the age of the donor has always been a

major problem in the procurement and transplantation of human organs. Some of the major reasons for this problem remains the issue of poverty, inaccessible and remote settlements and illiteracy.