

107TH CONGRESS
1ST SESSION

H. R. 2833

To promote freedom and democracy in Viet Nam.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 5, 2001

Mr. SMITH of New Jersey introduced the following bill; which was referred to the Committee on International Relations, and in addition to the Committee on Financial Services, 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

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.

TITLE I—GENERAL PROVISIONS

Sec. 101. Findings.

Sec. 102. Purpose.

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.

Subtitle E—Annual Report on Progress Toward Freedom and Democracy in
Viet Nam

Sec. 241. Annual report.

1 **TITLE I—GENERAL PROVISIONS**

2 **SEC. 101. FINDINGS.**

3 Congress finds the following:

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

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

10 (3)(A) The Government of Viet Nam consist-
11 ently pursues a policy of harassment, discrimination,
12 and intimidation, and sometimes of imprisonment
13 and other forms of detention, against those who

1 peacefully express dissent from government or party
2 policy.

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

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

22 (A) In 1999 the Government issued a De-
23 cree Concerning Religious Activities, which de-
24 clared in pertinent part that “[a]ll activities
25 using religious belief in order to oppose the

1 State of the Socialist Republic of Viet Nam, to
2 prevent the believers from carrying out civic re-
3 sponsibilities, to sabotage the union of all the
4 people, to against the healthy culture of our na-
5 tion, as well as superstitious activities, will be
6 punished in conformity with the law”.

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

24 (C) The Hoa Hao Buddhist Church was
25 also declared to be illegal until 1999, when the

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

21 (D) Independent Protestants, most of
22 whom are members of ethnic minority groups,
23 are subjected to particularly harsh treatment by
24 the Government of Viet Nam. According to the
25 United States Commission on International Re-

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

13 (E) Other religious organizations, such as
14 the Catholic Church, are formally recognized by
15 the Government but are subjected to pervasive
16 regulation which violates the right to freedom of
17 religion. For instance, the Catholic Church is
18 forbidden to appoint its own bishops without
19 Government consent, which is frequently de-
20 nied, to accept seminarians without specific offi-
21 cial permission, and to profess Catholic doc-
22 trines which are inconsistent with Government
23 policy. A Catholic priest, Father Nguyen Van
24 Ly, was arrested in March 2001 and remains in
25 detention after submitting written testimony to

1 the United States Commission on International
2 Religious Freedom.

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

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

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

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

19 (C) In February 2001 several thousand
20 Montagnards participated in a series of peaceful
21 demonstrations throughout the Central Highlands,
22 demanding religious freedom and restoration of their
23 confiscated lands, and the Government responded by
24 closing off the Central Highlands and sending in
25 military forces, tanks, and helicopter gunships.

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

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

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

19 (8) The Government of Viet Nam also engages
20 in or condones serious violations of the rights of
21 workers. In August 1997, the United Nations Chil-
22 dren's Fund (UNICEF) reported that child labor ex-
23 ploitation is on the rise in Viet Nam with tens of
24 thousands of children under 15 years of age being
25 subjected to such exploitation. The government's of-

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

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

21 (B) In general, these programs have served
22 their purpose well. However, many refugees who
23 were eligible for these programs were unfairly denied
24 or excluded, in some cases by vindictive or corrupt
25 Communist officials who controlled access to the

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

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

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

1 signed in 2000 and has been presented to Congress
2 for approval or disapproval.

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

16 **SEC. 102. PURPOSE.**

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

1 **TITLE II—PROMOTION OF FREE-**
2 **DOM AND DEMOCRACY IN**
3 **VIET NAM**

4 **Subtitle A—Prohibition on Non-**
5 **humanitarian Assistance to the**
6 **Government of Viet Nam**

7 **SEC. 201. BILATERAL NONHUMANITARIAN ASSISTANCE.**

8 (a) ASSISTANCE.—

9 (1) IN GENERAL.—Except as provided in sub-
10 section (b), United States nonhumanitarian assist-
11 ance may not be provided to the Government of Viet
12 Nam—

13 (A) for fiscal year 2002 unless not later
14 than 30 days after the date of the enactment of
15 this Act the President determines and certifies
16 to Congress that the requirements of subpara-
17 graphs (A) through (D) of paragraph (2) have
18 been met during the 12-month period ending on
19 the date of the certification; and

20 (B) for each subsequent fiscal year unless
21 the President determines and certifies to Con-
22 gress in the most recent annual report sub-
23 mitted pursuant to section 241 that the re-
24 quirements of subparagraphs (A) through (D)

1 of paragraph (2) have been met during the 12-
2 month period covered by the report.

3 (2) REQUIREMENTS.—The requirements of this
4 paragraph are that—

5 (A) the Government of Viet Nam has made
6 substantial progress toward releasing all polit-
7 ical and religious prisoners from imprisonment,
8 house arrest, and other forms of detention;

9 (B) the Government of Viet Nam has
10 made substantial progress toward respecting
11 the right to freedom of religion, including the
12 right to participate in religious activities and in-
13 stitutions without interference by or involve-
14 ment of the Government;

15 (C) the Government of Viet Nam has made
16 substantial progress toward respecting the
17 human rights of members of ethnic minority
18 groups in the Central Highlands or elsewhere in
19 Viet Nam; and

20 (D)(i) neither any official of the Govern-
21 ment of Viet Nam nor any agency or entity
22 wholly or partly owned by the Government of
23 Viet Nam was complicit in a severe form of
24 trafficking in persons; or

1 (ii) the Government of Viet Nam took all
2 appropriate steps to end any such complicity
3 and hold such official, agency, or entity fully
4 accountable for its conduct.

5 (b) EXCEPTION.—

6 (1) IN GENERAL.—Subsection (a) shall not
7 apply for any fiscal year with respect to the provi-
8 sion of United States nonhumanitarian assistance
9 for any program or activity for which such assist-
10 ance was provided to the Government of Viet Nam
11 for fiscal year 2001 in an amount not to exceed the
12 amount so provided for fiscal year 2001.

13 (2) CONTINUATION OF ASSISTANCE IN THE NA-
14 TIONAL INTEREST.—Notwithstanding the failure of
15 the Government of Viet Nam to meet the require-
16 ments of subsection (a)(2), the President may waive
17 the application of subsection (a) for any fiscal year
18 if the President determines that the provision to the
19 Government of Viet Nam of increased United States
20 nonhumanitarian assistance would promote the pur-
21 poses of this Act or is otherwise in the national in-
22 terest of the United States.

23 (3) EXERCISE OF WAIVER AUTHORITY.—

1 (A) IN GENERAL.—The President may ex-
2 ercise the authority under paragraph (2) with
3 respect to—

4 (i) all United States nonhumanitarian
5 assistance to Viet Nam; or

6 (ii) one or more programs, projects, or
7 activities of such assistance.

8 (c) DEFINITIONS.—In this section:

9 (1) SEVERE FORM OF TRAFFICKING IN PER-
10 SONS.—The term “severe form of trafficking in per-
11 sons” means any activity described in section 103(8)
12 of the Trafficking Victims Protection Act of 2000
13 (Public Law 106–386 (114 Stat. 1470); 22 U.S.C.
14 7102(8)).

15 (2) UNITED STATES NONHUMANITARIAN AS-
16 SISTANCE.—The term “United States nonhumani-
17 tarian assistance” means—

18 (A) any assistance under the Foreign As-
19 sistance Act of 1961 (including programs under
20 title IV of chapter 2 of part I of that Act, relat-
21 ing to the Overseas Private Investment Cor-
22 poration), other than—

23 (i) disaster relief assistance, including
24 any assistance under chapter 9 of part I of
25 that Act;

- 1 (ii) assistance which involves the pro-
2 vision of food (including monetization of
3 food) or medicine; and
4 (iii) assistance for refugees; and
5 (B) sales, or financing on any terms, under
6 the Arms Export Control Act.

7 **SEC. 202. MULTILATERAL NONHUMANITARIAN ASSIST-**
8 **ANCE.**

9 The President shall ensure that section 701 of the
10 International Financial Institutions Act (22 U.S.C. 262d),
11 relating to human rights, is carried out with respect to
12 Viet Nam.

13 **Subtitle B—Assistance to Support**
14 **Democracy in Viet Nam**

15 **SEC. 211. ASSISTANCE.**

16 (a) IN GENERAL.—The President is authorized to
17 provide assistance, through appropriate nongovernmental
18 organizations, for the support of individuals and organiza-
19 tions to promote human rights and nonviolent democratic
20 change in Viet Nam.

21 (b) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated to the President to carry
23 out subsection (a) \$2,000,000 for each of the fiscal years
24 2002 and 2003.

1 **Subtitle C—United States Public**
2 **Diplomacy**

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

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

8 (b) AUTHORIZATION OF APPROPRIATIONS.—In addi-
9 tion to such amounts as are otherwise authorized to be
10 appropriated for the Broadcasting Board of Governors,
11 there are authorized to be appropriated to carry out the
12 policy under subsection (a) \$9,100,000 for the fiscal year
13 2002 and \$1,100,000 for the fiscal year 2003.

14 **SEC. 222. UNITED STATES EDUCATIONAL AND CULTURAL**
15 **EXCHANGE PROGRAMS WITH VIET NAM.**

16 It is the policy of the United States that programs
17 of educational and cultural exchange with Viet Nam
18 should actively promote progress toward freedom and de-
19 mocracy in Viet Nam by providing opportunities to Viet-
20 namese nationals from a wide range of occupations and
21 perspectives to see freedom and democracy in action and,
22 also, by ensuring that Vietnamese nationals who have al-
23 ready demonstrated a commitment to these values are in-
24 cluded in such programs.

1 **Subtitle D—United States Refugee**
2 **Policy**

3 **SEC. 232. REFUGEE RESETTLEMENT FOR NATIONALS OF**
4 **VIET NAM.**

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

16 (b) **AUTHORIZED ACTIVITY.**—Of the amounts au-
17 thorized to be appropriated to the Department of State
18 for Migration and Refugee Assistance for each of the fiscal
19 years 2001, 2002, and 2003, such sums as may be nec-
20 essary are authorized to be made available for the protec-
21 tion (including resettlement in appropriate cases) of Viet-
22 namese refugees and asylum seekers, including
23 Montagnards in Cambodia.

1 **Subtitle E—Annual Report on**
2 **Progress Toward Freedom and**
3 **Democracy in Viet Nam**

4 **SEC. 241. ANNUAL REPORT.**

5 Not later than May 31 of each year, the Secretary
6 of State shall submit to Congress a report for the 12-
7 month period ending on the date of submission of the re-
8 port, on the following:

9 (1)(A) The determination and certification of
10 the President that the requirements of subpara-
11 graphs (A) through (D) of section 201(a)(2) have
12 been met, if applicable.

13 (B) The determination of the President under
14 section 201(b)(2), if applicable.

15 (2) Efforts by the United States Government to
16 secure transmission sites for Radio Free Asia in
17 countries in close geographical proximity to Viet
18 Nam in accordance with section 221(a).

19 (3) Efforts to ensure that programs with Viet
20 Nam promote the policy set forth in section 222 and
21 with section 102 of the Human Rights, Refugee, and
22 Other Foreign Policy Provisions Act of 1996 regard-
23 ing participation in programs of educational and cul-
24 tural exchange.

- 1 (4) Steps taken to carry out the policy under
- 2 section 232(a).

