

113TH CONGRESS
1ST SESSION

H. R. 1897

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 9, 2013

Received; 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 2013”.

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 and purpose.

Sec. 3. Prohibition on increased nonhumanitarian assistance to the Government
of Vietnam.

Sec. 4. United States public diplomacy.

Sec. 5. United Nations Human Rights Council.

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 nearly \$25,000,000,000 in 2012.

13 (2) The Government of Vietnam’s transition to-
14 ward greater economic freedom and trade has not
15 been matched by greater political freedom and sub-
16 stantial improvements in basic human rights for Vi-
17 etnamese citizens, including freedom of religion, ex-
18 pression, association, and assembly.

19 (3) The United States Congress agreed to Viet-
20 nam becoming an official member of the World
21 Trade Organization in 2006, amidst assurances that

1 the Government of Vietnam was steadily improving
2 its human rights record and would continue to do so.

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

7 (5) Although in recent years the National As-
8 sembly of Vietnam has played an increasingly active
9 role as a forum for highlighting local concerns, cor-
10 ruption, and inefficiency, the National Assembly re-
11 mains subject to the direction of the CPV and the
12 CPV maintains control over the selection of can-
13 didates in national and local elections.

14 (6) The Government of Vietnam forbids public
15 challenge to the legitimacy of the one-party state, re-
16 stricts freedoms of opinion, the press, and associa-
17 tion and tightly limits access to the Internet and
18 telecommunication.

19 (7) Since Vietnam's accession to the WTO on
20 January 11, 2007, the Government of Vietnam arbi-
21 trarily arrested and detained numerous individuals
22 for their peaceful advocacy of religious freedom, de-
23 mocracy, and human rights, including Father
24 Nguyen Van Ly, human rights lawyers Nguyen Van
25 Dai, Le Thi Cong Nhan, Cu Huy Ha Vu, and Le

1 Cong Dinh, and bloggers Nguyen Van Hai, Ta
2 Phong Tan, and Le Van Son.

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

7 (9) The Government of Vietnam continues to
8 detain labor leaders and restricts the right to orga-
9 nize independently.

10 (10) The Government of Vietnam continues to
11 limit the freedom of religion, restrict the operations
12 of independent religious organizations, and persecute
13 believers whose religious activities the Government
14 regards as a potential threat to its monopoly on
15 power.

16 (11) Despite reported progress in church open-
17 ings and legal registrations of religious venues, the
18 Government of Vietnam has halted most positive ac-
19 tions since the Department of State lifted the “coun-
20 try of particular concern” (CPC) designation for
21 Vietnam in November 2006.

22 (12) Unregistered ethnic minority Protestant
23 congregations, particularly Montagnards in the Cen-
24 tral and Northwest Highlands, suffer severe abuses
25 because of actions by the Government of Vietnam,

1 which have included forced renunciations of faith,
2 arrest and harassment, the withholding of social pro-
3 grams provided for the general population, confisca-
4 tion and destruction of property, subjection to severe
5 beatings, and reported deaths.

6 (13) There has been a pattern of violent re-
7 sponses by the Government to peaceful prayer vigils
8 and demonstrations by Catholics for the return of
9 Government-confiscated church properties. Pro-
10 testers have been harassed, beaten, and detained
11 and church properties have been destroyed. Catholics
12 also continue to face some restrictions on selection
13 of clergy, the establishment of seminaries and semi-
14 nary candidates, and individual cases of travel and
15 church registration.

16 (14) In May 2010 the village of Con Dau, a
17 Catholic parish in Da Nang, faced escalated violence
18 during a funeral procession as police attempted to
19 prohibit a religious burial in the village cemetery;
20 more than 100 villagers were injured, 62 were ar-
21 rested, five were tortured, and at least three died.

22 (15) The Unified Buddhist Church of Vietnam
23 (UBCV) suffers persecution as the Government of
24 Vietnam continues to restrict contacts and move-
25 ment of senior UBCV clergy for refusing to join the

1 state-sponsored Buddhist organization, the Govern-
2 ment restricts expression and assembly, and the
3 Government continues to harass and threaten UBCV
4 monks, nuns, and youth leaders.

5 (16) The Government of Vietnam continues to
6 suppress the activities of other religious adherents,
7 including Cao Dai and Hoa Hao Buddhists who lack
8 official recognition or have chosen not to affiliate
9 with the state-sanctioned groups, including through
10 the use of detention, imprisonment, and strict Gov-
11 ernment oversight.

12 (17) Many Montagnards and others are still
13 serving long prison sentences for their involvement
14 in peaceful demonstrations in 2001, 2002, 2004,
15 and 2008. Montagnards continue to face threats, de-
16 tention, beatings, forced renunciation of faith, prop-
17 erty destruction, restricted movement, and reported
18 deaths at the hands of Government officials.

19 (18) Ethnic minority Hmong in Northern Viet-
20 nam, the Northwest Highlands, and the Central
21 Highlands of Vietnam also suffer restrictions, confis-
22 cation of property, abuses, and persecution by the
23 Government of Vietnam.

24 (19) The Government of Vietnam restricts
25 Khmer Krom expression, assembly, and association,

1 has confiscated nearly all the Theravada Buddhist
2 temples, controls all Khmer Kaon Buddhist religious
3 organizations and prohibits most peaceful protests.

4 (20) The Government of Vietnam controls near-
5 ly all print and electronic media, including access to
6 the Internet, jams the signals of some foreign radio
7 stations, including Radio Free Asia, and has de-
8 tained and imprisoned individuals who have posted,
9 published, sent, or otherwise distributed democracy-
10 related materials.

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

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

1 for child trafficking and continues to have internal
2 human trafficking.

3 (23) There are many reports of Vietnamese of-
4 ficials and employees participating in, facilitating,
5 condoning, or otherwise being complicit in severe
6 forms of human trafficking.

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

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

9 (26) The Government of Vietnam reportedly is
10 detaining tens of thousands of people, with some as
11 young as 12 years old, in government-run drug de-
12 tention centers and treating them as slave laborers.

13 (27) In 2012, over 150,000 people signed an
14 online petition calling on the Administration to not
15 expand trade with communist Vietnam at the ex-
16 pense of human rights.

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

24 (b) PURPOSE.—The purpose of this Act is to promote
25 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 for
10 fiscal year 2012 unless—

11 (A) with respect to the limitation for fiscal
12 year 2014, the President determines and cer-
13 tifies to Congress, not later than 30 days after
14 the date of the enactment of this Act, that the
15 requirements of subparagraphs (A) through (G)
16 of paragraph (2) have been met during the 12-
17 month period ending on the date of the certifi-
18 cation; and

19 (B) with respect to the limitation for sub-
20 sequent fiscal years, the President determines
21 and certifies to Congress, in the most recent
22 annual report submitted pursuant to section 6,
23 that the requirements of subparagraphs (A)
24 through (G) of paragraph (2) have been met
25 during the 12-month period covered by the re-
26 port.

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

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

7 (B) The Government of Vietnam has made
8 substantial progress toward—

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

15 (ii) returning estates and properties
16 confiscated from the churches and religious
17 communities.

18 (C) The Government of Vietnam has made
19 substantial progress toward respecting the right
20 to freedom of expression, assembly, and associa-
21 tion, including the release of independent jour-
22 nalist, bloggers, and democracy and labor ac-
23 tivists.

24 (D) The Government of Vietnam has made
25 substantial progress toward repealing or revis-

1 ing laws that criminalize peaceful dissent, inde-
2 pendent media, unsanctioned religious activity,
3 and nonviolent demonstrations and rallies, in
4 accordance with international standards and
5 treaties to which Vietnam is a party.

6 (E) The Government of Vietnam has made
7 substantial progress toward allowing Viet-
8 nameese nationals free and open access to
9 United States refugee programs.

10 (F) The Government of Vietnam has made
11 substantial progress toward respecting the
12 human rights of members of all ethnic and mi-
13 nority groups.

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

22 (b) EXCEPTION.—

23 (1) CONTINUATION OF ASSISTANCE IN THE NA-
24 TIONAL INTEREST.—Notwithstanding the failure of
25 the Government of Vietnam to meet the require-

1 ments of subsection (a)(2), the President may waive
2 the application of subsection (a) for any fiscal year
3 if the President determines that the provision to the
4 Government of Vietnam of increased nonhumanitarian
5 assistance would promote the purpose of this
6 Act or is otherwise in the national interest of the
7 United States.

8 (2) EXERCISE OF WAIVER AUTHORITY.—The
9 President may exercise the authority under paragraph
10 (1) with respect to—

11 (A) all United States nonhumanitarian assistance
12 to Vietnam; or

13 (B) one or more programs, projects, or activities
14 of such assistance.

15 (c) DEFINITIONS.—In this section:

16 (1) NONHUMANITARIAN ASSISTANCE.—The
17 term “nonhumanitarian assistance” means—

18 (A) any assistance under the Foreign Assistance
19 Act of 1961 (including programs under
20 title IV of chapter 2 of part I of that Act, relating
21 to the Overseas Private Investment Corporation), other than—

22 (i) disaster relief assistance, including
23 any assistance under chapter 9 of part I of
24 that Act;
25 that Act;

1 (ii) assistance which involves the pro-
2 vision of food (including monetization of
3 food) or medicine;

4 (iii) assistance for environmental re-
5 mediation of dioxin-contaminated sites and
6 related health activities;

7 (iv) assistance for demining and
8 unexploded ordnance (UXO) remediation,
9 and related health and educational activi-
10 ties;

11 (v) assistance to combat severe forms
12 of trafficking in persons;

13 (vi) assistance to combat pandemic
14 diseases;

15 (vii) assistance for refugees; and

16 (viii) assistance to combat HIV/AIDS,
17 including any assistance under section
18 104A of that Act; and

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

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

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

3 (d) EFFECTIVE DATE.—This section shall take effect
4 on the date of the enactment of this Act and shall apply
5 with respect to the provision of nonhumanitarian assist-
6 ance to the Government of Vietnam for fiscal year 2014
7 and subsequent fiscal years.

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

9 (a) RADIO FREE ASIA TRANSMISSIONS TO VIET-
10 NAM.—It is the sense of Congress that the United States
11 should take measures to overcome the jamming of Radio
12 Free Asia by the Government of Vietnam and that the
13 Broadcasting Board of Governors should not cut staffing,
14 funding, or broadcast hours for the Vietnamese language
15 services of the Voice of America and Radio Free Asia,
16 which shall be done without reducing any other broadcast
17 language services.

18 (b) UNITED STATES EDUCATIONAL AND CULTURAL
19 EXCHANGE PROGRAMS WITH VIETNAM.—It is the sense
20 of Congress that any programs of educational and cultural
21 exchange between the United States and Vietnam should
22 actively promote progress toward freedom and democracy
23 in Vietnam by providing opportunities to Vietnamese na-
24 tionals from a wide range of occupations and perspectives
25 to see freedom and democracy in action and, also, by en-

1 suring that Vietnamese nationals who have already dem-
2 onstrated a commitment to these values are included in
3 such programs.

4 (c) UNITED NATIONS HUMAN RIGHTS COUNCIL.—
5 It is the sense of Congress that the Secretary of State
6 should strongly oppose, and encourage other members of
7 the United Nations to oppose, the candidacy of Vietnam
8 for membership on the United Nations Human Rights
9 Council for the term beginning in 2014.

10 **SEC. 5. RELIGIOUS FREEDOM AND HUMAN TRAFFICKING.**

11 (a) COUNTRY OF PARTICULAR CONCERN.—It is the
12 sense of Congress that Vietnam should be designated as
13 a country of particular concern for religious freedom pur-
14 suant to section 402(b) of the International Religious
15 Freedom Act of 1998 (22 U.S.C. 6442(b)).

16 (b) MINIMUM STANDARDS FOR THE ELIMINATION OF
17 HUMAN TRAFFICKING.—It is the sense of Congress that
18 the Government of Vietnam does not fully comply with the
19 minimum standards for the elimination of trafficking and
20 is not making significant efforts to bring itself into compli-
21 ance, and this determination should be reflected in the an-
22 nual report to Congress required pursuant to section
23 110(b) of the Trafficking Victims Protection Act of 2000
24 (22 U.S.C. 7107(b)).

1 **SEC. 6. ANNUAL REPORT.**

2 (a) IN GENERAL.—Not later than six months after
3 the date of the enactment of this Act and every 12 months
4 thereafter, the Secretary of State shall submit to Congress
5 a report on the following:

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

10 (2) If the President has waived the application
11 of section 3(a) pursuant to section 3(b) during the
12 reporting period—

13 (A) the national interest with respect to
14 which such a waiver was based;

15 (B) the amount of increased nonhumanitarian
16 assistance provided to the Government of
17 Vietnam; and

18 (C) a description of the type and amount
19 of commensurate assistance provided pursuant
20 to section 3(b)(1).

21 (3) Efforts by the United States Government to
22 promote access by the Vietnamese people to Radio
23 Free Asia transmissions.

24 (4) Efforts to ensure that programs with Viet-
25 nam promote the policy set forth in section 102 of
26 the Human Rights, Refugee, and Other Foreign Pol-

1 icy Provisions Act of 1996 regarding participation in
2 programs of educational and cultural exchange.

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

15 (6) A description of the development of the rule
16 of law in Vietnam, including—

17 (A) progress toward the development of in-
18 stitutions of democratic governance;

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

23 (C) the extent to which statutes, regula-
24 tions, rules, administrative and judicial deci-
25 sions, and other legal acts of the Government of

1 Vietnam are published and are made accessible
2 to the public;

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

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

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

17 (G) the extent to which laws in Vietnam
18 are written and administered in ways that are
19 consistent with international human rights
20 standards, including the rights enumerated in
21 the International Covenant on Civil and Polit-
22 ical Rights.

23 (b) CONTACTS WITH OTHER ORGANIZATIONS.—In
24 preparing the report under subsection (a), the Secretary
25 shall, as appropriate, seek out and maintain contacts with

1 nongovernmental organizations and human rights advo-
2 cates (including Vietnamese-Americans and human rights
3 advocates in Vietnam), including receiving reports and up-
4 dates from such organizations and evaluating such re-
5 ports. The Secretary shall also seek to consult with the
6 United States Commission on International Religious
7 Freedom for appropriate sections of the report.

Passed the House of Representatives August 1,
2013.

Attest:

KAREN L. HAAS,
Clerk.