

108TH CONGRESS
2D SESSION

S. 2784

To promote freedom and democracy in Vietnam.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 9, 2004

Mr. BROWNBACK (for himself, Mrs. DOLE, and Mr. SESSIONS) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

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 2004”.

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.

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 Vietnam.

TITLE IV—UNITED STATES REFUGEE POLICY

Sec. 401. Refugee resettlement for nationals of Vietnam.

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

Sec. 501. Annual report.

1 SEC. 2. FINDINGS.

2 Congress makes the following findings:

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

14 (2) The Government of Vietnam permits no
15 public challenge to the legitimacy of the one-party
16 State. It prohibits independent political, labor, and
17 social organizations and continues to detain and im-

1 prison persons for the peaceful expression of dis-
 2 senting religious and political views, including Pham
 3 Hong Son, Tran Dung Tien, Father Nguyen Van
 4 Ly, Dr. Nguyen Dan Que, Nguyen Vu Binh, Pham
 5 Que Duong, and Pastor Nguyen Hong Quang,
 6 among others.

7 (3) The Government of Vietnam continues to
 8 commit serious human rights abuses. In January
 9 2004, the Department of State reported to Congress
 10 that, during the previous year, the Government of
 11 Vietnam had made “no progress” toward releasing
 12 political and religious activists, ending official re-
 13 strictions on religious activity, or respecting the
 14 rights of indigenous minorities in the Central and
 15 Northern Highlands of Vietnam.

16 (4) The Government of Vietnam limits freedom
 17 of religion and restricts the operation of religious or-
 18 ganizations other than those approved by the State.
 19 While officially sanctioned religious organizations
 20 are able to operate with varying degrees of auton-
 21 omy, some of those organizations continue to face
 22 restrictions on selecting, training, and ordaining suf-
 23 ficient numbers of clergy and in conducting edu-
 24 cational and charitable activities. The Government
 25 has previously confiscated numerous churches, tem-

1 ples, and other properties belonging to religious or-
 2 ganizations, most of which have never been returned.

3 (5) Unregistered ethnic minority Protestant
 4 congregations in the Northwest and Central High-
 5 lands of Vietnam suffer severe abuses, which have
 6 included forced renunciations of faith, the closure
 7 and destruction of churches, the arrest and harass-
 8 ment of pastors, and, in a few cases, there have been
 9 credible reports that minority religious leaders have
 10 been beaten and killed.

11 (6) The Unified Buddhist Church of Vietnam
 12 (UBCV), one of the largest religious denominations
 13 in Vietnam, was declared illegal in 1981. The Gov-
 14 ernment of Vietnam confiscated its temples and per-
 15 secuted its clergy for refusing to join the state-spon-
 16 sored Buddhist organizations. For more than 2 dec-
 17 ades, the Government has detained and confined
 18 senior UBCV clergy, including the Most Venerable
 19 Thich Huyen Quang, the Most Venerable Thich
 20 Quang Do, the Venerable Thich Tue Sy, and others.

21 (7) The Catholic Church in Vietnam continues
 22 to face significant restrictions on the training and
 23 ordination of priests and bishops, resulting in an in-
 24 sufficient number of priests and bishops to support
 25 the growing Catholic population in Vietnam. Al-

1 though recent years have brought a modest easing of
2 government control in some dioceses, officials in
3 other areas strictly limit the conduct of religious
4 education classes and charitable activities. Father
5 Thaddeus Nguyen Van Ly, who was convicted in a
6 closed trial in 2001 after publicly criticizing religious
7 repression by the Government of Vietnam, remains
8 in prison.

9 (8) The Government of Vietnam continues to
10 suppress the activities of other religious believers, in-
11 cluding Cao Dai, Baha'i, and Hoa Hao who lack of-
12 ficial recognition or have chosen not to affiliate with
13 the State-sanctioned groups, including through the
14 use of detention and imprisonment.

15 (9) The Government of Vietnam significantly
16 restricts the freedoms of speech and the press, par-
17 ticularly with respect to political and religious
18 speech. Government and Communist Party-related
19 organizations control all print and electronic media,
20 including access to the Internet. The Government
21 blocks web sites that it deems politically or culturally
22 inappropriate, and it jams some foreign radio sta-
23 tions, including Radio Free Asia. The Government
24 has detained, convicted, and imprisoned individuals

1 who have posted or sent democracy related materials
2 via the Internet.

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

11 (11) The Government of Vietnam uses the sep-
12 aratist agenda of a relatively small number of ethnic
13 minority leaders as a rationale for violating civil and
14 political rights in ethnic minority regions.

15 (12) The Government of Vietnam arrested or
16 detained nearly 300 Montagnards during 2003 and,
17 since then, many hundreds of Montagnards have
18 gone into hiding, fearing arrest, interrogation, or
19 physical abuse by government authorities.

20 (13) 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 a violent response

1 and that many demonstrators were arrested, injured,
2 or are in hiding, and that others were killed.

3 (14) Government officials continue to restrict
4 access to the Central and Northwest Highlands of
5 Vietnam by diplomats, nongovernmental organiza-
6 tions, journalists, and other foreigners, making it
7 difficult to verify conditions in those areas.

8 (15) United States refugee resettlement pro-
9 grams for Vietnamese nationals, including the Or-
10 derly Departure Program (ODP), the Resettlement
11 Opportunities for Returning Vietnamese (ROVR)
12 program, the Priority One (P1) program and the re-
13 settlement of boat people from refugee camps
14 throughout Southeast Asia, were authorized by law
15 in order to rescue Vietnamese nationals who have
16 suffered persecution on account of their wartime as-
17 sociations with the United States, as well as those
18 who currently have a well-founded fear of persecu-
19 tion on account of race, religion, nationality, political
20 opinion, or membership in a particular social group.

21 (16) While these refugee resettlement programs
22 have served their purposes well, a significant number
23 of eligible refugees have been unfairly denied or ex-
24 cluded, in some cases by vindictive or corrupt Gov-
25 ernment of Vietnam officials who controlled access

1 to the programs, and in other cases by United
2 States personnel who imposed unduly restrictive in-
3 terpretations of program criteria.

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

16 (18) The U.S. Citizenship and Immigration
17 Services of the Department of Homeland Security
18 has agreed to resume the processing of former
19 United States employees under the U11 program,
20 which had been unilaterally suspended by the United
21 States Government, as well as to review the applica-
22 tions of Amerasians, children of American service-
23 men left behind in Vietnam after the war ended in
24 April 1975, for resettlement to the United States
25 under the Amerasian Homecoming Act of 1988.

1 (19) Congress and the people of the United
 2 States are united in their determination that the ex-
 3 pansion of relations with Vietnam should not be con-
 4 strued as approval of or complacency about the seri-
 5 ous violations of fundamental human rights engaged
 6 in by the Government of Vietnam. The promotion of
 7 freedom and democracy around the world is and
 8 must continue to be a central objective of United
 9 States foreign policy. Congress remains hopeful
 10 about, and willing to recognize improvement in, the
 11 future human rights practices of the Government of
 12 Vietnam, which is the motivating purpose behind
 13 this Act.

14 **TITLE I—CONDITIONS ON IN-**
 15 **CREASED NONHUMANI-**
 16 **TARIAN ASSISTANCE TO THE**
 17 **GOVERNMENT OF VIETNAM**

18 **SEC. 101. BILATERAL NONHUMANITARIAN ASSISTANCE.**

19 (a) ASSISTANCE.—

20 (1) IN GENERAL.—United States nonhumani-
 21 tarian assistance may not be provided to the Govern-
 22 ment of Vietnam in an amount exceeding the
 23 amount so provided for fiscal year 2004—

24 (A) for fiscal year 2005, unless not later
 25 than 30 days after the date of the enactment of

1 this Act, the President determines and certifies
2 to Congress that the requirements of subpara-
3 graphs (A) through (D) of paragraph (2) have
4 been met during the 12-month period ending on
5 the date of the certification; and

6 (B) for each subsequent fiscal year unless
7 the President determines and certifies to Con-
8 gress in the most recent annual report sub-
9 mitted pursuant to section 501 that the re-
10 quirements of subparagraphs (A) through (E)
11 of paragraph (2) have been met during the 12-
12 month period covered by the report.

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

15 (A) the Government of Vietnam has made
16 substantial progress toward releasing all polit-
17 ical and religious prisoners from imprisonment,
18 house arrest, and other forms of detention;

19 (B) the Government of Vietnam has made
20 substantial progress toward—

21 (i) respecting the right to freedom of
22 religion, including the right to participate
23 in religious activities and institutions with-
24 out interference by or involvement of the
25 Government; and

1 (ii) returning estates and properties
2 confiscated from the churches;

3 (C) the Government of Vietnam has made
4 substantial progress toward allowing Viet-
5 nameese nationals free and open access to
6 United States refugee programs;

7 (D) the Government of Vietnam has made
8 substantial progress toward respecting the
9 human rights of members of ethnic minority
10 groups in the Central Highlands and elsewhere
11 in Vietnam; and

12 (E) neither any official of the Government
13 of Vietnam nor any agency or entity wholly or
14 partly owned by the Government of Vietnam
15 was complicit in a severe form of trafficking in
16 persons, unless the Government of Vietnam
17 took all appropriate steps to end any such com-
18 plicity and hold such official, agency, or entity
19 fully accountable for its conduct.

20 (b) EXCEPTION.—

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

1 if the President determines that the provision to the
 2 Government of Vietnam of increased United States
 3 nonhumanitarian assistance would promote the pur-
 4 poses of this Act or is otherwise in the national in-
 5 terest of the United States.

6 (2) EXERCISE OF WAIVER AUTHORITY.—The
 7 President may exercise the authority under para-
 8 graph (1) with respect to—

9 (A) all United States nonhumanitarian as-
 10 sistance to Vietnam; or

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

13 (c) DEFINITIONS.—In this section:

14 (1) SEVERE FORM OF TRAFFICKING IN PER-
 15 SONS.—The term “severe form of trafficking in per-
 16 sons” means any activity described in section 103(8)
 17 of the Trafficking Victims Protection Act of 2000
 18 (22 U.S.C. 7102(8)).

19 (2) UNITED STATES NONHUMANITARIAN AS-
 20 SISTANCE.—The term “United States nonhumani-
 21 tarian assistance” means—

22 (A) any assistance under the Foreign As-
 23 sistance Act of 1961 (22 U.S.C. 2151 et seq.),
 24 including programs under title IV of chapter 2
 25 of part I of that Act (22 U.S.C. 2169 et seq.),

1 relating to the Overseas Private Investment
2 Corporation), other than—

3 (i) disaster relief assistance, including
4 any assistance under chapter 9 of part I of
5 that Act (22 U.S.C. 2292 et seq.);

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

9 (iii) assistance for refugees; and
10 (B) sales, or financing on any terms, under
11 the Arms Export Control Act (22 U.S.C. 2751
12 et seq.).

13 **TITLE II—ASSISTANCE TO SUP-**
14 **PORT HUMAN RIGHTS AND**
15 **DEMOCRACY IN VIETNAM**

16 **SEC. 201. ASSISTANCE.**

17 (a) IN GENERAL.—The President is authorized to
18 provide assistance, through appropriate nongovernmental
19 organizations, for the support of individuals and organiza-
20 tions to promote democracy and internationally recognized
21 human rights in Vietnam.

22 (b) AUTHORIZATION OF APPROPRIATIONS.—There
23 are authorized to be appropriated to the President to carry
24 out subsection (a) \$2,000,000 for each of the fiscal years
25 2005 and 2006.

**TITLE III—UNITED STATES
PUBLIC DIPLOMACY**

SEC. 301. RADIO FREE ASIA TRANSMISSIONS TO VIETNAM.

(a) POLICY OF THE UNITED STATES.—It is the policy of the United States to take such measures as are necessary to overcome the jamming of Radio Free Asia by the Government of Vietnam, including securing the use of broadcast facilities in close geographic proximity to Vietnam.

(b) AUTHORIZATION OF APPROPRIATIONS.—In addition to such amounts as are otherwise authorized to be appropriated for the Broadcasting Board of Governors, there are authorized to be appropriated to carry out the policy under subsection (a) \$9,100,000 for the fiscal year 2005 and \$1,100,000 for the fiscal year 2006.

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

It is the policy of the United States that programs of educational and cultural exchange with Vietnam should actively promote progress toward freedom and democracy in Vietnam by—

(1) providing opportunities to Vietnamese nationals from a wide range of occupations and perspectives to witness freedom and democracy in action; and

(2) ensuring that Vietnamese nationals who have already demonstrated a commitment to these values are included in such programs.

TITLE IV—UNITED STATES REFUGEE POLICY

SEC. 401. REFUGEE RESETTLEMENT FOR NATIONALS OF VIETNAM.

(a) POLICY OF THE UNITED STATES.—It is the policy of the United States to offer refugee resettlement to nationals of Vietnam, including members of the Montagnard ethnic minority groups—

(1) who were eligible for the Orderly Departure Program (ODP), Resettlement Opportunities for Vietnamese Returnees (ROVR), or any other United States refugee program; and

(2) who—

(A) were deemed ineligible due to administrative error; or

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

1 (b) AUTHORIZED ACTIVITY.—Of the amounts au-
 2 thorized to be appropriated to the Department of State
 3 for Migration and Refugee Assistance for each of the fiscal
 4 years 2005, 2006, and 2007, such sums as may be nec-
 5 essary are authorized to be made available for the protec-
 6 tion (including resettlement in appropriate cases) of Viet-
 7 nameese refugees and asylum seekers, including
 8 Montagnards in Cambodia.

9 **TITLE V—ANNUAL REPORT ON**
 10 **PROGRESS TOWARD FREE-**
 11 **DOM AND DEMOCRACY IN**
 12 **VIETNAM**

13 **SEC. 501. ANNUAL REPORT.**

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

18 (1) The determination and certification of the
 19 President that the requirements of subparagraphs
 20 (A) through (D) of section 101(a)(2) have been met,
 21 if applicable.

22 (2) The determination of the President under
 23 section 101(b), if applicable.

24 (3) Efforts by the United States Government to
 25 secure transmission sites for Radio Free Asia in

1 countries in close geographical proximity to Vietnam
2 in accordance with section 301.

3 (4) Efforts to ensure that programs with Viet-
4 nam promote the policy set forth in section 302 and
5 section 102 of the Human Rights, Refugee, and
6 Other Foreign Relations Provisions Act of 1996 (22
7 U.S.C. 2452 note) with respect to participation in
8 programs of educational and cultural exchange.

9 (5) Steps taken to carry out the policy under
10 section 401(a).

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

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

1 (A) progress toward the development of in-
2 stitutions of democratic governance;

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

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

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

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

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

1 (G) the extent to which laws in Vietnam
2 are written and administered in ways that are
3 consistent with international human rights
4 standards, including the requirements of the
5 International Covenant on Civil and Political
6 Rights.

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

○

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

Sec. 201. Assistance.

TITLE III—UNITED STATES PUBLIC DIPLOMACY

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7 though in recent years the National Assembly of
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10 and inefficiency, the National Assembly remains sub-
11 ject to CPV direction. The CPV maintains control
12 over the selection of candidates in national and local
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15 public challenge to the legitimacy of the one-party
16 State. It prohibits independent political, labor, and
17 social organizations and continues to detain and im-