

108TH CONGRESS
2D SESSION

H. R. 1587

IN THE SENATE OF THE UNITED STATES

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Read twice and referred to the Committee on Foreign Relations

AN ACT

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,*

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 2004”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

TITLE I—CONDITIONS ON INCREASED NONHUMANITARIAN
ASSISTANCE TO THE GOVERNMENT OF VIETNAM

Sec. 101. Bilateral nonhumanitarian assistance.

TITLE II—ASSISTANCE TO SUPPORT HUMAN RIGHTS AND
DEMOCRACY IN VIETNAM

Sec. 201. Assistance.

TITLE III—UNITED STATES PUBLIC DIPLOMACY

Sec. 301. Radio Free Asia transmissions to Vietnam.

Sec. 302. United states educational and cultural exchange programs with Viet-
nam.

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

Sec. 401. Annual report.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) The Socialist Republic of Vietnam is a one-
9 party State, ruled and controlled by the Communist
10 Party of Vietnam (CPV), which continues to deny
11 the right of citizens to change their government. Al-
12 though in recent years the National Assembly of
13 Vietnam has played an increasingly active role as a
14 forum for highlighting local concerns, corruption,
15 and inefficiency, the National Assembly remains sub-
16 ject to CPV direction. The CPV maintains control

1 over the selection of candidates in national and local
2 elections.

3 (2) The Government of Vietnam permits no
4 public challenge to the legitimacy of the one-party
5 State. It prohibits independent political, labor, and
6 social organizations, and it continues to detain and
7 imprison persons for the peaceful expression of dis-
8 senting religious and political views, including Pham
9 Hong Son, Tran Dung Tien, Father Nguyen Van
10 Ly, Dr. Nguyen Dan Que, Nguyen Vu Binh, Pham
11 Que Duong, and Pastor Nguyen Hong Quang,
12 among others.

13 (3) The Government of Vietnam continues to
14 commit serious human rights abuses. In January
15 2004, the Department of State reported to Congress
16 that during the previous year the Government of
17 Vietnam had made “no progress” toward releasing
18 political and religious activists, ending official re-
19 strictions on religious activity, or respecting the
20 rights of indigenous minorities in the Central and
21 Northern Highlands of Vietnam.

22 (4)(A) The Government of Vietnam limits free-
23 dom of religion and restricts the operation of reli-
24 gious organizations other than those approved by the
25 State. While officially sanctioned religious organiza-

1 tions are able to operate with varying degrees of au-
2 tonomy, some of those organizations continue to face
3 restrictions on selecting, training, and ordaining suf-
4 ficient numbers of clergy and in conducting edu-
5 cational and charitable activities. The Government
6 has previously confiscated numerous churches, tem-
7 ples, and other properties belonging to religious or-
8 ganizations, most of which have never been returned.

9 (B) Unregistered ethnic minority Protestant
10 congregations in the Northwest and Central High-
11 lands of Vietnam suffer severe abuses, which have
12 included forced renunciations of faith, the closure
13 and destruction of churches, the arrest and harass-
14 ment of pastors, and, in a few cases, there have been
15 credible reports that minority religious leaders have
16 been beaten and killed.

17 (C) The Unified Buddhist Church of Vietnam
18 (UBCV), one of the largest religious denominations
19 in Vietnam, was declared illegal in 1981. The Gov-
20 ernment of Vietnam confiscated its temples and per-
21 secuted its clergy for refusing to join the state-spon-
22 sored Buddhist organizations. For more than 2 dec-
23 ades, the Government has detained and confined
24 senior UBCV clergy, including the Most Venerable

1 Thich Huyen Quang, the Most Venerable Thich
2 Quang Do, the Venerable Thich Tue Sy, and others.

3 (D) The Catholic Church continues to face sig-
4 nificant restrictions on the training and ordination
5 of priests and bishops, resulting in numbers insuffi-
6 cient to support the growing Catholic population in
7 Vietnam. Although recent years have brought a
8 modest easing of government control in some dio-
9 ceses, officials in other areas strictly limit the con-
10 duct of religious education classes and charitable ac-
11 tivities. Father Thaddeus Nguyen Van Ly, who was
12 convicted in a closed trial in 2001 after publicly
13 criticizing religious repression by the Government of
14 Vietnam, remains in prison.

15 (E) The Government of Vietnam continues to
16 suppress the activities of other religious adherents,
17 including Cao Dai, Baha'i, and Hoa Hao who lack
18 official recognition or have chosen not to affiliate
19 with the State-sanctioned groups, including through
20 the use of detention and imprisonment.

21 (5) The Government of Vietnam significantly
22 restricts the freedoms of speech and the press, par-
23 ticularly with respect to political and religious
24 speech. Government and Party-related organizations
25 control all print and electronic media, including ac-

1 cess to the Internet. The Government blocks web
2 sites that it deems politically or culturally inappro-
3 priate, and it jams some foreign radio stations, in-
4 cluding Radio Free Asia. The Government has de-
5 tained, convicted, and imprisoned individuals who
6 have posted or sent democracy-related materials via
7 the Internet.

8 (6)(A) Indigenous Montagnards in the Central
9 Highlands of Vietnam continue to face significant
10 repression. The Government of Vietnam restricts the
11 practice of Christianity by those populations, and
12 more than 100 Montagnards have been sentenced to
13 prison terms of up to 13 years for claiming land
14 rights, organizing Christian gatherings, or attempt-
15 ing to seek asylum in Cambodia.

16 (B) The Government of Vietnam uses the sepa-
17 ratist agenda of a relatively small number of ethnic
18 minority leaders as a rationale for violating civil and
19 political rights in ethnic minority regions.

20 (C) The Government of Vietnam arrested or de-
21 tained nearly 300 Montagnards during 2003 and
22 since then many hundreds of Montagnards have
23 gone into hiding, fearing arrest, interrogation, or
24 physical abuse by government authorities.

1 (D) During Easter weekend in April 2004,
2 thousands of Montagnards gathered to protest their
3 treatment by the Government of Vietnam, including
4 the confiscation of tribal lands and ongoing restric-
5 tions on religious activities. Credible reports indicate
6 that the protests were met with a violent response
7 and that many demonstrators were arrested, injured,
8 or are in hiding, and that others were killed.

9 (E) Government officials continue to restrict ac-
10 cess to the Central and Northwest Highlands of
11 Vietnam by diplomats, nongovernmental organiza-
12 tions, journalists, and other foreigners, making it
13 difficult to verify conditions in those areas.

14 (7)(A) United States refugee resettlement pro-
15 grams for Vietnamese nationals, including the Or-
16 derly Departure Program (ODP), the Resettlement
17 Opportunities for Returning Vietnamese (ROVR)
18 program, the Priority One (P1) program and the re-
19 settlement of boat people from refugee camps
20 throughout Southeast Asia, were authorized by law
21 in order to rescue Vietnamese nationals who have
22 suffered persecution on account of their wartime as-
23 sociations with the United States, as well as those
24 who currently have a well-founded fear of persecu-

1 tion on account of race, religion, nationality, political
2 opinion, or membership in a particular social group.

3 (B) While those programs have served their
4 purposes well, a significant number of eligible refu-
5 gees were unfairly denied or excluded, in some cases
6 by vindictive or corrupt Vietnamese officials who
7 controlled access to the programs, and in others by
8 United States personnel who imposed unduly restric-
9 tive interpretations of program criteria.

10 (C) The Department of State has agreed to ex-
11 tend the September 30, 1994, registration deadline
12 for former United States employees, “re-education”
13 survivors, and surviving spouses of those who did
14 not survive “re-education” camps to sign up for
15 United States refugee programs, as well as to re-
16 sume the Vietnamese In-Country Priority One Pro-
17 gram in Vietnam to provide protection to victims of
18 persecution on account of race, religion, nationality,
19 political opinion, or membership in a particular so-
20 cial group who otherwise have no access to the Or-
21 derly Departure Program.

22 (D) The former U.S. Immigration and Natu-
23 ralization Service agreed to resume the processing of
24 former United States employees under the U11 pro-
25 gram, which had been unilaterally suspended by the

1 United States Government, as well as to review the
2 applications of Amerasians, children of American
3 servicemen left behind in Vietnam after the war
4 ended in April 1975, for resettlement to the United
5 States under the Amerasian Homecoming Act of
6 1988.

7 (8) Congress and people of the United States
8 are united in their determination that the expansion
9 of relations with Vietnam, a country whose govern-
10 ment engages in serious violations of fundamental
11 human rights, should not be construed as approval
12 of or complacency about such practices. The pro-
13 motion of freedom and democracy around the world
14 is and must continue to be a central objective of
15 United States foreign policy. Congress remains will-
16 ing and hopeful to recognize improvement in the fu-
17 ture human rights practices of the Government of
18 Vietnam, which is the motivating purpose behind
19 this Act.

20 **TITLE I—CONDITIONS ON IN-**
21 **CREASED NONHUMANI-**
22 **TARIAN ASSISTANCE TO THE**
23 **GOVERNMENT OF VIETNAM**

24 **SEC. 101. BILATERAL NONHUMANITARIAN ASSISTANCE.**

25 (a) ASSISTANCE.—

1 (1) IN GENERAL.—United States nonhumanitarian assistance may not be provided to the Government of Vietnam in an amount exceeding the amount so provided for fiscal year 2004—

2 (A) for fiscal year 2005 unless not later
3 than 30 days after the date of the enactment of
4 this Act the President determines and certifies
5 to Congress that the requirements of subparagraphs (A) through (D) of paragraph (2) have
6 been met during the 12-month period ending on
7 the date of the certification; and

8 (B) for each subsequent fiscal year unless
9 the President determines and certifies to Congress in the most recent annual report submitted pursuant to section 401 that the requirements of subparagraphs (A) through (E) of paragraph (2) have been met during the 12-month period covered by the report.

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

11 (A) the Government of Vietnam has made
12 substantial progress toward releasing all political and religious prisoners from imprisonment,
13 house arrest, and other forms of detention;

1 (B)(i) the Government of Vietnam has
2 made substantial progress toward respecting
3 the right to freedom of religion, including the
4 right to participate in religious activities and in-
5 stitutions without interference by or involve-
6 ment of the Government; and

7 (ii) has made substantial progress toward
8 returning estates and properties confiscated
9 from the churches;

10 (C) the Government of Vietnam has made
11 substantial progress toward allowing Viet-
12 nameese nationals free and open access to
13 United States refugee programs;

14 (D) the Government of Vietnam has made
15 substantial progress toward respecting the
16 human rights of members of ethnic minority
17 groups in the Central Highlands and elsewhere
18 in Vietnam; and

19 (E)(i) neither any official of the Govern-
20 ment of Vietnam nor any agency or entity whol-
21 ly or partly owned by the Government of Viet-
22 nam was complicit in a severe form of traf-
23 ficking in persons; or

24 (ii) the Government of Vietnam took all
25 appropriate steps to end any such complicity

1 and hold such official, agency, or entity fully
2 accountable for its conduct.

3 (b) EXCEPTION.—

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

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

17 (A) all United States nonhumanitarian as-
18 sistance to Vietnam; or

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

21 (c) DEFINITIONS.—In this section:

22 (1) SEVERE FORM OF TRAFFICKING IN PER-
23 SONS.—The term “severe form of trafficking in per-
24 sons” means any activity described in section 103(8)
25 of the Trafficking Victims Protection Act of 2000

1 (Public Law 106–386 (114 Stat. 1470); 22 U.S.C.
2 7102(8)).

3 (2) UNITED STATES NONHUMANITARIAN AS-
4 SISTANCE.—The term “United States nonhumani-
5 tarian 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.

1 **TITLE II—ASSISTANCE TO SUP-**
2 **PORT HUMAN RIGHTS AND**
3 **DEMOCRACY IN VIETNAM**

4 **SEC. 201. ASSISTANCE.**

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

10 (b) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated to the President to carry
12 out subsection (a) \$2,000,000 for each of the fiscal years
13 2005 and 2006.

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

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

17 (a) POLICY OF THE UNITED STATES.—It is the pol-
18 icy of the United States to take such measures as are nec-
19 essary to overcome the jamming of Radio Free Asia by
20 the Government of Vietnam, including the active pursuit
21 of broadcast facilities in close geographic proximity to
22 Vietnam.

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

1 there are authorized to be appropriated to carry out the
2 policy under subsection (a) \$9,100,000 for the fiscal year
3 2005 and \$1,100,000 for the fiscal year 2006.

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

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

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

19 **SEC. 401. ANNUAL REPORT.**

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

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

4 (B) The determination of the President under
5 section 101(b)(2), if applicable.

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

10 (3) Efforts to ensure that programs with Viet-
11 nam promote the policy set forth in section 302 and
12 with section 102 of the Human Rights, Refugee, and
13 Other Foreign Relations Provisions Act of 1996
14 (Public Law 104–319) regarding participation in
15 programs of educational and cultural exchange.

16 (4) Lists of persons believed to be imprisoned,
17 detained, or placed under house arrest, tortured, or
18 otherwise persecuted by the Government of Vietnam
19 due to their pursuit of internationally recognized
20 human rights. In compiling such lists, the Secretary
21 shall exercise appropriate discretion, including con-
22 cerns regarding the safety and security of, and ben-
23 efit to, the persons who may be included on the lists
24 and their families. In addition, the Secretary shall
25 include a list of such persons and their families who

1 may qualify for protection under United States ref-
2 ugee programs.

3 (5) A description of the development of the rule
4 of law in Vietnam, including, but not limited to—

5 (A) progress toward the development of in-
6 stitutions of democratic governance;

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

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

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

21 (E) the extent to which individuals are
22 treated equally under the laws of Vietnam with-
23 out regard to citizenship, race, religion, political
24 opinion, or current or former associations;

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

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

12 (b) CONTACTS WITH OTHER ORGANIZATIONS.—In
13 preparing the report under subsection (a), the Secretary
14 shall, as appropriate, consult with and seek input from
15 nongovernmental organizations, human rights advocates
16 (including Vietnamese-Americans and human rights advo-
17 cates in Vietnam), and the United States Commission on
18 Religious Freedom.

Passed the House of Representatives July 19, 2004.

Attest:

JEFF TRANDAHL,

Clerk.