

TO PROMOTE FREEDOM AND DEMOCRACY IN VIETNAM; AND
CONCERNING EFFORTS TO PROVIDE HUMANITARIAN RELIEF
TO MITIGATE THE EFFECTS OF DROUGHT AND AVERT FAM-
INE IN THE HORN OF AFRICA, PARTICULARLY SOMALIA,
ETHIOPIA, DJIBOUTI, AND KENYA

MARKUP

BEFORE THE
SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH,
AND HUMAN RIGHTS
OF THE

COMMITTEE ON FOREIGN AFFAIRS
HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

SECOND SESSION

ON

H.R. 1410 and H. Res. 361

FEBRUARY 8, 2012

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**TO PROMOTE FREEDOM AND DEMOCRACY IN VIETNAM; AND
CONCERNING EFFORTS TO PROVIDE HUMANITARIAN RE-
LIEF TO MITIGATE THE EFFECTS OF DROUGHT AND
AVERT FAMINE IN THE HORN OF AFRICA, PARTICULARLY
SOMALIA, ETHIOPIA, DJIBOUTI, AND KENYA**

WEDNESDAY, FEBRUARY 8, 2012

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH,
AND HUMAN RIGHTS
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:38 p.m., in room 2172, Rayburn House Office Building, Hon. Christopher H. Smith (chairman of the subcommittee) presiding.

Mr. SMITH. The subcommittee will come to order.

Pursuant to notice, the subcommittee meets this afternoon to mark up H.R. 1410, the Vietnam Human Rights Act, and H. Res. 361, concerning efforts to provide humanitarian relief to mitigate the effects of drought and to avert famine in the Horn of Africa, particularly in Somalia, Ethiopia, Djibouti, and Kenya.

As our members are aware, these measures enjoy strong bipartisan support. And there are, right now, competing hearings and other events taking place this afternoon, including other markups. And I thank my colleagues for coming who are in the midst of another markup. Thus, it is the intent of the Chair to consider these bills en bloc and by unanimous consent, including the substitute amendments sent to you on Monday.

I want to say that we have worked very cooperatively with the minority. It has been a very good cooperation on both bills. We have vetted virtually every paragraph, every sentence, and every word, and now we have before us a finished product. All members have copies of those documents before them.

And then after we have concluded our expedited consideration, I will be glad to recognize Ms. Bass, of course myself, and any other member of the committee who would like to speak to either or both of the measures before us. All members are given leave to insert written remarks into the record, should they choose to do so.

Seeing that a quorum is present, and without objection, the following measures are considered as read; the following amendments, which members have before them, are deemed adopted; and the measures, as amended, are reported favorably to the full Committee on Foreign Affairs: H.R. 1410, the Vietnam Human Rights Act; the Smith amendment, No. 68, to H.R. 1410, which is the amendment in the nature of a substitute provided to your offices

on Monday; and H. Res. 361, concerning efforts to provide humanitarian relief to mitigate the effects of drought and avert famine in the Horn of Africa, particularly Somalia, Ethiopia, Djibouti, and Kenya.

We will include the Payne amendment, No. 46, offered by my friend and colleague, Ms. Bass, on behalf of Ranking Member Payne, who I would point out is very ill and cannot be here today. And this is an amendment in the nature of a substitute, which was also sent to each office on Monday.

Hearing no objection, it is so ordered. The amended bills are adopted. And, without objection, the staff is directed to make technical and conforming changes.

[The information referred to follows:]

112TH CONGRESS
1ST SESSION

H. R. 1410

To promote freedom and democracy in Vietnam.

IN THE HOUSE OF REPRESENTATIVES

APRIL 7, 2011

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

A BILL

To promote freedom and democracy in Vietnam.

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

3 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Vietnam Human Rights Act of 2011”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and purpose.
- Sec. 3. Prohibition on increased nonhumanitarian assistance to the Government of Vietnam.
- Sec. 4. Assistance to support democracy in Vietnam.
- Sec. 5. United States public diplomacy.
- Sec. 6. Refugee resettlement for nationals of Vietnam.
- Sec. 7. Annual report.

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

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

3 (1) The relationship between the United States
4 and the Socialist Republic of Vietnam has grown
5 substantially since the end of the trade embargo in
6 1994, with annual trade between the two countries
7 reaching over \$15,300,000,000 in 2009.

8 (2) The Government of Vietnam's transition to-
9 ward greater economic freedom and trade has not
10 been matched by greater political freedom and sub-
11 stantial improvements in basic human rights for Vi-
12 etnamese citizens, including freedom of religion, ex-
13 pression, association, and assembly.

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

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

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

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

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

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

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

22 (9) The Government of Vietnam has also failed
23 to improve labor rights, continues to arrest and har-
24 ass labor leaders, and restricts the right to organize
25 independently.

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

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

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

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

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

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

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

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

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

3 (17) During Easter weekend in April 2004,
4 thousands of Montagnards gathered to protest their
5 treatment by the Government of Vietnam, including
6 the confiscation of tribal lands and ongoing restric-
7 tions on religious activities. Credible reports indicate
8 that the protests were met with violent response as
9 many demonstrators were arrested, injured, or went
10 into hiding, and that others were killed. Many of
11 these Montagnards and others are still serving long
12 sentences for their involvement in peaceful dem-
13 onstrations in 2001, 2002, 2004, and 2008.
14 Montagnards continue to face threats, detention,
15 beatings, forced renunciation of faith, property de-
16 struction, restricted movement, and reported deaths
17 at the hands of Government officials.

18 (18) Ethnic minority Hmong in the Northwest
19 Highlands of Vietnam also suffer restrictions,
20 abuses, and persecution by the Government of Viet-
21 nam, and although the Government is now allowing
22 some Hmong Protestants to organize and conduct
23 religious activities, some Government officials con-
24 tinue to deny or ignore additional applications for
25 registration, and to persecute churches and believers

1 who do not wish to affiliate with Government-con-
2 trolled religious entities.

3 (19) In 2007, the Government of Vietnam ar-
4 rested, beat, and defrocked several ethnic Khmer
5 Buddhists in response to a peaceful religious protest.
6 The Government continues to restrict Khmer Krom
7 expression, assembly, association, and controls all re-
8 ligious organizations and prohibits most peaceful
9 protests.

10 (20) The Government of Vietnam controls all
11 print and electronic media, including access to the
12 Internet, jams the signals of some foreign radio sta-
13 tions, including Radio Free Asia, and has detained
14 and imprisoned individuals who have posted, pub-
15 lished, sent, or otherwise distributed democracy-re-
16 lated materials.

17 (21) People arrested in Vietnam because of
18 their political or religious affiliations and activities
19 often are not accorded due legal process as they lack
20 full access to lawyers of their choice, may experience
21 closed trials, have often been detained for years
22 without trial, and have been subjected to the use of
23 torture to admit crimes they did not commit or to
24 falsely denounce their own leaders.

1 (22) Vietnam continues to be a source country
2 for the commercial sexual exploitation and forced
3 labor of women and girls, as well as for men and
4 women legally entering into international labor con-
5 tracts who subsequently face conditions of debt
6 bondage or forced labor, and is a destination country
7 for child trafficking and continues to have internal
8 human trafficking.

9 (23) Although the Government of Vietnam re-
10 ports progress in combating human trafficking, it
11 does not fully comply with the minimum standards
12 for the elimination of trafficking, and is not making
13 substantial efforts to comply.

14 (24) United States refugee resettlement pro-
15 grams, including the Humanitarian Resettlement
16 (HR) Program, the Orderly Departure Program
17 (ODP), Resettlement Opportunities for Vietnamese
18 Returnees (ROVR) Program, general resettlement of
19 boat people from refugee camps throughout South-
20 east Asia, the Amerasian Homecoming Act of 1988,
21 and the Priority One Refugee resettlement category,
22 have helped rescue Vietnamese nationals who have
23 suffered persecution on account of their associations
24 with the United States or, in many cases, because of
25 such associations by their spouses, parents, or other

1 family members, as well as other Vietnamese nation-
2 als who have been persecuted because of race, reli-
3 gion, nationality, political opinion, or membership in
4 a particular social group.

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

16 (26) Congress has passed numerous resolutions
17 condemning human rights abuses in Vietnam, indi-
18 cating that although there has been an expansion of
19 relations with the Government of Vietnam, it should
20 not be construed as approval of the ongoing and se-
21 rious violations of fundamental human rights in
22 Vietnam.

23 (b) PURPOSE.—The purpose of this Act is to promote
24 the development of freedom and democracy in Vietnam.

1 **SEC. 3. PROHIBITION ON INCREASED NONHUMANITARIAN**
2 **ASSISTANCE TO THE GOVERNMENT OF VIET-**
3 **NAM.**

4 (a) ASSISTANCE.—

5 (1) IN GENERAL.—Except as provided in sub-
6 section (b), the Federal Government may not pro-
7 vide nonhumanitarian assistance to the Government
8 of Vietnam during any fiscal year in an amount that
9 exceeds the amount of such assistance provided dur-
10 ing fiscal year 2011 unless—

11 (A) the Federal Government provides as-
12 sistance, in addition to the assistance author-
13 ized under section 4, supporting the creation
14 and facilitation of human rights training, civil
15 society capacity building, noncommercial rule of
16 law programming, and exchange programs be-
17 tween the Vietnamese National Assembly and
18 the United States Congress at levels commensu-
19 rate with, or exceeding, any increases in non-
20 humanitarian assistance to Vietnam;

21 (B) with respect to the limitation for fiscal
22 year 2012, the President determines and cer-
23 tifies to Congress, not later than 30 days after
24 the date of the enactment of this Act, that the
25 requirements of subparagraphs (A) through (G)
26 of paragraph (2) have been met during the 12-

1 month period ending on the date of the certifi-
2 cation; and

3 (C) with respect to the limitation for sub-
4 sequent fiscal years, the President determines
5 and certifies to Congress, in the most recent
6 annual report submitted pursuant to section
7 601, that the requirements of subparagraphs
8 (A) through (G) of paragraph (2) have been
9 met during the 12-month period covered by the
10 report.

11 (2) REQUIREMENTS.—The requirements of this
12 paragraph are the following:

13 (A) The Government of Vietnam has made
14 substantial progress toward releasing all polit-
15 ical and religious prisoners from imprisonment,
16 house arrest, and other forms of detention.

17 (B) The Government of Vietnam has made
18 substantial progress toward—

19 (i) respecting the right to freedom of
20 religion, including the right to participate
21 in religious activities and institutions with-
22 out interference, harassment, or involve-
23 ment of the Government, for all of Viet-
24 nam's diverse religious communities; and

1 (ii) returning estates and properties
2 confiscated from the churches and religious
3 communities.

4 (C) The Government of Vietnam has made
5 substantial progress toward respecting the right
6 to freedom of expression, assembly, and associa-
7 tion, including the release of independent jour-
8 nalists, bloggers, and democracy and labor ac-
9 tivists.

10 (D) The Government of Vietnam has made
11 substantial progress toward repealing or revis-
12 ing laws that criminalize peaceful dissent, inde-
13 pendent media, unsanctioned religious activity,
14 and nonviolent demonstrations and rallies, in
15 accordance with international standards and
16 treaties to which Vietnam is a party.

17 (E) The Government of Vietnam has made
18 substantial progress toward allowing Viet-
19 namese nationals free and open access to
20 United States refugee programs.

21 (F) The Government of Vietnam has made
22 substantial progress toward respecting the
23 human rights of members of all ethnic and mi-
24 nority groups.

1 (G) Neither any official of the Government
2 of Vietnam nor any agency or entity wholly or
3 partly owned by the Government of Vietnam
4 was complicit in a severe form of trafficking in
5 persons, or the Government of Vietnam took all
6 appropriate steps to end any such complicity
7 and hold such official, agency, or entity fully
8 accountable for its conduct.

9 (b) EXCEPTION.—

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

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

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

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

3 (c) DEFINITIONS.—In this section:

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

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

11 (i) disaster relief assistance, including
12 any assistance under chapter 9 of part I of
13 that Act;

14 (ii) assistance which involves the pro-
15 vision of food (including monetization of
16 food) or medicine;

17 (iii) assistance for refugees; and

18 (iv) assistance to combat HIV/AIDS,
19 including any assistance under section
20 104A of that Act; and

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

23 (2) SEVERE FORMS OF TRAFFICKING IN PER-
24 SONS.—The term “severe form of trafficking in per-
25 sons” means any activity described in section 103(8)

1 of the Trafficking Victims Protection Act of 2000
2 (Public Law 106–386 (114 Stat. 1470); 22 U.S.C.
3 7102(8)).

4 (d) EFFECTIVE DATE.—This section shall take effect
5 on the date of the enactment of this Act and shall apply
6 with respect to the provision of nonhumanitarian assist-
7 ance to the Government of Vietnam during fiscal year
8 2012 and subsequent fiscal years.

9 **SEC. 4. ASSISTANCE TO SUPPORT DEMOCRACY IN VIET-**
10 **NAM.**

11 The President is authorized to provide assistance,
12 through appropriate nongovernmental organizations and
13 the Human Rights Defenders Fund, for the support of
14 individuals and organizations to promote internationally
15 recognized human rights in Vietnam.

16 **SEC. 5. UNITED STATES PUBLIC DIPLOMACY.**

17 (a) RADIO FREE ASIA TRANSMISSIONS TO VIET-
18 NAM.—It is the policy of the United States to take such
19 measures as are necessary to overcome the jamming of
20 Radio Free Asia by the Government of Vietnam.

21 (b) UNITED STATES EDUCATIONAL AND CULTURAL
22 EXCHANGE PROGRAMS WITH VIETNAM.—It is the policy
23 of the United States that programs of educational and cul-
24 tural exchange with Vietnam should actively promote
25 progress toward freedom and democracy in Vietnam by

1 providing opportunities to Vietnamese nationals from a
2 wide range of occupations and perspectives to see freedom
3 and democracy in action and, also, by ensuring that Viet-
4 namese nationals who have already demonstrated a com-
5 mitment to these values are included in such programs.

6 **SEC. 6. REFUGEE RESETTLEMENT FOR NATIONALS OF**
7 **VIETNAM.**

8 It is the policy of the United States to offer refugee
9 resettlement to nationals of Vietnam (including members
10 of the Montagnard ethnic minority groups) who were eligi-
11 ble for the Orderly Departure Program (ODP), the Hu-
12 manitarian Resettlement (HR) Program, the Resettlement
13 Opportunities for Vietnamese Returnees (ROVR) Pro-
14 gram, the Amerasian Homecoming Act of 1988, or any
15 other United States refugee program and who were
16 deemed ineligible due to administrative error or who for
17 reasons beyond the control of such individuals (including
18 insufficient or contradictory information or the inability
19 to pay bribes demanded by officials of the Government of
20 Vietnam) were unable or failed to apply for such programs
21 in compliance with deadlines imposed by the Department
22 of State.

23 **SEC. 7. ANNUAL REPORT.**

24 (a) IN GENERAL.—Not later than 6 months after the
25 date of the enactment of this Act and every 12 months

1 thereafter, the Secretary of State shall submit to the Con-
2 gress a report on the following:

3 (1) The determination and certification of the
4 President that the requirements of subparagraphs
5 (A) through (G) of section 3(a)(2) have been met,
6 if applicable.

7 (2) Steps taken to carry out section 3(a)(1)(A),
8 if applicable.

9 (3) Efforts by the United States Government to
10 secure transmission sites for Radio Free Asia in
11 countries in close geographical proximity to Vietnam
12 in accordance with section 5(a).

13 (4) Efforts to ensure that programs with Viet-
14 nam promote the policy set forth in section 5(b) and
15 with section 102 of the Human Rights, Refugee, and
16 Other Foreign Policy Provisions Act of 1996 regard-
17 ing participation in programs of educational and cul-
18 tural exchange.

19 (5) Steps taken to carry out the policy under
20 section 6.

21 (6) Lists of persons believed to be imprisoned,
22 detained, or placed under house arrest, tortured, or
23 otherwise persecuted by the Government of Vietnam
24 due to their pursuit of internationally recognized
25 human rights. In compiling such lists, the Secretary

1 shall exercise appropriate discretion, including con-
2 cerns regarding the safety and security of, and ben-
3 efit to, the persons who may be included on the lists
4 and their families. In addition, the Secretary shall
5 include a list of such persons and their families who
6 may qualify for protections under United States ref-
7 ugee programs.

8 (7) A description of the development of the rule
9 of law in Vietnam, including—

10 (A) progress toward the development of in-
11 stitutions of democratic governance;

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

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

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

1 (E) the extent to which individuals are
2 treated equally under the laws of Vietnam with-
3 out regard to citizenship, race, religion, political
4 opinion, or current or former associations;

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

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

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

22

20

- 1 United States Commission on International Religious
- 2 Freedom for appropriate sections of the report.

○

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 1410
OFFERED BY MR. SMITH OF NEW JERSEY**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Vietnam Human Rights Act of 2012”.

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

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Sec. 2. Findings and purpose.
Sec. 3. Prohibition on increased nonhumanitarian assistance to the Government
of Vietnam.
Sec. 4. United States public diplomacy.
Sec. 5. Refugee resettlement for nationals of Vietnam.
Sec. 6. Annual report.

6 SEC. 2. FINDINGS AND PURPOSE.

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

8 (1) The relationship between the United States
9 and the Socialist Republic of Vietnam has grown
10 substantially since the end of the trade embargo in
11 1994, with annual trade between the two countries
12 reaching over \$20,000,000,000 in 2011.

13 (2) The Government of Vietnam’s transition to-
14 ward greater economic freedom and trade has not

1 been matched by greater political freedom and sub-
2 stantial improvements in basic human rights for Vi-
3 etnamese citizens, including freedom of religion, ex-
4 pression, association, and assembly.

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

10 (4) Vietnam remains a one-party state, ruled
11 and controlled by the Communist Party of Vietnam
12 (CPV), which continues to deny the right of citizens
13 to change their Government.

14 (5) Although in recent years the National As-
15 sembly of Vietnam has played an increasingly active
16 role as a forum for highlighting local concerns, cor-
17 ruption, and inefficiency, the National Assembly re-
18 mains subject to the direction of the CPV and the
19 CPV maintains control over the selection of can-
20 didates in national and local elections.

21 (6) The Government of Vietnam forbids public
22 challenge to the legitimacy of the one-party state, re-
23 stricts freedoms of opinion, the press, and associa-
24 tion and tightly limits access to the Internet and
25 telecommunication.

1 (7) Since Vietnam's accession to the WTO on
2 January 11, 2007, the Government of Vietnam arbi-
3 trarily arrested and imprisoned numerous individ-
4 uals for their peaceful advocacy of religious freedom,
5 democracy, and human rights, including Father
6 Nguyen Van Ly, human rights lawyers Nguyen Van
7 Dai, Le Thi Cong Nhan, Cu Huy Ha Vu, and Le
8 Cong Dinh, and bloggers Nguyen Van Hai and Phan
9 Thanh Hai.

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

14 (9) The Government of Vietnam has also failed
15 to improve labor rights, continues to arrest and har-
16 ass labor leaders, and restricts the right to organize
17 independently.

18 (10) The Government of Vietnam continues to
19 limit the freedom of religion, restrict the operations
20 of independent religious organizations, and persecute
21 believers whose religious activities the Government
22 regards as a potential threat to its monopoly on
23 power.

24 (11) Despite reported progress in church open-
25 ings and legal registrations of religious venues, the

1 Government of Vietnam has halted most positive ac-
2 tions since the Department of State lifted the “coun-
3 try of particular concern” (CPC) designation for
4 Vietnam in November 2006.

5 (12) Unregistered ethnic minority Protestant
6 congregations, particularly Montagnards in the Cen-
7 tral and Northwest Highlands, suffer severe abuses
8 because of actions by the Government of Vietnam,
9 which have included forced renunciations of faith,
10 arrest and harassment, the withholding of social pro-
11 grams provided for the general population, confisca-
12 tion and destruction of property, subjection to severe
13 beatings, and reported deaths.

14 (13) There has been a pattern of violent re-
15 sponses by the Government to peaceful prayer vigils
16 and demonstrations by Catholics for the return of
17 Government-confiscated church properties. Pro-
18 testers have been harassed, beaten, and detained
19 and church properties have been destroyed. Catholics
20 also continue to face some restrictions on selection
21 of clergy, the establishment of seminaries and semi-
22 nary candidates, and individual cases of travel and
23 church registration.

24 (14) In May 2010 the village of Con Dau, a
25 Catholic parish in Da Nang, faced escalated violence

1 during a funeral procession as police attempted to
2 prohibit a religious burial in the village cemetery;
3 more than 100 villagers were injured, 62 were ar-
4 rested, five were tortured, and at least three died.

5 (15) The Unified Buddhist Church of Vietnam
6 (UBCV) suffers persecution as the Government of
7 Vietnam continues to restrict contacts and move-
8 ment of senior UBCV clergy for refusing to join the
9 state-sponsored Buddhist organization, the Govern-
10 ment restricts expression and assembly, and the
11 Government continues to harass and threaten UBCV
12 monks, nuns, and youth leaders.

13 (16) The Government of Vietnam continues to
14 suppress the activities of other religious adherents,
15 including Cao Dai and Hoa Hao Buddhists who lack
16 official recognition or have chosen not to affiliate
17 with the state-sanctioned groups, including through
18 the use of detention, imprisonment, and strict Gov-
19 ernment oversight.

20 (17) During Easter weekend in April 2004,
21 thousands of Montagnards gathered to protest their
22 treatment by the Government of Vietnam, including
23 the confiscation of tribal lands and ongoing restric-
24 tions on religious activities. Credible reports indicate
25 that the protests were met with violent response as

1 many demonstrators were arrested, injured, or went
2 into hiding, and that others were killed. Many of
3 these Montagnards and others are still serving long
4 sentences for their involvement in peaceful dem-
5 onstrations in 2001, 2002, 2004, and 2008.
6 Montagnards continue to face threats, detention,
7 beatings, forced renunciation of faith, property de-
8 struction, restricted movement, and reported deaths
9 at the hands of Government officials.

10 (18) Ethnic minority Hmong in the Northwest
11 Highlands of Vietnam also suffer restrictions,
12 abuses, and persecution by the Government of Viet-
13 nam, and although the Government is now allowing
14 some Hmong Protestants to organize and conduct
15 religious activities, some Government officials con-
16 tinue to deny or ignore additional applications for
17 registration, and to persecute churches and believers
18 who do not wish to affiliate with Government-con-
19 trolled religious entities.

20 (19) In 2007, the Government of Vietnam ar-
21 rested, beat, and defrocked several ethnic Khmer
22 Buddhists in response to a peaceful religious protest.
23 The Government continues to restrict Khmer Krom
24 expression, assembly, association, and controls all re-

1 religious organizations and prohibits most peaceful
2 protests.

3 (20) The Government of Vietnam controls all
4 print and electronic media, including access to the
5 Internet, jams the signals of some foreign radio sta-
6 tions, including Radio Free Asia, and has detained
7 and imprisoned individuals who have posted, pub-
8 lished, sent, or otherwise distributed democracy-re-
9 lated materials.

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

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

1 (23) Although the Government of Vietnam re-
2 ports progress in combating human trafficking, it
3 does not fully comply with the minimum standards
4 for the elimination of trafficking, and is not making
5 substantial efforts to comply.

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

22 (25) While previous programs have served their
23 purposes well, a significant number of eligible refu-
24 gees from Vietnam were unfairly denied or excluded,
25 including Amerasians, in some cases by vindictive or

1 corrupt Vietnamese officials who controlled access to
2 the programs, and in others by United States per-
3 sonnel who imposed unduly restrictive interpreta-
4 tions of program criteria. In addition, the Govern-
5 ment of Vietnam has denied passports to persons
6 who the United States has found eligible for refugee
7 admission.

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

15 (b) PURPOSE.—The purpose of this Act is to promote
16 the development of freedom and democracy in Vietnam.

17 **SEC. 3. PROHIBITION ON INCREASED NONHUMANITARIAN**
18 **ASSISTANCE TO THE GOVERNMENT OF VIET-**
19 **NAM.**

20 (a) ASSISTANCE.—

21 (1) IN GENERAL.—Except as provided in sub-
22 section (b), the Federal Government may not pro-
23 vide nonhumanitarian assistance to the Government
24 of Vietnam during any fiscal year in an amount that

1 exceeds the amount of such assistance provided dur-
2 ing fiscal year 2011 unless—

3 (A) the Federal Government provides as-
4 sistance, in addition to the assistance author-
5 ized under section 4, supporting the creation
6 and facilitation of human rights training, civil
7 society capacity building, noncommercial rule of
8 law programming, and exchange programs be-
9 tween the Vietnamese National Assembly and
10 the United States Congress at levels commensu-
11 rate with, or exceeding, any increases in non-
12 humanitarian assistance to Vietnam;

13 (B) with respect to the limitation for fiscal
14 year 2012, the President determines and cer-
15 tifies to Congress, not later than 30 days after
16 the date of the enactment of this Act, that the
17 requirements of subparagraphs (A) through (G)
18 of paragraph (2) have been met during the 12-
19 month period ending on the date of the certifi-
20 cation; and

21 (C) with respect to the limitation for sub-
22 sequent fiscal years, the President determines
23 and certifies to Congress, in the most recent
24 annual report submitted pursuant to section
25 601, that the requirements of subparagraphs

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

4 (2) REQUIREMENTS.—The requirements of this
5 paragraph are the following:

6 (A) The Government of Vietnam has made
7 substantial progress toward releasing all polit-
8 ical and religious prisoners from imprisonment,
9 house arrest, and other forms of detention.

10 (B) The Government of Vietnam has made
11 substantial progress toward—

12 (i) respecting the right to freedom of
13 religion, including the right to participate
14 in religious activities and institutions with-
15 out interference, harassment, or involve-
16 ment of the Government, for all of Viet-
17 nam's diverse religious communities; and

18 (ii) returning estates and properties
19 confiscated from the churches and religious
20 communities.

21 (C) The Government of Vietnam has made
22 substantial progress toward respecting the right
23 to freedom of expression, assembly, and associa-
24 tion, including the release of independent jour-

1 nalists, bloggers, and democracy and labor ac-
2 tivists.

3 (D) The Government of Vietnam has made
4 substantial progress toward repealing or revis-
5 ing laws that criminalize peaceful dissent, inde-
6 pendent media, unsanctioned religious activity,
7 and nonviolent demonstrations and rallies, in
8 accordance with international standards and
9 treaties to which Vietnam is a party.

10 (E) The Government of Vietnam has made
11 substantial progress toward allowing Viet-
12 namese nationals free and open access to
13 United States refugee programs.

14 (F) The Government of Vietnam has made
15 substantial progress toward respecting the
16 human rights of members of all ethnic and mi-
17 nority groups.

18 (G) Neither any official of the Government
19 of Vietnam nor any agency or entity wholly or
20 partly owned by the Government of Vietnam
21 was complicit in a severe form of trafficking in
22 persons, or the Government of Vietnam took all
23 appropriate steps to end any such complicity
24 and hold such official, agency, or entity fully
25 accountable for its conduct.

1 (b) EXCEPTION.—

2 (1) CONTINUATION OF ASSISTANCE IN THE NA-
3 TIONAL INTEREST.—Notwithstanding the failure of
4 the Government of Vietnam to meet the require-
5 ments of subsection (a)(2), the President may waive
6 the application of subsection (a) for any fiscal year
7 if the President determines that the provision to the
8 Government of Vietnam of increased nonhumani-
9 tarian assistance would promote the purpose of this
10 Act or is otherwise in the national interest of the
11 United States.

12 (2) EXERCISE OF WAIVER AUTHORITY.—The
13 President may exercise the authority under para-
14 graph (1) with respect to—

15 (A) all United States nonhumanitarian as-
16 sistance to Vietnam; or

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

19 (c) DEFINITIONS.—In this section:

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

22 (A) any assistance under the Foreign As-
23 sistance Act of 1961 (including programs under
24 title IV of chapter 2 of part I of that Act, relat-

1 ing to the Overseas Private Investment Cor-
2 poration), other than—

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

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

9 (iii) assistance for refugees; and

10 (iv) assistance to combat HIV/AIDS,
11 including any assistance under section
12 104A of that Act; and

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

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

21 (d) EFFECTIVE DATE.—This section shall take effect
22 on the date of the enactment of this Act and shall apply
23 with respect to the provision of nonhumanitarian assist-
24 ance to the Government of Vietnam during fiscal year
25 2013 and subsequent fiscal years.

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

2 (a) RADIO FREE ASIA TRANSMISSIONS TO VIET-
3 NAM.—It is the policy of the United States to take such
4 measures as are necessary to overcome the jamming of
5 Radio Free Asia by the Government of Vietnam.

6 (b) UNITED STATES EDUCATIONAL AND CULTURAL
7 EXCHANGE PROGRAMS WITH VIETNAM.—It is the policy
8 of the United States that programs of educational and cul-
9 tural exchange with Vietnam should actively promote
10 progress toward freedom and democracy in Vietnam by
11 providing opportunities to Vietnamese nationals from a
12 wide range of occupations and perspectives to see freedom
13 and democracy in action and, also, by ensuring that Viet-
14 namese nationals who have already demonstrated a com-
15 mitment to these values are included in such programs.

16 **SEC. 5. REFUGEE RESETTLEMENT FOR NATIONALS OF**
17 **VIETNAM.**

18 It is the policy of the United States to offer refugee
19 resettlement to nationals of Vietnam (including members
20 of the Montagnard ethnic minority groups) who were eligi-
21 ble for the Orderly Departure Program (ODP), the Hu-
22 manitarian Resettlement (HR) Program, the Resettlement
23 Opportunities for Vietnamese Returnees (ROVR) Pro-
24 gram, the Amerasian Homecoming Act of 1988, or any
25 other United States refugee program and who were
26 deemed ineligible due to administrative error or who for

1 reasons beyond the control of such individuals (including
2 insufficient or contradictory information or the inability
3 to pay bribes demanded by officials of the Government of
4 Vietnam) were unable or failed to apply for such programs
5 in compliance with deadlines imposed by the Department
6 of State.

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

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

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

16 (2) Steps taken to carry out section 3(a)(1)(A),
17 if applicable.

18 (3) Efforts by the United States Government to
19 secure transmission sites for Radio Free Asia in
20 countries in close geographical proximity to Vietnam
21 in accordance with section 4(a).

22 (4) Efforts to ensure that programs with Viet-
23 nam promote the policy set forth in section 4(b) and
24 with section 102 of the Human Rights, Refugee, and
25 Other Foreign Policy Provisions Act of 1996 regard-

1 ing participation in programs of educational and cul-
2 tural exchange.

3 (5) Steps taken to carry out the policy under
4 section 5.

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

17 (7) A description of the development of the rule
18 of law in Vietnam, including—

19 (A) progress toward the development of in-
20 stitutions of democratic governance;

21 (B) processes by which statutes, regula-
22 tions, rules, and other legal acts of the Govern-
23 ment of Vietnam are developed and become
24 binding within Vietnam;

1 (C) the extent to which statutes, regula-
2 tions, rules, administrative and judicial deci-
3 sions, and other legal acts of the Government of
4 Vietnam are published and are made accessible
5 to the public;

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

11 (E) the extent to which individuals are
12 treated equally under the laws of Vietnam with-
13 out regard to citizenship, race, religion, political
14 opinion, or current or former associations;

15 (F) the extent to which administrative and
16 judicial decisions are independent of political
17 pressure or governmental interference and are
18 reviewed by entities of appellate jurisdiction;
19 and

20 (G) the extent to which laws in Vietnam
21 are written and administered in ways that are
22 consistent with international human rights
23 standards, including the requirements of the
24 International Covenant on Civil and Political
25 Rights.

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



112TH CONGRESS
1ST SESSION

H. RES. 361

Concerning efforts to provide humanitarian relief to mitigate the effects of drought and avert famine in the Horn of Africa, particularly Somalia, Ethiopia, Djibouti, and Kenya.

IN THE HOUSE OF REPRESENTATIVES

JULY 20, 2011

Mr. PAYNE (for himself, Mr. CARNAHAN, Ms. LEE of California, and Ms. BASS of California) submitted the following resolution; which was referred to the Committee on Foreign Affairs

RESOLUTION

Concerning efforts to provide humanitarian relief to mitigate the effects of drought and avert famine in the Horn of Africa, particularly Somalia, Ethiopia, Djibouti, and Kenya.

Whereas the humanitarian conditions in the Horn of Africa are extremely close to a famine and currently more than 11,500,000 residents of Somalia, Ethiopia, Djibouti, and Kenya are in need of emergency assistance;

Whereas the Famine Early Warning System Network (FEWS NET) is reporting that the current drought plaguing the Horn of Africa is considered to be the worst in the region since the 1950s;

Whereas a famine exists when three conditions occur, households lack resource to meet basic food requirements, when Global Acute Malnutrition (GAM) rates exceed 30 percent, and when the crude mortality rate (CMR) is equal to or above 5 people per 10,000 people per day;

Whereas two or more of these criteria are already occurring in some areas of the Horn of Africa, particularly in parts of Somalia, where the threat of famine is compounded by drought, food shortage, civil war, and little government capacity for food distribution system;

Whereas acute malnutrition rates in northern and eastern Kenya and central and southern Somalia are the highest seen since 2003, and GAM rates among Somali refugees arriving in Ethiopia have reached 47 percent;

Whereas UNICEF estimates that more than 2,000,000 young children are malnourished in drought-affected regions, and half a million children face imminent life-threatening conditions, without immediate treatment, these children may suffer physical and mental disabilities for the rest of their lives, if they survive at all;

Whereas the drought and famine-like conditions that affect the Horn of Africa have been brought on by successive seasons of low rainfall, crop failure, rising food prices, and livestock mortality;

Whereas in 2011, high crop failure and low rainfall have resulted in estimates that Somalia's domestic food production will provide for only 20 percent of Somalia's domestic consumption;

Whereas between January and April 2011, food prices increased by more than 25 percent in Kenya, resulting in reduced access to food staples such as maize and beans;

Whereas as of May 2011, cereal prices in Ethiopia had increased by an average of 27.5 percent compared to May 2010 prices, with maize prices in Somali Region increasing by up to 117 percent;

Whereas as of July 2011, livestock mortality rates had reached 40 to 60 percent above normal rates in some areas of Ethiopia due to depleted grazing and water resources;

Whereas these conditions have been exacerbated by the current conflict in southern and central Somalia, and the very limited access given to humanitarian organizations to help the people of those regions in Somalia;

Whereas the current drought conditions, resulting in the lack of food, are creating a large refugee problem, which according to the United Nations High Commissioner for Refugees (UNHCR) has approximately 1,300 Somalis arriving at the Dadaab refugee complex in northern Kenya daily, and almost 2,000 Somalis arriving at the Dolo Ado refugee camp in Ethiopia weekly;

Whereas to date, UNHCR estimates that 405,068 Somali refugees are already present in Kenya, and 123,562 Somali refugees are in Ethiopia;

Whereas half of new Somali refugees arriving in Ethiopia and one-third arriving in Kenya are severely malnourished;

Whereas this large movement of Somali refugees adds additional strain to neighboring countries also experiencing drought conditions;

Whereas control over the southern and central regions of Somalia by al Shabaab and other militia groups, as well as internal violent conflict and lawlessness, has continued to exacerbate the humanitarian crisis in the region;

Whereas, on July 6, 2011, USAID activated a regional Disaster Assistance Response Team (DART) in Nairobi, Kenya, and Addis Ababa, Ethiopia, to monitor regional drought conditions and coordinate response activities with other donors; and

Whereas in order to achieve the goals of ensuring food security, preventing famine, and lessening the humanitarian crisis, nations residing in the Horn of Africa, and more generally Africa as a continent, must be knowledgeable and effective regarding the sustainable use of natural resources: Now, therefore, be it

1 *Resolved*, That the House of Representatives—

2 (1) commends the Administration for providing
3 over \$366,000,000 to date in response to the
4 drought and famine-like conditions in the Horn of
5 Africa;

6 (2) commends the United States Agency for
7 International Development (USAID) for providing
8 \$57,000,000 for the creation of a 5-year program in
9 the accessible Galmuduug, Puntland, and Somali-
10 land regions of Somalia in order to mitigate conflict,
11 promote stability and community cohesion, and
12 strengthen the relationships between citizens and
13 government;

14 (3) calls on the United States Government to
15 continue to commit the necessary resources to pro-
16 vide humanitarian support and nutritional relief to
17 the Horn of Africa region, as well as continue to

1 provide long-term development assistance through
2 the President's Feed the Future Initiative, which is
3 working in the region to address the root causes of
4 hunger and undernutrition and increase resilience
5 among vulnerable populations;

6 (4) strongly encourages international humani-
7 tarian organizations to continue to provide food and
8 humanitarian assistance to the regions in need,
9 mindful of the need for the safety and security of re-
10 lief workers;

11 (5) calls on the Transitional Federal Govern-
12 ment of Somalia (TFG) and other local Somali au-
13 thorities to make additional effort in order to pro-
14 vide support and humanitarian relief to the people of
15 Somalia;

16 (6) calls on all parties to allow the unrestricted
17 access of humanitarian aid agencies to all persons
18 who are affected by drought and supports inter-
19 national efforts to facilitate the timely delivery of as-
20 sistance to those areas;

21 (7) calls on the United States Government and
22 the international community to remain focused on
23 those most vulnerable to the current drought and
24 famine-like conditions, especially women and chil-
25 dren;

1 (8) encourages increased water conservation,
2 water quality enhancement, and more efficient use of
3 water resources in the region;

4 (9) reaffirms the United States commitment to
5 promoting the safety, health, and well-being of the
6 millions of refugees around the world, as stated in
7 H. Res. 1350, the World Refugee Day Resolution,
8 and specifically those in the Horn of Africa during
9 and after the drought; and

10 (10) calls on the United States Government and
11 the international community, including international
12 and local nongovernmental organizations to continue
13 aid and development activities in the Horn of Africa,
14 in order to alleviate poverty and hunger in the re-
15 gion.

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H. RES. 361
OFFERED BY MR. PAYNE OF NEW JERSEY**

Strike the preamble and insert the following:

Whereas humanitarian conditions in the Horn of Africa are the worst in 60 years and currently more than 13,300,000 residents of Somalia, Ethiopia, Djibouti, and Kenya are in need of emergency assistance;

Whereas the United Nations Office for the Coordination of Humanitarian Assistance (UNOCHA) declared a corporate emergency for the Horn of Africa drought crisis, elevating the situation to a major, large-scale emergency;

Whereas at the height of the crisis, the United Nations issued famine declarations in six regions of Somalia;

Whereas a famine exists when three conditions occur, households lack resources to meet basic food requirements, Global Acute Malnutrition (GAM) rates exceed 30 percent, and the crude mortality rate (CMR) is equal to or above 5 people per 10,000 people per day;

Whereas two or more of these conditions occurred in some areas of the Horn of Africa, particularly in parts of Somalia, where the crisis is compounded by drought, food shortage, civil war, and little government capacity for food distribution;

Whereas acute malnutrition rates in northern and eastern Kenya and central and southern Somalia are the highest

seen since 2003, and GAM rates among Somali refugees arriving in Ethiopia have reached 47 percent;

Whereas UNICEF estimates that more than 750,000 young children are malnourished in drought-affected regions, 500,000 children face imminent life-threatening conditions, and without immediate treatment, these children may suffer physical and mental disabilities for the rest of their lives, if they survive at all;

Whereas the drought conditions that affect the Horn of Africa have been brought on by successive seasons of low rainfall, crop failure, rising food prices, and livestock mortality;

Whereas these conditions have been exacerbated by the current conflict in southern and central Somalia, and the very limited access given to humanitarian organizations to help the people of those regions in Somalia, including 1,460,000 Internally Displaced Persons;

Whereas the current drought conditions, resulting in the lack of food, have created a significant refugee problem, which according to the United Nations High Commissioner for Refugees (UNHCR) has caused an influx of approximately 520,000 Somali refugees in Kenya, and 186,000 Somali refugees in Ethiopia;

Whereas half of new Somali refugees arriving in Ethiopia and one-third arriving in Kenya are severely malnourished;

Whereas this large movement of Somali refugees adds additional strain to neighboring countries also experiencing drought conditions;

Whereas the deteriorating security conditions in and around Dadaab camp in Kenya, such as the kidnapping of Doctors Without Borders (MSF) workers, improvised explo-

sive device (IED) explosions, and the deaths and injuries of several Kenyan police officers, have severely affected the delivery of humanitarian assistance;

Whereas security conditions in the Dollo Ado camp area have deteriorated to the extent that humanitarian relief has been limited to life saving assistance;

Whereas the violence and human rights abuses in the Horn of Africa have driven over 103,000 refugees, asylum seekers, and migrants to seek security in Yemen, of which 25,500 are Somali and 76,000 are Ethiopians;

Whereas the current unlivable conditions in various countries in the Horn of Africa have driven over 290,300 refugees into Ethiopia to fill 16 camps by the end of 2011, of which approximately 55,000 are Eritreans, 3,000 are Kenyans, and 46,000 are Sudanese;

Whereas control over the southern and central regions of Somalia by al Shabaab and other militia groups, as well as internal violent conflict and lawlessness, has continued to exacerbate the humanitarian crisis in the region;

Whereas, on July 6, 2011, USAID activated a regional Disaster Assistance Response Team (DART) in Nairobi, Kenya, and Addis Ababa, Ethiopia, to monitor regional drought conditions and coordinate response activities with other donors; and

Whereas in order to achieve the goals of ensuring food security, preventing famine, and lessening the humanitarian crisis, nations residing in the Horn of Africa, and more generally Africa as a continent, must be knowledgeable and effective regarding the sustainable use of natural resources: Now, therefore, be it

Strike all after the resolving clause and insert the following:

That the House of Representatives—

1 (1) commends the Administration for providing
2 over \$870,000,000 to date in response to the
3 drought and humanitarian emergency in the Horn of
4 Africa;

5 (2) commends the United States Agency for
6 International Development (USAID) for providing
7 \$57,000,000 for the creation of a 5-year program in
8 the accessible Galmuduug, Puntland, and Somali-
9 land regions of Somalia in order to mitigate conflict,
10 promote stability and community cohesion, and
11 strengthen the relationships between citizens and
12 government;

13 (3) calls on the United States Government to
14 continue to support life-saving humanitarian and nu-
15 tritional relief to the Horn of Africa region, as well
16 as assistance to address the root causes of hunger
17 and undernutrition and increase resilience among
18 vulnerable populations in the region;

19 (4) strongly encourages international humani-
20 tarian organizations to continue to provide food and
21 life-saving humanitarian assistance to the regions in

1 need, mindful of the need for the safety and security
2 of relief workers;

3 (5) calls on the Transitional Federal Govern-
4 ment of Somalia (TFG) and other local Somali au-
5 thorities to make additional efforts to provide sup-
6 port and life-saving humanitarian relief to the people
7 of Somalia;

8 (6) calls on all parties to the Somali conflict to
9 allow the unrestricted access of humanitarian aid
10 agencies to all areas affected by drought and sup-
11 ports international efforts to facilitate the timely de-
12 livery of assistance to those areas;

13 (7) calls on the United States Government,
14 other donors, and international and local nongovern-
15 mental organizations to remain focused on those
16 most vulnerable to the current drought and humani-
17 tarian emergency conditions, especially women and
18 children;

19 (8) encourages increased water conservation,
20 water quality enhancement, and more efficient use of
21 water resources in the region;

22 (9) reaffirms the United States commitment to
23 promoting the safety, health, and well-being of the
24 millions of refugees around the world, and specifi-

1 cally those in the Horn of Africa during and after
2 the drought; and

3 (10) calls on the United States Government,
4 other donors, and international and local nongovern-
5 mental organizations to continue aid and develop-
6 ment activities in the Horn of Africa, to alleviate
7 poverty and hunger in the region.



Mr. SMITH. Now that we have completed that portion, I would like to—and I thank my colleagues for coming from their markups to be here for it, and please stay as long as you can—but I would like to now speak to the first bill and then yield to my good friend and my colleague, Ms. Bass, to speak to the Payne bill.

I say to my colleagues, as the subcommittee heard from several of our witnesses at a hearing on January 24th, last month, the Vietnamese Government continues to be an egregious violator of a broad array of human rights. The testimony we heard confirmed that religious, political, and ethnic persecution continue and, in many cases, is actually increasing, and that Vietnamese officials continue to lay out the welcome mat for forced labor as well as sex traffickers.

In particular, we heard from a Vietnamese woman who courageously fought for her own rights and those of her co-workers when they were trafficked to Jordan with the complicity of the Vietnamese Government officials.

We also heard from Dr. Nguyen Dinh Thang, the executive director of Boat People SOS, who recently traveled to Thailand to investigate human rights violations in Vietnam. Dr. Thang provided extensive details about current labor trafficking, forced labor, and disturbing denials by the U.N. High Commissioner on Refugees of Vietnamese labor and sex trafficking victims.

In addition, our witnesses provided deeply disturbing photographs, evidence of torture, and showed a video of the Vietnamese military destroying an entire village of Hmong Christians.

It is imperative that the United States Government send an unequivocal message to the Vietnamese regime that it must end its human rights abuses against its own citizens. For this reason, I reintroduced the Vietnam Human Rights Act and I have brought it before the committee for consideration today.

The Foreign Affairs Committee adopted my amendments on the promotion of human rights in Vietnam to H.R. 2583, the Foreign Relations Authorization Act for Fiscal Year 2012 last July, and much of that is reflected in this bill today. I note parenthetically that the House has twice passed the Vietnam Human Rights Act. Sadly, it has languished and then died in the Senate, but we have every intention of making sure that this legislation is not treated so this time.

The purpose of H.R. 1410 is to promote the development of freedom and democracy in Vietnam. It seeks to do so primarily by stipulating that the United States can increase its assistance to Vietnam above Fiscal Year 2011 levels only when the President is able to certify that the Government of Vietnam has made substantial progress in establishing a democracy and promoting human rights, including: Respecting freedom of religion and releasing all religious prisoners; respecting rights to freedom of expression, assembly, and associations; releasing all political prisoners, independent journalists, and labor activists; repealing and revising laws that criminalize peaceful dissent, independent media, unsanctioned religious activities, and nonviolent demonstrations in accordance with international human rights standards; respecting the human rights of members of all ethnic groups; and taking all appropriate steps, in-

cluding prosecution of government officials, to end any government complicity in human trafficking.

In addition to such a certification, the United States would have to increase funding for human rights and rule of law programming in Vietnam in an amount equal to or greater than the increase in non-humanitarian assistance. The legislation includes a waiver of the increase certification requirement for any year in which the President determines that increased non-humanitarian assistance to Vietnam would promote the purpose of the act or would otherwise be in the national interest of the United States of America. The bill would not prevent increased funding to the Vietnamese Government for disaster relief, food, medicine, refugees, and efforts to combat HIV/AIDS.

I want to thank my colleagues for supporting this legislation. We have a very large number of bipartisan co-sponsors on the bill. And I just, again, want to thank my colleagues for their support of the bill.

I would like to yield to Ms. Bass for her comments, especially on H. Res. 361.

Ms. BASS. Thank you, Chairman Smith. I want to join you in wishing my colleague, Mr. Payne, best wishes. I hope he gets better soon. And I am happy to enter these remarks on his behalf.

Two weeks ago, this subcommittee held a hearing on the human rights situation in Vietnam. At that hearing, we heard how, under the authoritarian rule of the Vietnamese Communist Party, the repression of activists and dissidents has recently intensified. Through unlawful arrests and detainment, the government has suppressed its people's right to expression, assembly, and association.

NGOs have reported that detainees are subject to forced labor, torture, and even death. In 2011 alone, 21 people died in police custody. Ethnic minorities, such as the Montagnards and Hmong, have faced abuse and discrimination. Religious minorities are also persecuted.

This bill is in response to these human rights abuses and would condition additional U.S. aid to Vietnam on improvement in these areas. While the U.S. should not support government-sponsored oppression, I am concerned that by putting conditions on foreign aid, we risk harming the innocent people this bill aims to help.

Additionally, I fail to see how Vietnam is an exception. If we are to apply more stringent human rights conditions to U.S. aid, then those conditions should be applied across the board instead of singling out any one nation.

That being said, this bill does not end aid to Vietnam but, rather, freezes it at the Fiscal Year 2011 level of \$125 million and includes a Presidential waiver. Therefore, I will vote in favor of this bill and encourage my colleagues to do the same.

I yield back.

Mr. SMITH. Thank you, Ms. Bass.

I would like to now move on to House Res. 361, sponsored by Ranking Member Donald Payne and the amendment in the nature of a substitute.

This resolution calls on the U.S. Government to continue to help alleviate the impact of the humanitarian emergency conditions pre-

vailing in East Africa. Our subcommittee held several hearings on East Africa's various humanitarian crises last year, including the Somalia hearing in July, the Southern Kordofan hearing in August, and the East Africa famine hearing in September. This measure before us details the crisis and suggests steps to overcome the tragedy of hunger and disease afflicting the people in the Horn of Africa.

Despite the easing of famine conditions in central and southern Somalia, the drought in East Africa continues to affect more than 13 million people in Somalia, Kenya, Ethiopia, and Djibouti. Even with the improvements, the food security outlook for the Horn of Africa from January to March 2012 remains fragile, according to the U.S. Agency for International Development, due to a loss of livelihood assets during successive seasons of failed rains, conflict, livestock disease, above-normal food and non-food prices, as well as flooding.

The drought in East Africa was part of a persistent weather trend in the region. And while drought is one reason for food shortages, it has been exacerbated by stagnating agricultural development and unsustainable forms of livelihood.

In our July 7th Somalia hearing, Nancy Lindborg, Assistant Administrator in USAID's Bureau for Democracy, Conflict, and Humanitarian Assistance, raised the issue of the long-term need for changes in livelihoods in the region. H. Res. 361 addresses the issue of sustainable use of natural resources as a means of ensuring food security in the region in the long term.

In Somalia, the hardest-hit country in the region, the terrorist group al-Shabaab has obstructed delivery of humanitarian assistance and directly threatened aid agencies. It is also interrogating aid workers and has accused them of spying for the West or proselytizing. Maritime piracy and the hijacking of aid shipments has also hindered the provision of aid. The result was an estimated 2.2 million people in southern Somalia, representing some 60 percent of those who remained in the country at one point, in need of aid, but out of reach of most aid agencies.

H. Res. 361 calls on all parties in the conflict in Somalia, including al-Shabaab, to allow unrestricted access to international and local nongovernmental humanitarian organizations, especially for the benefit of the most vulnerable among them.

This resolution acknowledges the more than \$870 million the United States Government has devoted to meeting the emergency needs in East Africa and urges other donors in international and local nongovernmental agencies to join us in the development activities on behalf of the people of the Horn of Africa.

H. Res. 361 is a very important piece of legislation, and I know my colleagues, as we go to the full committee and to the floor, will support it, and I hope it will be unanimous.

Ms. Bass?

Ms. BASS. Thank you again, Mr. Chairman.

Mr. Payne's amendment in the nature of a substitute to House Resolution 361 updates the resolution to reflect the current situation in the Horn of Africa and calls on U.S. donors and local and international NGOs to continue their support of the people of So-

malia, Kenya, Ethiopia, and Djibouti affected by the humanitarian crisis.

Last year, the Horn of Africa experienced the worst drought in 60 years. Due to decades of internal conflict, poor infrastructure, and a myriad of other factors, the region was ill-equipped to handle a drought of this magnitude. What followed was one of the most severe humanitarian crises of our time. At the height of the crisis, 6 regions of Somalia were declared a famine, 750,000 people were at risk of death, millions were forced to flee their homes, and tens of thousands of children died of malnourishment.

Given al-Shabaab's control over much of Somalia, aid organizations were unable to reach many of those affected. The amendment also acknowledges the deteriorating security situation at refugee camps in Dadaab in Kenya and Dolo Ado in Ethiopia which has resulted in the limited delivery of humanitarian assistance. The situation is particularly worrying, complex, and tenuous in the Dadaab refugee camps, where the threat of improvised explosive devices, kidnappings, vehicle hijackings, and banditry remains high.

This resolution also recognizes the sacrifices that aid workers make every day as they risk their own lives while trying to save the lives of others. With the U.S. leadership, the international community responded. I commend the Obama administration for their commitment of over \$870 million to implement emergency and long-term interventions to address the crisis.

The resolution encourages continued coordinated long-term interventions that build up the resilience of local populations and link relief with development.

Agriculture is a key factor in establishing long-term peace and stability in the region. Adequate rainfall between October and December 2011, coupled with agricultural and humanitarian interventions, allowed farmers to produce and buy more food. As part of this emergency response and with support from the U.S., the United Nations Food and Agriculture Organization distributed seeds and fertilizer to Somali farmers.

This mixture of agriculture and humanitarian intervention has contributed to a significant reduction in local cereal prices in most of the vulnerable areas in the south, improving purchasing power for poor households.

Last week, the United Nations lifted the famine declaration, but a severe humanitarian crisis persists. Despite favorable rains and successful interventions, 31 percent of the Somali population remains in crisis.

Thank you very much. I yield back.

Mr. SMITH. Ms. Buerkle?

Ms. BUERKLE. Thank you, Mr. Chairman. I just want to commend your leadership and the entire committee's bipartisan effort to promote humanitarian efforts. And I look forward to this getting to the House floor and having bipartisan support.

I thank you.

Mr. SMITH. I want to thank Ms. Buerkle. I want to thank Ms. Bass. I want to thank staffs on both sides of the aisle for their expertise and cooperation in working on these bills. Thank you.

Without objection, the hearing is adjourned. And I thank you again for your attendance and for your support.

[Whereupon, at 2:50 p.m., the subcommittee was adjourned.]

A P P E N D I X

MATERIAL SUBMITTED FOR THE HEARING RECORD

SUBCOMMITTEE MARKUP NOTICE
COMMITTEE ON FOREIGN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515-0128

SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH, AND HUMAN RIGHTS
Christopher H. Smith (R-NJ), Chairman

February 6, 2012

You are respectfully requested to attend an OPEN markup held by the Subcommittee on Africa, Global Health, and Human Rights to be held in **Room 2172 of the Rayburn House Office Building (and available live, via the WEBCAST link on the Committee website at <http://www.hcfa.house.gov>)**:

DATE: Wednesday, February 8, 2012

TIME: 2:00 p.m.

MARKUP OF: H.R. 1410: To promote freedom and democracy in Vietnam.
H.Res. 361: Concerning efforts to provide humanitarian relief to mitigate the effects of drought and avert famine in the Horn of Africa, particularly Somalia, Ethiopia, Djibouti, and Kenya.

By Direction of the Chairman

The Committee on Foreign Affairs seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202/225-5921 at least four business days in advance of the event, whenever practicable. Questions with regard to special accommodations in general (including availability of Committee materials in alternative formats and assistive listening devices) may be directed to the Committee.

COMMITTEE ON FOREIGN AFFAIRS
MINUTES OF SUBCOMMITTEE MARKUP

MINUTES OF SUBCOMMITTEE ON Africa, Global Health, and Human Rights MARKUP

Day Wednesday Date February 8, 2012 Room 2172 Rayburn

Starting Time 2:32 p.m. Ending Time 2:48 p.m.

Recesses 0 (____ to ____) (____ to ____) (____ to ____) (____ to ____) (____ to ____) (____ to ____)

Presiding Member(s)

Rep. Chris Smith

Check all of the following that apply:

Open Session ☒

Executive (closed) Session ☐

Televised ☒

Electronically Recorded (taped) ☒

Stenographic Record ☒

BILLS FOR MARKUP: (Include bill number(s) and title(s) of legislation.)

H.R. 1410: To promote freedom and democracy in Vietnam

H.Res. 361: Concerning efforts to provide humanitarian relief to mitigate the effects of drought and avert famine in the Horn of Africa, particularly Somalia, Ethiopia, Djibouti, and Kenya

COMMITTEE MEMBERS PRESENT:

Rep. Chris Smith, Rep. Robert Turner, Rep. Ann Marie Buerkle, Rep. Tom Marino, Rep. Karen Bass

NON-COMMITTEE MEMBERS PRESENT:

STATEMENTS FOR THE RECORD: (List any statements submitted for the record.)

ACTIONS TAKEN DURING THE MARKUP: (Attach copies of legislation and amendments.)

H.R. 1410 passed, as amended by Smith #68, by unanimous consent

H.Res. 361 passed, as amended by Payne #46, by unanimous consent

RECORDED VOTES TAKEN (FOR MARKUP): (Attach final vote tally sheet listing each member.)

<u>Subject</u>	<u>Yeas</u>	<u>Nays</u>	<u>Present</u>	<u>Not Voting</u>
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TIME SCHEDULED TO RECONVENE _____

or

TIME ADJOURNED 2:48 p.m.

Shari Gailor
 Subcommittee Staff Director

