

107TH CONGRESS  
1ST SESSION

# H. R. 2368

To promote freedom and democracy in Viet Nam.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 28, 2001

Mr. SMITH of New Jersey (for himself, Mr. TOM DAVIS of Virginia, Ms. SANCHEZ, Mr. ROHRABACHER, Ms. LOFGREN, Mr. ROYCE, Mr. WOLF, and Mr. GILMAN) introduced the following bill; which was referred to the Committee on International Relations, and in addition to the Committees on Financial Services, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To promote freedom and democracy in Viet Nam.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Viet Nam Human Rights Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for  
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

Sec. 3. Purpose.

TITLE I—CONGRESSIONAL-EXECUTIVE COMMISSION ON VIET  
NAM

- Sec. 101. Establishment of Congressional-Executive Commission on Viet Nam.  
 Sec. 102. Functions of the Commission.  
 Sec. 103. Membership of the Commission.  
 Sec. 104. Votes of the Commission.  
 Sec. 105. Expenditure of appropriations.  
 Sec. 106. Testimony of witnesses, production of evidence; issuance of subpoenas; administration of oaths.  
 Sec. 107. Appropriations for the Commission.  
 Sec. 108. Staff of the Commission.  
 Sec. 109. Printing and binding costs.

TITLE II—PROMOTION OF FREEDOM AND DEMOCRACY IN VIET  
NAM

Subtitle A—Prohibition on Nonhumanitarian Assistance to the Government of  
Viet Nam

- Sec. 201. Bilateral nonhumanitarian assistance.  
 Sec. 202. Multilateral nonhumanitarian assistance.

Subtitle B—Assistance to Support Democracy in Viet Nam

- Sec. 211. Assistance.

Subtitle C—United States Public Diplomacy

- Sec. 221. Radio Free Asia transmissions to Viet Nam.  
 Sec. 222. United States educational and cultural exchange programs with Viet Nam.

Subtitle D—United States Refugee Policy

- Sec. 232. Refugee resettlement for nationals of Viet Nam.

**1 SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Viet Nam is a one-party state, ruled and  
 4 controlled by the Vietnamese Communist Party.

5 (2) The Government of Viet Nam denies the  
 6 people of Viet Nam the right to change their govern-  
 7 ment and prohibits independent political, social, and  
 8 labor organizations.

9 (3)(A) The Government of Viet Nam consist-  
 10 ently pursues a policy of harassment, discrimination,

1 and intimidation, and sometimes of imprisonment  
2 and other forms of detention, against those who  
3 peacefully express dissent from government or party  
4 policy.

5 (B) Recent victims of such mistreatment, which  
6 violates the rights to freedom of expression and as-  
7 sociation recognized in the Universal Declaration of  
8 Human Rights, include Dr. Nguyen Dan Que, Dr.  
9 Nguyen Thanh Giang, General Tran Do, Most Ven-  
10 erable Thich Huyen Quang, Most Venerable Thich  
11 Quang Do, Father Nguyen Van Ly, numerous lead-  
12 ers of the Hoa Hao Buddhist Church and of inde-  
13 pendent Protestant churches, and an undetermined  
14 number of members of the Montagnard ethnic mi-  
15 nority groups who participated in peaceful dem-  
16 onstrations in the Central Highlands of Viet Nam  
17 during February 2001.

18 (4) The Government of Viet Nam systematically  
19 deprives its citizens of the fundamental right to free-  
20 dom of religion. Although some freedom of worship  
21 is permitted, believers are forbidden to participate in  
22 religious activities except under circumstances rig-  
23 idly defined and controlled by the government:

24 (A) In 1999 the Government issued a De-  
25 cree Concerning Religious Activities, which de-

1           clared in pertinent part that “[a]ll activities  
2           using religious belief in order to oppose the  
3           State of the Socialist Republic of Viet Nam, to  
4           prevent the believers from carrying out civic re-  
5           sponsibilities, to sabotage the union of all the  
6           people, to against the healthy culture of our na-  
7           tion, as well as superstitious activities, will be  
8           punished in conformity with the law”.

9           (B) The Unified Buddhist Church of Viet  
10          Nam (UCBV), the largest religious denomina-  
11          tion in the country, has been declared illegal by  
12          the Government, and over the last twenty-five  
13          years its clergy have often been imprisoned and  
14          subjected to other forms of persecution. The  
15          Patriarch of the Unified Buddhist Church, 83-  
16          year-old Most Venerable Thich Huyen Quang,  
17          has been detained for 21 years in a ruined tem-  
18          ple in an isolated area of central Viet Nam.  
19          Most Venerable Thich Quang Do, the Executive  
20          President of the Unified Buddhist Church, has  
21          also been in various forms of detention for  
22          many years, and was recently rearrested and  
23          placed under house arrest after he had pro-  
24          posed to bring Most Venerable Thich Huyen  
25          Quang to Saigon for medical treatment.

1           (C) The Hoa Hao Buddhist Church was  
2 also declared to be illegal until 1999, when the  
3 Government established an organization which  
4 purports to govern the Hoa Hao. According to  
5 the United States Commission on International  
6 Religious Freedom, “[t]his organization is made  
7 up almost entirely of Communist Party mem-  
8 bers and apparently is not recognized as legiti-  
9 mate by the vast majority of Hoa Haos . . .  
10 [n]evertheless, [this government-sponsored or-  
11 ganization] has sought to control all Hoa Hao  
12 religious activity, particularly at the Hoa Hao  
13 village, which is the center of Hoa Hao religious  
14 life”. Hoa Hao believers who do not recognize  
15 the legitimacy of the government organization  
16 are denied the right to visit the Hoa Hao vil-  
17 lage, to conduct traditional religious celebra-  
18 tions, or to display Hoa Hao symbols. Many  
19 have been arrested and subjected to administra-  
20 tive detention, and several Hoa Hao have been  
21 sentenced to prison terms for protesting these  
22 denials of religious freedom.

23           (D) Independent Protestants, most of  
24 whom are members of ethnic minority groups,  
25 are subjected to particularly harsh treatment by

1 the Government of Viet Nam. According to the  
2 United States Commission on International Re-  
3 ligious Freedom, such treatment includes “po-  
4 lice raids on homes and house churches, deten-  
5 tion, imprisonment, confiscation of religious and  
6 personal property, physical and psychological  
7 abuse, and fines for engaging in unapproved re-  
8 ligious activities (such as collective worship,  
9 public religious expression and distribution of  
10 religious literature, and performing baptisms,  
11 marriages, or funeral services) . . . [i]n addi-  
12 tion, it is reported that ethnic Hmong Protes-  
13 tants have been forced by local officials to agree  
14 to abandon their faith”.

15 (E) Other religious organizations, such as  
16 the Catholic Church, are formally recognized by  
17 the Government but are subjected to pervasive  
18 regulation which violates the right to freedom of  
19 religion. For instance, the Catholic Church is  
20 forbidden to appoint its own bishops without  
21 Government consent, which is frequently de-  
22 nied, to accept seminarians without specific offi-  
23 cial permission, and to profess Catholic doc-  
24 trines which are inconsistent with Government  
25 policy. A Catholic priest, Father Nguyen Van

1 Ly, was arrested in March 2001 and remains in  
2 detention after submitting written testimony to  
3 the United States Commission on International  
4 Religious Freedom.

5 (F) The Government has also confiscated  
6 numerous churches, temples, and other prop-  
7 erties belonging to religious organizations. The  
8 vast majority of these properties—even those  
9 belonging to religious organizations formally  
10 recognized by the Government—have never  
11 been returned.

12 (5) Since 1975 the Government of Viet Nam  
13 has persecuted veterans of the Army of the Republic  
14 of Viet Nam and other Vietnamese who had opposed  
15 the Viet Cong insurgency and the North Vietnamese  
16 invasion of South Viet Nam. Such persecution typi-  
17 cally included substantial terms in “re-education  
18 camps”, where detainees were often subjected to tor-  
19 ture and other forms of physical abuse, and in which  
20 many died. Re-education camp survivors and their  
21 families were often forced into internal exile in “New  
22 Economic Zones”. Many of these former allies of the  
23 United States, as well as members of their families,  
24 continue until the present day to suffer various  
25 forms of harassment and discrimination, including

1 denial of basic social benefits and exclusion from  
2 higher education and employment.

3 (6)(A) The Government of Viet Nam has been  
4 particularly harsh in its treatment of members of  
5 the Montagnard ethnic minority groups of the Cen-  
6 tral Highlands of Viet Nam, who were the first line  
7 in the defense of South Viet Nam against invasion  
8 from the North and who fought courageously beside  
9 members of the Special Forces of the United States  
10 Army, suffering disproportionately heavy casualties,  
11 and saving the lives of many of their American and  
12 Vietnamese comrades-in-arms.

13 (B) Since 1975 the Montagnard peoples have  
14 been singled out for severe repression, in part be-  
15 cause of their past association with the United  
16 States and in part because their strong commitment  
17 to their traditional way of life and to their Christian  
18 religion is regarded as inconsistent with the absolute  
19 loyalty and control demanded by the Communist sys-  
20 tem.

21 (C) In February 2001 several thousand  
22 Montagnards participated in a series of peaceful  
23 demonstrations throughout the Central Highlands,  
24 demanding religious freedom and restoration of their  
25 confiscated lands, and the Government responded by

1 closing off the Central Highlands and sending in  
2 military forces, tanks, and helicopter gunships.

3 (D) Credible reports by refugees who have es-  
4 caped to Cambodia indicate that the Government  
5 has executed some participants in the demonstra-  
6 tions and has subjected others to imprisonment, tor-  
7 ture, and other forms of physical abuse.

8 (E) The Government of Viet Nam has also  
9 taken steps to prevent further Montagnards from es-  
10 caping, and there are credible reports that Viet-  
11 nameese security forces in Cambodia are offering  
12 bounties for the surrender of Montagnard asylum  
13 seekers.

14 (7) The Government of Viet Nam has also per-  
15 secuted members of other ethnic minority groups, in-  
16 cluding the Khmer Krom from the Mekong Delta,  
17 many of whom fought alongside United States mili-  
18 tary personnel during the Viet Nam war and whose  
19 Hinayana Buddhist religion is not among those rec-  
20 ognized by the Government.

21 (8) The Government of Viet Nam also engages  
22 in or condones serious violations of the rights of  
23 workers. In August 1997, the United Nations Chil-  
24 dren's Fund (UNICEF) reported that child labor ex-  
25 ploitation is on the rise in Viet Nam with tens of

1 thousands of children under 15 years of age being  
2 subjected to such exploitation. The government's of-  
3 ficial labor export program also has subjected work-  
4 ers, many of whom are women, to involuntary ser-  
5 vitude, debt bondage, and other forms of abuse, and  
6 the reaction of government officials to worker com-  
7 plaints of such abuse has been to threaten the work-  
8 ers with punishment if they do not desist in their  
9 complaints.

10 (9)(A) United States refugee resettlement pro-  
11 grams for Vietnamese nationals, including the Or-  
12 derly Departure Program (ODP), the Resettlement  
13 Opportunities for Returning Vietnamese (ROVR)  
14 program, and resettlement of boat people from ref-  
15 ugee camps throughout Southeast Asia, were author-  
16 ized by law in order to rescue Vietnamese nationals  
17 who have suffered persecution on account of their  
18 wartime associations with the United States, as well  
19 as those who currently have a well-founded fear of  
20 persecution on account of race, religion, nationality,  
21 political opinion, or membership in a particular so-  
22 cial group.

23 (B) In general, these programs have served  
24 their purpose well. However, many refugees who  
25 were eligible for these programs were unfairly denied

1 or excluded, in some cases by vindictive or corrupt  
2 Communist officials who controlled access to the  
3 programs, and in others by United States personnel  
4 who imposed unduly restrictive interpretations of  
5 program criteria. These unfairly excluded refugees  
6 include some of those with the most compelling  
7 cases, including many Montagnard combat veterans  
8 and their families.

9 (10) The Government of Viet Nam systemati-  
10 cally jams broadcasts by Radio Free Asia, an inde-  
11 pendent broadcast service funded by the United  
12 States in order to provide news and entertainment  
13 to the people of countries in Asia whose governments  
14 deny the right to freedom of expression and of the  
15 press.

16 (11) In 1995 the Governments of the United  
17 States and Viet Nam announced the “normaliza-  
18 tion” of diplomatic relations. In 1998 then-President  
19 Clinton waived the application of section 402 of the  
20 Trade Act of 1974 (commonly known as the “Jack-  
21 son-Vanik Amendment”), which restricts economic  
22 assistance to countries with non-market economies  
23 whose governments also restrict freedom of emigra-  
24 tion. In 1999 the Governments of the United States  
25 and Viet Nam announced “agreement in principle”

1 on a bilateral trade agreement. This agreement was  
2 signed in 2000 and has been presented to Congress  
3 for approval or disapproval.

4 (12) The Congress and the American people are  
5 united in their determination that the extension or  
6 expansion of trade relations with a country whose  
7 government engages in serious and systematic viola-  
8 tions of fundamental human rights must not be con-  
9 strued as a statement of approval or complacency  
10 about such practices. The promotion of freedom and  
11 democracy around the world—and particularly for  
12 people who have suffered in large part because of  
13 their past associations with the United States and  
14 because they share our values—is and must continue  
15 to be a central objective of United States foreign  
16 policy.

17 **SEC. 3. PURPOSE.**

18 The purpose of this Act is to promote the develop-  
19 ment of freedom and democracy in Viet Nam.

1 **TITLE I—CONGRESSIONAL-EXEC-**  
2 **UTIVE COMMISSION ON VIET**  
3 **NAM**

4 **SEC. 101. ESTABLISHMENT OF CONGRESSIONAL-EXECU-**  
5 **TIVE COMMISSION ON VIET NAM.**

6 There is established a Congressional-Executive Com-  
7 mission on Viet Nam (in this title referred to as the “Com-  
8 mission”).

9 **SEC. 102. FUNCTIONS OF THE COMMISSION.**

10 (a) **MONITORING COMPLIANCE WITH HUMAN**  
11 **RIGHTS.**—The Commission shall monitor the acts of the  
12 Government of Viet Nam which reflect compliance with  
13 or violation of human rights, in particular, those contained  
14 in the International Covenant on Civil and Political Rights  
15 and in the Universal Declaration of Human Rights, in-  
16 cluding, but not limited to, effectively affording—

17 (1) the right to engage in free expression;

18 (2) the right to peaceful assembly;

19 (3) religious freedom, including the right to  
20 worship and to participate in religious activities and  
21 institutions free of involvement of and interference  
22 by the government;

23 (4) the right to liberty of movement and free-  
24 dom to choose a residence within Viet Nam and the  
25 right to leave from and return to Viet Nam;

1 (5) the right of a criminal defendant—

2 (A) to be tried in his or her presence, and  
3 to defend himself or herself in person or  
4 through legal assistance of his or her own  
5 choosing;

6 (B) to be informed, if he or she does not  
7 have legal assistance, of the right set forth in  
8 subparagraph (A);

9 (C) to have legal assistance assigned to  
10 him or her in any case in which the interests  
11 of justice so require and without payment by  
12 him or her in any such case if he or she does  
13 not have sufficient means to pay for it;

14 (D) to a fair and public hearing by a com-  
15 petent, independent, and impartial tribunal es-  
16 tablished by the law;

17 (E) to be presumed innocent until proved  
18 guilty according to law; and

19 (F) to be tried without undue delay;

20 (6) the right to be free from torture and other  
21 forms of cruel or unusual punishment;

22 (7) protection of internationally recognized  
23 worker rights;

24 (8) freedom from incarceration as punishment  
25 for political opposition to the government;

1           (9) freedom from incarceration as punishment  
2           for exercising or advocating human rights (including  
3           those described in this section);

4           (10) freedom from arbitrary arrest, detention,  
5           or exile;

6           (11) the right to fair and public hearings by an  
7           independent tribunal for the determination of a citi-  
8           zen's rights and obligations; and

9           (12) free choice of employment.

10          (b) VICTIMS LISTS.—The Commission shall compile  
11          and maintain lists of persons believed to be imprisoned,  
12          detained, or placed under house arrest, tortured, or other-  
13          wise persecuted by the Government of Viet Nam due to  
14          their pursuit of the rights described in subsection (a). In  
15          compiling such lists, the Commission shall exercise appro-  
16          priate discretion, including concerns regarding the safety  
17          and security of, and benefit to, the persons who may be  
18          included on the lists and their families.

19          (c) MONITORING DEVELOPMENT OF RULE OF  
20          LAW.—The Commission shall monitor the development of  
21          the rule of law in Viet Nam, including, but not limited  
22          to—

23                 (1) progress toward the development of institu-  
24                 tions of democratic governance;

1           (2) processes by which statutes, regulations,  
2 rules, and other legal acts of the Government of Viet  
3 Nam are developed and become binding within Viet  
4 Nam;

5           (3) the extent to which statutes, regulations,  
6 rules, administrative and judicial decisions, and  
7 other legal acts of the Government of Viet Nam are  
8 published and are made accessible to the public;

9           (4) the extent to which administrative and judi-  
10 cial decisions are supported by statements of reasons  
11 that are based upon written statutes, regulations,  
12 rules and other legal acts of the Government of Viet  
13 Nam;

14           (5) the extent to which individuals are treated  
15 equally under the laws of Viet Nam without regard  
16 to citizenship, race, religion, political opinion, or cur-  
17 rent or former associations;

18           (6) the extent to which administrative and judi-  
19 cial decisions are independent of political pressure or  
20 governmental interference and are reviewed by enti-  
21 ties of appellate jurisdiction; and

22           (7) the extent to which laws in Viet Nam are  
23 written and administered in ways that are consistent  
24 with international human rights standards, including

1 the requirements of the International Covenant on  
2 Civil and Political Rights.

3 (d) BILATERAL COOPERATION.—The Commission  
4 shall monitor and encourage the development of programs  
5 and activities of the United States Government and pri-  
6 vate organizations with a view toward increasing the inter-  
7 change of people and ideas between the United States and  
8 Viet Nam and expanding cooperation in areas that in-  
9 clude, but are not limited to—

10 (1) increasing enforcement of human rights de-  
11 scribed in subsection (a); and

12 (2) developing the rule of law in Viet Nam.

13 (e) CONTACTS WITH NONGOVERNMENTAL ORGANI-  
14 ZATIONS.—In performing the functions described in sub-  
15 sections (a) through (d), the Commission shall, as appro-  
16 priate, seek out and maintain contacts with nongovern-  
17 mental organizations, including receiving reports and up-  
18 dates from such organizations and evaluating such re-  
19 ports.

20 (f) ANNUAL REPORTS.—The Commission shall issue  
21 a report to the President and the Congress not later than  
22 12 months after the date of the enactment of this Act,  
23 and not later than the end of each 12-month period there-  
24 after, setting forth the findings of the Commission during  
25 the preceding 12-month period, in carrying out sub-

1 sections (a) through (c). The Commission's report may  
2 contain recommendations for legislative or executive ac-  
3 tion.

4 (g) SPECIFIC INFORMATION IN ANNUAL REPORTS.—  
5 The Commission's report under subsection (f) shall in-  
6 clude specific information concerning the nature and im-  
7 plementation of laws or policies concerning the rights set  
8 forth in paragraphs (1) through (12) of subsection (a),  
9 and concerning restrictions applied to or discrimination  
10 against persons exercising any of the rights set forth in  
11 such paragraphs.

12 (h) CONGRESSIONAL HEARINGS ON ANNUAL RE-  
13 PORTS.—(1) The Committee on International Relations of  
14 the House of Representatives shall, not later than 30 days  
15 after the receipt by the Congress of the report referred  
16 to in subsection (f), hold hearings on the contents of the  
17 report, including any recommendations contained therein,  
18 for the purpose of receiving testimony from Members of  
19 Congress, and such appropriate representatives of Federal  
20 departments and agencies, and interested persons and  
21 groups, as the committee deems advisable, with a view to  
22 reporting to the House of Representatives any appropriate  
23 legislation in furtherance of such recommendations. If any  
24 such legislation is considered by the Committee on Inter-  
25 national Relations within 45 days after receipt by the Con-

1 gress of the report referred to in subsection (f), it shall  
2 be reported by the committee not later than 60 days after  
3 receipt by the Congress of such report.

4 (2) The provisions of paragraph (1) are enacted by  
5 the Congress—

6 (A) as an exercise of the rulemaking power of  
7 the House of Representatives, and as such are  
8 deemed a part of the rules of the House, and they  
9 supersede other rules only to the extent that they  
10 are inconsistent therewith; and

11 (B) with full recognition of the constitutional  
12 right of the House to change the rules (so far as re-  
13 lating to the procedure of the House) at any time,  
14 in the same manner and to the same extent as in  
15 the case of any other rule of the House.

16 (i) SUPPLEMENTAL REPORTS.—The Commission  
17 may submit to the President and the Congress reports  
18 that supplement the reports described in subsection (f),  
19 as appropriate, in carrying out subsections (a) through  
20 (c).

21 **SEC. 103. MEMBERSHIP OF THE COMMISSION.**

22 (a) SELECTION AND APPOINTMENT OF MEMBERS.—  
23 The Commission shall be composed of 17 members as fol-  
24 lows:

1           (1) Five Members of the House of Representa-  
2           tives appointed by the Speaker of the House of Rep-  
3           resentatives. Three members shall be selected from  
4           the majority party and two members shall be se-  
5           lected, after consultation with the minority leader of  
6           the House, from the minority party.

7           (2) Five Members of the Senate appointed by  
8           the President of the Senate. Three members shall be  
9           selected, after consultation with the majority leader  
10          of the Senate, from the majority party, and two  
11          members shall be selected, after consultation with  
12          the minority leader of the Senate, from the minority  
13          party.

14          (3) One representative of the Department of  
15          State, appointed by the President of the United  
16          States from among officers and employees of that  
17          Department.

18          (4) One representative of the Department of  
19          Commerce, appointed by the President of the United  
20          States from among officers and employees of that  
21          Department.

22          (5) One representative of the Department of  
23          Labor, appointed by the President of the United  
24          States from among officers and employees of that  
25          Department.

1           (6) Four public representatives, appointed by  
2           the President of the United States, who shall be citi-  
3           zens of the United States not employed by the  
4           United States Government and who have dem-  
5           onstrated expertise in and commitment to human  
6           rights in Viet Nam.

7           (b) CHAIRMAN AND COCHAIRMAN.—

8           (1) DESIGNATION OF CHAIRMAN.—At the be-  
9           ginning of each odd-numbered Congress, the Presi-  
10          dent of the Senate, on the recommendation of the  
11          majority leader, shall designate one of the members  
12          of the Commission from the Senate as Chairman of  
13          the Commission. At the beginning of each even-num-  
14          bered Congress, the Speaker of the House of Rep-  
15          resentatives shall designate one of the members of  
16          the Commission from the House as Chairman of the  
17          Commission.

18          (2) DESIGNATION OF COCHAIRMAN.—At the be-  
19          ginning of each odd-numbered Congress, the Speak-  
20          er of the House of Representatives shall designate  
21          one of the members of the Commission from the  
22          House as Cochairman of the Commission. At the be-  
23          ginning of each even-numbered Congress, the Presi-  
24          dent of the Senate, on the recommendation of the  
25          majority leader, shall designate one of the members

1 of the Commission from the Senate as Cochairman  
2 of the Commission.

3 **SEC. 104. VOTES OF THE COMMISSION.**

4 Decisions of the Commission, including adoption of  
5 reports and recommendations to the executive branch or  
6 to the Congress, shall be made by a majority vote of the  
7 members of the Commission present and voting. Two-  
8 thirds of the Members of the Commission shall constitute  
9 a quorum for purposes of conducting business.

10 **SEC. 105. EXPENDITURE OF APPROPRIATIONS.**

11 For each fiscal year for which an appropriation is  
12 made to the Commission, the Commission shall issue a  
13 report to the Congress on its expenditures under that ap-  
14 propriation.

15 **SEC. 106. TESTIMONY OF WITNESSES, PRODUCTION OF EVI-**  
16 **DENCE; ISSUANCE OF SUBPOENAS; ADMINIS-**  
17 **TRATION OF OATHS.**

18 In carrying out this title, the Commission may re-  
19 quire, by subpoena or otherwise, the attendance and testi-  
20 mony of such witnesses and the production of such books,  
21 records, correspondence, memoranda, papers, documents,  
22 and electronically recorded data as it considers necessary.  
23 Subpoenas may be issued only pursuant to a two-thirds  
24 vote of members of the Commission present and voting.  
25 Subpoenas may be issued over the signature of the Chair-

1 man of the Commission or any member designated by the  
2 Chairman, and may be served by any person designated  
3 by the Chairman or such member. The Chairman of the  
4 Commission, or any member designated by the Chairman,  
5 may administer oaths to any witness.

6 **SEC. 107. APPROPRIATIONS FOR THE COMMISSION.**

7 (a) **AUTHORIZATION; DISBURSEMENTS.—**

8 (1) **AUTHORIZATION.**—There are authorized to  
9 be appropriated to the Commission for fiscal year  
10 2002, and each fiscal year thereafter, such sums as  
11 may be necessary to enable it to carry out its func-  
12 tions. Appropriations to the Commission are author-  
13 ized to remain available until expended.

14 (2) **DISBURSEMENTS.**—Appropriations to the  
15 Commission shall be disbursed on vouchers  
16 approved—

17 (A) jointly by the Chairman and the Co-  
18 chairman; or

19 (B) by a majority of the members of the  
20 personnel and administration committee estab-  
21 lished pursuant to section 108.

22 (b) **FOREIGN TRAVEL FOR OFFICIAL PURPOSES.—**  
23 Foreign travel for official purposes by members and staff  
24 of the Commission may be authorized by either the Chair-  
25 man or the Cochairman.

1 **SEC. 108. STAFF OF THE COMMISSION.**

2 (a) PERSONNEL AND ADMINISTRATION COM-  
3 MITTEE.—The Commission shall have a personnel and ad-  
4 ministration committee composed of the Chairman, the  
5 Cochairman, the senior member of the Commission from  
6 the minority party of the House of Representatives, and  
7 the senior member of the Commission from the minority  
8 party of the Senate.

9 (b) COMMITTEE FUNCTIONS.—All decisions per-  
10 taining to the hiring, firing, and fixing of pay of personnel  
11 of the Commission shall be by a majority vote of the per-  
12 sonnel and administration committee, except that—

13 (1) the Chairman shall be entitled to appoint  
14 and fix the pay of the staff director, and the Co-  
15 chairman shall be entitled to appoint and fix the pay  
16 of the Cochairman's senior staff member; and

17 (2) the Chairman and Cochairman shall each  
18 have the authority to appoint, with the approval of  
19 the personnel and administration committee, at least  
20 four professional staff members who shall be respon-  
21 sible to the Chairman or the Cochairman (as the  
22 case may be) who appointed them.

23 Subject to subsection (d), the personnel and administra-  
24 tion committee may appoint and fix the pay of such other  
25 personnel as it considers desirable.

1 (c) STAFF APPOINTMENTS.—All staff appointments  
2 shall be made without regard to the provisions of title 5,  
3 United States Code, governing appointments in the com-  
4 petitive service, and without regard to the provisions of  
5 chapter 51 and subchapter III of chapter 53 of such title  
6 relating to classification and general schedule pay rates.

7 (d) QUALIFICATIONS OF PROFESSIONAL STAFF.—  
8 The personnel and administration committee shall ensure  
9 that the professional staff of the Commission consists of  
10 persons with expertise in areas including human rights,  
11 internationally recognized worker rights, international eco-  
12 nomics, law (including international law), rule of law and  
13 other foreign assistance programming, the politics of Viet  
14 Nam, economy and culture, and the language of Viet  
15 Nam.

16 (e) COMMISSION EMPLOYEES AS CONGRESSIONAL  
17 EMPLOYEES.—

18 (1) IN GENERAL.—For purposes of pay and  
19 other employment benefits, rights, and privileges,  
20 and for all other purposes, any employee of the  
21 Commission shall be considered to be a congressional  
22 employee as defined in section 2107 of title 5,  
23 United States Code.

24 (2) COMPETITIVE STATUS.—For purposes of  
25 section 3304(c)(1) of title 5, United States Code,

1 employees of the Commission shall be considered as  
2 if they are in positions in which they are paid by  
3 the Secretary of the Senate or the Clerk of the  
4 House of Representatives.

5 **SEC. 109. PRINTING AND BINDING COSTS.**

6 For purposes of costs relating to printing and bind-  
7 ing, including the costs of personnel detailed from the  
8 Government Printing Office, the Commission shall be  
9 deemed to be a committee of the Congress.

10 **TITLE II—PROMOTION OF FREE-**  
11 **DOM AND DEMOCRACY IN**  
12 **VIET NAM**

13 **Subtitle A—Prohibition on Non-**  
14 **humanitarian Assistance to the**  
15 **Government of Viet Nam**

16 **SEC. 201. BILATERAL NONHUMANITARIAN ASSISTANCE.**

17 (a) IN GENERAL.—United States nonhumanitarian  
18 assistance may not be provided to the Government of Viet  
19 Nam for fiscal year 2002 and each subsequent fiscal year  
20 unless the President determines and certifies to Congress  
21 for such fiscal year that—

22 (1) the Government of Viet Nam has released  
23 all political and religious prisoners from imprison-  
24 ment, house arrest, and other forms of detention;

1           (2) the Government of Viet Nam respects the  
2 right to freedom of religion, including the right to  
3 participate in religious activities and institutions  
4 without interference by or involvement of the Gov-  
5 ernment;

6           (3) the Government of Viet Nam does not vio-  
7 late the human rights of members of ethnic minority  
8 groups in the Central Highlands or elsewhere in Viet  
9 Nam; and

10           (4) neither any official of the Government of  
11 Viet Nam nor any entity wholly or partly owned by  
12 the Government of Viet Nam is complicit in a severe  
13 form of trafficking in persons.

14 (b) DEFINITIONS.—In this section:

15           (1) SEVERE FORM OF TRAFFICKING IN PER-  
16 SONS.—The term “severe form of trafficking in per-  
17 sons” means any activity described in section 103(8)  
18 of the Trafficking Victims Protection Act of 2000  
19 (Public Law 106–386 (114 Stat. 1470); 22 U.S.C.  
20 7102(8)).

21           (2) UNITED STATES NONHUMANITARIAN AS-  
22 SISTANCE.—The term “United States nonhumani-  
23 tarian assistance” means—

24                   (A) any assistance under the Foreign As-  
25 sistance Act of 1961 (including programs under

1 title IV of chapter 2 of part I of that Act, relat-  
2 ing to the Overseas Private Investment Cor-  
3 poration), other than—

4 (i) disaster relief assistance, including  
5 any assistance under chapter 9 of part I of  
6 that Act;

7 (ii) assistance which involves the pro-  
8 vision of food (including monetization of  
9 food) or medicine; and

10 (iii) assistance for refugees;

11 (B) sales, or financing on any terms, under  
12 the Arms Export Control Act; and

13 (C) financing under the Export-Import  
14 Bank Act of 1945.

15 **SEC. 202. MULTILATERAL NONHUMANITARIAN ASSIST-**  
16 **ANCE.**

17 The Secretary of the Treasury shall instruct the  
18 United States Executive Director of each multilateral de-  
19 velopment bank and of the International Monetary Fund  
20 to use the voice, vote, and influence of the United States  
21 to deny any loan or other utilization of the funds of such  
22 bank or institution (other than for humanitarian assist-  
23 ance) to Viet Nam for fiscal year 2002 and each subse-  
24 quent fiscal year unless the President determines and cer-  
25 tifies to Congress for such fiscal year that the require-

1 ments of paragraphs (1) through (4) of section 201(a)  
2 have been met.

3 **Subtitle B—Assistance to Support**  
4 **Democracy in Viet Nam**

5 **SEC. 211. ASSISTANCE.**

6 (a) IN GENERAL.—The President is authorized to  
7 provide assistance, through appropriate nongovernmental  
8 organizations, for the support of individuals and organiza-  
9 tions to promote human rights and nonviolent democratic  
10 change in Viet Nam.

11 (b) AUTHORIZATION OF APPROPRIATIONS.—There  
12 are authorized to be appropriated to the President to carry  
13 out subsection (a) \$2,000,000 for each of the fiscal years  
14 2002 and 2003.

15 **Subtitle C—United States Public**  
16 **Diplomacy**

17 **SEC. 221. RADIO FREE ASIA TRANSMISSIONS TO VIET NAM.**

18 (a) POLICY OF THE UNITED STATES.—It is the pol-  
19 icy of the United States to take such measures as are nec-  
20 essary to overcome the jamming of Radio Free Asia by  
21 the Government of Viet Nam.

22 (b) REPORT TO CONGRESS.—Not later than 6  
23 months after the date of the enactment of this Act and  
24 every 6 months thereafter, the Secretary of State shall  
25 submit to the Congress a report on efforts by the United

1 States Government to secure transmission sites for Radio  
2 Free Asia in countries in close geographical proximity to  
3 Viet Nam.

4 (c) AUTHORIZATION OF APPROPRIATIONS.—In addi-  
5 tion to such amounts as are otherwise authorized to be  
6 appropriated for the Broadcasting Board of Governors,  
7 there are authorized to be appropriated to carry out the  
8 policy under subsection (a) \$9,100,000 for the fiscal year  
9 2002 and \$1,100,000 for the fiscal year 2003.

10 **SEC. 222. UNITED STATES EDUCATIONAL AND CULTURAL**  
11 **EXCHANGE PROGRAMS WITH VIET NAM.**

12 (a) POLICY OF THE UNITED STATES.—It is the pol-  
13 icy of the United States that programs of educational and  
14 cultural exchange with Viet Nam should actively promote  
15 progress toward freedom and democracy in Viet Nam by  
16 providing opportunities to Vietnamese nationals from a  
17 wide range of occupations and perspectives to see freedom  
18 and democracy in action and, also, by ensuring that Viet-  
19 namese nationals who have already demonstrated a com-  
20 mitment to these values are included in such programs.

21 (b) REPORT TO CONGRESS.—Not later than 6  
22 months after the date of the enactment of this Act and  
23 every 6 months thereafter, the Secretary of State shall  
24 submit to the Congress a report on efforts to ensure that  
25 programs with Viet Nam promote the policy set forth in

1 subsection (a) and with section 102 of the Human Rights,  
2 Refugee, and Other Foreign Policy Provisions Act of 1996  
3 regarding participation in programs of educational and  
4 cultural exchange.

5 **Subtitle D—United States Refugee**  
6 **Policy**

7 **SEC. 232. REFUGEE RESETTLEMENT FOR NATIONALS OF**  
8 **VIET NAM.**

9 (a) POLICY OF THE UNITED STATES.—It is the pol-  
10 icy of the United States to offer refugee resettlement to  
11 nationals of Viet Nam (including members of the  
12 Montagnard ethnic minority groups) who were eligible for  
13 the Orderly Departure Program or any other United  
14 States refugee program and who were deemed ineligible  
15 due to administrative error or who for reasons beyond the  
16 control of such individuals (including the inability to pay  
17 bribes demanded by officials of the Government of Viet  
18 Nam) were unable to apply for such programs in compli-  
19 ance with deadlines imposed by the Department of State.

20 (b) REPORT TO CONGRESS.—Not later than 6  
21 months after the date of the enactment of this Act and  
22 every 6 months thereafter, the Secretary of State shall  
23 submit to the Congress a report on steps taken in the pre-  
24 ceding 6 months to carry out the policy under subsection  
25 (a).

1           (c) AUTHORIZED ACTIVITY.—Of the amounts author-  
2 ized to be appropriated to the Department of State for  
3 Migration and Refugee Assistance for each of the fiscal  
4 years 2001, 2002, and 2003, such sums as may be nec-  
5 essary are authorized to be made available for the protec-  
6 tion (including resettlement in appropriate cases) of Viet-  
7 nameese refugees and asylum seekers, including  
8 Montagnards in Cambodia.

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