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112TH CONGRESS
2D SESSION

H. R. 6573

To combat trafficking in human organs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 12, 2012

Ms. ROS-LEHTINEN introduced the following bill; which was referred to the Committee on Foreign Affairs

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A BILL

To combat trafficking in human organs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Trafficking in Organs Victims Protection Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) World Health Organization (WHO) officials have estimated that approximately 10 percent of all transplanted kidneys worldwide are illegally obtained, often bought from impoverished persons who

sell their organs out of desperation or harvested from prisoners.

(2) The Council of Europe is investigating allegations made by Ms. Carla del Ponte, a former chief prosecutor at the International Criminal Tribunal of the Former Yugoslavia, that approximately 300 ethnic Serbs in Kosovo were kidnapped in 1999 with their organs being forcibly removed for sale by their captors.

(3) The Special Rapporteur for the Council of Europe's Social, Health and Family Affairs Committee, Mrs. Ruth-Gaby Vermot-Mangold, interviewed a number of coerced kidney donors during a May 2003 visit to Moldova, who were all young men driven by extreme poverty to sell their kidneys for a sum of $2,500 to $3,000, and reported that the medical follow-up of these illegal organ harvesting operations lasted no more than five days, after which the donors were sent back on a bus to their home country, frequently causing permanent disabilities due to complications from the operations.

(4) The Council of Europe's Special Rapporteur, Vermot-Mangold, also reported that the recipients of these kidneys were estimated to have paid

between $100,000 and $250,000 for kidney transplants.

(5) On June 3, 2003, the Council of Europe's Special Rapporteur, Vermot-Mangold, testified that international criminal organizations had exploited those in extreme poverty in nations in Eastern Europe in order to harvest their organs for sale on the black market.

(6) Between 2001 and 2003, a South-African black market kidney transplant ring coerced over 109 impoverished people, mostly from Brazil and Romania, to travel to Durban, South Africa, to forfeit a kidney for the promise of approximately $120,000, with that payment sometimes not being provided following the operation.

(7) According to the January 2007 report by David Matas and David Kilgore entitled, ''Bloody Harvest: Revised Report into Allegations of Organ Harvesting of Falun Gong Practitioners in China'', the Web site of the Organ Transplant Center of the Armed Police General Hospital in Beijing, China, stated in 2004 that, ''Our Organ Transplant Center is our main department for making money. Its gross income in 2003 was 16,070,000 yuan. From January to June of 2004, income was 13,570,000 yuan.

This year (2004) there is a chance to break through 30,000,000 yuan.''.

(8) In May 2004, the World Health Assembly passed a resolution urging its member-states to take measures to protect the poorest as well as vulnerable groups from exploitation by organ traffickers.

(9) On May 3, 2004, Radio Free Europe-Radio Liberty reported that Afghanistan's Interior Minister Ali Ahmed Lakali announced that in 2003 the Interior department had made over 100 arrests on charges of child abduction, and stated that the problem was growing as children were being taken to be sold for ''sex or labor, or to provide human organs''.

(10) On November 20, 2004, Xin Ren from California State University stated to the International Bureau for Children's Rights Conference in Montreal, that, ''[In 2003] [c]hildren were often either sold by their parents for little money or kidnapped and abducted by the traffickers to have their organ(s) removed for transplant purpose. . . . [S]ome people were even murdered in the process of forcible removal of their organs.''.

(11) According to the January 2007 report by David Matas and David Kilgore, from 2000 through 2005, the sources of the organs used were not iden-

tified in an estimated 41,500 organ transplants that were performed in China during that period.

(12) On March 30, 2006, the Police Superintendent of Paranaque, Philippines, announced the arrest of a suspect alleged to have been involved with a kidnapping syndicate in the region which had been abducting children to remove and sell their organs on the global black market, as in the case of one child who was discovered dead in Cavite, Philippines, with his internal organs missing.

(13) In March 2006, a children's rights expert at the Afghan Independent Human Rights Commission, Hengameh Anwari, stated, ''Other reports that cause concern indicate that a number of children are abducted because of their body organs; they become victims of trafficking to foreign countries especially for their kidneys.''.

(14) In mid-November 2006, China's Deputy Health Minister Huang Jiefu acknowledged that executed prisoners sentenced to death are sources for organ transplants, and Asia News reported that Deputy Health Minister Huang had said he was cognizant of the fact that too often organs come from non-consenting parties and are sold for high fees to foreigners.

(15) Senator Patrik Vankrunkelsven of Belgium reported that in November 2006 he called two hospitals in China and was offered a kidney by each facility for the price of 50,000 Euros.

(16) According to the January 2007 report by David Matas and David Kilgore, the Web site for the China International Transplantation Network Assistance Centre in May 2006 posted the following statements in its frequently asked questions section: ''The First Affiliated Hospital of China was established in 2003 specifically for our foreign friends . . . Viscera providers can be found immediately! . . . The supreme demotic [''people's''] court, supreme demotic law-officer, police, judiciary, department of health and civil administration have enacted law together to make sure organ donations are supported by the government . . . Our organs do not come from brain death victims because the organ may not be good.''.

(17) On January 8, 2007, the Sun newspaper of London reported that a severe shortage of available organs for transplant in the United Kingdom had contributed to that country becoming one of the top recipients of illegally trafficked organs.

(18) In 2007, Pakistan was identified by the WHO as one of the top destinations for ''transplant tourism''.

(19) Pakistani authorities in April 2007 raided a black market organ ring in Lahore that consisted of doctors, officials, and middlemen who had abducted potential donors, drugged them and removed their kidneys without consent to then sell for profit.

(20) Dr. Zafar ul Ahsan, a top urologist at Fatima Jinnah Hospital in Lahore, Pakistan, stated in September 2007, ''Nearly 2,000 kidneys are transplanted in Pakistan every year, and seventy percent are bought by foreigners from Saudi Arabia, the UAE, Britain and Canada . . . A mafia is running Pakistan's kidney transplant business with agents paying $1,000 to poor donors and then selling their kidneys on the black market for thousands of dollars.''.

(21) According to organ trafficking specialists at the WHO, the country of Moldova ranks third as a source of organs for sale on the global black market, with such human organs frequently smuggled into neighboring Romania for delivery to underground clinics located in several European Union member-states.

(22) In 2007, five employees of the tissue bank at the Faculty Hospital in Brno-Bohunice, the Czech Republic, were arrested and charged with illegal organ trafficking for selling more than $340,000 worth of illegally obtained skin grafts to a tissue bank in the Netherlands.

(23) In January 2008, the Government of India's Health Ministry released an estimate that more than 100,000 kidney transplants are needed in India each year, but only 5,000 are performed legally.

(24) On February 13, 2008, the United Nations Global Initiative to Fight Human Trafficking (UNGIFT) hosted the ''Vienna Forum to Fight Human Trafficking'', and cited in its subsequent report that a lack of adequate laws against illicit organ trafficking has created the opportunity for such illegal trade to grow and that there were clear indications that organ trafficking was increasing and frequently involved members of international criminal organizations.

(25) On April 12, 2008, police raided a black market organ transplant house near Manila, Philippines, arresting three traffickers and discovering nine donors in the house, one of whom stated to authorities that he had been promised $2,800 for his

kidney, and he was doing it because, ''I can barely provide for my wife and children.''.

(26) On April 30, 2008, the Government of the Philippines passed a ban on transplants to foreign citizens, except in cases of familial relations, in response to data showing that kidney transplants from Filipinos to foreign recipients had increased over 60 percent between 2002 and 2006, which confirmed earlier reports of a thriving illegal organ black market in the Philippines.

(27) On November 17, 2008, the Congress of the Philippines passed a resolution which directed a Senate committee to investigate the rising instances of child organ trafficking in the country, and stated that the National Bureau of Investigation's Human Trafficking Division reported that, ''the abducted children are housed somewhere in Mindanao where victims are supplied with vitamin supplements to keep their internal organs healthy, and are then transported outside the country to undergo surgery for organ transplants''.

(28) In November 2008, Kosovar police searched a private clinic and found drugs and blood in plastic bags, and charged two doctors for the crime of performing illegal organ transplants.

(29) A February 2008 police raid on an organ trafficking ring in Gurgaon, India, found that men posing as doctors to remove kidneys from migrant laborers conducted approximately five hundred illegal kidney transplants over nine years, and possessed a waiting list of potential recipients of those organs from Canada, Greece, Saudi Arabia, Dubai, the United Kingdom, the United Arab Emirates and the United States.

(30) On April 8, 2009, the Global Post in Cairo reported that the Egyptian Government was considering legal measures to increase the number of legal organ donations to meet demand, which included a proposal supported by some in the religious community to harvest organs from executed criminals, with or without their consent, as Ministry of Health spokesman, Dr. Abdel Rahman Shahin stated, ''They [some religious clerics in favor of the measure] are saying that when [convicts'] organs are taken, they're compensating for the bad they did.''.

(31) According to a June 1989 report by Georgetown University's Joseph and Rose Kennedy Institute of Ethics entitled, ''Anencephalic Infants as Potential Organ Sources: Ethical and Legal Issues'', some European physicians have addressed

the shortage of human organs available for transplant by disregarding bioethical standards and removing the vital organs from anencephalic infants, prior to the medical determination of whether total brain death or cardiac death had occurred, on the ground that these infants were ''brain-absent'' and could be treated as if they were brain dead or, alternatively, that they were sufficiently lacking in cognitive capacity that the usual moral constraints on killing persons did not apply, which in effect authorized them to actively cause the death of these infants.

(32) In November 2010, the Associated Press reported that Netcare KwaZulu, a hospital in South Africa's eastern KwaZulu-Natal province, pleaded guilty to removing organs from five minors between 2001 and 2003.

(33) On January 12, 2011, Doctor Yusuf Sonmez, who has been dubbed the ''Turkish Frankenstein'', was arrested in Pristina for his alleged participation in illegal organ trafficking in Kosovo and Azerbaijan.

(34) On March 21, 2011, the Council of the European Union adopted minimum rules supplementing the definition of criminal offences and the

level of sanctions, which strengthens the prevention of organ trafficking and the protection of those victims.

(35) In May 2011, a Kosovo court brought charges against five suspects for their alleged participation in a network involved in trafficking people into the country, and selling their kidneys for illegal transplants.

SEC. 3. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the kidnapping or coercion of individuals for the purpose of extracting their organs for profit is abhorrent and in contradiction of the ideals and standards for ethical behavior upon which the United States has based its laws;

(2) the harvesting of organs from living children, regardless of the level of brain activity, is a violation of the human rights of the child and is a breach of internationally accepted medical ethical standards described in World Health Organization Assembly Resolution 57.18 (May 22, 2004); and

(3) the illegal harvesting and trafficking of human organs violates the Universal Declaration of Human Rights, in Article 3 which states, ''Everyone has the right to life, liberty and security of person.'',

and Article 4 which states, ''No one shall be held in slavery or servitude.''.

SEC. 4. STATEMENT OF POLICY.

It shall be the policy of the United States to—

(1) seek to end the offensive practice of exploiting the poor and vulnerable for the purpose of harvesting and trafficking their organs;

(2) combat criminal trade in human organs; and

(3) promote the dignity and security of human life in accordance to the Universal Declaration of Human Rights.

SEC. 5. AMENDMENTS TO THE FOREIGN ASSISTANCE ACT OF 1961.

Section 116(f)(1)(B) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(f)(1)(B)) is amended—

(1) in clause (v), by inserting after ''mental and physical health care'' the following: '', post-operative and rehabilitation care for victims of trafficking in human organs (as defined in section 103 of the Trafficking Victims Protection Act of 2000),''; and

(2) by adding at the end the following:

''(x) The extent to which violations of the country's laws against trafficking in human organs (as defined in section

103(12) of the Trafficking Victims Protection Act of 2000) have occurred, as determined by the human rights officer at the United States embassy in the country.''.

SEC. 6. AMENDMENTS TO THE TRAFFICKING VICTIMS PROTECTION ACT OF 2000.

(a) DEFINITIONS.—Section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102) is amended—

(1) in paragraph (2)—

(A) in subparagraph (B), by striking ''or'' at the end;

(B) in subparagraph (C), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(D) exploitation of a person through the promise of granting of payments or benefits in order to compel or entice the person to consent to the removal of one or more of the person's organs for a transplant operation, in a manner contrary to the standards described in World Health Organization Assembly Resolution WHA 57.18 (May 22, 2004).'';

(2) in paragraph (8)—

(A) in subparagraph (A), by striking ''or'' at the end;

(B) in subparagraph (B), by striking the period at the end and inserting: ''; or''; and

(C) by adding at the end the following:

''(C) trafficking in human organs (as defined in paragraph (12)).'';

(3) by redesignating paragraphs (12) through (14) as paragraphs (13) through (15), respectively; and

(4) by inserting after paragraph (11) the following:

''(12) TRAFFICKING IN HUMAN ORGANS.—

''(A) IN GENERAL.—The term 'trafficking in human organs' means—

''(i) the recruitment, transportation, transfer, harboring, or receipt of a person, either living or deceased, for the purpose of removing one or more of the person's organs, by means of—

''(I) coercion;

''(II) abduction;

''(III) deception;

''(IV) abuse of power or a position of vulnerability; or

"(V) transfer of payments or benefits to achieve the consent of a person having control over a person described in the matter preceding subclause (I); and

"(ii) the illicit transportation and transplantation of those organs in one or more other persons for profit or any other purpose.

"(B) ORGAN DEFINED.—In subparagraph (A), the term 'organ' means the human (including fetal) kidney, liver, heart, lung, pancreas, bone marrow, cornea, eye, bone, and skin or any subpart thereof and any other human organ (or any subpart thereof, including that derived from a fetus) specified by the President by regulation for purposes of this division.".

(b) INTERAGENCY TASK FORCE TO MONITOR AND COMBAT TRAFFICKING.—Section 105(d)(3) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7103(d)(3)) is amended by inserting after the first sentence the following: "Such procedures shall include collection and organization of data from human rights officers at United States embassies on host country's laws against

trafficking in human organs and any instances of violations of such laws.''.

(c) PROTECTION AND ASSISTANCE FOR VICTIMS OF TRAFFICKING.—Section 107(a) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7103(a)) is amended by adding at the end the following:

''(3) DEFINITION OF VICTIM OF TRAFFICKING.—For purposes of this subsection, the term 'victim of trafficking' means only a person who has been subjected to an act or practice described in paragraph (8) or (9) of section 103 as in effect on the day before the date of the enactment of the Trafficking in Organs Victims Protection Act.''.

(d) REPORTS TO CONGRESS.—Section 110(b)(1) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107(b)(1)) is amended—

(1) in subparagraph (E), by striking ''and'' at the end;

(2) in subparagraph (F), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(G) with respect to trafficking in human organs—

''(i) a list of the 10 countries determined to be the largest source of illegally

trafficked human organs during the period covered by the report and a list of the 10 countries determined to be the largest recipients of illegally trafficked human organs during the period covered by the report;

''(ii) any actions taken by each country listed under clause (i) to address and prevent trafficking in human organs;

''(iii) any cooperative efforts by the United States and each country listed under clause (i) to address and prevent trafficking in human organs through joint public awareness campaigns; and

''(iv) information regarding practices of trafficking in human organs of each country listed under clause (i) in the Department of State's travel advisories.''.

SEC. 7. AMENDMENTS TO THE STATE DEPARTMENT BASIC AUTHORITIES ACT OF 1956.

Section 42 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2714) is amended—

(1) in subsection (a), by striking ''convicted of an offense described in subsection (b) of this section during the period described in subsection (c) of this

section'' and inserting ''convicted of an offense described in subsection (b) or (c) of this section during the period described in subsection (d) of this section'';

(2) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(3) by inserting after subsection (b) the following:

''(c) HUMAN ORGAN TRAFFICKING OFFENSES.—Subsection (a) of this section applies with respect to any individual convicted of an offense under section 301 of the National Organ Transplant Act (42 U.S.C. 274e).''.

SEC. 8. ACTIONS UNDER THE INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT.

(a) IN GENERAL.—The President may exercise the authorities set forth in section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702) without regard to section 202 of that Act (50 U.S.C. 1701) in the case of any of the following:

(1) The export of anti-rejection human organ transplant drugs to countries identified by the Secretary of State as the largest source of illegally trafficked human organs or the largest recipients of illegally trafficked human organs in the report required

under section 110(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107(b)).

(2) The travel abroad by United States citizens for the purpose of participation in any activity relating to human organ trafficking (as defined in section 103 of the Trafficking Victims Protection Act of 2000).

(b) PENALTIES.—The penalties set forth in section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) apply to violations of any license, order, or regulation issued under this section.

SEC. 9. LIMITATION ON FUNDS.

No additional funds are authorized to be appropriated to carry out this Act or any amendment made by this Act.

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