

113TH CONGRESS  
1ST SESSION

# H. R. 1897

To promote freedom and democracy in Vietnam.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 8, 2013

Mr. SMITH of New Jersey (for himself, Mr. ROYCE, Mr. WOLF, Ms. LOFGREN, and Mr. LOWENTHAL) introduced the following bill; which was referred to the Committee on Foreign Affairs

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## 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 2013”.

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 and purpose.
- Sec. 3. Prohibition on increased nonhumanitarian assistance to the Government of Vietnam.
- Sec. 4. United States public diplomacy.
- Sec. 5. United Nations Human Rights Council.
- Sec. 6. Annual report.

1 **SEC. 2. FINDINGS AND PURPOSE.**

2 (a) FINDINGS.—Congress finds the following:

3 (1) The relationship between the United States  
4 and the Socialist Republic of Vietnam has grown  
5 substantially since the end of the trade embargo in  
6 1994, with annual trade between the two countries  
7 reaching nearly \$25,000,000,000 in 2012.

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 basic human rights for Vi-  
12 etnamese citizens, including freedom of religion, ex-  
13 pression, association, and assembly.

14 (3) The United States Congress agreed to Viet-  
15 nam becoming an official member of the World  
16 Trade Organization in 2006, amidst assurances that  
17 the Government of Vietnam was steadily improving  
18 its human rights record and would continue to do so.

19 (4) Vietnam remains a one-party state, ruled  
20 and controlled by the Communist Party of Vietnam  
21 (CPV), which continues to deny the right of citizens  
22 to change their Government.

23 (5) Although in recent years the National As-  
24 sembly of Vietnam has played an increasingly active  
25 role as a forum for highlighting local concerns, cor-  
26 ruption, and inefficiency, the National Assembly re-

1       mains subject to the direction of the CPV and the  
2       CPV maintains control over the selection of can-  
3       didates in national and local elections.

4               (6) The Government of Vietnam forbids public  
5       challenge to the legitimacy of the one-party state, re-  
6       stricts freedoms of opinion, the press, and associa-  
7       tion and tightly limits access to the Internet and  
8       telecommunication.

9               (7) Since Vietnam's accession to the WTO on  
10       January 11, 2007, the Government of Vietnam arbi-  
11       trarily arrested and detained numerous individuals  
12       for their peaceful advocacy of religious freedom, de-  
13       mocracy, and human rights, including Father  
14       Nguyen Van Ly, human rights lawyers Nguyen Van  
15       Dai, Le Thi Cong Nhan, Cu Huy Ha Vu, and Le  
16       Cong Dinh, and bloggers Nguyen Van Hai, Ta  
17       Phong Tan, and Le Van Son.

18              (8) The Government of Vietnam continues to  
19       detain, imprison, place under house arrest, convict,  
20       or otherwise restrict persons for the peaceful expres-  
21       sion of dissenting political or religious views.

22              (9) The Government of Vietnam continues to  
23       detain labor leaders and restricts the right to orga-  
24       nize independently.

1           (10) The Government of Vietnam continues to  
2 limit the freedom of religion, restrict the operations  
3 of independent religious organizations, and persecute  
4 believers whose religious activities the Government  
5 regards as a potential threat to its monopoly on  
6 power.

7           (11) Despite reported progress in church open-  
8 ings and legal registrations of religious venues, the  
9 Government of Vietnam has halted most positive ac-  
10 tions since the Department of State lifted the “coun-  
11 try of particular concern” (CPC) designation for  
12 Vietnam in November 2006.

13           (12) Unregistered ethnic minority Protestant  
14 congregations, particularly Montagnards in the Cen-  
15 tral and Northwest Highlands, suffer severe abuses  
16 because of actions by the Government of Vietnam,  
17 which have included forced renunciations of faith,  
18 arrest and harassment, the withholding of social pro-  
19 grams provided for the general population, confisca-  
20 tion and destruction of property, subjection to severe  
21 beatings, and reported deaths.

22           (13) There has been a pattern of violent re-  
23 sponses by the Government to peaceful prayer vigils  
24 and demonstrations by Catholics for the return of  
25 Government-confiscated church properties. Pro-

1       testers have been harassed, beaten, and detained  
2       and church properties have been destroyed. Catholics  
3       also continue to face some restrictions on selection  
4       of clergy, the establishment of seminaries and semi-  
5       nary candidates, and individual cases of travel and  
6       church registration.

7               (14) In May 2010 the village of Con Dau, a  
8       Catholic parish in Da Nang, faced escalated violence  
9       during a funeral procession as police attempted to  
10      prohibit a religious burial in the village cemetery;  
11      more than 100 villagers were injured, 62 were ar-  
12      rested, five were tortured, and at least three died.

13              (15) The Unified Buddhist Church of Vietnam  
14      (UBCV) suffers persecution as the Government of  
15      Vietnam continues to restrict contacts and move-  
16      ment of senior UBCV clergy for refusing to join the  
17      state-sponsored Buddhist organization, the Govern-  
18      ment restricts expression and assembly, and the  
19      Government continues to harass and threaten UBCV  
20      monks, nuns, and youth leaders.

21              (16) The Government of Vietnam continues to  
22      suppress the activities of other religious adherents,  
23      including Cao Dai and Hoa Hao Buddhists who lack  
24      official recognition or have chosen not to affiliate  
25      with the state-sanctioned groups, including through

1 the use of detention, imprisonment, and strict Gov-  
2 ernment oversight.

3 (17) Many Montagnards and others are still  
4 serving long prison sentences for their involvement  
5 in peaceful demonstrations in 2001, 2002, 2004,  
6 and 2008. Montagnards continue to face threats, de-  
7 tention, beatings, forced renunciation of faith, prop-  
8 erty destruction, restricted movement, and reported  
9 deaths at the hands of Government officials.

10 (18) Ethnic minority Hmong in Northern Viet-  
11 nam, the Northwest Highlands, and the Central  
12 Highlands of Vietnam also suffer restrictions, confis-  
13 cation of property, abuses, and persecution by the  
14 Government of Vietnam.

15 (19) The Government of Vietnam restricts  
16 Khmer Krom expression, assembly, and association,  
17 has confiscated nearly all the Theravada Buddhist  
18 temples, controls all Khmer Kaon Buddhist religious  
19 organizations and prohibits most peaceful protests.

20 (20) The Government of Vietnam controls near-  
21 ly all print and electronic media, including access to  
22 the Internet, jams the signals of some foreign radio  
23 stations, including Radio Free Asia, and has de-  
24 tained and imprisoned individuals who have posted,

1 published, sent, or otherwise distributed democracy-  
2 related materials.

3 (21) 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 (22) Vietnam continues to be a source country  
12 for the commercial sexual exploitation and forced  
13 labor of women and girls, as well as for men and  
14 women legally entering into international labor con-  
15 tracts who subsequently face conditions of debt  
16 bondage or forced labor, and is a destination country  
17 for child trafficking and continues to have internal  
18 human trafficking.

19 (23) There are many reports of Vietnamese of-  
20 ficials and employees participating in, facilitating,  
21 condoning, or otherwise being complicit in severe  
22 forms of human trafficking.

23 (24) United States refugee resettlement pro-  
24 grams, including the Humanitarian Resettlement  
25 (HR) Program, the Orderly Departure Program

1 (ODP), Resettlement Opportunities for Vietnamese  
2 Returnees (ROVR) Program, general resettlement of  
3 boat people from refugee camps throughout South-  
4 east Asia, the Amerasian Homecoming Act of 1988,  
5 and the Priority One Refugee resettlement category,  
6 have helped rescue Vietnamese nationals who have  
7 suffered persecution on account of their associations  
8 with the United States or, in many cases, because of  
9 such associations by their spouses, parents, or other  
10 family members, as well as other Vietnamese nation-  
11 als who have been persecuted because of race, reli-  
12 gion, nationality, political opinion, or membership in  
13 a particular social group.

14 (25) While previous programs have served their  
15 purposes well, a significant number of eligible refu-  
16 gees from Vietnam were unfairly denied or excluded,  
17 including Amerasians, in some cases by vindictive or  
18 corrupt Vietnamese officials who controlled access to  
19 the programs, and in others by United States per-  
20 sonnel who imposed unduly restrictive interpreta-  
21 tions of program criteria. In addition, the Govern-  
22 ment of Vietnam has denied passports to persons  
23 who the United States has found eligible for refugee  
24 admission.



1 exceeds the amount of such assistance provided for  
2 fiscal year 2012 unless—

3 (A) with respect to the limitation for fiscal  
4 year 2014, the President determines and cer-  
5 tifies to Congress, not later than 30 days after  
6 the date of the enactment of this Act, that the  
7 requirements of subparagraphs (A) through (G)  
8 of paragraph (2) have been met during the 12-  
9 month period ending on the date of the certifi-  
10 cation; and

11 (B) with respect to the limitation for sub-  
12 sequent fiscal years, the President determines  
13 and certifies to Congress, in the most recent  
14 annual report submitted pursuant to section 6,  
15 that the requirements of subparagraphs (A)  
16 through (G) of paragraph (2) have been met  
17 during the 12-month period covered by the re-  
18 port.

19 (2) REQUIREMENTS.—The requirements of this  
20 paragraph are the following:

21 (A) The Government of Vietnam has made  
22 substantial progress toward releasing all polit-  
23 ical and religious prisoners from imprisonment,  
24 house arrest, and other forms of detention.

1 (B) The Government of Vietnam has made  
2 substantial progress toward—

3 (i) respecting the right to freedom of  
4 religion, including the right to participate  
5 in religious activities and institutions with-  
6 out interference, harassment, or involve-  
7 ment of the Government, for all of Viet-  
8 nam’s diverse religious communities; and

9 (ii) returning estates and properties  
10 confiscated from the churches and religious  
11 communities.

12 (C) The Government of Vietnam has made  
13 substantial progress toward respecting the right  
14 to freedom of expression, assembly, and associa-  
15 tion, including the release of independent jour-  
16 nalists, bloggers, and democracy and labor ac-  
17 tivists.

18 (D) The Government of Vietnam has made  
19 substantial progress toward repealing or revis-  
20 ing laws that criminalize peaceful dissent, inde-  
21 pendent media, unsanctioned religious activity,  
22 and nonviolent demonstrations and rallies, in  
23 accordance with international standards and  
24 treaties to which Vietnam is a party.

1           (E) The Government of Vietnam has made  
2           substantial progress toward allowing Viet-  
3           namese nationals free and open access to  
4           United States refugee programs.

5           (F) The Government of Vietnam has made  
6           substantial progress toward respecting the  
7           human rights of members of all ethnic and mi-  
8           nority groups.

9           (G) Neither any official of the Government  
10          of Vietnam nor any agency or entity wholly or  
11          partly owned by the Government of Vietnam  
12          was complicit in a severe form of trafficking in  
13          persons, or the Government of Vietnam took all  
14          appropriate steps to end any such complicity  
15          and hold such official, agency, or entity fully  
16          accountable for its conduct.

17         (b) EXCEPTION.—

18                 (1) CONTINUATION OF ASSISTANCE IN THE NA-  
19                 TIONAL INTEREST.—Notwithstanding the failure of  
20                 the Government of Vietnam to meet the require-  
21                 ments of subsection (a)(2), the President may waive  
22                 the application of subsection (a) for any fiscal year  
23                 if—

24                         (A) the President determines that the pro-  
25                         vision to the Government of Vietnam of in-

1           creased nonhumanitarian assistance would pro-  
2           mote the purpose of this Act or is otherwise in  
3           the national interest of the United States; and

4                   (B) the Federal Government provides as-  
5           sistance, at levels commensurate with, or ex-  
6           ceeding, any increases in nonhumanitarian as-  
7           sistance to Vietnam, that supports—

8                           (i) training about the obligation of the  
9           Government of Vietnam to respect the  
10           rights enumerated in the International  
11           Covenant on Civil and Political Rights;

12                           (ii) noncommercial rule of law pro-  
13           gramming; and

14                           (iii) measures to overcome the jam-  
15           ming of Radio Free Asia by the Govern-  
16           ment of Vietnam.

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

20                   (A) all United States nonhumanitarian as-  
21           sistance to Vietnam; or

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

24           (c) DEFINITIONS.—In this section:

1           (1) NONHUMANITARIAN ASSISTANCE.—The  
2 term “nonhumanitarian assistance” means—

3           (A) any assistance under the Foreign As-  
4 sistance Act of 1961 (including programs under  
5 title IV of chapter 2 of part I of that Act, relat-  
6 ing to the Overseas Private Investment Cor-  
7 poration), other than—

8           (i) disaster relief assistance, including  
9 any assistance under chapter 9 of part I of  
10 that Act;

11           (ii) assistance which involves the pro-  
12 vision of food (including monetization of  
13 food) or medicine;

14           (iii) assistance for environmental re-  
15 mediation of dioxin-contaminated sites and  
16 related health activities;

17           (iv) assistance to combat severe forms  
18 of trafficking in persons;

19           (v) assistance to combat pandemic  
20 diseases;

21           (vi) assistance for refugees; and

22           (vii) assistance to combat HIV/AIDS,  
23 including any assistance under section  
24 104A of that Act; and

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

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

9 (d) EFFECTIVE DATE.—This section shall take effect  
10 on the date of the enactment of this Act and shall apply  
11 with respect to the provision of nonhumanitarian assist-  
12 ance to the Government of Vietnam for fiscal year 2014  
13 and subsequent fiscal years.

14 **SEC. 4. UNITED STATES PUBLIC DIPLOMACY.**

15 (a) RADIO FREE ASIA TRANSMISSIONS TO VIET-  
16 NAM.—It is the sense of Congress that the United States  
17 should take measures to overcome the jamming of Radio  
18 Free Asia by the Government of Vietnam and that the  
19 Broadcasting Board of Governors should not cut staffing,  
20 funding, or broadcast hours for the Vietnamese language  
21 services of the Voice of America and Radio Free Asia,  
22 which shall be done without reducing any other broadcast  
23 language services.

24 (b) UNITED STATES EDUCATIONAL AND CULTURAL  
25 EXCHANGE PROGRAMS WITH VIETNAM.—It is the sense

1 of Congress that any programs of educational and cultural  
2 exchange between the United States and Vietnam should  
3 actively promote progress toward freedom and democracy  
4 in Vietnam by providing opportunities to Vietnamese na-  
5 tionals from a wide range of occupations and perspectives  
6 to see freedom and democracy in action and, also, by en-  
7 suring that Vietnamese nationals who have already dem-  
8 onstrated a commitment to these values are included in  
9 such programs.

10 (c) UNITED NATIONS HUMAN RIGHTS COUNCIL.—

11 It is the sense of Congress that the Secretary of State  
12 should strongly oppose, and encourage other members of  
13 the United Nations to oppose, the candidacy of Vietnam  
14 for membership on the United Nations Human Rights  
15 Council for the term beginning in 2014.

16 **SEC. 5. RELIGIOUS FREEDOM AND HUMAN TRAFFICKING.**

17 (a) COUNTRY OF PARTICULAR CONCERN.—It is the  
18 sense of Congress that Vietnam should be designated as  
19 a country of particular concern for religious freedom pur-  
20 suant to section 402(b) of the International Religious  
21 Freedom Act of 1998 (22 U.S.C. 6442(b)).

22 (b) MINIMUM STANDARDS FOR THE ELIMINATION OF  
23 HUMAN TRAFFICKING.—It is the sense of Congress that  
24 the Government of Vietnam does not fully comply with the  
25 minimum standards for the elimination of trafficking and

1 is not making significant efforts to bring itself into compli-  
2 ance, and this determination should be reflected in the an-  
3 nual report to Congress required pursuant to section  
4 110(b) of the Trafficking Victims Protection Act of 2000  
5 (22 U.S.C. 7107(b)).

6 **SEC. 6. ANNUAL REPORT.**

7 (a) IN GENERAL.—Not later than six months after  
8 the date of the enactment of this Act and every 12 months  
9 thereafter, the Secretary of State shall submit to Congress  
10 a report on the following:

11 (1) The determination and certification of the  
12 President that the requirements of subparagraphs  
13 (A) through (G) of section 3(a)(2) have been met,  
14 if applicable.

15 (2) If the President has waived the application  
16 of section 3(a) pursuant to section 3(b) during the  
17 reporting period—

18 (A) the national interest with respect to  
19 which such a waiver was based;

20 (B) the amount of increased nonhumani-  
21 tarian assistance provided to the Government of  
22 Vietnam; and

23 (C) a description of the type and amount  
24 of commensurate assistance provided pursuant  
25 to section 3(b)(1)(B).

1           (3) Efforts by the United States Government to  
2           promote access by the Vietnamese people to Radio  
3           Free Asia transmissions.

4           (4) Efforts to ensure that programs with Viet-  
5           nam promote the policy set forth in section 102 of  
6           the Human Rights, Refugee, and Other Foreign Pol-  
7           icy Provisions Act of 1996 regarding participation in  
8           programs of educational and cultural exchange.

9           (5) Lists of persons believed to be imprisoned,  
10          detained, or placed under house arrest, tortured, or  
11          otherwise persecuted by the Government of Vietnam  
12          due to their pursuit of internationally recognized  
13          human rights. In compiling such lists, the Secretary  
14          shall exercise appropriate discretion, including con-  
15          cerns regarding the safety and security of, and ben-  
16          efit to, the persons who may be included on the lists  
17          and their families. In addition, the Secretary shall  
18          include a list of such persons and their families who  
19          may qualify for protections under United States ref-  
20          ugee programs.

21          (6) A description of the development of the rule  
22          of law in Vietnam, including—

23                  (A) progress toward the development of in-  
24                  stitutions of democratic governance;

1 (B) processes by which statutes, regula-  
2 tions, rules, and other legal acts of the Govern-  
3 ment of Vietnam are developed and become  
4 binding within Vietnam;

5 (C) the extent to which statutes, regula-  
6 tions, rules, administrative and judicial deci-  
7 sions, and other legal acts of the Government of  
8 Vietnam are published and are made accessible  
9 to the public;

10 (D) the extent to which administrative and  
11 judicial decisions are supported by statements  
12 of reasons that are based upon written statutes,  
13 regulations, rules, and other legal acts of the  
14 Government of Vietnam;

15 (E) the extent to which individuals are  
16 treated equally under the laws of Vietnam with-  
17 out regard to citizenship, race, religion, political  
18 opinion, or current or former associations;

19 (F) the extent to which administrative and  
20 judicial decisions are independent of political  
21 pressure or governmental interference and are  
22 reviewed by entities of appellate jurisdiction;  
23 and

24 (G) the extent to which laws in Vietnam  
25 are written and administered in ways that are

1           consistent with international human rights  
2           standards, including the rights enumerated in  
3           the International Covenant on Civil and Polit-  
4           ical Rights.

5           (b) CONTACTS WITH OTHER ORGANIZATIONS.—In  
6           preparing the report under subsection (a), the Secretary  
7           shall, as appropriate, seek out and maintain contacts with  
8           nongovernmental organizations and human rights advo-  
9           cates (including Vietnamese-Americans and human rights  
10          advocates in Vietnam), including receiving reports and up-  
11          dates from such organizations and evaluating such re-  
12          ports. The Secretary shall also seek to consult with the  
13          United States Commission on International Religious  
14          Freedom for appropriate sections of the report.

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