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S. 3974

To impose sanctions on individuals who are complicit in human rights abuses committed against nationals of Vietnam or their family members, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 18, 2010

Mr. BROWNBACK (for himself, Mr. CORNYN, and Mr. BURR) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To impose sanctions on individuals who are complicit in human rights abuses committed against nationals of Vietnam or their family members, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Vietnam Human
5 Rights Sanctions Act”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1 (1) The relationship between the United States
2 and the Socialist Republic of Vietnam has grown
3 substantially since the end of the trade embargo in
4 1994, with annual trade between the countries
5 reaching more than \$15,200,000,000 in 2008.

6 (2) The transition of the Government of Viet-
7 nam toward greater economic activity and trade has
8 not been matched by greater political freedom and
9 substantial improvements in basic human rights for
10 the citizens of Vietnam, including freedom of reli-
11 gion, expression, association, and assembly.

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

17 (4) Despite assurances that Vietnam's accession
18 to the World Trade Organization would be met with
19 greater respect for human rights, the Government of
20 Vietnam has continued to strictly regulate some reli-
21 gious practices and to imprison or put under house
22 arrest an undetermined number of individuals for
23 their peaceful advocacy of political views or religious
24 beliefs, including Father Nguyen Van Ly, Tran
25 Huynh Duy Thuc, Nguyen Tien Trung, Le Thang

1 Long, Tran Duc Thach, Tran Anh Kim, Pham Van
 2 Troi, Nguyen Xuan Nghia, Nguyen Van Tuc,
 3 Nguyen Manh Son, Nguyen Manh Tinh, Ngo
 4 Quynh, Nguyen Kim Nhan, Truong Minh Duc,
 5 Nguyen Van Hai, Vu Hung, Tran Khai Thanh
 6 Thuy, and Pham Thanh Nghien, and human rights
 7 lawyers, Le Cong Dinh, Nguyen Van Dai, and Le
 8 Thi Cong Nhan. Others arrested during 2010 are
 9 being held incommunicado, including Cu Huy Ha
 10 Vu, Pham Minh Hoang, Phan Thanh Hai, and Vi
 11 Duc Hoi.

12 (5) Vietnam remains a one-party state, ruled
 13 and controlled by the Communist Party of Vietnam,
 14 which continues to deny the right of citizens to
 15 change their government.

16 (6) Although in recent years the National As-
 17 sembly of Vietnam has on occasion played a role as
 18 a forum for highlighting local concerns, corruption,
 19 and inefficiency, the National Assembly remains sub-
 20 ject to the direction of the Communist Party of Viet-
 21 nam and that party maintains control over the selec-
 22 tion of candidates in national and local elections.

23 (7) The Government of Vietnam forbids public
 24 challenge to the legitimacy of the one-party state, re-
 25 stricts freedoms of opinion, the press, assembly, and

1 association, and tightly limits access to the Internet
2 and telecommunication. Cyberattacks originating
3 from Vietnam-based servers have disabled dissident
4 websites and the Government of Vietnam introduced
5 new restrictions on public internet shops while con-
6 tinuing to restrict access to numerous overseas and
7 domestic blogs, news sites, and other websites per-
8 ceived to carry content critical of the Government of
9 Vietnam.

10 (8) The Government of Vietnam continues to
11 detain, imprison, place under house arrest, convict,
12 and otherwise restrict individuals for the peaceful
13 expression of dissenting political or religious views,
14 including democracy and human rights activists,
15 independent trade union leaders, non-state-san-
16 tioned publishers, journalists, bloggers, members of
17 ethnic minorities, and unsanctioned religious groups.

18 (9) The Government of Vietnam has also failed
19 to improve labor rights, continues to harass, arrest,
20 and imprison workers rights activists, including
21 Doan Huy Chuong, Do Thi Minh Hanh, and
22 Nguyen Hoang Quoc Hung, and restricts the right
23 to organize independently.

24 (10) The Government of Vietnam continues to
25 limit freedom of religion, pressure all religious

1 groups to come under the control of government-
2 and party-controlled management boards, and re-
3 strict the operation of independent religious organi-
4 zations, including the Unified Buddhist Church of
5 Vietnam and members of unsanctioned Mennonite,
6 Cao Dai, Theravada Buddhist, and Hoa Hao Bud-
7 dhist religious groups and independent Protestant
8 house churches, primarily in the central and north-
9 ern highlands. Religious leaders who do not conform
10 to the Government's demands are often harassed,
11 arrested, imprisoned, or put under house arrest.

12 (11) As noted in the October 2009 report of the
13 United States Commission on International Reli-
14 gious Freedom, "[T]here continue to be far too
15 many serious abuses and restrictions of religious
16 freedom in the country. Individuals continue to be
17 imprisoned or detained for reasons related to their
18 religious activity or religious freedom advocacy; po-
19 lice and government officials are not held fully ac-
20 countable for abuses; independent religious activity
21 remains illegal; and legal protection for government-
22 approved religious organizations are both vague and
23 subject to arbitrary or discriminatory interpretations
24 based on political factors. In addition, improvements
25 experienced by some religious communities are not

1 experienced by others, including the Unified Bud-
 2 dhist Church of Vietnam (UBCV), independent Hoa
 3 Hao, Cao Dai, and Protestant groups, and some eth-
 4 nic minority Protestants and Buddhists. Also, over
 5 the past year, property disputes between the govern-
 6 ment and the Catholic Church in Hanoi led to deten-
 7 tion, threats, harassment, and violence by ‘contract
 8 thugs’ against peaceful prayer vigils and religious
 9 leaders.”.

10 (12) Despite reported progress in church open-
 11 ings and legal registrations of religious venues, the
 12 Government of Vietnam has halted most religious re-
 13 forms since the Department of State lifted the
 14 “country of particular concern” for religious freedom
 15 violations designation for Vietnam in November
 16 2006.

17 (13) Unregistered ethnic minority Protestant
 18 congregations suffer severe abuses because of actions
 19 by the Government of Vietnam, which have included
 20 forced renunciations of faith, pressure to join gov-
 21 ernment-recognized religious groups, arrest and har-
 22 assment, the withholding of social programs pro-
 23 vided for the general population, destruction of
 24 churches and pagodas, confiscation and destruction
 25 of property, and subjection to severe beatings.

1 (14) During peaceful Catholic prayer vigils call-
2 ing for the return of government-confiscated church
3 properties during 2008 at the Thai Ha Church in
4 Ha Noi, protestors were dispersed after being har-
5 assed, some were detained, and some of the church
6 property was destroyed. Similar incidents happened
7 at Bau Sen, Loan Ly, and Tam Toa parishes in cen-
8 tral Vietnam and more recently at Dong Chiem par-
9 ish in Hanoi, where religious statues and a crucifix
10 were destroyed and parishioners and clergies were
11 physically harmed, and at Con Dau parish, where
12 police forcibly dispersed a Catholic funeral ceremony
13 in May 2010 to a cemetery located on disputed land.
14 Afterwards, police and members of the civilian de-
15 fense forces arrested and interrogated dozens of Con
16 Dau parishioners, with one parishioner dying from
17 injuries sustained during a beating in July 2010 by
18 civilian defense forces and two women suffered mis-
19 carriages resulted from police tortures. Catholics
20 continue to face some restrictions on selection of
21 clergy, the establishment of seminaries and seminary
22 candidates, and restrictions on individual cases of
23 travel and church registration. Dissident clerics such
24 as Father Phan Van Loi and Father Nguyen Van
25 Ly are currently under house arrest.

1 (15) The Unified Buddhist Church of Vietnam
2 suffers persecution as the Government of Vietnam
3 continues to restrict contacts and movement of sen-
4 ior clergy for refusing to join the state-sponsored
5 Buddhist organizations, the Government restricts ex-
6 pression and assembly, and the Government con-
7 tinues to harass and threaten monks, nuns, and
8 youth leaders of the Unified Buddhist Church of
9 Vietnam. The Supreme Patriarch of Unified Bud-
10 dhist Church of Vietnam, Thich Quang Do, is cur-
11 rently under house arrest.

12 (16) The Bat Nha Buddhists monastery in
13 Lam Dong province was attacked by government
14 thugs in October 2009. About 400 monks and nuns
15 were physically abused and forcibly evicted from the
16 monastery.

17 (17) The Government of Vietnam continues to
18 suppress the activities of other religious adherents,
19 including Cao Dai, Hoa Hao, Mennonites, and
20 Montagnard Christians belonging to churches that
21 lack official recognition or have chosen not to affil-
22 iate with the state-sanctioned groups, including
23 through the use of detention and imprisonment.

24 (18) During Easter weekend in April 2004,
25 thousands of Montagnard Christians in the Central

1 Highlands gathered to protest their treatment by the
2 Government of Vietnam, including the confiscation
3 of tribal lands and ongoing restrictions on religious
4 activities. Credible reports indicate that the protests
5 were met with violent response as many demonstra-
6 tors were arrested or went into hiding, that many
7 were injured, and that some were killed. At least
8 200 of these Montagnard Christians are still serving
9 long sentences for their involvement in peaceful dem-
10 onstrations in 2001 and 2004. Government officials
11 continue to severely restrict movement by the
12 Montagnards and prohibit them from seeking asy-
13 lum in Cambodia. Many Montagnards were also im-
14 prisoned and otherwise mistreated for their involve-
15 ment in demonstrations in 2008.

16 (19) Ethnic minority Hmong in the Northwest
17 Highlands of Vietnam also suffer restrictions,
18 abuses, and persecution by the Government of Viet-
19 nam, and although the Government is now allowing
20 some Hmong Protestants to organize and conduct
21 religious activity, some government officials continue
22 to deny or ignore additional applications for reg-
23 istration.

24 (20) In 2007, the Government of Vietnam ar-
25 rested and expelled at least 20 ethnic Khmer Bud-

1 dhist monks in Soc Trang province from the monk-
 2 hood and imprisoned 5 monks in response to a
 3 peaceful religious protest in February 2007. In July
 4 2010, authorities in Tra Vinh arrested and pur-
 5 ported to defrock Khmer Krom Buddhist abbot
 6 Thach Sophon, sentencing him in September to a 9-
 7 month suspended sentence. He remains under house
 8 arrest.

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

16 (22) People arrested in Vietnam because of
 17 their political or religious affiliations and activities
 18 and charged with vaguely defined national security
 19 crimes are not accorded due process of law. During
 20 the pre-trial investigatory phase of their detention,
 21 religious and political prisoners are often held in-
 22 communicado without access to legal counsel and
 23 family members. They are routinely tortured during
 24 interrogation to force them to confess to crimes they
 25 did not commit or to falsely denounce others. Their

1 trials are usually closed to international press and
2 diplomats and members of the public.

3 (23) Vietnam continues to be a source country
4 for the commercial sexual exploitation and forced
5 labor of women and girls and for men and women
6 legally entering into international labor contracts
7 who subsequently face conditions of debt bondage or
8 forced labor, and is a destination country for child
9 trafficking and continues to have internal human
10 trafficking.

11 (24) Labor export companies partly or wholly
12 owned by the Ministry of Labor, War Invalids and
13 Social Affairs, and other agencies of the Government
14 of Vietnam have frequently been identified as par-
15 ticipants in human trafficking. There are a number
16 of well-documented cases in which these state enter-
17 prises have misled workers by promising specific
18 wages and working conditions, often in the form of
19 signed contracts, only to require the workers to sign
20 different contracts immediately before leaving for
21 their foreign destinations. When workers have pro-
22 tested debt bondage or slavery-like conditions in the
23 foreign workplaces to which these Vietnamese state
24 enterprises have sent them, officials of the Ministry
25 of Labor have traveled from Hanoi to threaten the

1 trafficking victims with “punishment under the laws
2 of Vietnam” if they do not cease their protests.
3 Workers who have returned to Vietnam after being
4 exploited by their foreign employers have reported
5 being harassed and intimidated by public security
6 forces, who typically accuse them of being liars, col-
7 laborating with reactionary forces overseas, and hav-
8 ing betrayed their country.

9 (25) United States refugee resettlement pro-
10 grams, including the Humanitarian Resettlement
11 Program, the Orderly Departure Program, the Re-
12 settlement Opportunities for Vietnamese Returnees
13 Program, general resettlement of boat people from
14 refugee camps throughout Southeast Asia, the
15 Amerasian Homecoming Act of 1988, and the pri-
16 ority one refugee resettlement category have helped
17 resettle nationals of Vietnam who have suffered per-
18 secution on account of their associations with the
19 United States as well as nationals of Vietnam who
20 have been persecuted because of race, religion, na-
21 tionality, political opinion, or membership in a par-
22 ticular social group.

23 (26) While previous programs have served their
24 purposes well, a significant number of eligible refu-
25 gees from Vietnam were unfairly denied or excluded,

1 including Amerasians and Montagnards, in some
2 cases by vindictive or corrupt officials of Vietnam
3 who controlled access to the programs, and in others
4 by United States personnel who imposed unduly re-
5 strictive interpretations of program criteria. In addi-
6 tion, the Government of Vietnam has denied pass-
7 ports to persons whom the United States has found
8 eligible for refugee admission.

9 (27) Congress has passed numerous resolutions
10 condemning human rights violations in Vietnam, in-
11 dicating that although there has been an expansion
12 of relations with the Government of Vietnam, it
13 should not be construed as approval of the ongoing
14 and serious violations of fundamental human rights
15 in Vietnam, particularly those enshrined in the
16 International Covenant on Civil and Political Rights,
17 of which Vietnam is a signatory.

18 (28) Enhancement of relations between the
19 United States and Vietnam has provided an oppor-
20 tunity for a human rights dialogue, but is unlikely
21 to lead to future progress on human rights issues in
22 Vietnam unless the United States makes clear that
23 such progress is an essential prerequisite for further
24 enhancements in the bilateral relationship.

1 **SEC. 3. IMPOSITION OF SANCTIONS ON CERTAIN INDIVID-**
2 **UALS WHO ARE COMPLICIT IN HUMAN**
3 **RIGHTS ABUSES COMMITTED AGAINST NA-**
4 **TIONALS OF VIETNAM OR THEIR FAMILY**
5 **MEMBERS.**

6 (a) IN GENERAL.—Except as provided in subsections
7 (d) and (e), the President shall impose sanctions described
8 in subsection (c) with respect to each individual on the
9 list required by subsection (b).

10 (b) LIST OF INDIVIDUALS WHO ARE COMPLICIT IN
11 CERTAIN HUMAN RIGHTS ABUSES.—

12 (1) IN GENERAL.—Not later than 90 days after
13 the date of the enactment of this Act, the President
14 shall submit to the appropriate congressional com-
15 mittees a list of individuals who are nationals of
16 Vietnam that the President determines are complicit
17 in human rights abuses committed against nationals
18 of Vietnam or their family members, regardless of
19 whether such abuses occurred in Vietnam.

20 (2) UPDATES OF LIST.—The President shall
21 submit to the appropriate congressional committees
22 an updated list under paragraph (1) as new infor-
23 mation becomes available and not less frequently
24 than annually.

25 (3) PUBLIC AVAILABILITY.—The list required
26 by paragraph (1) shall be made available to the pub-

1 lic and posted on the websites of the Department of
2 the Treasury and the Department of State.

3 (4) CONSIDERATION OF DATA FROM OTHER
4 COUNTRIES AND NONGOVERNMENTAL ORGANIZA-
5 TIONS.—In preparing the list required by paragraph
6 (1), the President shall consider data already ob-
7 tained by other countries and nongovernmental orga-
8 nizations, including organizations in Vietnam, that
9 monitor the human rights abuses of the Government
10 of Vietnam.

11 (c) SANCTIONS DESCRIBED.—The sanctions de-
12 scribed in this subsection are the following:

13 (1) PROHIBITION ON ENTRY AND ADMISSION TO
14 THE UNITED STATES.—An individual whose name
15 appears on the list required by subsection (b) may
16 not—

17 (A) be admitted to, enter, or transit
18 through the United States;

19 (B) receive any lawful immigration status
20 in the United States under the immigration
21 laws, including any relief under the Convention
22 Against Torture; or

23 (C) file any application or petition to ob-
24 tain such admission, entry, or status.

1 (2) FINANCIAL SANCTIONS.—The President
2 shall impose sanctions authorized pursuant to sec-
3 tion 203 of the International Emergency Economic
4 Powers Act (50 U.S.C. 1702) with respect to an in-
5 dividual whose name appears on the list required by
6 subsection (b), including blocking of the property of,
7 and restricting or prohibiting financial transactions
8 and the exportation and importation of property by,
9 the individual.

10 (d) EXCEPTIONS TO COMPLY WITH INTERNATIONAL
11 AGREEMENTS.—The President may, by regulation, au-
12 thorize exceptions to the imposition of sanctions under this
13 section to permit the United States to comply with the
14 Agreement between the United Nations and the United
15 States of America regarding the Headquarters of the
16 United Nations, signed June 26, 1947, and entered into
17 force November 21, 1947, and other applicable inter-
18 national agreements.

19 (e) WAIVER.—The President may waive the require-
20 ment to impose or maintain sanctions with respect to an
21 individual under subsection (a) or the requirement to in-
22 clude an individual on the list required by subsection (b)
23 if the President—

24 (1) determines that such a waiver is in the na-
25 tional interest of the United States; and

1 (2) submits to the appropriate congressional
2 committees a report describing the reasons for the
3 determination.

4 (f) TERMINATION OF SANCTIONS.—The provisions of
5 this section shall cease to have force and effect on the date
6 on which the President determines and certifies to the ap-
7 propriate congressional committees that the Government
8 of Vietnam has—

9 (1) unconditionally released all political pris-
10 oners;

11 (2) ceased its practices of violence, unlawful de-
12 tention, torture, and abuse of citizens of Vietnam
13 while engaging in peaceful political activity; and

14 (3) conducted a transparent investigation into
15 the killings, arrest, and abuse of peaceful political
16 activists in Vietnam and prosecuted those respon-
17 sible.

18 (g) DEFINITIONS.—In this section:

19 (1) APPROPRIATE CONGRESSIONAL COMMIT-
20 TEES.—The term “appropriate congressional com-
21 mittees” means—

22 (A) the Committee on Finance, the Com-
23 mittee on Banking, Housing, and Urban Af-
24 fairs, and the Committee on Foreign Relations
25 of the Senate; and

1 (B) the Committee on Ways and Means,
2 the Committee on Financial Services, and the
3 Committee on Foreign Affairs of the House of
4 Representatives.

5 (2) CONVENTION AGAINST TORTURE.—The
6 term “Convention Against Torture” means the
7 United Nations Convention Against Torture and
8 Other Cruel, Inhuman or Degrading Treatment or
9 Punishment, done at New York on December 10,
10 1984.

11 (3) IMMIGRATION LAWS; NATIONAL.—The
12 terms “immigration laws” and “national” have the
13 meanings given those terms in section 101 of the
14 Immigration and Nationality Act (8 U.S.C. 1101).

○