

113TH CONGRESS
1ST SESSION

H. R. 1897

To promote freedom and democracy in Vietnam.

IN THE HOUSE OF REPRESENTATIVES

MAY 8, 2013

Mr. SMITH of New Jersey (for himself, Mr. ROYCE, Mr. WOLF, Ms. LOFGREN, and Mr. LOWENTHAL) introduced the following bill; which was referred to the Committee on Foreign Affairs

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 2013”.

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 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.

1 **SEC. 2. FINDINGS AND PURPOSE.**

2 (a) FINDINGS.—Congress finds the following:

3 (1) The relationship between the United States
4 and the Socialist Republic of Vietnam has grown
5 substantially since the end of the trade embargo in
6 1994, with annual trade between the two countries
7 reaching nearly \$25,000,000,000 in 2012.

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

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

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

23 (5) Although in recent years the National As-
24 sembly of Vietnam has played an increasingly active
25 role as a forum for highlighting local concerns, cor-
26 ruption, and inefficiency, the National Assembly re-

1 mains subject to the direction of the CPV and the
2 CPV maintains control over the selection of can-
3 didates in national and local elections.

4 (6) The Government of Vietnam forbids public
5 challenge to the legitimacy of the one-party state, re-
6 stricts freedoms of opinion, the press, and associa-
7 tion and tightly limits access to the Internet and
8 telecommunication.

9 (7) Since Vietnam's accession to the WTO on
10 January 11, 2007, the Government of Vietnam arbi-
11 trarily arrested and detained numerous individuals
12 for their peaceful advocacy of religious freedom, de-
13 mocracy, and human rights, including Father
14 Nguyen Van Ly, human rights lawyers Nguyen Van
15 Dai, Le Thi Cong Nhan, Cu Huy Ha Vu, and Le
16 Cong Dinh, and bloggers Nguyen Van Hai, Ta
17 Phong Tan, and Le Van Son.

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

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

1 (10) The Government of Vietnam continues to
2 limit the freedom of religion, restrict the operations
3 of independent religious organizations, and persecute
4 believers whose religious activities the Government
5 regards as a potential threat to its monopoly on
6 power.

7 (11) Despite reported progress in church open-
8 ings and legal registrations of religious venues, the
9 Government of Vietnam has halted most positive ac-
10 tions since the Department of State lifted the “coun-
11 try of particular concern” (CPC) designation for
12 Vietnam in November 2006.

13 (12) Unregistered ethnic minority Protestant
14 congregations, particularly Montagnards in the Cen-
15 tral and Northwest Highlands, suffer severe abuses
16 because of actions by the Government of Vietnam,
17 which have included forced renunciations of faith,
18 arrest and harassment, the withholding of social pro-
19 grams provided for the general population, confisca-
20 tion and destruction of property, subjection to severe
21 beatings, and reported deaths.

22 (13) There has been a pattern of violent re-
23 sponses by the Government to peaceful prayer vigils
24 and demonstrations by Catholics for the return of
25 Government-confiscated church properties. Pro-

1 testers have been harassed, beaten, and detained
2 and church properties have been destroyed. Catholics
3 also continue to face some restrictions on selection
4 of clergy, the establishment of seminaries and semi-
5 nary candidates, and individual cases of travel and
6 church registration.

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

13 (15) The Unified Buddhist Church of Vietnam
14 (UBCV) suffers persecution as the Government of
15 Vietnam continues to restrict contacts and move-
16 ment of senior UBCV clergy for refusing to join the
17 state-sponsored Buddhist organization, the Govern-
18 ment restricts expression and assembly, and the
19 Government continues to harass and threaten UBCV
20 monks, nuns, and youth leaders.

21 (16) The Government of Vietnam continues to
22 suppress the activities of other religious adherents,
23 including Cao Dai and Hoa Hao Buddhists who lack
24 official recognition or have chosen not to affiliate
25 with the state-sanctioned groups, including through

1 the use of detention, imprisonment, and strict Gov-
2 ernment oversight.

3 (17) Many Montagnards and others are still
4 serving long prison sentences for their involvement
5 in peaceful demonstrations in 2001, 2002, 2004,
6 and 2008. Montagnards continue to face threats, de-
7 tention, beatings, forced renunciation of faith, prop-
8 erty destruction, restricted movement, and reported
9 deaths at the hands of Government officials.

10 (18) Ethnic minority Hmong in Northern Viet-
11 nam, the Northwest Highlands, and the Central
12 Highlands of Vietnam also suffer restrictions, confis-
13 cation of property, abuses, and persecution by the
14 Government of Vietnam.

15 (19) The Government of Vietnam restricts
16 Khmer Krom expression, assembly, and association,
17 has confiscated nearly all the Theravada Buddhist
18 temples, controls all Khmer Kaon Buddhist religious
19 organizations and prohibits most peaceful protests.

20 (20) The Government of Vietnam controls near-
21 ly all print and electronic media, including access to
22 the Internet, jams the signals of some foreign radio
23 stations, including Radio Free Asia, and has de-
24 tained and imprisoned individuals who have posted,

1 published, sent, or otherwise distributed democracy-
2 related materials.

3 (21) People arrested in Vietnam because of
4 their political or religious affiliations and activities
5 often are not accorded due legal process as they lack
6 full access to lawyers of their choice, may experience
7 closed trials, have often been detained for years
8 without trial, and have been subjected to the use of
9 torture to admit crimes they did not commit or to
10 falsely denounce their own leaders.

11 (22) Vietnam continues to be a source country
12 for the commercial sexual exploitation and forced
13 labor of women and girls, as well as for men and
14 women legally entering into international labor con-
15 tracts who subsequently face conditions of debt
16 bondage or forced labor, and is a destination country
17 for child trafficking and continues to have internal
18 human trafficking.

19 (23) There are many reports of Vietnamese of-
20 ficials and employees participating in, facilitating,
21 condoning, or otherwise being complicit in severe
22 forms of human trafficking.

23 (24) United States refugee resettlement pro-
24 grams, including the Humanitarian Resettlement
25 (HR) Program, the Orderly Departure Program

1 (ODP), Resettlement Opportunities for Vietnamese
2 Returnees (ROVR) Program, general resettlement of
3 boat people from refugee camps throughout South-
4 east Asia, the Amerasian Homecoming Act of 1988,
5 and the Priority One Refugee resettlement category,
6 have helped rescue Vietnamese nationals who have
7 suffered persecution on account of their associations
8 with the United States or, in many cases, because of
9 such associations by their spouses, parents, or other
10 family members, as well as other Vietnamese nation-
11 als who have been persecuted because of race, reli-
12 gion, nationality, political opinion, or membership in
13 a particular social group.

14 (25) While previous programs have served their
15 purposes well, a significant number of eligible refu-
16 gees from Vietnam were unfairly denied or excluded,
17 including Amerasians, in some cases by vindictive or
18 corrupt Vietnamese officials who controlled access to
19 the programs, and in others by United States per-
20 sonnel who imposed unduly restrictive interpreta-
21 tions of program criteria. In addition, the Govern-
22 ment of Vietnam has denied passports to persons
23 who the United States has found eligible for refugee
24 admission.

1 exceeds the amount of such assistance provided for
2 fiscal year 2012 unless—

3 (A) with respect to the limitation for fiscal
4 year 2014, the President determines and cer-
5 tifies to Congress, not later than 30 days after
6 the date of the enactment of this Act, that the
7 requirements of subparagraphs (A) through (G)
8 of paragraph (2) have been met during the 12-
9 month period ending on the date of the certifi-
10 cation; and

11 (B) with respect to the limitation for sub-
12 sequent fiscal years, the President determines
13 and certifies to Congress, in the most recent
14 annual report submitted pursuant to section 6,
15 that the requirements of subparagraphs (A)
16 through (G) of paragraph (2) have been met
17 during the 12-month period covered by the re-
18 port.

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

21 (A) The Government of Vietnam has made
22 substantial progress toward releasing all polit-
23 ical and religious prisoners from imprisonment,
24 house arrest, and other forms of detention.

1 (B) The Government of Vietnam has made
2 substantial progress toward—

3 (i) respecting the right to freedom of
4 religion, including the right to participate
5 in religious activities and institutions with-
6 out interference, harassment, or involve-
7 ment of the Government, for all of Viet-
8 nam’s diverse religious communities; and

9 (ii) returning estates and properties
10 confiscated from the churches and religious
11 communities.

12 (C) The Government of Vietnam has made
13 substantial progress toward respecting the right
14 to freedom of expression, assembly, and associa-
15 tion, including the release of independent jour-
16 nalists, bloggers, and democracy and labor ac-
17 tivists.

18 (D) The Government of Vietnam has made
19 substantial progress toward repealing or revis-
20 ing laws that criminalize peaceful dissent, inde-
21 pendent media, unsanctioned religious activity,
22 and nonviolent demonstrations and rallies, in
23 accordance with international standards and
24 treaties to which Vietnam is a party.

1 (E) The Government of Vietnam has made
2 substantial progress toward allowing Viet-
3 namese nationals free and open access to
4 United States refugee programs.

5 (F) The Government of Vietnam has made
6 substantial progress toward respecting the
7 human rights of members of all ethnic and mi-
8 nority groups.

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

17 (b) EXCEPTION.—

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

24 (A) the President determines that the pro-
25 vision to the Government of Vietnam of in-

1 creased nonhumanitarian assistance would pro-
2 mote the purpose of this Act or is otherwise in
3 the national interest of the United States; and

4 (B) the Federal Government provides as-
5 sistance, at levels commensurate with, or ex-
6 ceeding, any increases in nonhumanitarian as-
7 sistance to Vietnam, that supports—

8 (i) training about the obligation of the
9 Government of Vietnam to respect the
10 rights enumerated in the International
11 Covenant on Civil and Political Rights;

12 (ii) noncommercial rule of law pro-
13 gramming; and

14 (iii) measures to overcome the jam-
15 ming of Radio Free Asia by the Govern-
16 ment of Vietnam.

17 (2) EXERCISE OF WAIVER AUTHORITY.—The
18 President may exercise the authority under para-
19 graph (1) with respect to—

20 (A) all United States nonhumanitarian as-
21 sistance to Vietnam; or

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

24 (c) DEFINITIONS.—In this section:

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

3 (A) any assistance under the Foreign As-
4 sistance Act of 1961 (including programs under
5 title IV of chapter 2 of part I of that Act, relat-
6 ing to the Overseas Private Investment Cor-
7 poration), other than—

8 (i) disaster relief assistance, including
9 any assistance under chapter 9 of part I of
10 that Act;

11 (ii) assistance which involves the pro-
12 vision of food (including monetization of
13 food) or medicine;

14 (iii) assistance for environmental re-
15 mediation of dioxin-contaminated sites and
16 related health activities;

17 (iv) assistance to combat severe forms
18 of trafficking in persons;

19 (v) assistance to combat pandemic
20 diseases;

21 (vi) assistance for refugees; and

22 (vii) assistance to combat HIV/AIDS,
23 including any assistance under section
24 104A of that Act; and

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

3 (2) SEVERE FORM OF TRAFFICKING IN PER-
4 SONS.—The term “severe form of trafficking in per-
5 sons” means any activity described in section 103(8)
6 of the Trafficking Victims Protection Act of 2000
7 (Public Law 106–386 (114 Stat. 1470); 22 U.S.C.
8 7102(8)).

9 (d) EFFECTIVE DATE.—This section shall take effect
10 on the date of the enactment of this Act and shall apply
11 with respect to the provision of nonhumanitarian assist-
12 ance to the Government of Vietnam for fiscal year 2014
13 and subsequent fiscal years.

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

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

24 (b) UNITED STATES EDUCATIONAL AND CULTURAL
25 EXCHANGE PROGRAMS WITH VIETNAM.—It is the sense

1 of Congress that any programs of educational and cultural
2 exchange between the United States and Vietnam should
3 actively promote progress toward freedom and democracy
4 in Vietnam by providing opportunities to Vietnamese na-
5 tionals from a wide range of occupations and perspectives
6 to see freedom and democracy in action and, also, by en-
7 suring that Vietnamese nationals who have already dem-
8 onstrated a commitment to these values are included in
9 such programs.

10 (c) UNITED NATIONS HUMAN RIGHTS COUNCIL.—

11 It is the sense of Congress that the Secretary of State
12 should strongly oppose, and encourage other members of
13 the United Nations to oppose, the candidacy of Vietnam
14 for membership on the United Nations Human Rights
15 Council for the term beginning in 2014.

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

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

22 (b) MINIMUM STANDARDS FOR THE ELIMINATION OF
23 HUMAN TRAFFICKING.—It is the sense of Congress that
24 the Government of Vietnam does not fully comply with the
25 minimum standards for the elimination of trafficking and

1 is not making significant efforts to bring itself into compli-
2 ance, and this determination should be reflected in the an-
3 nual report to Congress required pursuant to section
4 110(b) of the Trafficking Victims Protection Act of 2000
5 (22 U.S.C. 7107(b)).

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

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

11 (1) The determination and certification of the
12 President that the requirements of subparagraphs
13 (A) through (G) of section 3(a)(2) have been met,
14 if applicable.

15 (2) If the President has waived the application
16 of section 3(a) pursuant to section 3(b) during the
17 reporting period—

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

20 (B) the amount of increased nonhumani-
21 tarian assistance provided to the Government of
22 Vietnam; and

23 (C) a description of the type and amount
24 of commensurate assistance provided pursuant
25 to section 3(b)(1)(B).

1 (3) Efforts by the United States Government to
2 promote access by the Vietnamese people to Radio
3 Free Asia transmissions.

4 (4) Efforts to ensure that programs with Viet-
5 nam promote the policy set forth in section 102 of
6 the Human Rights, Refugee, and Other Foreign Pol-
7 icy Provisions Act of 1996 regarding participation in
8 programs of educational and cultural exchange.

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

21 (6) A description of the development of the rule
22 of law in Vietnam, including—

23 (A) progress toward the development of in-
24 stitutions of democratic governance;

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

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

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

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

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

24 (G) the extent to which laws in Vietnam
25 are written and administered in ways that are

1 consistent with international human rights
2 standards, including the rights enumerated in
3 the International Covenant on Civil and Polit-
4 ical Rights.

5 (b) CONTACTS WITH OTHER ORGANIZATIONS.—In
6 preparing the report under subsection (a), the Secretary
7 shall, as appropriate, seek out and maintain contacts with
8 nongovernmental organizations and human rights advo-
9 cates (including Vietnamese-Americans and human rights
10 advocates in Vietnam), including receiving reports and up-
11 dates from such organizations and evaluating such re-
12 ports. The Secretary shall also seek to consult with the
13 United States Commission on International Religious
14 Freedom for appropriate sections of the report.

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