

110TH CONGRESS
1ST SESSION

H. R. 3096

To promote freedom and democracy in Vietnam.

IN THE HOUSE OF REPRESENTATIVES

JULY 19, 2007

Mr. SMITH of New Jersey (for himself, Ms. ROS-LEHTINEN, Mr. WOLF, Mr. ROYCE, Ms. ZOE LOFGREN of California, Mr. AL GREEN of Texas, Mr. SALLI, Mr. ROHRABACHER, Ms. LORETTA SANCHEZ of California, and Mr. TOM DAVIS of Virginia) introduced the following bill; which was referred to the Committee on Foreign Affairs

A BILL

To promote freedom and democracy in Vietnam.

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 “Vietnam Human Rights Act of 2007”.

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—PROHIBITION ON NONHUMANITARIAN ASSISTANCE TO
THE GOVERNMENT OF VIETNAM

Sec. 101. Bilateral nonhumanitarian assistance.

TITLE II—ASSISTANCE TO SUPPORT DEMOCRACY IN VIETNAM

Sec. 201. Assistance.

TITLE III—UNITED STATES PUBLIC DIPLOMACY

Sec. 301. Radio Free Asia transmissions to Vietnam.

Sec. 302. United States educational and cultural exchange programs with Vietnam.

TITLE IV—UNITED STATES REFUGEE POLICY

Sec. 401. Refugee resettlement for nationals of Vietnam.

TITLE V—ANNUAL REPORT ON PROGRESS TOWARD FREEDOM AND DEMOCRACY IN VIETNAM

Sec. 501. Annual report.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) The relationship between the United States
4 and the Socialist Republic of Vietnam has grown
5 substantially over the past 12 years, with annual
6 trade between the 2 countries reaching over
7 \$9,000,000,000 per year.

8 (2) The Government of Vietnam's transition to-
9 ward greater economic freedom and trade has not
10 been matched by greater political freedom and sub-
11 stantial improvements in human rights for many Vi-
12 etnamese.

13 (3) The United States Congress agreed to Viet-
14 nam becoming an official member of the World
15 Trade Organization (WTO) in 2006, amidst assur-
16 ances that the Vietnamese Government was steadily

1 improving its human rights record and would con-
2 tinue to do so.

3 (4) Vietnam remains a one-party state, ruled
4 and controlled by the Communist Party of Vietnam
5 (CPV), which continues to deny the right of citizens
6 to change their government.

7 (5) Although in recent years the National As-
8 sembly of Vietnam has played an increasingly active
9 role as a forum for highlighting local concerns, cor-
10 ruption, and inefficiency, the National Assembly re-
11 mains subject to the direction of the CPV and the
12 CPV maintains control over the selection of can-
13 didates in national and local elections.

14 (6) The Government of Vietnam forbids public
15 challenge to the legitimacy of the one-party state, re-
16 stricts freedoms of opinion, the press, and associa-
17 tion and tightly limits access to the Internet and
18 telecommunication.

19 (7) Since Vietnam's accession to the WTO on
20 January 11, 2007, the Vietnamese Government arbi-
21 trarily arrested and imprisoned several individuals
22 for their peaceful advocacy of democracy, including
23 Father Nguyen Van Ly and human rights lawyers
24 Nguyen Van Dai and Le Thi Cong Nhan.

1 (8) The Government of Vietnam continues to
2 detain, imprison, place under house arrest, convict,
3 or otherwise restrict persons for the peaceful expres-
4 sion of dissenting political or religious views, includ-
5 ing Bui Kim Thanh, Hang Tan Phat, Truong Quoc
6 Huy, Vu Hoang Hai, Nguyen Ngoc Quang, Pham
7 Ba Hai, Dr. Le Nguyen Sang, Huynh Nguyen Dao,
8 Nguyen Bac Truyen, Tran Quoc Hien, Nguyen Tan
9 Hoanh, Tran Thi Le Hang, Doan Huu Chuong,
10 Doan Van Dien, Le Ba Triet, Nguyen Tuan, Tran
11 Thi Thuy Trang, Nguyen Phong, Nguyen Binh
12 Thanh, Hoang Thi Anh Dao, Le Thi Le Hang, Tran
13 Khai Thanh Thuy, Ho Thi Bich Khuong, Hong
14 Trung, Danh Tol, Kim Muot, Thach Thuong, Ly
15 Suong, Ly Hoang, Nguyen Van Tho, Le Van Soc,
16 Nguyen Van Thuy, Duong Thi Tron, and Truong
17 Minh Duc, among others.

18 (9)(A) The Government of Vietnam continues
19 to limit freedom of religion and restrict the oper-
20 ation of religious organizations.

21 (B) Despite reported progress in church open-
22 ings and legal registrations of religious venues, the
23 Government of Vietnam has halted most positive ac-
24 tions since the Department of State lifted the “coun-

1 try of particular concern” (CPC) designation for
2 Vietnam in November 2006.

3 (C) Unregistered ethnic minority Protestant
4 congregations suffer severe abuses because of actions
5 by the Government of Vietnam, which have included
6 forced renunciations of faith, the arrest and harass-
7 ment of pastors, the withholding of social programs
8 provided for the general population, confiscation and
9 destruction of property, and subjection to severe
10 beatings.

11 (D) The Unified Buddhist Church of Vietnam
12 (UBCV) suffers persecutions as the Government of
13 Vietnam continues to restrict contacts and move-
14 ment of senior UBCV clergy, including the Most
15 Venerable Thich Huyen Quang, and the Most Vener-
16 able Thich Quang Do for refusing to join the state-
17 sponsored Buddhist organizations, and the Govern-
18 ment also continues to place leaders under “pagoda”
19 and house arrest, destroy religious property, and
20 harass and threaten local practicing Buddhists.

21 (E) The Government of Vietnam continues to
22 suppress the activities of other religious adherents,
23 including Cao Dai and Hoa Hao who lack official
24 recognition or have chosen not to affiliate with the

1 state-sanctioned groups, including through the use
2 of detention and imprisonment.

3 (F) During Easter weekend in April 2004,
4 thousands of Montagnards gathered to protest their
5 treatment by the Government of Vietnam, including
6 the confiscation of tribal lands and ongoing restric-
7 tions on religious activities. Credible reports indicate
8 that the protests were met with violent response as
9 many demonstrators were arrested, injured, went
10 into hiding, and that others were killed. Many of
11 these Montagnards are still serving long sentences
12 for their involvement in peaceful demonstrations in
13 2001 and 2004.

14 (G) Ethnic minority Hmong in the Northwest
15 Highlands of Vietnam also suffer restrictions,
16 abuses, and persecution by the Government of Viet-
17 nam, and although the Government is now allowing
18 some Hmong Protestants to organize and conduct
19 religious activity, some government officials continue
20 to deny or ignore additional applications for reg-
21 istration.

22 (10) The Government of Vietnam controls all
23 print and electronic media, including access to the
24 Internet, jams the signals of some foreign radio sta-
25 tions, including Radio Free Asia, and has detained

1 and imprisoned individuals who have posted or sent
2 democracy-related materials via the Internet.

3 (11) People arrested in Vietnam because of
4 their political or religious affiliations and activities
5 often are not accorded due legal process as they lack
6 full access to lawyers of their choice, may experience
7 closed trials, have often been detained for years
8 without trial, and have been subjected to the use of
9 torture to admit crimes they did not commit or to
10 falsely denounce their own leaders.

11 (12)(A) United States refugee resettlement pro-
12 grams, including the Humanitarian Resettlement
13 (HR) Program, the Orderly Departure Program
14 (ODP), Resettlement Opportunities for Vietnamese
15 Returnees (ROVR) Program, general resettlement of
16 boat people from refugee camps throughout South-
17 east Asia, the Amerasian Homecoming Act of 1988,
18 and the Priority One Refugee resettlement category
19 have helped rescue Vietnamese nationals who have
20 suffered persecution on account of their associations
21 with the United States as well as Vietnamese nation-
22 als who have been persecuted because of race, reli-
23 gion, nationality, political opinion, or membership in
24 a particular social group.

1 (B) While previous programs have served their
2 purposes well, a significant number of eligible refu-
3 gees from Vietnam were unfairly denied or excluded,
4 including Amerasians, in some cases by vindictive or
5 corrupt Vietnamese officials who controlled access to
6 the programs, and in others by United States per-
7 sonnel who imposed unduly restrictive interpreta-
8 tions of program criteria. In addition, the Govern-
9 ment of Vietnam has denied passports to persons
10 who the United States has found eligible for refugee
11 admission.

12 (C) The Department of State has agreed to ex-
13 tend the September 30, 1994, registration deadline
14 for former United States employees, “re-education”
15 survivors, and surviving spouses of those who did
16 not survive “re-education” camps to sign up for
17 United States refugee programs, as well as the Viet-
18 namease In Country Priority One Program in Viet-
19 nam to provide protection to victims of recent perse-
20 cution on account of race, religion, nationality, polit-
21 ical opinion, or membership in a particular social
22 group.

23 (D) The former United States Immigration and
24 Naturalization Service agreed to resume the proc-
25 essing of former United States employees under the

1 U11 program, which had been unilaterally sus-
2 pended by the United States Government, as well as
3 to review applications of Amerasians, children of
4 American servicemen left behind in Vietnam after
5 the war ended in April 1975, for resettlement to the
6 United States under the Amerasian Homecoming
7 Act of 1988.

8 (13) Congress has passed numerous resolutions
9 condemning human rights abuses in Vietnam, indi-
10 cating that although there has been an expansion of
11 relations with the Government of Vietnam, it should
12 not be construed as approval of the ongoing and se-
13 rious violations of fundamental human rights in
14 Vietnam.

15 (14) Enhancement of relations between the
16 United States and Vietnam has proved an oppor-
17 tunity for a human rights dialogue and could lead to
18 future progress on human rights issues in Vietnam.

19 **SEC. 3. PURPOSE.**

20 The purpose of this Act is to promote the develop-
21 ment of freedom and democracy in Vietnam.

1 **TITLE I—PROHIBITION ON NON-**
2 **HUMANITARIAN ASSISTANCE**
3 **TO THE GOVERNMENT OF**
4 **VIETNAM**

5 **SEC. 101. BILATERAL NONHUMANITARIAN ASSISTANCE.**

6 (a) ASSISTANCE.—

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

11 (A) for fiscal year 2008 unless not later
12 than 30 days after the date of the enactment of
13 this Act the President determines and certifies
14 to Congress that the requirements of subpara-
15 graphs (A) through (D) of paragraph (2) have
16 been met during the 12-month period ending on
17 the date of the certification; and

18 (B) for each subsequent fiscal year unless
19 the President determines and certifies to Con-
20 gress in the most recent annual report sub-
21 mitted pursuant to section 501 that the re-
22 quirements of subparagraphs (A) through (E)
23 of paragraph (2) have been met during the 12-
24 month period covered by the report.

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

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

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

13 (ii) the Government of Vietnam has made
14 substantial progress toward returning estates
15 and properties confiscated from the churches;

16 (C) the Government of Vietnam has made
17 substantial progress toward allowing Viet-
18 nameese nationals free and open access to
19 United States refugee programs;

20 (D) the Government of Vietnam has made
21 substantial progress toward respecting the
22 human rights of members of all ethnic minority
23 groups; and

24 (E)(i) neither any official of the Govern-
25 ment of Vietnam nor any agency or entity whol-

1 ly or partly owned by the Government of Viet-
2 nam was complicit in a severe form of traf-
3 ficking in persons; or

4 (ii) the Government of Vietnam took all
5 appropriate steps to end any such complicity
6 and hold such official, agency, or entity fully
7 accountable for its conduct.

8 (b) EXCEPTION.—

9 (1) CONTINUATION OF ASSISTANCE IN THE NA-
10 TIONAL INTEREST.—Notwithstanding the failure of
11 the Government of Vietnam to meet the require-
12 ments of subsection (a)(2), the President may waive
13 the application of subsection (a) for any fiscal year
14 if the President determines that the provision to the
15 Government of Vietnam of nonhumanitarian assist-
16 ance would promote the purpose of this Act or is
17 otherwise in the national interest of the United
18 States.

19 (2) EXERCISE OF WAIVER AUTHORITY.—The
20 President may exercise the authority under para-
21 graph (1) with respect to—

22 (A) all United States nonhumanitarian as-
23 sistance to Vietnam; or

24 (B) one or more programs, projects, or ac-
25 tivities of such assistance.

1 (c) DEFINITIONS.—In this section:

2 (1) SEVERE FORMS OF TRAFFICKING IN PER-
3 SONS.—The term “severe form of trafficking in per-
4 sons” means any activity described in section 103(8)
5 of the Trafficking Victims Protection Act of 2000
6 (Public Law 106–386 (114 Stat. 1470); 22 U.S.C.
7 7102(8)).

8 (2) UNITED STATES NONHUMANITARIAN AS-
9 SISTANCE.—The term “United States nonhumani-
10 tarian assistance” means—

11 (A) any assistance under the Foreign As-
12 sistance Act of 1961 (including programs under
13 title IV of chapter 2 of part I of that Act, relat-
14 ing to the Overseas Private Investment Cor-
15 poration), other than—

16 (i) disaster relief assistance, including
17 any assistance under chapter 9 of part I of
18 that Act;

19 (ii) assistance which involves the pro-
20 vision of food (including monetization of
21 food) or medicine; and

22 (iii) assistance for refugees; and

23 (B) sales, or financing on any terms, under
24 the Arms Export Control Act.

1 **TITLE II—ASSISTANCE TO SUP-**
2 **PORT DEMOCRACY IN VIET-**
3 **NAM**

4 **SEC. 201. ASSISTANCE.**

5 (a) IN GENERAL.—The President is authorized to
6 provide assistance, through appropriate nongovernmental
7 organizations and the Human Rights Defenders Fund, for
8 the support of individuals and organizations to promote
9 internationally recognized human rights in Vietnam.

10 (b) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated to the President to carry
12 out subsection (a) \$2,000,000 for each of the fiscal years
13 2008 and 2009.

14 **TITLE III—UNITED STATES**
15 **PUBLIC DIPLOMACY**

16 **SEC. 301. RADIO FREE ASIA TRANSMISSIONS TO VIETNAM.**

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

21 (b) AUTHORIZATION OF APPROPRIATIONS.—In addi-
22 tion to such amounts as are otherwise authorized to be
23 appropriated for the Broadcasting Board of Governors,
24 there are authorized to be appropriated to carry out the

1 policy under subsection (a) \$9,100,000 for the fiscal year
2 2008 and \$1,100,000 for fiscal year 2009.

3 **SEC. 302. UNITED STATES EDUCATIONAL AND CULTURAL**
4 **EXCHANGE PROGRAMS WITH VIETNAM.**

5 It is the policy of the United States that programs
6 of educational and cultural exchange with Vietnam should
7 actively promote progress toward freedom and democracy
8 in Vietnam by providing opportunities to Vietnamese na-
9 tionals from a wide range of occupations and perspectives
10 to see freedom and democracy in action and, also, by en-
11 suring that Vietnamese nationals who have already dem-
12 onstrated a commitment to these values are included in
13 such programs.

14 **TITLE IV—UNITED STATES**
15 **REFUGEE POLICY**

16 **SEC. 401. REFUGEE RESETTLEMENT FOR NATIONALS OF**
17 **VIETNAM.**

18 (a) POLICY OF THE UNITED STATES.—It is the pol-
19 icy of the United States to offer refugee resettlement to
20 nationals of Vietnam (including members of the
21 Montagnard ethnic minority groups) who were eligible for
22 the Humanitarian Resettlement (HR) Program, the Or-
23 derly Departure Program (ODP), Resettlement Opportu-
24 nities for Vietnamese Returnees (ROVR) Program, the
25 Amerasian Homecoming Act of 1988, or any other United

1 States refugee program and who were deemed ineligible
2 due to administrative error or who for reasons beyond the
3 control of such individuals (including insufficient or con-
4 tradictory information or the inability to pay bribes de-
5 manded by officials of the Government of Vietnam) were
6 unable or failed to apply for such programs in compliance
7 with deadlines imposed by the Department of State.

8 (b) AUTHORIZED ACTIVITY.—Of the amounts au-
9 thorized to be appropriated to the Department of State
10 for Migration and Refugee Assistance for each of the fiscal
11 years 2008, 2009, and 2010, such sums as may be nec-
12 essary are authorized to be made available for the protec-
13 tion (including resettlement in appropriate cases) of Viet-
14 nameese refugees and asylum seekers, including
15 Montagnards in Cambodia.

16 **TITLE V—ANNUAL REPORT ON**
17 **PROGRESS TOWARD FREE-**
18 **DOM AND DEMOCRACY IN**
19 **VIETNAM**

20 **SEC. 501. ANNUAL REPORT.**

21 (a) IN GENERAL.—Not later than 6 months after the
22 date of the enactment of this Act and every 12 months
23 thereafter, the Secretary of State shall submit to the Con-
24 gress a report on the following:

1 (1)(A) The determination and certification of
2 the President that the requirements of subpara-
3 graphs (A) through (E) of section 101(a)(2) have
4 been met, if applicable.

5 (B) The determination of the President under
6 section 101(b)(1), if applicable.

7 (2) Efforts by the United States Government to
8 secure transmission sites for Radio Free Asia in
9 countries in close geographical proximity to Vietnam
10 in accordance with section 301(a).

11 (3) Efforts to ensure that programs with Viet-
12 nam promote the policy set forth in section 302 and
13 with section 105 of the Human Rights, Refugee, and
14 Other Foreign Policy Provisions Act of 1996 regard-
15 ing participation in programs of educational and cul-
16 tural exchange.

17 (4) Steps taken to carry out the policy under
18 section 401(a).

19 (5) Lists of persons believed to be imprisoned,
20 detained, or placed under house arrest, tortured, or
21 otherwise persecuted by the Government of Vietnam
22 due to their pursuit of internationally recognized
23 human rights. In compiling such lists, the Secretary
24 shall exercise appropriate discretion, including con-
25 cerns regarding the safety and security of, and ben-

1 efit to, the persons who may be included on the lists
2 and their families. In addition, the Secretary shall
3 include a list of such persons and their families who
4 may qualify for protections under United States ref-
5 ugee programs.

6 (6) A description of the development of the rule
7 of law in Vietnam, including, but not limited to—

8 (A) progress toward the development of in-
9 stitutions of democratic governance;

10 (B) processes by which statutes, regula-
11 tions, rules, and other legal acts of the Govern-
12 ment of Vietnam are developed and become
13 binding within Vietnam;

14 (C) the extent to which statutes, regula-
15 tions, rules, administrative and judicial deci-
16 sions, and other legal acts of the Government of
17 Vietnam are published and are made accessible
18 to the public;

19 (D) the extent to which administrative and
20 judicial decisions are supported by statements
21 of reasons that are based upon written statutes,
22 regulations, rules, and other legal acts of the
23 Government of Vietnam;

24 (E) the extent to which individuals are
25 treated equally under the laws of Vietnam with-

1 out regard to citizenship, race, religion, political
2 opinion, or current or former associations;

3 (F) the extent to which administrative and
4 judicial decisions are independent of political
5 pressure or governmental interference and are
6 reviewed by entities of appellate jurisdiction;
7 and

8 (G) the extent to which laws in Vietnam
9 are written and administered in ways that are
10 consistent with international human rights
11 standards, including the requirements of the
12 International Covenant on Civil and Political
13 Rights.

14 (b) CONTACTS WITH OTHER ORGANIZATIONS.—In
15 preparing the report under subsection (a), the Secretary
16 shall, as appropriate, seek out and maintain contacts with
17 nongovernmental organizations and human rights advo-
18 cates (including Vietnamese-Americans and human rights
19 advocates in Vietnam), including receiving reports and up-
20 dates from such organizations and evaluating such re-
21 ports. The Secretary shall also seek to consult with the
22 United States Commission on International Religious
23 Freedom for appropriate sections of the report.

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