

ROMANIA'S BAN ON INTERCOUNTRY ADOPTIONS; DISAPPROVAL
OF THE ARAB LEAGUE'S DECISION TO HOLD ITS 2006 SUM-
MIT IN KHARTOUM, SUDAN, AND CALLING ON THE WORLD
COMMUNITY TO END ACTS OF GENOCIDE IN THE DARFUR
REGION OF SUDAN; CALLING ON THE SOCIALIST REPUBLIC
OF VIETNAM TO IMMEDIATELY AND UNCONDITIONALLY RE-
LEASE DR. PHAM HONG SON AND OTHER POLITICAL PRIS-
ONERS; AND THE CENTRAL ASIA DEMOCRACY AND HUMAN
RIGHTS ACT OF 2005

MARKUP

BEFORE THE

SUBCOMMITTEE ON AFRICA, GLOBAL HUMAN
RIGHTS AND INTERNATIONAL OPERATIONS

OF THE

COMMITTEE ON
INTERNATIONAL RELATIONS
HOUSE OF REPRESENTATIVES

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

ON

**H. Res. 578, H. Res. 675, H. Con. Res. 320,
and H.R. 3189**

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CONTENTS

	Page
MARKUP OF	
H. Res. 578, Concerning the Government of Romania's ban on intercountry adoptions and the welfare of orphaned or abandoned children in Romania ...	2
H. Res. 675, Expressing disapproval of the Arab League's decision to hold its 2006 summit in Khartoum, Sudan and calling on the Arab League, the Government of Sudan, the Sudanese rebels, and the world community to do all they can to end acts of genocide in the Darfur region of Sudan	10
H. Con. Res. 320, Calling on the Government of the Socialist Republic of Vietnam to immediately and unconditionally release Dr. Pham Hong Son and other political prisoners and prisoners of conscience, and other purposes	16
Amendment to H. Con. Res. 320 offered by the Honorable Christopher H. Smith, a Representative in Congress from the State of New Jersey and Chairman, Subcommittee on Africa, Global Human Rights and International Operations	26
H.R. 3189, To promote the development of democratic institutions and full respect for human rights in the countries of Central Asia.	28
Amendment in the nature of a substitute to H.R. 3189 offered by the Honorable Christopher H. Smith	49
En bloc amendment to H.R. 3189 offered by the Honorable Barbara Lee, a Representative in Congress from the State of California	69
LETTERS, STATEMENTS, ETC., SUBMITTED FOR THE HEARING	
The Honorable Christopher H. Smith: Prepared statement on H. Res. 578	8
Prepared statement on H. Res. 675	13
Prepared statement on H. Con. Res. 320	24
Prepared statement on H.R. 3189	46
APPENDIX	
The Honorable Edward R. Royce, a Representative in Congress from the State of California: Prepared statement on H. Con. Res. 320	73

**ROMANIA'S BAN ON INTERCOUNTRY ADOPTIONS; DIS-
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UNCONDITIONALLY RELEASE DR. PHAM HONG SON AND
OTHER POLITICAL PRISONERS; AND THE CENTRAL ASIA
DEMOCRACY AND HUMAN RIGHTS ACT OF 2005**

TUESDAY, FEBRUARY 28, 2006

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON AFRICA, GLOBAL HUMAN RIGHTS
AND INTERNATIONAL OPERATIONS,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 5:10 p.m. in room 2172, Rayburn House Office Building, Hon. Christopher Smith (Chairman of the Subcommittee) presiding.

Mr. SMITH OF NEW JERSEY. The Subcommittee will come to order, and good evening, everyone.

Pursuant to notice, I call up the bill, H. Res. 578, concerning the Government of Romania's ban on intercountry adoptions and the welfare of orphaned or abandoned children in Romania. For the purposes of markup and to move this recommendation to the Full Committee, without objection, the bill will be considered as read and open for amendment at any point.

I would like to make a very brief opening statement and then yield to my colleagues if they would like to speak on it as well.

My friends, I introduced H. Res. 578 to express our deepest disappointment that the Romanian Government has instituted a virtual ban on intercountry adoptions. This ban has serious implications for the welfare and well-being of orphaned or abandoned children in Romania. Last September, I chaired a hearing of the Commission on Security and Cooperation in Europe which explored these issues in depth. H. Res. 578 has 24 co-sponsors, and on February 14, it was reported favorably by the Subcommittee on Europe and Emerging Threats.

[H. Res. 578 follows:]

109TH CONGRESS
1ST SESSION

H. RES. 578

Concerning the Government of Romania's ban on intercountry adoptions
and the welfare of orphaned or abandoned children in Romania.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 18, 2005

Mr. SMITH of New Jersey (for himself, Mr. CARDIN, Mrs. NORTHUP, Mr. PITTS, Mr. PENCE, Mr. COSTELLO, Mr. BURTON of Indiana, Mrs. JO ANN DAVIS of Virginia, Mr. TIAHRT, Mr. BRADLEY of New Hampshire, and Mr. FRANK of Massachusetts) submitted the following resolution; which was referred to the Committee on International Relations

RESOLUTION

Concerning the Government of Romania's ban on intercountry adoptions and the welfare of orphaned or abandoned children in Romania.

Whereas following the execution of Romanian President Nicolae Ceausescu in 1989, it was discovered that more than 100,000 underfed, neglected children throughout Romania were living in hundreds of squalid and inhumane institutions;

Whereas United States citizens responded to the dire situation of these children with an outpouring of compassion and assistance to improve conditions in those institutions and to provide for the needs of abandoned children in Romania;

Whereas, between 1990 and 2004, United States citizens adopted more than 8,200 Romanian children, with a similar response from Western Europe;

Whereas the United Nations Children's Fund (UNICEF) reported in March 2005 that more than 9,000 children a year are abandoned in Romania's maternity wards or pediatric hospitals and that child abandonment in Romania in "2003 and 2004 was no different from that occurring 10, 20, or 30 years ago";

Whereas there are approximately 37,000 orphaned or abandoned children in Romania today living in state institutions, an additional 49,000 living in temporary arrangements, such as foster care, and an unknown number of children living on the streets and in maternity and pediatric hospitals;

Whereas, on December 28, 1994, Romania ratified the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption which recognizes that "intercountry adoption may offer the advantage of a permanent family to a child for whom a suitable family cannot be found in his or her State of origin";

Whereas intercountry adoption offers the hope of a permanent family for children who are orphaned or abandoned by their biological parents;

Whereas UNICEF's official position on intercountry adoption, in pertinent part, states: "For children who cannot be raised by their own families, an appropriate alternative family environment should be sought in preference to institutional care, which should be used only as a last resort and as a temporary measure. Inter-country adoption is one of a range of care options which may be open

to children, and for individual children who cannot be placed in a permanent family setting in their countries of origin, it may indeed be the best solution. In each case, the best interests of the individual child must be the guiding principle in making a decision regarding adoption.”;

Whereas unsubstantiated allegations have been made about the fate of children adopted from Romania and the qualifications and motives of those who adopt internationally;

Whereas in June 2001, the Romanian Adoption Committee imposed a moratorium on intercountry adoption, but continued to accept new intercountry adoption applications and allowed many such applications to be processed under an exception for extraordinary circumstances;

Whereas on June 21, 2004, the Parliament of Romania enacted Law 272/2004 on “the protection and promotion of the rights of the child,” which creates new requirements for declaring a child legally available for adoption;

Whereas on June 21, 2004, the Parliament of Romania enacted Law 273/2004 on adoption, which prohibits intercountry adoption except by a child’s biological grandparent or grandparents;

Whereas there is no European Union law or regulation restricting intercountry adoptions to biological grandparents or requiring that restrictive laws be passed as a prerequisite for accession to the European Union;

Whereas the number of Romanian children adopted domestically is far less than the number abandoned and has declined further since enactment of Law 272/2004 and 273/2004 due to new, overly burdensome requirements for adoption;

Whereas prior to enactment of Law 273/2004, 211 intercountry adoption cases were pending with the Government of Romania in which children had been matched with adoptive parents in the United States, and approximately 1,500 cases were pending in which children had been matched with prospective parents in Western Europe; and

Whereas Romanian children, and all children, deserve to be raised in permanent families: Now, therefore, be it

1 *Resolved*, That the House of Representatives—

2 (1) supports the desire of the Government of
3 Romania to improve the standard of care and well-
4 being of children in Romania;

5 (2) urges the Government of Romania to com-
6 plete the processing of the intercountry adoption
7 cases which were pending when Law 273/2004 was
8 enacted;

9 (3) urges the Government of Romania to amend
10 its child welfare and adoption laws to decrease bar-
11 riers to adoption, both domestically and inter-
12 country, including by allowing intercountry adoption
13 by persons other than biological grandparents;

14 (4) urges the Secretary of State and the Ad-
15 ministrator of the United States Agency for Inter-
16 national Development to work collaboratively with
17 the Government of Romania to achieve these ends;
18 and

1 (5) requests that the European Union and its
2 member States not impede the Government of Ro-
3 mania's efforts to place orphaned or abandoned chil-
4 dren in permanent homes in a manner that is con-
5 sistent with Romania's obligations under the Hague
6 Convention on Protection of Children and Co-oper-
7 ation in Respect of Intercountry Adoption.

○

Mr. SMITH OF NEW JERSEY. The world first learned, in 1989, that 100,000 underfed, neglected children were living in hundreds of squalid and inhumane institutions throughout Romania. As a matter of fact, about 4 weeks after the fall of the Ceaurescu regime, having been there several times when he was the dictator, I visited, along with Dorothy Taft on our staff, one of those orphanages and saw in one place 60 young babies who were left there as orphans who could not be turned even because there was such a shortage of people to attend to them.

However, the good news is that between 1990 and 2004, more than 8,000 of these children found permanent families in the United States; thousands of others joined families in Western Europe and elsewhere.

Sadly, Romania's child-abandonment rate has not changed significantly in 30 years. Today, approximately 80,000 children still live either in institutions or in non-permanent settings such as "foster care."

Hopefully, a time will come when child abandonment in Romania is just a painful memory, and hopefully the country will someday have the capacity to help all of the children in need, but that day has not yet come, and today there is great need for adoption, both foreign and domestic. But despite this need and the positive outcomes of most adoptions, outrageous and unsubstantiated allegations have been made about the fate of adopted children and the qualifications and motives of those who adopt internationally.

Baroness Emma Nicholson, a member of the European Parliament who recently served as the rapporteur for Romania's accession to the European Union, equates intercountry adoption with child trafficking for pedophiles and slavery rings. She believes that it is "totally false" to assume that, for a child, a foreign adoptive family is better than the family which cannot care for him or her. Earlier this month, she publicly equated pro-adoption advocates with organized criminals. Rather than focusing on the best interests of the child, Romanian policymakers caved in to Lady Nicholson by banning intercountry adoption in an effort to secure Romania's EU accession.

I would note, parenthetically, that as the author of the three trafficking laws for the United States, the Trafficking Victims Protection Act of 2000, 2003, and 2005, I and Members of this Subcommittee take absolutely no back seat when it comes to trafficking. Adoption is not trafficking.

When the ban was enacted by the Romanian Parliament, I would point out, there were approximately 200 cases pending in which children had been matched with adoptive parents in the United States; approximately 1,000 more had been matched with parents in Western Europe, Israel, or Australia. These cases will be denied if the Romanian Government applies the ban retroactively.

Each of these so-called "pipeline cases" involves a prospective family who has proven their good faith by waiting for years for these children. Many cases involve older children, Roma children, and children with special needs who will not be domestically adopted in Romania. In at least three cases, children with severe medical needs are already in the United States on medical visas and living with their prospective adoptive parents. Each was abandoned

at birth and was legally adoptable until the new anti-adoption law took effect in Romania. If returned to Romania, they will live in institutions and will not receive the medical care that they need.

Passage of H. Res. 578 will put the Congress on record as, one, supporting the Romanian Government's desire to improve the standard of care and the well-being of children—they state that that is their desire; urging the Government of Romania to complete the processing of the intercountry adoption cases which were pending when the ban was enacted; urging the government to decrease barriers to adoption, both domestically and intercountry; urging the State Department and USAID to work with Romania to achieve these ends; and requesting that the EU and its member states not impede Romania's efforts to place orphaned or abandoned children in permanent homes.

H. Res. 578 is premised on the belief that all children deserve to be raised in a permanent family. The Romanian Government's current laws and policies do not reflect this principle, and I strongly urge my colleagues to support this resolution.

[The prepared statement of Mr. Smith on H. Res. 578 follows:]

PREPARED STATEMENT OF THE HONORABLE CHRISTOPHER H. SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY AND CHAIRMAN, SUBCOMMITTEE ON AFRICA, GLOBAL HUMAN RIGHTS AND INTERNATIONAL OPERATIONS

H.RES. 578

I introduced H.Res. 578 to express my deepest disappointment that the Romanian Government has instituted a virtual ban on intercountry adoptions. This ban has serious implications for the welfare and well-being of orphaned or abandoned children in Romania. Last September, I chaired a hearing of the Commission on Security and Cooperation in Europe which explored these issues in depth. H.Res. 578 has 24 co-sponsors and, on February 14, it was reported favorably by the Subcommittee on Europe and Emerging Threats.

The world first learned in 1989 that 100,000 underfed, neglected children were living in hundreds of squalid and inhumane institutions throughout Romania. Between 1990 and 2004, more than 8,000 of these children found permanent families in the United States; thousands of others joined families in Western Europe and elsewhere.

Sadly, Romania's child abandonment rate hasn't changed significantly in 30 years. Today, approximately 80,000 children still live either in institutions or in non-permanent settings such as "foster care."

Hopefully, a time will come when child abandonment in Romania is just a painful memory. And hopefully, the country will someday have the capacity to help all the children in need. But that day has not yet come and today there is a great need for adoption—both foreign and domestic. But despite this need, and the positive outcomes of most adoptions, outrageous and unsubstantiated allegations have been made about the fate of adopted children and the qualifications and motives of those who adopt internationally. Baroness Emma Nicholson, a Member of the European Parliament who until recently served as rapporteur for Romania's accession to the European Union, equates intercountry adoption with child trafficking for pedophiles and slavery rings. She believes that it is "totally false" to assume that for a child, a foreign adoptive family is better than the family which can not care for him. Earlier this month she publicly equated pro-adoption advocates with organized criminals. Rather than focusing on the best interests of the child, Romanian policy makers caved in to Nicholson by banning intercountry adoption in an effort to secure Romania's EU accession.

When the ban was enacted there were approximately 200 cases pending in which children had been matched with adoptive parents in the United States; approximately a thousand more had been matched with parents in Western Europe, Israel or Australia. These cases will be denied if the Romanian Government applies the ban retroactively.

Each of these pipeline cases involves a prospective family who has proven their good faith by waiting for years for these children. Many cases involve older children, Roma children, and children with special medical needs who will not be domestically

adopted in Romania. In at least 3 cases, children with severe medical needs are already in the U.S. on medical visas and living with their prospective adoptive parents. Each was abandoned at birth and were legally adoptable until the new adoption law took effect. If returned to Romania they will live in institutions and will not receive the medical care they need.

Passage of H. Res. 578 will put the Congress on record

- supporting the Romanian Government's desire to improve the standard of care and well-being of children;
- urging the Government to complete the processing of the intercountry adoption cases which were pending when the ban was enacted;
- urging the Government to decrease barriers to adoption, both domestically and intercountry;
- urging the State Department and USAID to work with Romania to achieve these ends; and
- requesting that the EU and its member States not impede Romania's efforts to place orphaned or abandoned children in permanent homes.

H.Res. 578 is premised on the belief that all children deserve to be raised in permanent families. The Romanian Government's current laws and policies do not reflect this principle. I strongly urge my colleagues to support this resolution.

Mr. SMITH OF NEW JERSEY. Would anyone else like to be heard on this resolution?

[No response.]

Mr. SMITH OF NEW JERSEY. Are there any amendments to it?

[No response.]

Mr. SMITH OF NEW JERSEY. If not, then the question occurs on the motion to report the bill, H. Res. 578, concerning the Government of Romania's ban on intercountry adoptions and the welfare of orphaned or abandoned children in Romania, favorably. All of those in favor, say aye.

[A chorus of ayes.]

Mr. SMITH OF NEW JERSEY. All of those opposed say no.

[No response.]

Mr. SMITH OF NEW JERSEY. The motion is approved, and the bill is reported favorably. The staff is directed to make any technical and conforming amendments, and without objection, that is it, and I thank my colleagues.

We will now move to consideration of our second measure. Pursuant to notice, I call up the bill, H. Res. 675, expressing disapproval of the Arab League's decision to hold its 2006 summit in Khartoum, Sudan, and calling on the Arab League, the Government of Sudan, Sudanese rebels, and the world community to do all that they can to end acts of genocide in the Darfur region of Sudan. For the purposes of markup, I move its recommendation to the Full Committee. Without objection, the bill will be considered as read and open for amendment at any point.

[H. Res. 675 follows:]

109TH CONGRESS
2D SESSION

H. RES. 675

Expressing disapproval of the Arab League's decision to hold its 2006 summit in Khartoum, Sudan and calling on the Arab League, the Government of Sudan, the Sudanese rebels, and the world community to do all they can to end acts of genocide in the Darfur region of Sudan.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 14, 2006

Mr. PALLONE (for himself, Mr. TANCREDO, Mr. PAYNE, Mr. LANTOS, Mr. BURTON of Indiana, Ms. LEE, Mr. McCOTTER, Ms. WATSON, Ms. ROSELEHTINEN, Mr. DELAHUNT, Mr. ROHRABACHER, Ms. MCCOLLUM of Minnesota, Mr. WILSON of South Carolina, Mr. ACKERMAN, Mr. BROWN of Ohio, Mr. ENGEL, Mr. CAPUANO, Mr. WOLF, Mr. HASTINGS of Florida, Ms. JACKSON-LEE of Texas, Mr. RANGEL, Mr. HOLT, Mr. WYNN, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. DOYLE, Mr. ISRAEL, Mr. HONDA, Mr. McNULTY, Mr. EVANS, Mrs. MALONEY, Mr. AL GREEN of Texas, Mr. MCGOVERN, Ms. SCHAKOWSKY, Ms. BORDALLO, Mr. NADLER, Mr. DOGGETT, and Ms. LINDA T. SÁNCHEZ of California) submitted the following resolution; which was referred to the Committee on International Relations

RESOLUTION

Expressing disapproval of the Arab League's decision to hold its 2006 summit in Khartoum, Sudan and calling on the Arab League, the Government of Sudan, the Sudanese rebels, and the world community to do all they can to end acts of genocide in the Darfur region of Sudan.

Whereas the Arab League has tentatively scheduled its 2006 summit to be held in Khartoum, Sudan in March 2006;

Whereas the Government of Sudan continues to allow acts of genocide in the Darfur region of Sudan and deliberately obstructs the ability of the African Union (AU) to stabilize the Darfur region;

Whereas the decision to hold the 2006 Arab League summit in Sudan is an economic reward for a country that is currently under United States sanctions and should be under United Nations sanctions; and

Whereas the decision to hold the 2006 Arab League summit in Sudan will encourage the Government of Sudan to continue to allow acts of genocide and other mistreatment against the people of the Darfur region of Sudan: Now, therefore, be it

1 *Resolved*, That the House of Representatives—

2 (1) disapproves of the Arab League's decision
3 to hold its 2006 summit in Khartoum, Sudan; and

4 (2) continues to call on the Arab League, the
5 Government of Sudan, the Sudanese rebels, and the
6 world community to do all they can to end the acts
7 of genocide in the Darfur region of Sudan.

○

Mr. SMITH OF NEW JERSEY. Would anyone like to make an opening statement? Ms. Lee?

Ms. LEE. Thank you, Mr. Chairman. Let me thank you for bringing forth this resolution and just say that this is very timely. I feel an increased sense of urgency upon returning from Darfur for my second time, actually, last week.

Congressman and Minority Leader Nancy Pelosi led a delegation. It was a bipartisan delegation, and we witnessed the effects once again of this horrific genocide that is taking place. From 200 to 400,000 people have been killed, and it is growing. About 2 million people have been displaced, and that is growing. We witnessed the devastation, the trauma, the dislocated families, talked to people, women who had been raped. The Janjaweed is unfortunately continuing with their slaughter, and I am convinced that we have to pressure the Sudanese Government. The Khartoum Government must feel this pressure from us.

Personally, I feel that only when they see that they are becoming more isolated in the world and that we mount an effort to increase sanctions will they begin to understand that they cannot continue with this slaughter.

Let me just say also, we were convinced that we need to support the African Union, and we need to at least double the force, and we must bring in our international organizations, the United Nations and NATO, to play a coordinating role, and we have got to move quickly. We have got to move quickly to make sure that people become secure in the camps. The Sudanese Government, quite frankly, and we talked to many people, they are not doing a dog-gone thing. They are not providing any type of healthcare. They are not helping people settle down in these shacks. It is unfortunate. They are just left to fend for themselves under such dire circumstances.

So until this political settlement is reached—and there must be a political settlement to ensure that people can go back home and that the genocide stops—we have to make sure that the people are secure, and I think Khartoum needs to wake up. They need to understand that they are going to continue to feel the pressure from us, both Democrats and Republicans and the Administration, and that we are not going to stop. In fact, we are going to redouble our efforts.

So I just want to thank you for this resolution because I think this sends the message that we are redoubling our efforts to isolate and to pressure the Sudanese Government to stop this slaughter before Darfur becomes another Rwanda, and that could take place.

Mr. SMITH OF NEW JERSEY. I thank my friend. Just to say very briefly to my colleagues, the Arab League has scheduled its next summit to begin on March 28 in Khartoum, Sudan. This meeting would represent a public relations boost for that regime, which has done nothing to deserve the positive recognition that such a summit would provide. Several weeks ago, the African Union held its summit in Khartoum, but in that meeting African Union leaders made crystal clear to the Government of Sudan that its behavior disqualified it to head that organization. It is unlikely that the Arab League would use their meeting to make such a statement to the Khartoum Government.

I point out to my colleagues, like my good friend and colleague from California, I, too, have visited Darfur and went along with Greg Simpkins on our staff to Kamakan and Mukjar and saw the horrific effects and consequences that the Janjaweed is having in terms of its murderous rampage. Regrettably, they are being aided and abetted by the Government of Sudan, and it would be, again, I think very inopportune for the Arab League and would send precisely the wrong message if they were to meet.

[The prepared statement of Mr. Smith on H. Res. 675 follows:]

PREPARED STATEMENT OF THE HONORABLE CHRISTOPHER H. SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY AND CHAIRMAN, SUBCOMMITTEE ON AFRICA, GLOBAL HUMAN RIGHTS AND INTERNATIONAL OPERATIONS

H. RES. 675

The Arab League has scheduled its next summit to begin on March 28th in Khartoum, Sudan. This meeting would represent a public relations boost for that regime, which has done nothing to deserve the positive recognition that such a summit would provide. Several weeks ago, the African Union held its summit in Khartoum, but in that meeting, African leaders made clear to the Government of Sudan that its behavior disqualified it to head that organization. It is unlikely that the Arab League would use their meeting to make such a statement to the Khartoum government.

The situation in Darfur continues to be perilous for the thousands of refugees virtually imprisoned in camps throughout the Darfur region. Hundreds of thousands of people have been displaced from their homes and cannot return for fear of their lives. Women must obtain armed escorts to look for wood for fires, and men face almost certain death if they leave their camps for any reason.

The Government of Sudan has continued to cooperate with the Janjaweed in their attacks on Darfur residents. This was reported by the African Union as recently as last fall, and the U.S. State Department has confirmed the continuing cooperation between the Janjaweed and elements of the Government of Sudan. The Janjaweed live up to the origin of their name by acting as devils plaguing the people of Darfur. Regardless of any peace talks being conducted in Abuja, Nigeria, if these terrorists do not cease their murderous rampage against the people of that region, there can be no satisfactory settlement of this situation.

House Resolution 675 seeks to express to the Arab League our government's disapproval of their decision to meet in Khartoum in light of the tragedy of Darfur. It calls on the Arab League to join with the Government of Sudan, the rebels and the international community to cooperate in ending the genocide that has occurred in Darfur.

In fact, the northern elements of the Government of Sudan, who controlled all the levers of power before the Government of National Unity was installed last July, based their mistreatment of non-Muslims in the South on their lack of respect for those who do not share their Arab heritage.

In Darfur, most of the people are Muslim, but not Arab. Again, their non-Arab heritage made them acceptable targets for genocidal attacks.

The Arab League has a valuable and unique role to play in emphasizing that to be Arab should not mean that non-Arabs should be targets for mistreatment. If any long-term resolution of the Darfur crisis is to be found, then the Arab League must take up this challenge.

The Arab league also could be helpful in joining with the international community to support an expanded African-led civilian protection mission in Darfur. After all, many of those in danger there are fellow Muslims.

I ask my colleagues to give favorable consideration to H. Res. 675, which is a very timely and useful statement on the continuing tragedy in Darfur and how the Arab League can use the ill-timed summit in Khartoum as the first step in their effort to help resolve this crisis.

Mr. SMITH OF NEW JERSEY. So I would ask my colleagues, any others who would like to speak on this?

Mr. TANCREDO. Mr. Chairman, I just would say that I do not know how often we have to sit here. I absolutely agree with everything that has been stated up to this point in time. It is just that

it becomes a point at which you say, what more can we do here? We have passed so many resolutions. We have talked so often about the horrors that afflict these people that you just become frustrated, at least I do, and say to myself, what is the next step we can take?

This is one that I certainly support the effort. I just keep thinking to myself that something else has to be done. Some other kind of measure has to be taken because we know this, that every single time anything is accomplished in the Sudan, it is because we have forced the government essentially to the brink. Anything short of that, they simply will not respond.

So this is one more measure, this is one more step, and I thank you for bringing it today, and now I guess all of our voices can be raised in prayer for the people in that country, specifically, of course, in Darfur, because right now I do not know what else we have to do.

Ms. LEE. Mr. Chairman, may I respond quickly, briefly?

Mr. TANCRED. Yes. Of course, I yield.

Ms. LEE. You know, when you say, what more can we do, and I agree—every night I wonder about this, what more can we do?—and I tell you, I believe we have not done everything we need to do, and one effort that I think that we need to double our work on is the divestment movement.

I am very pleased that the University of California is considering divestment. Stanford University has divested. Harvard has divested. Yale is considering divesting. The State of New Jersey has divested. The State of Illinois has a very strong divestment measure in place. The State of California, our California public employee retirement system, they are dragging their feet, but they are trying to figure out how to divest. I hope they do, and we are pushing them to do that.

So I think we need to really look at the economics of this and put a squeeze on the money and on the revenues that the Khartoum Government reaps from investments in companies doing business in that country.

Mr. TANCRED. Reclaiming my time, I certainly agree with the gentlelady, and I would say also that we would, once again, what we have passed here, and the House, as a matter of fact, has passed a provision that would restrict any company from being able to access our markets, I think we ought to continue to do exactly that because I do think the pocketbook is where we can hit these people, and I am willing to try anything. Thank you, Mr. Chairman.

Mr. SMITH OF NEW JERSEY. Would anyone else like to be heard?
[No response.]

Mr. SMITH OF NEW JERSEY. If not, the question occurs on the motion to report the bill, H. Res. 675, favorably. All those in favor, say aye.

[A chorus of ayes.]

Mr. SMITH OF NEW JERSEY. All of those opposed, say no.

[No response.]

Mr. SMITH OF NEW JERSEY. The ayes have it. The motion is approved, and the bill is reported favorably. The staff is directed to

make any technical and conforming amendments on the resolution just passed.

Pursuant to notice, I call up the bill, H. Con. Res. 302, calling on the Government of the Socialist Republic of Vietnam to immediately and unconditionally release Dr. Pham Hong Son and other political prisoners and prisoners of conscience, for purposes of markup and move its recommendation to the Full Committee. Without objection, the bill will be considered as read and open for amendment at any point.

[H. Con. Res. 302 follows:]

109TH CONGRESS
1ST SESSION

H. CON. RES. 320

Calling on the Government of the Socialist Republic of Vietnam to immediately and unconditionally release Dr. Pham Hong Son and other political prisoners and prisoners of conscience, and other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 16, 2005

Mr. SMITH of New Jersey (for himself, Mr. WOLF, and Mr. ROYCE) submitted the following concurrent resolution; which was referred to the Committee on International Relations

CONCURRENT RESOLUTION

Calling on the Government of the Socialist Republic of Vietnam to immediately and unconditionally release Dr. Pham Hong Son and other political prisoners and prisoners of conscience, and other purposes.

Whereas in March 2002, Dr. Pham Hong Son was arrested after he had translated an article entitled “What is Democracy?” from the Web site of the United States Embassy in Vietnam and sent it to both friends and senior party officials;

Whereas Dr. Pham has written and published on the Internet articles entitled “The Promotion of Democracy: A Key Focus in a New World Order”, “Sovereignty and Human Rights: The Search for Reconciliation”, and “Hopeful Signs for Democracy in Viet Nam”;

Whereas in none of his activities did Dr. Pham advocate violence in his opposition to the Vietnamese Government or its policies;

Whereas Dr. Pham has been arrested for the peaceful exercise of his fundamental rights to freedom of expression and association in violation of Article 69 of the Vietnamese Constitution which states: “The citizen shall enjoy freedom of opinion and speech, freedom of the press, the right to be informed and the right to assemble, form associations and hold demonstrations in accordance with the provisions of the law”;

Whereas Dr. Pham has been arrested, tried, convicted, and imprisoned in contravention of the rights enshrined in the International Covenant on Civil and Political Rights (ICCPR) to which Vietnam is a state party, specifically Article 19 (freedom of expression) and Article 22 (freedom of association);

Whereas Dr. Pham did not have a trial that would be considered fair and that met even the most basic standards of internationally accepted justice, in contravention of Article 14 (right to a fair trial) of the ICCPR;

Whereas Dr. Pham was sentenced in June 2003, after a half-day closed trial in Hanoi, to 13 years of imprisonment and three years of house arrest on spurious espionage charges;

Whereas such spurious charges are routinely used to suppress peaceful democracy activists, as in the notorious cases of Father Thadeus Nguyen Van Ly, his two nephews and niece, and in the cases of Pham Que Duong, Tran Khue, and Tran Dung Tien;

Whereas Dr. Pham's appeal was held on August 26, 2003, in a closed trial before Vietnam's Supreme Court, from which international observers and Western journalists were barred, although diplomats from more than eight countries gathered outside the courthouse during the trial to register their concern;

Whereas, although the Vietnamese Supreme Court upheld Dr. Pham's sentence, it reduced the sentence of imprisonment from 13 to five years and increased the sentence of house arrest from three to six years;

Whereas Dr. Pham remains imprisoned in harsh conditions, including imprisonment for more than a year in solitary confinement, which have endangered his health;

Whereas Vietnam has imprisoned, detained, placed under house arrest, or otherwise restricted numerous other peaceful democratic and religious activists for reasons related to their political or religious views, such as Do Van My, Mai Thi Dung, Nguyen Khac Toan, Nguyen Thanh Phong, Nguyen Thi Ha, Nguyen Van Dien, Nguyen Vu Binh, Phan Van Ban, To Van Manh, Vo Van Buu, Vo Van Thanh Liem (Nam Liem), Bui Thien Hue, Nguyen Lap Ma, Nguyen Nhat Thong, Nguyen Van Ly, Phan Van Loi, Thich Dong Tho, Thich Huyen Quang, Thich Nguyen Ly, Thich Nguyen Vuong, Thich Phuoc An, Thich Quang Do, Thich Tam Lien, Thich Thai Hoa, Thich Thanh Huyen, Thich Tien Hanh, Thich Tue Sy, Thich Vien Dinh, Ngo Van Ninh, Le Van Chuong, Le Van Tinh, Phuong Van Kiem, Nguyen Van Si, Tran Van Thien, and Thich Thien Tam;

Whereas Dr. Pham and other political prisoners and prisoners of conscience have been deprived of their basic

human rights by being denied their ability to exercise freedom of opinion and expression;

Whereas the arbitrary imprisonment and the violation of the human rights of citizens of Vietnam are sources of continuing, grave concern to Congress;

Whereas Vietnam continues to restrict access to Western diplomats, journalists, and humanitarian organizations to the Central Highlands and the Northwest Highlands, where there are credible reports that ethnic minorities suffer serious violations of their human and civil rights, including property rights, and ongoing restrictions on religious activities, including forced conversions;

Whereas there are continuing and well-founded concerns about forcibly repatriated Montagnard refugees, access to whom is restricted;

Whereas on December 1, 2005, the European Parliament adopted a resolution calling on the Vietnamese authorities, among other measures, to undertake political and institutional reforms leading to democracy and the rule of law, starting by allowing a multi-party system and guaranteeing the right of all currents of opinion to express their views;

Whereas the resolution further calls on Vietnamese authorities to end all forms of repression against members of the Unified Buddhist Church of Vietnam and officially recognize its existence and that of other non-recognized Churches in the country;

Whereas the resolution further calls on Vietnamese authorities to release all Vietnamese political prisoners and prisoners of conscience detained for having legitimately and

peacefully exercised their rights to freedom of opinion, expression, the press, and religion;

Whereas the resolution further calls on Vietnamese authorities to guarantee full enjoyment of the fundamental rights enshrined in the Vietnamese Constitution and the International Covenant on Civil and Political Rights, in particular by allowing the creation of a genuinely free press; and

Whereas the resolution further calls on Vietnamese authorities to ensure the safe repatriation, under the Cambodia-Vietnam-UNHCR Agreement, of the Montagnards who fled Vietnam, and allow proper monitoring of the situation of the returnees by the UNHCR and international nongovernmental organizations: Now, therefore, be it

1 *Resolved by the House of Representatives (the Senate*
2 *concurring), That—*

3 (1) Congress—

4 (A) condemns and deplores the arbitrary
5 detention of Dr. Pham Hong Son by the Gov-
6 ernment of the Socialist Republic of Vietnam
7 and calls for his immediate and unconditional
8 release, and for the immediate and uncondi-
9 tional release of all other political prisoners;

10 (B) condemns and deplores the violations
11 of freedom of speech, religion, movement, asso-
12 ciation, and the lack of due process afforded to
13 individuals in Vietnam;

1 (C) strongly urges the Government of Viet-
2 nam to consider the implications of its actions
3 for the broader relationship between the United
4 States and Vietnam, including the impact on
5 trade relations;

6 (D) urges the Government of Vietnam to
7 allow unfettered access to the Central High-
8 lands and to the Northwest Highlands by for-
9 eign diplomats, the international press, and
10 nongovernmental organizations; and

11 (E) applauds the European Parliament for
12 its resolution of December 1, 2005, regarding
13 human rights in Vietnam, and urges the Gov-
14 ernment of Vietnam to comply with the terms
15 of the resolution; and

16 (2) it is the sense of Congress that the United
17 States should—

18 (A) make the immediate release of Dr.
19 Pham Hong Son a top concern;

20 (B) continue to urge the Government of
21 Vietnam to comply with internationally recog-
22 nized standards for basic freedoms and human
23 rights;

24 (C) make clear to the Government of Viet-
25 nam that it must adhere to the rule of law and

1 respect the freedom of the press in order for it
2 to accede to the World Trade Organization
3 (WTO);

4 (D) make clear to the Government of Viet-
5 nam that the detention of Dr. Pham and other
6 persons and the infliction of human rights vio-
7 lations on these individuals are not in the inter-
8 est of Vietnam because they create obstacles to
9 improved bilateral relations and cooperation
10 with the United States; and

11 (E) reiterate the deep concern of the
12 United States regarding the continued impris-
13 onment of Dr. Pham and other persons whose
14 human rights are being violated and discuss the
15 legal status and immediate humanitarian needs
16 of such individuals with the Government of
17 Vietnam.

○

Mr. SMITH OF NEW JERSEY. I would just say to my colleagues very briefly in explaining this resolution, there has been a tremendous amount of publicity lately about the Internet dissidents in China. As you know, we had that hearing in our Subcommittee less than 2 weeks ago. But I would like to bring to your attention the case of Dr. Pham Hong Son from Vietnam.

In March 2002, the police arrested Dr. Son. He had translated an article from the Web site of the U.S. Embassy in Vietnam entitled "What is Democracy?" and sent it to his friends and senior Vietnamese officials. In addition, he had written an open letter, published on the Internet, protesting the fact that his house had been illegally searched and his computer and documents confiscated.

Dr. Son was charged with espionage for this by the government, which accused him of "collecting and dispatching news and documents for a foreign country to be used against the Socialist State of Vietnam." After a closed trial and a closed appeal, from which Western reporters and diplomats from Europe, the United States, and Canada were barred, Dr. Son was sentenced to 5 years plus an additional 3 years of house arrest.

Dr. Son's case has been highlighted by the U.S. Department of State's Human Rights for Vietnam repeatedly, Human Rights Watch, Reporters without Borders, the Committee to Protect Journalists, and Amnesty International.

I went to Vietnam last December, along with members of our staff, and met with Dr. Son's extraordinary and courageous wife, Vu Thuy Ha, who continues to campaign for her husband's freedom despite constant surveillance and harassment, which I personally have witnessed. I knew that I could not let this brave woman battle alone.

As a matter of fact, Eleanor Nagy and I met with her and many other political and religious activists during the course of 3½ days there, some of whom are under house arrest, like Father Ly. We met with him in his house; he could not leave. The venerable Thich Quang Do, who was under pagoda arrest; he, too, could not see us to the curb. He had to stop right where his door of his pagoda ended, and right outside, ready to push him back or arrest him, as they did recently, were thugs from the secret police, and he is with the Unified Church of Vietnam, the Buddhist church. We also met with the relatives of a number of other prisoners of conscience and others who have been in prison before. They need and appreciate our continued support.

Vietnam is clearly at a critical crossroads. It wants to expand its burgeoning trade relations with the United States and seeks to join the WTO. There will be no better time to convince Vietnam of the seriousness of our human rights concerns and their centrality in any relations with the United States than now. The European Parliament has already passed a resolution calling for Vietnam to release all political prisoners and prisoners of conscience, allow democracy and political pluralism, and ensure human rights for Vietnam's Montagnards, and it is appropriate that we do the same.

I am offering an amendment to H. Con. Res. 320 to reflect several updates and corrections, and we were informed by the Embassy, for example, that Dr. Son is more correct than Dr. Pham, so there was a minor technical change.

The Vietnam Supreme Court, I would point out, did not increase the house arrest portion of Dr. Son's sentence. It left it at 3 years. Originally, we thought it was 6 years.

And, finally, one dissident recently was amnestied, but two others are now suffering from official harassment.

Let me just say, finally, to my colleagues that when Eleanor and I met with Dr. Son's wife, Vu, sitting just a couple of feet away from us were members of the secret police, and so obsessive were they about our meeting that they stood there with their cell phones and started taking pictures, and we, obviously, took pictures of them and returned the favor. But that is the kind of ever-present intimidation, and she is worried. She is worried for her life, she is worried for her health and safety, and, of course, she is worried over her husband.

[The prepared statement of Mr. Smith on H. Con. Res. 320 follows:]

PREPARED STATEMENT OF THE HONORABLE CHRISTOPHER H. SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY AND CHAIRMAN, SUBCOMMITTEE ON AFRICA, GLOBAL HUMAN RIGHTS AND INTERNATIONAL OPERATIONS

There has been a tremendous amount of publicity lately about Internet dissidents in China, but I would like to bring to your attention the case of Dr. Pham Hong Son from Vietnam.

In March, 2002, police arrested Dr. Son. He had translated an article from the website of the U.S. Embassy in Vietnam, titled "What is Democracy," and sent it to his friends and senior Vietnamese officials. In addition, he had written an open letter, published on the Internet, protesting the fact that his house had been searched illegally and his computer and documents confiscated.

Dr. Son was charged with espionage by the government, which accused him of "collecting and dispatching news and documents for a foreign country to be used against the Socialist State of Vietnam." After a closed trial and a closed appeal, from which Western reporters and diplomats from Europe, the United States, and Canada were barred, Dr. Son was sentenced to five years, plus an additional three years of house arrest.

Dr. Son's case has been highlighted by the US Department of State's Human Rights for Vietnam repeatedly, Human Rights Watch, Reporters without Borders, the Committee to Protect Journalists, and Amnesty International.

I went to Vietnam last December, and met with Dr. Son's extraordinary and courageous wife, Vu Thuy Ha, who continues to campaign for her husband's freedom despite constant surveillance and harassment, which I personally witnessed. I knew that I could not let this brave woman battle alone. I met with many other political and religious activists, some of whom are under house arrest, like Father Ly and Thich Quang Do, of the Unified Church of Vietnam, and with the relatives of a number of prisoners of conscience. They need, and appreciate, our continued support.

Vietnam is at a critical crossroads: it wants to expand its burgeoning trade relations with the United States, and seeks to join the WTO. There will be no better time to convince Vietnam of the seriousness of our human rights concerns, and their centrality in any relation with the U.S. The European Parliament has already passed a resolution calling for Vietnam to release all prisoners of conscience, allow democracy and political pluralism, and ensure the human rights for Vietnam's Montagnards, and it is appropriate that we do the same.

There is an amendment, to reflect several factual corrections, and updates.

We have been informed by our Embassy that according to Vietnamese naming conventions, Dr. Son is more correct than Dr. Pham. This has been changed throughout.

The Supreme did not increase the house arrest portion of Dr. Son's sentence, it left it untouched at three years.

Finally, one dissident has been amnestied, but two more are suffering official harassment—typical one step forward, two steps backward. We have added and subtracted accordingly.

Mr. SMITH OF NEW JERSEY. So I would like to ask anyone else if they would like to make any comments on the pending matter.

[No response.]

Mr. SMITH OF NEW JERSEY. The amendment at the desk, without objection, will be considered as read, and as I explained, it is very technical. That is all it is.

[The amendment referred to follows:]

AMENDMENT TO H. CON. RES. 320
OFFERED BY MR. SMITH OF NEW JERSEY

In the each of the following clauses of the preamble, strike “Pham” and insert “Son.”: The second through the seventh clause, the ninth through 11th clause, and the 13th clause.

In the tenth clause of the preamble, strike “and increased the sentence of house arrest from three to six years”.

In the 12th clause of the preamble, strike “Nguyen Khac Toan,”.

In the 12th clause of the preamble, strike “, and Thich Thien Tam” and insert “, Thich Thien Tam, Hoang Chinh Minh, and Do Nam Hai (Phuong Nam)”.

Page 7, lines 5 and 13, strike “Pham” and insert “Son”.

Mr. SMITH OF NEW JERSEY. So the question occurs on the amendment. All of those in favor, say aye.

[A chorus of ayes.]

Mr. SMITH OF NEW JERSEY. No?

[No response.]

Mr. SMITH OF NEW JERSEY. The ayes have it. The amendment is agreed to. Any other amendments to the resolution?

[No response.]

Mr. SMITH OF NEW JERSEY. If not, the question occurs on the motion to report the bill, H. Con. Res. 320, calling on the Government of the Socialist Republic of Vietnam to immediately and unconditionally release Dr. Son and other political prisoners and prisoners of conscience, favorably as amended. All in favor, say aye.

[A chorus of ayes.]

Mr. SMITH OF NEW JERSEY. All opposed, say no.

[No response.]

Mr. SMITH OF NEW JERSEY. The motion is approved, and the bill is reported favorably, and the staff is directed to make any technical and conforming amendments. Without objection, the bill will be reported favorably in the form of a single amendment in the nature of a substitute incorporating the amendment adopted just a moment ago. Without objection, so ordered.

Pursuant to notice, I call up H.R. 3189, the Central Asia Democracy and Human Rights Act of 2005, for purposes of markup and move its recommendation to the Full Committee. Without objection, the resolution will be considered as read and open for amendment at any point.

[H.R. 3189 follows:]

109TH CONGRESS
1ST SESSION

H. R. 3189

To promote the development of democratic institutions and full respect for human rights in the countries of Central Asia.

IN THE HOUSE OF REPRESENTATIVES

JUNE 30, 2005

Mr. SMITH of New Jersey introduced the following bill; which was referred to the Committee on International Relations

A BILL

To promote the development of democratic institutions and full respect for human rights in the countries of Central Asia.

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.**

4 This Act may be cited as the “Central Asia Democ-
5 racy and Human Rights Act of 2005”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) More than 13 years after independence, the
9 five countries of Central Asia—Kazakhstan,
10 Kyrgyzstan, Tajikistan, Turkmenistan, and

1 Uzbekistan—are struggling, to varying degrees, with
2 their transition from authoritarian rule to demo-
3 cratic societies that fully respect human rights and
4 uphold their freely undertaken commitments as par-
5 ticipating States in the Organization for Security
6 and Cooperation in Europe (OSCE).

7 (2) As OSCE participating States, the countries
8 of Central Asia committed themselves in the Charter
9 of Paris for a New Europe to “build, consolidate
10 and strengthen democracy as the only system of gov-
11 ernment of our nations”.

12 (3) In the Global War on Terrorism, the United
13 States is increasingly engaged with the countries of
14 Central Asia on a political, economic, and military
15 basis.

16 (4) In the Global War on Terrorism, policies
17 that bolster authoritarian governments which sup-
18 press and terrorize their own people will ultimately
19 be self defeating, as repression often breeds extre-
20 mism and terrorism.

21 (5) The Final Report of the National Commis-
22 sion on Terrorist Attacks Upon the United States
23 (commonly referred to as the “9/11 Commission”)
24 recommended: “The U.S. government must define
25 what the message is, what it stands for. We should

1 offer an example of moral leadership in the world,
2 committed to treat people humanely, abide by the
3 rule of law, and be generous and caring to our
4 neighbors.”.

5 (6) The September 2004 Final Report of the
6 Defense Science Board Task Force on Strategic
7 Communication stated: “The perception of intimate
8 U.S. support of tyrannies in the Muslim World is
9 perhaps the critical vulnerability in American strat-
10 egy. It strongly undercuts our message, while
11 strongly promoting that of the enemy.”.

12 (7) In a speech to the United Nations General
13 Assembly on September 21, 2004, President George
14 W. Bush stated: “People everywhere are capable of
15 freedom, and worthy of freedom . . . For too long,
16 many nations, including my own, tolerated, even ex-
17 cused, oppression in the Middle East in the name of
18 stability. Oppression became common, but stability
19 never arrived. We must take a different approach.”.

20 (8) In keeping with the President’s objectives
21 outlined in the September 21, 2004, speech to the
22 United Nations General Assembly, the United States
23 has a clear opportunity to implement short-term
24 policies promoting stability in the countries of Cen-
25 tral Asia, stand for human dignity, foster security,

1 and build long-term popular support for the United
2 States.

3 (9) The September 2002 National Security
4 Strategy of the United States of America stated:
5 “America must stand firmly for the nonnegotiable
6 demands of human dignity: the rule of law; limits on
7 the absolute power of the state; free speech; freedom
8 of worship; equal justice; respect for women; reli-
9 gious and ethnic tolerance; and respect for private
10 property.”.

11 (10) The National Security Strategy of the
12 United States of America further elaborated that the
13 United States must “make freedom and the develop-
14 ment of democratic institutions key themes in our
15 bilateral relations, seeking solidarity and cooperation
16 from other democracies while we press governments
17 that deny human rights to move toward a better fu-
18 ture”.

19 (11) In his second inaugural address on Janu-
20 ary 20, 2005, President George W. Bush stated:
21 “For as long as whole regions of the world simmer
22 in resentment and tyranny—prone to ideologies that
23 feed hatred and excuse murder—violence will gather,
24 and multiply in destructive power, and cross the
25 most defended borders, and raise a mortal threat.”.

1 In this address, President Bush further declared: “It
2 is the policy of the United States to seek and sup-
3 port the growth of democratic movements and insti-
4 tutions in every nation and culture, with the ulti-
5 mate goal of ending tyranny in our world.”.

6 **SEC. 3. SENSE OF THE CONGRESS.**

7 It is the sense of Congress that—

8 (1) the United States should support those gov-
9 ernments and individuals making substantial and
10 sustained progress to establish democracy, guarantee
11 the rule of law, and protect human rights;

12 (2) the United States should use every means
13 at its disposal to encourage the countries of Central
14 Asia to provide greater respect for democracy, the
15 rule of law, and human rights, thereby promoting
16 the long-term stability and security of the Central
17 Asian region, and ensure that all assistance pro-
18 grams for the Central Asian region support and
19 communicate this goal; and

20 (3) the United States should seek and support
21 the growth of democratic movements and institu-
22 tions in every nation and culture, with the ultimate
23 goal of ending tyranny in our world.

1 **SEC. 4. ASSISTANCE TO PROMOTE DEMOCRACY, RULE OF**
2 **LAW, AND HUMAN RIGHTS IN THE COUN-**
3 **TRIES OF CENTRAL ASIA.**

4 (a) PURPOSES OF ASSISTANCE.—The purposes of as-
5 sistance under this section include—

6 (1) to encourage free and fair presidential, par-
7 liamentary, and local elections in the countries of
8 Central Asia, conducted in a manner consistent with
9 Organization for Security and Cooperation in Eu-
10 rope (OSCE) and internationally accepted standards
11 and under the supervision of international observers;

12 (2) to ensure in the countries of Central Asia
13 the full respect for all human rights, including free-
14 dom of expression and the media, freedom of reli-
15 gion and association, prevention of torture, and the
16 end of human trafficking from, to, and through the
17 Central Asian region; and

18 (3) to develop rule of law, in particular inde-
19 pendent judicial systems and professional law en-
20 forcement, and to combat corruption.

21 (b) AUTHORIZATION FOR ASSISTANCE.—To carry out
22 the purposes of subsection (a), the President is authorized
23 to provide assistance for the countries of Central Asia to
24 support the activities described in subsection (c).

25 (c) ACTIVITIES SUPPORTED.—Activities that may be
26 supported by assistance under subsection (b) include—

- 1 (1) observing elections and promoting free and
2 fair electoral processes;
- 3 (2) developing sustainable civic organizations,
4 including democratic political parties;
- 5 (3) establishing nongovernmental organizations
6 that promote democracy and support human rights;
- 7 (4) developing independent media to work in
8 the countries of Central Asia, supported by
9 nonstate-controlled printing facilities;
- 10 (5) independent radio and television broad-
11 casting to and within the countries of Central Asia;
- 12 (6) encouraging the liberalization of laws affect-
13 ing religious practice and their enforcement to pro-
14 mote greater freedoms for individuals to meet alone
15 or in community with others, and in the sharing of
16 beliefs;
- 17 (7) educating law enforcement officials with re-
18 spect to the existence and enforcement of legal pro-
19 hibitions concerning torture;
- 20 (8) prosecuting human traffickers, as well as
21 providing increased police training and education ef-
22 forts;
- 23 (9) training and assistance for judicial reform
24 and development;

1 (10) training in effective human rights and hu-
2 manitarian law as a part of training programs for
3 security forces of the countries of Central Asia;

4 (11) establishing programs to combat corrup-
5 tion and support good governance; and

6 (12) other activities consistent with the pur-
7 poses of this section.

8 (d) REPORT.—

9 (1) IN GENERAL.—Not later than six months
10 after the date of the enactment of this Act, and
11 every six months thereafter, the President shall
12 transmit to the appropriate congressional commit-
13 tees a report on assistance provided for the countries
14 of Central Asia under this section for the six-month
15 period ending 30 days prior to the transmission of
16 the report.

17 (2) CONTENTS.—The report shall include with
18 respect to each country of Central Asia a detailed
19 description of each of the following:

20 (A) The types and amount of assistance
21 provided under this section, including the types
22 and amount of defense articles and defense
23 services and the amount of financial assistance.

24 (B) The use of such assistance, including
25 the use of defense articles, defense services, and

1 financial assistance, by units of the armed
2 forces, border guards, or other security forces
3 of the country.

4 (e) AUTHORIZATION OF APPROPRIATIONS.—

5 (1) IN GENERAL.—There are authorized to be
6 appropriated to the President to carry out this sec-
7 tion not less than \$188,000,000 for fiscal year 2006
8 and each subsequent fiscal year.

9 (2) AVAILABILITY.—Amounts appropriated pur-
10 suant to the authorization of appropriations under
11 paragraph (1) are authorized to remain available
12 until expended.

13 **SEC. 5. RADIO BROADCASTING TO THE COUNTRIES OF CEN-**
14 **TRAL ASIA.**

15 (a) PURPOSE.—The purpose of this section is to au-
16 thorize increased support for surrogate radio broadcasting
17 to the countries of Central Asia that will facilitate the
18 unhindered dissemination of information in the Central
19 Asian region.

20 (b) AUTHORIZATION OF APPROPRIATIONS.—In addi-
21 tion to such sums as are otherwise authorized to be appro-
22 priated, there are authorized to be appropriated not less
23 than \$15,000,000 for fiscal year 2006 and each subse-
24 quent fiscal year for Voice of America and RFE/RL, In-
25 corporated for expanded radio broadcasting to the people

1 of the countries of Central Asia in languages spoken in
2 Central Asia.

3 (c) REPORT.—Not later than 120 days after the date
4 of the enactment of this Act, the Secretary of State shall
5 submit to the appropriate congressional committees a re-
6 port on how funds are appropriated and allocated pursu-
7 ant to the authorizations of appropriations under sub-
8 section (b) and section 4(d) will be used to provide AM
9 and FM broadcasting that covers the Central Asian region
10 and delivers independent and uncensored programming.

11 **SEC. 6. LIMITATION ON UNITED STATES ASSISTANCE TO**
12 **THE COUNTRIES OF CENTRAL ASIA.**

13 (a) LIMITATION ON ASSISTANCE.—Subject to para-
14 graphs (1) through (3) of subsection (c), the full amount
15 of assistance described in subsection (e) that is allocated
16 for the government of a country of Central Asia for a fis-
17 cal year may be provided to the government of the country
18 only if the President certifies to the appropriate congres-
19 sional committees that the government of the country
20 meets the requirements described in subsection (b).

21 (b) REQUIREMENTS.—The requirements described in
22 this subsection are the following:

23 (1) DEMOCRATIZATION.—The government of
24 the country is making substantial, sustained, and
25 demonstrable progress toward democratization, such

1 as the establishment of a legal framework, the con-
2 duct of free and fair elections (as determined by
3 monitors of the Organization for Security and Co-
4 operation in Europe (OSCE)), the establishment of
5 political pluralism, and equal opportunity for women.

6 (2) FREEDOM OF EXPRESSION AND THE
7 MEDIA.—The government of the country is making
8 substantial, sustained, and demonstrable progress
9 toward freedom of expression, such as the establish-
10 ment of a legal framework, the elimination of sup-
11 pressive government actions and the elimination of
12 legal penalties for criticizing the government or gov-
13 ernment officials, and openness of media.

14 (3) FREEDOM OF RELIGION, ASSOCIATION, AND
15 THE RIGHT OF PEACEFUL ASSEMBLY.—The govern-
16 ment of the country is making substantial, sus-
17 tained, and demonstrable progress toward—

18 (A) freedom of religion, such as the ability
19 of individuals and communities to freely profess
20 and practice their faith, to share beliefs openly,
21 the opportunity for religious organizations to
22 gain legal status, and the ability of individuals
23 and communities to congregate for worship or
24 other functions openly;

25 (B) freedom of association; and

1 (C) the right of peaceful assembly and the
2 absence of prisoners of conscience.

3 (4) PREVENTION OF TORTURE.—The govern-
4 ment of the country is making substantial, sus-
5 tained, and demonstrable progress toward the estab-
6 lishment and enforcement of legal prohibitions
7 against torture and cruel, inhuman, or degrading
8 treatment or punishment, public denunciations of
9 torture, cooperation with the International Com-
10 mittee of the Red Cross and the United Nations
11 Special Rapporteur on Torture on these matters, as
12 appropriate, and the prosecution of individuals ac-
13 cused of perpetrating acts of torture.

14 (5) RULE OF LAW; NONDISCRIMINATION.—The
15 government of the country is making substantial,
16 sustained, and demonstrable progress toward the es-
17 tablishment and enforcement of the right to a fair
18 trial, independence of the judiciary, implementation
19 of anti-corruption programs, efforts to combat traf-
20 ficking in persons, and nondiscriminatory treatment
21 of ethnic, religious and linguistic minorities.

22 (c) WITHHOLDING OF ASSISTANCE.—

23 (1) FIRST FISCAL YEAR.—If the President does
24 not certify under subsection (a) that the government
25 of a country of Central Asia meets the requirements

1 described in subsection (b) for a fiscal year, then 33
2 percent of the amount of assistance described in
3 subsection (e) that is allocated for the government
4 of the country for such fiscal year shall be withheld
5 from obligation and expenditure.

6 (2) SECOND FISCAL YEAR.—If the President
7 does not certify under subsection (a) that the gov-
8 ernment of a country of Central Asia meets the re-
9 quirements described in subsection (b) for a second
10 consecutive fiscal year, then 66 percent of the
11 amount of assistance described in subsection (e) that
12 is allocated for the government of the country for
13 such fiscal year shall be withheld from obligation
14 and expenditure.

15 (3) THIRD AND SUBSEQUENT FISCAL YEARS.—

16 (A) WITHHOLDING.—If the President does
17 not certify under subsection (a) that the gov-
18 ernment of a country of Central Asia meets the
19 requirements described in subsection (b) for a
20 third consecutive fiscal year, then 100 percent
21 of the amount of assistance described in sub-
22 section (e) that is allocated for the government
23 of the country for such fiscal year, and each
24 consecutive subsequent fiscal year with respect
25 to which a presidential certification under sub-

1 section (a) is not made, shall be withheld from
2 obligation and expenditure.

3 (B) WAIVER.—The President may waive
4 the application of subparagraph (A) with re-
5 spect to a third consecutive fiscal year, or a
6 consecutive subsequent fiscal year described in
7 such subparagraph, if the President determines
8 and certifies to the appropriate congressional
9 committees that it is important to the national
10 security of the United States to do so. If the
11 President exercises the waiver authority under
12 this subparagraph for a fiscal year, then 66
13 percent of the amount of assistance described in
14 subsection (e) that is allocated for the govern-
15 ment of the country for such fiscal year shall be
16 withheld from obligation and expenditure.

17 (4) USE OF WITHHELD ASSISTANCE.—Amounts
18 withheld from obligation and expenditure under this
19 subsection for a fiscal year are authorized to be
20 made available for assistance under section 4 of this
21 Act.

22 (d) REINSTATEMENT OF ASSISTANCE.—If the Presi-
23 dent certifies under subsection (a) that the government
24 of a country of Central Asia meets the requirements of
25 subsection (b) for a fiscal year following a fiscal year with

1 respect to which funds are withheld from obligation and
2 expenditure under paragraph (1), (2), or (3) of subsection
3 (c), then the amount of assistance described in subsection
4 (e) that is allocated for the government of the country for
5 such fiscal year, and each consecutive subsequent fiscal
6 year with respect to which an additional presidential cer-
7 tification under subsection (a) is made, may be increased
8 by 33 percent for each such fiscal year, not to exceed 100
9 percent of the amount of assistance described in sub-
10 section (e) that is allocated for the government of the
11 country for any such fiscal year.

12 (e) ASSISTANCE DESCRIBED.—Assistance described
13 in this subsection is the following:

14 (1) Assistance under the Foreign Assistance
15 Act of 1961, including programs under title IV of
16 chapter 2 of part I of such Act (relating to the Over-
17 seas Private Investment Corporation) and assistance
18 under chapter 12 of part I of such Act (relating to
19 support for the economic and political independence
20 of the countries of the South Caucasus and Central
21 Asia), other than—

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

1 (B) assistance which involves the provision
2 of food (including monetization of food) or medicine;
3

4 (C) assistance for refugees; and

5 (D) assistance to combat HIV/AIDS, including any assistance under section 104A of
6 that Act.
7

8 (2) Sales, or financing on any terms, under the
9 Arms Export Control Act.

10 (3) Assistance made available by reason of the
11 application of section 9009 of the Department of
12 Defense Appropriations Act, 2005, or any related or
13 successor provision of law.

14 (4) The provision of training, equipment, transportation, or other support for the armed forces
15 under any provision of law, other than assistance
16 under programs and activities specified in section
17 1501(b) of the National Defense Authorization Act
18 for Fiscal Year 1997 (relating to Cooperative Threat
19 Reduction programs).
20

21 (f) EFFECTIVE DATE.—The requirements of this section apply with respect to funds appropriated for assistance for the governments of the countries of Central Asia
22
23 for fiscal year 2006 and subsequent fiscal years.
24

1 **SEC. 7. DEFINITIONS.**

2 In this Act:

3 (1) APPROPRIATE CONGRESSIONAL COMMIT-
4 TEES.—The term “appropriate congressional com-
5 mittees” means—

6 (A) the Committee on Appropriations and
7 the Committee on International Relations of the
8 House of Representatives; and

9 (B) the Committee on Appropriations and
10 the Committee on Foreign Relations of the Sen-
11 ate.

12 (2) COUNTRIES OF CENTRAL ASIA.—The term
13 “countries of Central Asia” means Kazakhstan,
14 Kyrgyzstan, Tajikistan, Turkmenistan, and
15 Uzbekistan.

○

Mr. SMITH OF NEW JERSEY. I would like to make a very short opening statement and then yield to my friend for any comments, all my friends, that they might have.

It is my pleasure this evening to mark up 3189, the Central Asia Democracy and Human Rights Act of 2006. Since 9/11, the strategic nature of this troubled region for the United States has become apparent, as the five countries of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan are strategically positioned at the crossroads of Europe, Asia, and the Muslim world.

Unfortunately, in the 15 years of independence following decades of Soviet misrule, the trends in most of these countries are moving in the wrong direction. However, instead of throwing up our hands and writing off the region, we must redouble our efforts. Even when the existing leadership seemingly barricades itself against political winds of change, we must think about how best to encourage the development and training of the next generation of leaders, and this is one of the reasons why I introduced H.R. 3189, a bipartisan piece of legislation.

As Chairman of the Subcommittee, and Helsinki Commission Co-Chairman, I appreciate the wide spectrum of conditions in Central Asia. One end is Kyrgyzstan, whose people rose to oust a corrupt leader in February of last year. President Bakiev was subsequently elected in July in a free and fair election, a first in the region. However, since then, the bloom has faded on the "Tulip Revolution." I am, frankly, very concerned about a possible return of Uzbek refugees and the Putin-esque plan to investigate all NGOs that receive foreign funding.

I was in Fiano last week with my colleagues meeting a delegation to the OSCE Parliamentary Assembly and raised these questions with their delegation and did not get back very satisfactory answers. They are looking at every NGO that we support and that the Europeans support and any foreign NGO that gets money from our Government.

On the other end of the spectrum is Uzbekistan, where President Karimov has ruled since 1989. He has maintained Soviet-era censorship, limited religious freedoms, and allowed no political opposition, in effect, creating a repressive police state. Uzbekistan's dreadful human rights record deteriorated even further after the government massacre of demonstrators in Andijan last May. Just last week, Uzbek prosecutors sentenced a moderate, would-be opposition activist to 13 years in prison on blatantly political charges.

Turkmenistan competes mightily with Uzbekistan for the prize of worst human rights violator in the OSCE region. Under President-for-life Niyazov, Turkmenistan is one of the most repressive and closed countries in the world. All opposition groups are banned, and the country's citizens enjoy no political or religious freedoms.

In the middle, we find Kazakhstan and Tajikistan, but both display negative trends. In Kazakhstan, President Nazarbayev won the December 2005 election with an implausible 91 percent of the vote through harassment of the opposition, tight control of the airwaves, and election day fraud. Also alarming was the recent execution-style murder of an opposition figure, the second opposition leader murdered in 3 months, and the forcible return of Uzbek refugees to Uzbekistan where they will surely be tortured and beaten.

We have a number of instances of their lawyers saying that that is exactly what has happened.

And, finally, in Tajikistan, President Rakhmonov has been consolidating his grip on power. In 2004, he orchestrated a referendum to potentially extend his tenure in office until 2020. To remove potential challengers, his government has also jailed opposition figures; one who was sentenced last fall to 23 years in prison on politically-motivated charges.

As we all remember, President Bush famously announced in his second inaugural address, and I quote:

“It is the policy of the United States to seek and support the growth of democratic movements and institutions in every nation and culture, with the ultimate goal of ending tyranny in our world.”

My bill answers the President’s call by focusing U.S. efforts on moving these countries away from repression and toward greater respect for democracy and human rights.

H.R. 3189 enjoys support from a variety of NGOs, including the International League for Human Rights, Freedom House, the Center for the Victims of Torture, the Protection Project, the International Justice Mission, and the Becket Fund for Religious Liberty.

In response to formal and informal comments, I will be offering an amendment in the nature of a substitute. In brief, the bill provides for democracy and human rights programming and would require an annual Presidential determination for assistance to each government that would examine five categories: Democratization, free speech, freedom of religion, torture, and the rule of law.

The constructive foreign assistance provided in the act will support activities like democratic institution building, the protection of fundamental freedoms, and the expansion of radio broadcasting in the region. The conditioning of all nonhumanitarian U.S. assistance to individual governments is based on whether the President determines that each is making “substantial, sustained and demonstrable progress” toward democratization and full respect for human rights.

If a country is not certified, economic and military assistance would be withheld in a graduated format. Notably, however, the money would not be lost for the people of that region. The President is authorized to reallocate withheld funds to provide financial assistance to programs that promote free and fair elections, build civil society, and develop independent media, enhance religious freedom, and prosecute human rights traffickers, and train judges and fight corruption.

[The prepared statement of Mr. Smith on H.R. 3189 follows:]

PREPARED STATEMENT OF THE HONORABLE CHRISTOPHER H. SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY AND CHAIRMAN, SUBCOMMITTEE ON AFRICA, GLOBAL HUMAN RIGHTS AND INTERNATIONAL OPERATIONS

H.R. 3189, CENTRAL ASIA DEMOCRACY AND HUMAN RIGHTS ACT OF 2006

Colleagues, it’s my pleasure this afternoon to mark up HR 3189, the Central Asia Democracy and Human Rights Act of 2006. Since 9/11, the strategic nature of this troubled region for the United States has become apparent, as the five countries of

Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan are strategically positioned at the crossroads of Europe, Asia and the Muslim world.

Unfortunately, in the 15 years of independence following decades of Soviet misrule, the trends in most of these countries are moving in the wrong direction. However, instead of throwing up our hands and writing off the region, we must redouble our efforts. Even when the existing leadership seemingly barricades itself against political winds of change, we must think about how best to encourage the development and training of the next generation of leaders. This is one of the reasons why I introduced HR 3189.

Thumbnail Sketches of the Five Republics

As Chairman of this subcommittee and Helsinki Commission Co-Chairman, I appreciate the wide spectrum of conditions in Central Asia. On one end is *Kyrgyzstan*, whose people rose to oust a corrupt leader in February-March of last year. President Bakiev was subsequently elected in July in a free and fair election—a first in the region. However, since then, the bloom has faded on the “Tulip Revolution.” I’m frankly very concerned by the possible return of Uzbek refugees and the Putin-esque plan to investigate all NGOs that receive foreign funding.

On the other end of the spectrum is *Uzbekistan*, where President Karimov has ruled since 1989. He has maintained Soviet-era censorship, limited religious freedoms, and allowed no political opposition, in effect creating a repressive police state. Uzbekistan’s dreadful human rights record deteriorated even further after the government massacre of demonstrators in Andijan last May. Just last week, Uzbek prosecutors sentenced a moderate, would-be opposition activist to 13 years in prison on blatantly political charges.

Turkmenistan competes mightily with Uzbekistan for the booby prize of worst human rights violator in the OSCE region. Under president-for-life Niyazov, Turkmenistan is one of the most repressive and closed countries in the world. All opposition groups are banned, and the country’s citizens enjoy no political or religious freedoms.

In the middle, we find Kazakhstan and Tajikistan, but both display negative trends. In *Kazakhstan*, President Nazarbayev won the December 2005 election with an implausible 91% of the vote through harassment of the opposition, tight control of the airwaves and election-day vote fraud. Also alarming was the recent execution-style murder of an opposition figure—the second opposition leader murdered in three months—and Astana’s forcible return of Uzbek refugees to Uzbekistan where they will surely be tortured and beaten.

In *Tajikistan*, President Rakhmonov has been consolidating his grip on power. In 2004, he orchestrated a referendum to potentially extend his tenure in office until 2020. To remove potential challengers, his government has also jailed opposition figures; one was sentenced last fall to 23 years in prison on politically motivated charges.

As we all remember, President Bush famously announced in his second inaugural address that “It is the policy of the United States to seek and support the growth of democratic movements and institutions in every nation and culture, with the ultimate goal of ending tyranny in our world.” My bill answers the President’s call by focusing U.S. efforts on moving these countries away from repression and towards greater respect for democracy and human rights.

Background

HR 3189 enjoys support from a variety of NGOs, including the International League for Human Rights, Freedom House, the Center for the Victims of Torture, the Protection Project, the International Justice Mission, and the Becket Fund for Religious Liberty.

In response to formal and informal comments we have received, I will be offering an amendment in the nature of a substitute. In brief, the bill provides funding for democracy and human rights programming, and would require an annual presidential determination for assistance to each government that would examine five categories: democratization; free speech; freedom of religion; torture; and rule of law.

The constructive foreign assistance provided in the Act will support activities like democratic institution-building, the protection of fundamental freedoms, and the expansion of radio broadcasting in the region. The conditioning of all non-humanitarian U.S. assistance to the individual governments is based on whether the President determines each is making “substantial, sustained and demonstrable progress” towards democratization and full respect of human rights.

If a country is not certified, economic and military assistance would be withheld in a graduated format. Notably, withheld money is not lost for the people of the region. The President is authorized to reallocate withheld funds to provide financial

assistance to programs that promote free and fair elections, build civil society, develop independent media, enhance religious freedoms, prosecute human traffickers, and train judges and fight corruption.

Also notable, the substitute provides an exception for democratic change, allowing the President to restore all assistance after elections deemed consistent with OSCE and international standards. This ensures that newly and freely elected governments may receive all allocated funds and not have to pay for the transgressions of their predecessors.

The bill provides the President flexibility, as it allows the U.S. to express dissatisfaction in a significant way while not immediately ending all aid programs to central governments. Also, mindful of the importance of not overly restricting the President's flexibility in foreign affairs, the amended version now provides the President with a full national security waiver.

Protection of fundamental freedoms for the people of Central Asia is what will ultimately promote long-term stability and security in the region. Acquiescence to the status quo challenges the sincerity of our stated objectives, as declared in the 2002 National Security Strategy, to "stand firmly for the nonnegotiable demands of human dignity."

The bill has been cosponsored by a number of Members of this Subcommittee including my friend, Rep. Donald Payne. Others on the Subcommittee may wish to be added before we move to mark up the measure. I am asking for the support of Members of this Subcommittee on Africa, Global Human Rights and International Operations so we can favorably report this bill out of the subcommittee.

Mr. SMITH OF NEW JERSEY. I would like to now offer the amendment, I believe, and the technical amendment or any new amendments that Members may have. So I have an amendment in the nature of a substitute at the desk, and without objection, it will be considered as read.

[The amendment in the nature of a substitute follows:]

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 3189
OFFERED BY MR. SMITH OF NEW JERSEY**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Central Asia Democ-
3 racy and Human Rights Act of 2006”.

4 SEC. 2. FINDINGS.

5 Congress finds the following:

6 (1) More than 13 years after independence, the
7 five countries of Central Asia—Kazakhstan,
8 Kyrgyzstan, Tajikistan, Turkmenistan, and
9 Uzbekistan—are struggling, to varying degrees, with
10 their transition from authoritarian rule to demo-
11 cratic societies that fully respect human rights and
12 uphold their freely undertaken commitments as par-
13 ticipating States in the Organization for Security
14 and Cooperation in Europe (OSCE).

15 (2) As OSCE participating States, the countries
16 of Central Asia committed themselves in the Charter
17 of Paris for a New Europe to “build, consolidate

1 and strengthen democracy as the only system of gov-
2 ernment of our nations”.

3 (3) In the Global War on Terrorism, the United
4 States is increasingly engaged with the countries of
5 Central Asia on a political, economic, and military
6 basis.

7 (4) In the Global War on Terrorism, policies
8 that bolster authoritarian governments which sup-
9 press and terrorize their own people will ultimately
10 be self defeating, as repression often breeds extre-
11 mism and terrorism.

12 (5) The Final Report of the National Commis-
13 sion on Terrorist Attacks Upon the United States
14 (commonly referred to as the “9/11 Commission”)
15 recommended: “The U.S. government must define
16 what the message is, what it stands for. We should
17 offer an example of moral leadership in the world,
18 committed to treat people humanely, abide by the
19 rule of law, and be generous and caring to our
20 neighbors.”.

21 (6) The September 2004 Final Report of the
22 Defense Science Board Task Force on Strategic
23 Communication stated: “The perception of intimate
24 U.S. support of tyrannies in the Muslim World is
25 perhaps the critical vulnerability in American strat-

1 egy. It strongly undercuts our message, while
2 strongly promoting that of the enemy.”.

3 (7) In a speech to the United Nations General
4 Assembly on September 21, 2004, President George
5 W. Bush stated: “People everywhere are capable of
6 freedom, and worthy of freedom . . . For too long,
7 many nations, including my own, tolerated, even ex-
8 cused, oppression in the Middle East in the name of
9 stability. Oppression became common, but stability
10 never arrived. We must take a different approach.”.

11 (8) In keeping with the President’s objectives
12 outlined in the September 21, 2004, speech to the
13 United Nations General Assembly, the United States
14 has a clear opportunity to implement short-term
15 policies promoting stability in the countries of Cen-
16 tral Asia, stand for human dignity, foster security,
17 and build long-term popular support for the United
18 States.

19 (9) The September 2002 National Security
20 Strategy of the United States of America stated:
21 “America must stand firmly for the nonnegotiable
22 demands of human dignity: the rule of law; limits on
23 the absolute power of the state; free speech; freedom
24 of worship; equal justice; respect for women; reli-

1 gious and ethnic tolerance; and respect for private
2 property.”.

3 (10) The National Security Strategy of the
4 United States of America further elaborated that the
5 United States must “make freedom and the develop-
6 ment of democratic institutions key themes in our
7 bilateral relations, seeking solidarity and cooperation
8 from other democracies while we press governments
9 that deny human rights to move toward a better fu-
10 ture”.

11 (11) In his second inaugural address on Janu-
12 ary 20, 2005, President George W. Bush stated:
13 “For as long as whole regions of the world simmer
14 in resentment and tyranny—prone to ideologies that
15 feed hatred and excuse murder—violence will gather,
16 and multiply in destructive power, and cross the
17 most defended borders, and raise a mortal threat.”.
18 In this address, President Bush further declared: “It
19 is the policy of the United States to seek and sup-
20 port the growth of democratic movements and insti-
21 tutions in every nation and culture, with the ulti-
22 mate goal of ending tyranny in our world.”.

23 (12) The October 2005 National Intelligence
24 Strategy of the United States of America, issued by
25 the Director of National Intelligence, stated: “We

1 have learned at our peril that the lack of freedom in
2 one state endangers the peace and freedom of oth-
3 ers. . . . Self-sustaining democratic states are essen-
4 tial to world peace and development.”.

5 **SEC. 3. SENSE OF THE CONGRESS.**

6 It is the sense of Congress that—

7 (1) the United States should support those gov-
8 ernments and individuals making substantial and
9 sustained progress to establish democracy, guarantee
10 the rule of law, and protect human rights;

11 (2) the United States should use every means
12 at its disposal to encourage the countries of Central
13 Asia to provide greater respect for democracy, the
14 rule of law, and human rights, thereby promoting
15 the long-term stability and security of the Central
16 Asian region, and ensure that all assistance pro-
17 grams for the Central Asian region support and
18 communicate this goal; and

19 (3) the United States should seek and support
20 the growth of democratic movements and institu-
21 tions in every nation and culture, with the ultimate
22 goal of ending tyranny in our world.

1 **SEC. 4. ASSISTANCE TO PROMOTE DEMOCRACY, RULE OF**
2 **LAW, AND HUMAN RIGHTS IN THE COUN-**
3 **TRIES OF CENTRAL ASIA.**

4 (a) PURPOSES OF ASSISTANCE.—The purposes of as-
5 sistance under this section include—

6 (1) to encourage free and fair presidential, par-
7 liamentary, and local elections in the countries of
8 Central Asia, conducted in a manner consistent with
9 Organization for Security and Cooperation in Eu-
10 rope (OSCE) and internationally accepted stand-
11 ards;

12 (2) to ensure in the countries of Central Asia
13 the full respect for all human rights, including free-
14 dom of expression and the media, freedom of reli-
15 gion and association, prevention of torture, and the
16 end of human trafficking from, to, and through the
17 Central Asian region, conducted in a manner con-
18 sistent with OSCE and internationally accepted
19 standards; and

20 (3) to develop rule of law, in particular inde-
21 pendent judicial systems and professional law en-
22 forcement, and to combat corruption, conducted in a
23 manner consistent with OSCE and internationally
24 accepted standards.

25 (b) AUTHORIZATION FOR ASSISTANCE.—

1 (1) IN GENERAL.—To carry out the purposes of
2 subsection (a), the President is authorized to provide
3 assistance for the countries of Central Asia to sup-
4 port the activities described in subsection (c).

5 (2) LIMITATION.—The authority to provide as-
6 sistance for the countries of Central Asia under
7 paragraph (1) shall be subject to all applicable limi-
8 tations on assistance for such countries and other
9 requirements relating to assistance for such coun-
10 tries under any Act making appropriations for for-
11 eign operations, export financing, and related pro-
12 grams.

13 (c) ACTIVITIES SUPPORTED.—Activities that may be
14 supported by assistance under subsection (b) include—

15 (1) observing elections and promoting free and
16 fair electoral processes;

17 (2) encouraging the development of sustainable
18 civic structures representative of society, such as en-
19 vironmental groups, independent labor unions, demo-
20 cratic political parties, and other community-based
21 organizations;

22 (3) maintaining libraries in the languages of
23 Central Asia to explain democracy in the United
24 States;

1 (4) developing independent media to work in
2 the countries of Central Asia, supported by
3 nonstate-controlled printing facilities;

4 (5) independent radio and television broad-
5 casting to and within the countries of Central Asia;

6 (6) encouraging the liberalization of laws affect-
7 ing religious practice and their enforcement to pro-
8 mote greater freedoms for individuals to meet alone
9 or in community with others, to move freely, and in
10 the sharing of beliefs;

11 (7) educating law enforcement officials with re-
12 spect to the existence and enforcement of legal pro-
13 hibitions concerning torture;

14 (8) prosecuting human traffickers, as well as
15 providing increased police training and education ef-
16 forts, including on forced labor;

17 (9) training and assistance for judicial reform
18 and development;

19 (10) training in democratic governance and
20 human rights for nationals and exiles of the coun-
21 tries of Central Asia who are unable to live in their
22 own country due to fear of persecution;

23 (11) training in effective human rights and hu-
24 manitarian law as a part of non-lethal training pro-
25 grams for units of the security forces of the coun-

1 tries of Central Asia (other than any unit of the se-
2 curity forces of such countries with respect to which
3 the Secretary of State has credible evidence that
4 such unit has committed gross violations of human
5 rights);

6 (12) establishing programs to combat corrup-
7 tion and support good governance; and

8 (13) other activities consistent with the pur-
9 poses of this section.

10 (d) REPORT.—

11 (1) IN GENERAL.—Not later than six months
12 after the date of the enactment of this Act, and
13 every six months thereafter, the President shall
14 transmit to the appropriate congressional commit-
15 tees a report on assistance provided for the countries
16 of Central Asia under this section for the six-month
17 period ending 30 days prior to the transmission of
18 the report.

19 (2) CONTENTS.—The report shall include with
20 respect to each country of Central Asia a detailed
21 description of each of the following:

22 (A) The types and amount of assistance
23 provided under this section, including the types
24 and amount of defense articles and defense
25 services and the amount of financial assistance.

1 (B) The use of such assistance, including
2 the use of defense articles, defense services, and
3 financial assistance, by units of the armed
4 forces, border guards, or other security forces
5 of the country.

6 (e) AUTHORIZATION OF APPROPRIATIONS.—

7 (1) IN GENERAL.—There are authorized to be
8 appropriated to the President to carry out this sec-
9 tion not less than \$188,000,000 for fiscal year 2007
10 and each subsequent fiscal year.

11 (2) AVAILABILITY.—Amounts appropriated pur-
12 suant to the authorization of appropriations under
13 paragraph (1) are authorized to remain available
14 until expended.

15 **SEC. 5. RADIO BROADCASTING TO THE COUNTRIES OF CEN-**
16 **TRAL ASIA.**

17 (a) PURPOSE.—The purpose of this section is to au-
18 thorize increased support for surrogate radio broadcasting
19 to the countries of Central Asia that will facilitate the
20 unhindered dissemination of information in the Central
21 Asian region regarding the activities supported by this
22 Act.

23 (b) AUTHORIZATION OF APPROPRIATIONS.—In addi-
24 tion to such sums as are otherwise authorized to be appro-
25 priated, there are authorized to be appropriated not less

1 than \$15,000,000 for fiscal year 2007 and each subse-
2 quent fiscal year for Voice of America and RFE/RL, In-
3 corporated for expanded radio broadcasting to the people
4 of the countries of Central Asia in languages spoken in
5 Central Asia, including broadcasting in the Russian lan-
6 guage, and the establishment of Internet websites.

7 (c) REPORT.—Not later than 120 days after the date
8 of the enactment of this Act, the Secretary of State shall
9 submit to the appropriate congressional committees a re-
10 port on how funds are appropriated and allocated pursu-
11 ant to the authorizations of appropriations under sub-
12 section (b) and section 4(e) will be used to provide short-
13 wave, AM, and FM broadcasting that covers the Central
14 Asian region and delivers independent and uncensored
15 programming.

16 **SEC. 6. LIMITATION ON UNITED STATES ASSISTANCE TO**
17 **THE COUNTRIES OF CENTRAL ASIA.**

18 (a) LIMITATION ON ASSISTANCE.—

19 (1) IN GENERAL.—Subject to paragraphs (1)
20 through (3) of subsection (c), the full amount of as-
21 sistance described in subsection (e) that is allocated
22 for the government of a country of Central Asia for
23 a fiscal year may be provided to the government of
24 the country only if the President certifies to the ap-
25 propriate congressional committees that the govern-

1 ment of the country meets the requirements de-
2 scribed in subsection (b).

3 (2) ADDITIONAL LIMITATION.—The limitation
4 on assistance for the government of a country of
5 Central Asia under paragraph (1) is in addition to
6 any other applicable limitation on assistance for
7 such government and any other requirement relating
8 to assistance for such government under any Act
9 making appropriations for foreign operations, export
10 financing, and related programs.

11 (b) REQUIREMENTS.—The requirements described in
12 this subsection are the following:

13 (1) DEMOCRATIZATION.—The government of
14 the country is making substantial, sustained, and
15 demonstrable progress toward democratization, such
16 as the establishment of a legal framework, separa-
17 tion of political power, the conduct of free and fair
18 elections, civic education, the establishment of polit-
19 ical pluralism, and equal opportunity for women.

20 (2) FREEDOM OF EXPRESSION AND THE
21 MEDIA.—The government of the country is making
22 substantial, sustained, and demonstrable progress
23 toward freedom of expression, such as the establish-
24 ment of a legal framework, access to information
25 and the Internet, the elimination of suppressive gov-

1 ernment actions and the elimination of legal pen-
2 alties for criticizing the government or government
3 officials, and openness of media.

4 (3) FREEDOM OF RELIGION, ASSOCIATION, AND
5 THE RIGHT OF PEACEFUL ASSEMBLY.—The govern-
6 ment of the country is making substantial, sus-
7 tained, and demonstrable progress toward—

8 (A) freedom of religion, such as the ability
9 of individuals and communities to freely profess
10 and practice their faith, to share beliefs openly,
11 the opportunity for religious organizations to
12 gain legal status, and the ability of individuals
13 and communities to congregate for worship or
14 other functions openly;

15 (B) freedom of association; and

16 (C) the right of peaceful assembly and the
17 absence of prisoners of conscience.

18 (4) PREVENTION OF TORTURE.—The govern-
19 ment of the country is making substantial, sus-
20 tained, and demonstrable progress toward the estab-
21 lishment and enforcement of legal prohibitions
22 against torture and cruel, inhuman, or degrading
23 treatment or punishment, public denunciations of
24 torture, cooperation with the International Com-
25 mittee of the Red Cross and the United Nations

1 Special Rapporteur on Torture on these matters, as
2 appropriate, and the prosecution of individuals ac-
3 cused of perpetrating acts of torture.

4 (5) RULE OF LAW; NONDISCRIMINATION.—The
5 government of the country is making substantial,
6 sustained, and demonstrable progress toward the es-
7 tablishment and enforcement of the right to a fair
8 trial, independence of the judiciary, implementation
9 of anti-corruption programs, efforts to combat traf-
10 ficking in persons, forced labor, and corruption, and
11 nondiscriminatory treatment of ethnic, religious and
12 linguistic minorities.

13 (c) WITHHOLDING OF ASSISTANCE.—

14 (1) FIRST FISCAL YEAR.—If the President does
15 not certify under subsection (a) that the government
16 of a country of Central Asia meets the requirements
17 described in subsection (b) for a fiscal year, then at
18 least 33 percent of the amount of assistance de-
19 scribed in subsection (e) that is allocated for the
20 government of the country for such fiscal year shall
21 be withheld from obligation and expenditure.

22 (2) SECOND FISCAL YEAR.—If the President
23 does not certify under subsection (a) that the gov-
24 ernment of a country of Central Asia meets the re-
25 quirements described in subsection (b) for a second

1 consecutive fiscal year, then at least 66 percent of
2 the amount of assistance described in subsection (e)
3 that is allocated for the government of the country
4 for such fiscal year shall be withheld from obligation
5 and expenditure.

6 (3) THIRD AND SUBSEQUENT FISCAL YEARS.—

7 If the President does not certify under subsection
8 (a) that the government of a country of Central Asia
9 meets the requirements described in subsection (b)
10 for a third consecutive fiscal year, then 100 percent
11 of the amount of assistance described in subsection
12 (e) that is allocated for the government of the coun-
13 try for such fiscal year, and each consecutive subse-
14 quent fiscal year with respect to which a presidential
15 certification under subsection (a) is not made, shall
16 be withheld from obligation and expenditure.

17 (4) WAIVER.—The President may waive the ap-

18 plication of paragraph (1), (2), or (3) with respect
19 to a fiscal year if the President determines and cer-
20 tifies to the appropriate congressional committees
21 that it is important to the national security of the
22 United States to do so.

23 (5) USE OF WITHHELD ASSISTANCE.—Amounts

24 withheld from obligation and expenditure under this
25 subsection for a fiscal year are authorized to be

1 made available for assistance under section 4 of this
2 Act.

3 (d) REINSTATEMENT OF ASSISTANCE.—

4 (1) REINSTATEMENT.—Except as provided in
5 paragraph (2), if the President certifies under sub-
6 section (a) that the government of a country of Cen-
7 tral Asia meets the requirements of subsection (b)
8 for a fiscal year following a fiscal year with respect
9 to which funds are withheld from obligation and ex-
10 penditure under paragraph (1), (2), or (3) of sub-
11 section (c), then the amount of assistance described
12 in subsection (e) that is allocated for the government
13 of the country for such fiscal year, and each con-
14 secutive subsequent fiscal year with respect to which
15 an additional presidential certification under sub-
16 section (a) is made, may be increased by 33 percent
17 for each such fiscal year, not to exceed 100 percent
18 of the amount of assistance described in subsection
19 (e) that is allocated for the government of the coun-
20 try for any such fiscal year.

21 (2) EXCEPTION.—The full amount of assistance
22 described in subsection (e) that is allocated for the
23 government of a country of Central Asia for a fiscal
24 year may be provided to the government of the coun-
25 try for a fiscal year following a fiscal year with re-

1 spect to which funds are withheld from obligation
2 and expenditure under paragraph (1), (2), or (3) of
3 subsection (c) only if the President certifies to the
4 appropriate congressional committees that a demo-
5 cratic change in government has taken place in the
6 country through elections conducted in a manner
7 consistent with Organization for Security and Co-
8 operation in Europe (OSCE) and internationally ac-
9 cepted standards.

10 (e) ASSISTANCE DESCRIBED.—Assistance described
11 in this subsection is the following:

12 (1) Assistance under the Foreign Assistance
13 Act of 1961, including programs under title IV of
14 chapter 2 of part I of such Act (relating to the Over-
15 seas Private Investment Corporation) and assistance
16 under chapter 12 of part I of such Act (relating to
17 support for the economic and political independence
18 of the countries of the South Caucasus and Central
19 Asia), other than—

20 (A) disaster relief assistance, including any
21 assistance under chapter 9 of part I of that
22 Act;

23 (B) assistance which involves the provision
24 of food (including monetization of food) or med-
25 icine;

1 (C) assistance for refugees and internally
2 displaced persons;

3 (D) assistance to combat HIV/AIDS, in-
4 cluding any assistance under section 104A of
5 that Act;

6 (E) assistance for people-to-people ex-
7 changes; and

8 (F) assistance to combat trafficking in
9 women and children.

10 (2) Sales, or financing on any terms, under the
11 Arms Export Control Act.

12 (3) Assistance made available by reason of the
13 application of section 9009 of the Department of
14 Defense Appropriations Act, 2005, or any related or
15 successor provision of law.

16 (4) The provision of training, equipment, trans-
17 portation, or other support for the armed forces
18 under any provision of law, other than assistance
19 under programs and activities specified in section
20 1501(b) of the National Defense Authorization Act
21 for Fiscal Year 1997 (relating to Cooperative Threat
22 Reduction programs).

23 (f) EFFECTIVE DATE.—The requirements of this sec-
24 tion apply with respect to funds appropriated for assist-

1 ance for the governments of the countries of Central Asia
2 for fiscal year 2007 and subsequent fiscal years.

3 **SEC. 7. DEFINITIONS.**

4 In this Act:

5 (1) APPROPRIATE CONGRESSIONAL COMMIT-
6 TEES.—The term “appropriate congressional com-
7 mittees” means—

8 (A) the Committee on Appropriations and
9 the Committee on International Relations of the
10 House of Representatives; and

11 (B) the Committee on Appropriations and
12 the Committee on Foreign Relations of the Sen-
13 ate.

14 (2) COUNTRIES OF CENTRAL ASIA.—The term
15 “countries of Central Asia” means Kazakhstan,
16 Kyrgyzstan, Tajikistan, Turkmenistan, and
17 Uzbekistan.

Ms. LEE. Mr. Chairman, I have actually two amendments at the desk, and I ask unanimous consent that they be considered read en bloc.

Mr. SMITH OF NEW JERSEY. Without objection, so ordered.
[The amendments referred to follow:]

AMENDMENT TO H.R. 3189
OFFERED BY MS. LEE OF CALIFORNIA

In section 3(2), strike “every means” and insert
“every peaceful means”.

AMENDMENT TO H.R. 3189
OFFERED BY MS. LEE OF CALIFORNIA

In section 4(d)(2)(A), add at the end the following new sentence: “In addition, the name of each department or agency of the Government of the United States that provides assistance under this section and the name of each recipient of such assistance.”.

Ms. LEE. Thank you. Just briefly, first, thank you for offering this bill. It is a bill, a resolution, that I fully support, and these two amendments basically, I think, will just clarify our intention. The first one is any time the bill or resolution reflects or says "every means," I just ask that we put "every peaceful means" to clarify what means we are talking about. And the second amendment basically just says, and I will just read this—it adds a sentence to Section 4—it just says:

"In addition, the name of each department or agency of the Government of the United States that provides assistance under this section and the name of each recipient of such assistance."

Those basically are the two amendments, and, Mr. Chairman, I hope that they will be accepted en bloc.

Mr. SMITH OF NEW JERSEY. Would anybody else like to be heard on the gentlelady's amendments?

[No response.]

Mr. SMITH OF NEW JERSEY. If not, the question occurs on the amendments offered en bloc. All of those in favor, say aye.

[A chorus of ayes.]

Mr. SMITH OF NEW JERSEY. All of those opposed say no.

[No response.]

Mr. SMITH OF NEW JERSEY. The ayes have it, and the amendments en bloc are agreed to.

The question now occurs on the amendment in the nature of a substitute, as amended. All of those in favor say aye.

[A chorus of ayes.]

Mr. SMITH OF NEW JERSEY. All of those opposed say no.

[No response.]

Mr. SMITH OF NEW JERSEY. The motion is approved, and the resolution is to be reported favorably. Without objection, the staff is directed to make any technical and conforming amendments.

I want to thank all of the Members of the Subcommittee for coming out and appreciate your support for these resolutions and bills. The markup is adjourned. Thank you so much.

[Whereupon, at 5:37 p.m., the Subcommittee was adjourned.]

A P P E N D I X

MATERIAL SUBMITTED FOR THE HEARING RECORD

PREPARED STATEMENT OF THE HONORABLE EDWARD R. ROYCE, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF CALIFORNIA

H. CON. RES. 320

Dr. Pham Hong Son was arrested in March 2002 for his writings and translations on democracy. Without the benefit of a legitimate trial, Dr. Son was sentenced to 13 years of imprisonment and three years of house arrest. Although his sentence was later lessened, the circumstances surrounding his arrest remain reprehensible. Upon his unlawful arrest, Dr. Son spent a year in solitary confinement and was subjected to inhumane treatment.

Unfortunately, Dr. Son's case is far from unique—it is a microcosm of the Vietnamese governments approach to human rights. Sentences such as his are routinely used by the Vietnamese Communist Government to stymie political dissent. The Communist Party of Vietnam continues to commit serious abuses against its citizens and denies them the right to change government. This committee has followed those abuses and spoken out against them with great determination—which I know it will continue to do.

The Vietnamese government's policy of intolerance towards free speech is intolerable. I urge you all to support the unconditional release of Dr. Pham Hong Son.

