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1ST SESSION

S. 1051

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

MAY 24, 2011

Mr. CORNYN (for himself and Mr. BURR) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

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 \$18,000,000,000 in 2010.

6 (2) However, the transition by the Government
7 of Vietnam toward greater economic activity and
8 trade has not been matched by greater political free-
9 dom or substantial improvements in basic human
10 rights for the people of Vietnam.

11 (3) Vietnam remains an authoritarian state
12 ruled by the Communist Party of Vietnam, which
13 continues to deny the right of the people of Vietnam
14 to participate in free and fair elections.

15 (4) In 2006, Congress agreed to Vietnam be-
16 coming an official member of the World Trade Orga-
17 nization, amid assurances by the Government of
18 Vietnam that it was steadily improving its human
19 rights record and would continue to do so.

20 (5) According to the 2011 annual report of the
21 United States Commission on International Reli-
22 gious Freedom, “Vietnam’s overall human rights
23 record remains poor, and has deteriorated since
24 Vietnam joined the World Trade Organization in
25 2007.”.

1 (6) On October 30, 2010, while in Hanoi, Viet-
2 nam, Secretary of State Hillary Rodham Clinton
3 said, “[T]he United States remains concerned about
4 the arrest and conviction of people for peaceful dis-
5 sent, the attacks on religious groups, the curbs on
6 Internet freedom, including of bloggers. Vietnam has
7 so much potential, and we believe that political re-
8 form and respect for human rights are an essential
9 part of realizing that potential.”.

10 (7) On March 31, 2011, the Assistant Sec-
11 retary of State of the Bureau of East Asian and Pa-
12 cific Affairs, Kurt M. Campbell, testified before the
13 Subcommittee on Asia and the Pacific of the Com-
14 mittee on Foreign Affairs of the House of Rep-
15 resentatives, saying, “[W]e remain deeply concerned
16 about the lack of progress in the human rights
17 front. We continue to make it very clear to the Viet-
18 nameese government that political freedoms are not a
19 source of instability but of strength.”.

20 (8) According to the 2010 Country Reports on
21 Human Rights Practices of the Department of
22 State, in 2010, the Government of Vietnam “in-
23 creased its suppression of dissent, arresting at least
24 25 political activists” and “political opposition move-
25 ments were prohibited”. Although there are no pre-

1 cise estimates of the number of political prisoners
2 held at the end of 2010, the Government of Vietnam
3 reportedly held more than 100, with international
4 observers claiming there were more.

5 (9) The Country Reports of the Department of
6 State also state that the Government of Vietnam has
7 “increased measures to limit citizens’ privacy rights
8 and freedom of the press, speech, assembly, move-
9 ment, and association” and that “Internet freedom
10 was further restricted as the government orches-
11 trated attacks against critical Web sites and spied
12 on dissident bloggers”.

13 (10) Furthermore, the Country Reports of the
14 Department of State state, with respect to Vietnam,
15 “Credible reports suggested that local police used
16 ‘contract thugs’ and ‘citizen brigades’ to harass and
17 beat political activists and others, including religious
18 worshippers, perceived as ‘undesirable’ or a ‘threat’
19 to public security.”.

20 (11) In May 2010, Vietnamese police in Thanh
21 Hoa province shot and killed 2 people, including a
22 12-year-old child, for participating in a land-rights
23 protest against a state-owned enterprise.

24 (12) The Country Reports of the Department of
25 State also maintain, with respect to Vietnam, that

1 arbitrary detentions, particularly of political activ-
2 ists, remain a problem, and that authorities of Viet-
3 nam increasingly charge political dissidents with vio-
4 lating article 79 of Vietnam’s penal code, which pe-
5 nalizes “attempting to overthrow the state”, due to
6 alleged memberships in political parties other than
7 the Communist Party of Vietnam. That charge car-
8 ries a potential death penalty.

9 (13) On October 29, 2010, United States cit-
10 izen Le Kin was arrested in Ho Chi Minh City for
11 “alleged involvement with overseas political organi-
12 zations critical of the government”, an article 79
13 violation.

14 (14) In November 2010, Vietnamese attorney
15 Cu Huy Ha Vu was arrested for posting articles on
16 the Internet and giving interviews with foreign
17 media that were critical of Prime Minister Nguyen
18 Tan Dung.

19 (15) On January 5, 2011, Christian Marchant,
20 a United States diplomat at the United States Em-
21 bassy in Hanoi, was harassed and beaten by the Vi-
22 etnamese police when he went to visit Catholic priest
23 Thadeus Nguyen Van Ly, a Vietnamese dissident
24 under house arrest on charges of undermining the
25 Government of Vietnam.

1 (16) According to the Department of State,
2 international nongovernmental organizations esti-
3 mate that several hundred Montagnard demonstra-
4 tors who were connected with the Central Highlands
5 anti-government protests in 2004 remained in prison
6 in Vietnam as of December 2010.

7 (17) The Country Reports of the Department of
8 State also state that, in Vietnam, “[h]ousehold reg-
9 istration and block warden systems existed for the
10 surveillance of all citizens” and that authorities of
11 the Government of Vietnam have—

12 (A) opened and censored mail of targeted
13 persons;

14 (B) forcibly entered homes of prominent
15 dissidents to remove personal computers and
16 cell phones;

17 (C) monitored telephone conversations,
18 email, text messages, and fax transmissions;

19 (D) cut telephone lines and interrupted cell
20 phone and Internet service for a number of po-
21 litical activists and their families; and

22 (E) forbidden direct access to the Internet
23 through foreign Internet service providers and
24 monitored Internet activities.

1 (18) On March 30, 2010, Google affirmed that
2 malware implanted in Vietnamese-language keyboard
3 software was being used to spy on dissidents in Viet-
4 nam and launch “denial-of-service attacks” against
5 blogs containing political dissent.

6 (19) In 2004, the Department of State des-
7 ignated Vietnam as a country of particular concern
8 with respect to religious freedom pursuant to section
9 402(b) of the International Religious Freedom Act
10 of 1998 (22 U.S.C. 6442(b)) as a result of reports
11 of increased harassment of ethnic minority Protes-
12 tants and Buddhists. However, on November 13,
13 2006, the Department of State announced that the
14 designation of Vietnam as a country of particular
15 concern with respect to religious freedom had been
16 lifted due to “many positive steps” taken by the
17 Government of Vietnam.

18 (20) According to the 2010 Country Reports of
19 the Department of State, many unrecognized Protes-
20 tant churches in Vietnam reported difficulties, such
21 as services being broken up by police, pressure on
22 followers to abandon their faith, and repeated and
23 extended detention and physical abuse of church
24 members and leaders.

1 (21) The 2011 annual report of the United
2 States Commission on International Religious Free-
3 dom recommends to the Department of State that
4 Vietnam should be designated as a country of par-
5 ticular concern with respect to religious freedom due
6 to “severe religious freedom abuses”.

7 (22) The Commission’s report highlights seri-
8 ous violations of religious freedom in Vietnam, in-
9 cluding—

10 (A) imprisonment and detention of individ-
11 uals for religious activity or religious freedom
12 advocacy;

13 (B) laws prohibiting independent religious
14 activity;

15 (C) vague legal protections for govern-
16 ment-approved religious organizations that are
17 subject to arbitrary and discriminatory inter-
18 pretations;

19 (D) specific discrimination against the
20 Unified Buddhist Church of Vietnam, inde-
21 pendent Hoa Hao, Cao Dai, and Protestant
22 groups, and some ethnic minority Protestants
23 and Buddhists;

24 (E) property disputes between the Govern-
25 ment of Vietnam and the Catholic Church in

1 Hanoi that have led to detentions, threats, har-
 2 assment, and violence against peaceful prayer
 3 vigils and religious leaders;

4 (F) detention of dozens of ethnic minority
 5 Protestants for “independent” religious activity;
 6 and

7 (G) harassment of monks and nuns associ-
 8 ated with Buddhist teacher Thich Nhat Hanh
 9 and forcible disbandment of his order.

10 **SEC. 3. IMPOSITION OF SANCTIONS ON CERTAIN INDIVID-**
 11 **UALS WHO ARE COMPLICIT IN HUMAN**
 12 **RIGHTS ABUSES COMMITTED AGAINST NA-**
 13 **TIONALS OF VIETNAM OR THEIR FAMILY**
 14 **MEMBERS.**

15 (a) DEFINITIONS.—In this section:

16 (1) ADMITTED; ALIEN; IMMIGRATION LAWS; NA-
 17 TIONAL; SPOUSE.—The terms “admitted”, “alien”,
 18 “immigration laws”, “national”, and “spouse” have
 19 the meanings given those terms in section 101 of the
 20 Immigration and Nationality Act (8 U.S.C. 1101).

21 (2) APPROPRIATE CONGRESSIONAL COMMIT-
 22 TEES.—The term “appropriate congressional com-
 23 mittees” means—

24 (A) the Committee on Finance, the Com-
 25 mittee on Banking, Housing, and Urban Af-

1 fairs, and the Committee on Foreign Relations
2 of the Senate; and

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

7 (3) CONVENTION AGAINST TORTURE.—The
8 term “Convention against Torture” means the
9 United Nations Convention against Torture and
10 Other Cruel, Inhuman or Degrading Treatment or
11 Punishment, done at New York on December 10,
12 1984.

13 (4) UNITED STATES PERSON.—The term
14 “United States person” means—

15 (A) a United States citizen or an alien law-
16 fully admitted for permanent residence to the
17 United States; or

18 (B) an entity organized under the laws of
19 the United States or of any jurisdiction within
20 the United States, including a foreign branch of
21 such an entity.

22 (b) IMPOSITION OF SANCTIONS.—Except as provided
23 in subsections (e) and (f), the President shall impose the
24 sanctions described in subsection (d) with respect to each
25 individual on the list required by subsection (c).

1 (c) LIST OF INDIVIDUALS WHO ARE COMPLICIT IN
2 CERTAIN HUMAN RIGHTS ABUSES.—

3 (1) IN GENERAL.—Not later than 90 days after
4 the date of the enactment of this Act, the President
5 shall submit to the appropriate congressional com-
6 mittees a list of individuals who are nationals of
7 Vietnam that the President determines are complicit
8 in human rights abuses committed against nationals
9 of Vietnam or their family members, regardless of
10 whether such abuses occurred in Vietnam.

11 (2) UPDATES OF LIST.—The President shall
12 submit to the appropriate congressional committees
13 an updated list under paragraph (1) as new infor-
14 mation becomes available and not less frequently
15 than annually.

16 (3) PUBLIC AVAILABILITY.—The list required
17 by paragraph (1) shall be made available to the pub-
18 lic and posted on the websites of the Department of
19 the Treasury and the Department of State.

20 (4) CONSIDERATION OF DATA FROM OTHER
21 COUNTRIES AND NONGOVERNMENTAL ORGANIZA-
22 TIONS.—In preparing the list required by paragraph
23 (1), the President shall consider data already ob-
24 tained by other countries and nongovernmental orga-
25 nizations, including organizations in Vietnam, that

1 monitor the human rights abuses of the Government
2 of Vietnam.

3 (d) SANCTIONS.—

4 (1) PROHIBITION ON ENTRY AND ADMISSION TO
5 THE UNITED STATES.—An individual on the list re-
6 quired by subsection (c)(1) may not—

7 (A) be admitted to, enter, or transit
8 through the United States;

9 (B) receive any lawful immigration status
10 in the United States under the immigration
11 laws, including any relief under the Convention
12 Against Torture; or

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

15 (2) FINANCIAL SANCTIONS.—The President
16 shall freeze and prohibit all transactions in all prop-
17 erty and interests in property of an individual on the
18 list required by subsection (c)(1) if such property
19 and interests in property are in the United States,
20 come within the United States, or are or come with-
21 in the possession or control of a United States per-
22 son.

23 (e) EXCEPTIONS TO COMPLY WITH INTERNATIONAL
24 AGREEMENTS.—The President may, by regulation, au-
25 thorize exceptions to the imposition of sanctions under this

1 section to permit the United States to comply with the
2 Agreement between the United Nations and the United
3 States of America regarding the Headquarters of the
4 United Nations, signed June 26, 1947, and entered into
5 force November 21, 1947, and other applicable inter-
6 national agreements.

7 (f) WAIVER.—The President may waive the require-
8 ment to impose or maintain sanctions with respect to an
9 individual under subsection (b) or the requirement to in-
10 clude an individual on the list required by subsection
11 (c)(1) if the President—

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

14 (2) submits to the appropriate congressional
15 committees a report describing the reasons for the
16 determination.

17 (g) TERMINATION OF SANCTIONS.—The provisions of
18 this section shall terminate on the date on which the Presi-
19 dent determines and certifies to the appropriate congres-
20 sional committees that the Government of Vietnam has—

21 (1) unconditionally released all political pris-
22 oners;

23 (2) ceased its practices of violence, unlawful de-
24 tention, torture, and abuse of nationals of Vietnam

1 while those nationals are engaging in peaceful polit-
2 ical activity; and

3 (3) conducted a transparent investigation into
4 the killings, arrest, and abuse of peaceful political
5 activists in Vietnam and prosecuted those respon-
6 sible.

7 **SEC. 4. SENSE OF CONGRESS ON DESIGNATION OF VIET-**
8 **NAM AS A COUNTRY OF PARTICULAR CON-**
9 **CERN WITH RESPECT TO RELIGIOUS FREE-**
10 **DOM.**

11 It is the sense of Congress that—

12 (1) the relationship between the United States
13 and Vietnam cannot progress while the record of the
14 Government of Vietnam with respect to human
15 rights and the rule of law continues to deteriorate;

16 (2) the designation of Vietnam as a country of
17 particular concern with respect to religious freedom
18 pursuant to section 402(b) of the International Reli-
19 gious Freedom Act of 1998 (22 U.S.C. 6442(b))
20 would be a powerful and effective tool in high-
21 lighting abuses of religious freedom in Vietnam and
22 in encouraging improvement in the respect for
23 human rights in Vietnam; and

24 (3) the Secretary of State should, in accordance
25 with the recommendation of the United States Com-

- 1 mission on International Religious Freedom, des-
- 2 ignate Vietnam as a country of particular concern
- 3 with respect to religious freedom.

