

**THE UNITED STATES AND VIETNAM: EXAMINING  
THE BILATERAL RELATIONSHIP**

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**HEARING**  
BEFORE THE  
SUBCOMMITTEE ON EAST ASIAN  
AND PACIFIC AFFAIRS  
OF THE  
COMMITTEE ON FOREIGN RELATIONS  
UNITED STATES SENATE  
ONE HUNDRED TENTH CONGRESS  
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# **THE UNITED STATES AND VIETNAM: EXAMINING THE BILATERAL RELATIONSHIP**

**WEDNESDAY, MARCH 12, 2008**

U.S. SENATE,  
SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS,  
COMMITTEE ON FOREIGN RELATIONS,  
*Washington, DC.*

The subcommittee met, pursuant to notice, at 2:30 p.m., in room SD-419, Dirksen Senate Office Building, Hon. Barbara Boxer (chairman of the subcommittee) presiding.

Present: Senators Boxer, Webb, and Murkowski.

## **OPENING STATEMENT OF HON. BARBARA BOXER, U.S. SENATOR FROM CALIFORNIA**

Senator BOXER. The hearing will come to order. Welcome to everyone. Today the Senate Foreign Relations Subcommittee on East Asian and Pacific Affairs meets to examine the United States/Vietnam bilateral relationship, with a focus on human rights.

The United States/Vietnamese relationship has grown dramatically over the past decade. In just a few years, the United States and Vietnam have normalized trade relations, signed an International Military Education Training Agreement, and held a number of high-level visits, including that of Vietnamese President Nguyen Minh Triet to Washington last year—the first such visit by a Vietnamese head of state since the end of the Vietnam war.

Educational exchanges are increasing, with more and more Vietnamese students coming to study in America. Commerce is increasing; roughly \$12 billion in goods and services were exchanged between the United States and Vietnam last year alone.

This is translating not just into improved relations between our two countries, but into improved quality of life for many Vietnamese. According to CRS, poverty levels in Vietnam have been cut in half since the early nineties to less than 30 percent. And I understand that Vietnam has even set a goal of becoming a fully industrialized country by 2020.

But despite these positive trends, there is one area in particular where we have failed to see significant progress, and that is on the issue of human rights. And that is the reason I wanted to have this hearing. Despite its public denials, we know from press reports and human rights groups that Vietnam's one party authoritarian government routinely takes punitive actions to silence those who speak out against the government's undemocratic policies.

Democracy activists are frequently imprisoned for their peaceful advocacy of opposing political views. In late 2006 and early 2007,

Vietnam instituted one of its harshest crackdowns in 20 years against those calling for a peaceful, political change, arresting hundreds of activists, including Nguyen Van Ly.

I have a picture of Nguyen Van Ly to show you. I am certain most of you have seen it. Father Ly was arrested in February 2007, after a short trial in which he was denied a defense attorney, and physically muzzled, as you can see, by Vietnamese authorities. Father Ly was convicted of "carrying out propaganda against the Socialist Republic of Vietnam," and he was sentenced to 8 years in prison.

The Vietnamese Government also arrested two prominent human rights attorneys, Nguyen Van Dai and Le Thi Cong Nhan, as well as Le Quoc Quan, a lawyer who completed a fellowship at the National Endowment for Democracy here in Washington, DC. While Le Quoc Quan has been released, the other three remain in jail.

This all happened shortly after the United States removed Vietnam from its list of countries of particular concern, granted Vietnam permanent normalized trade relations, and supported Vietnam's bid to join the World Trade Organization. It also happened in the runup to the Vietnamese President's visit to the United States last June.

Unfortunately, this was not the end of the arrests. On November 17, 2007, Mr. Nguyen Quoc Quan was arrested in Vietnam. Mr. Nguyen is a U.S. citizen, a longtime Sacramento, California, resident, and father of two. He had traveled to Vietnam to promote nonviolent, democratic change.

According to available news reports, Mr. Nguyen was arrested for the peaceful distribution of prodemocracy leaflets. And here you see his photograph; it looks like it might have been taken at the families' home in Sacramento. Despite calls from the State Department and Members of Congress, including myself and Senator Feinstein, Mr. Nguyen remains in a Vietnamese prison today, and is being held without charge.

His wife is here today, Mrs. Mai-Huong Ngo. I invite her to stand, and I thank her for her courage, and I want to tell her that we will not ever forget her husband, and we will do everything that we can to help.

The stories that I have just highlighted are not the type of news that we want to hear out of a country that is one of the largest recipients of United States aid in East Asia. It certainly is not something that I relish. I got my start in politics in the days of the Vietnam war, so I supported normalization of relations. But we have to expect something in return.

At the end of 2007, the United States Commission on International Religious Freedom summed up Vietnam's recent actions this way: "Vietnam's overall human rights record remains very poor and has deteriorated in the past year. Dozens of legal and political reform advocates, free speech advocates, labor unionists, and independent religious leaders and religious freedom advocates have been arrested, placed under home detention and surveillance, threatened, intimidated, and harassed."

The Commission concluded that: "The U.S. Government and its officials must continue to speak with a single, strong voice on

human rights, including religious freedom. Better United States/Vietnamese relations depend upon it.”

I certainly do agree with those sentiments. During today’s hearing, it is my hope that we will be able to shed some light on the situation, and also identify ways to move the United States/Vietnam relationship forward while addressing human rights, trade, and POW/MIA issues.

Before I ask Senator Murkowski and then Senator Webb for their opening statements, I want to just go through our witnesses today.

On our first panel, we will hear from Christopher Hill, the Assistant Secretary of State for East Asian and Pacific Affairs. As many of you know, Secretary Hill has spent the last few years serving as our country’s lead negotiator to the six-party talks regarding North Korea. I think I speak for so many of us, Ambassador, when I say thank you for your tireless work. Secretary Hill just returned from Vietnam, and I look forward to his insights into the situation there.

On our second panel, we will hear from Ms. Janet Nguyen, a county supervisor from Orange County, California. The supervisor represents one of the largest Vietnamese-American communities in the United States. She was born in Saigon, Vietnam, and escaped with her family, passing through numerous refugee camps before arriving in the United States in 1981. The supervisor will give a statement addressing the concerns of the Vietnamese-American community in California.

On our third panel, we will hear from Mr. Matthew Daley, the president of the US-ASEAN Business Council. Mr. Daley was a career member of the U.S. Foreign Service before retiring in 2004 from his position as the Deputy Assistant Secretary of State for East Asian and Pacific Affairs.

We’ll also hear from Sophie Richardson, the advocacy director for the Asia Division of Human Rights Watch. She’s responsible for the organization’s oversight work in Vietnam, and she has extensive experience in Asia.

In addition, we’ll hear from Ann Mills Griffiths, who for 30 years has been the executive director of the National League of POW/MIA Families. Having traveled to Vietnam on numerous occasions, Ms. Mills Griffiths has extensive experience on POW/MIA issues.

And finally, we will hear from Do Hoang Diem, a resident of Orange County. Diem Do is the chairman of Viet Tan, or the Vietnam Reform Party, an organization dedicated to the peaceful advocacy of political change in Vietnam. He escaped from Vietnam on April 30, 1975, and arrived in the United States as a refugee in June 1975. Diem Do met with President Bush last year to discuss the human rights situation in Vietnam.

I look forward to hearing from all of our witnesses, and I certainly look forward to hearing from my colleague, Senator Murkowski.

**STATEMENT OF HON. LISA MURKOWSKI, U.S. SENATOR FROM ALASKA**

Senator MURKOWSKI. Thank you, Madam Chairman, and thank you for holding this hearing on what is fast becoming a very sig-

nificant bilateral relationship between the United States and Vietnam.

When you look at the warmth with which the Vietnamese have embraced the friendship with the United States, some may suggest that this is surprising, but given the recent history, you think about the past century for Vietnam, and Vietnam has almost continuously been at war. So the opportunity for peace is one that they won't pass up.

The Senate has played a significant role in getting us to our current position, with a Senate Select Committee on POW/MIA affairs, led by Senator Kerry, conducting an independent investigation of the POW/MIA issue, helping to lay the groundwork for relations to move forward, along with the approval of a bilateral trade agreement in 2001, and extending permanent normal trade relation status in 2006.

So it is inherent upon us to continue down this path of building upon our growing relations, to be supportive when and where we can, but at the same time not to be afraid to offer contrary views if we disagree with one another. In a mature relationship, we recognize that you don't always agree on every issue, but we will be able to at least share our differences and hopefully work through them.

Madam Chairman, you mentioned California has a sizable Vietnamese-American population. I understand it's about as many as—as many Vietnamese live in California as we have Alaskans in the entire State. But we have a strong Vietnamese population in my State, as well. We've got about 1,500; and that might not seem like a lot, but for us in the State, we embrace them. They've become integrated into our communities and neighborhoods. We do have an interest in ensuring that the United States and Vietnamese relations remain strong and move forward.

You have appropriately noted the challenges that face us in the area of human rights. And, Secretary Hill, in your written statement, you certainly speak to the problems that remain in the area of human rights. We look forward to hearing this being fleshed out further in the testimony here this afternoon.

I appreciate all of the witnesses that have agreed to join us, and for the opportunity to have the hearing.

Thank you.

Senator BOXER. Thank you so much, Senator.

Senator Webb.

**STATEMENT OF HON. JIM WEBB, U.S. SENATOR FROM VIRGINIA**

Senator WEBB. Thank you, Madam Chairman. I would like to say that I got my professional start—not my political start—on the Vietnamese issue, by serving in Vietnam as a Marine in Quang Nam Province. And I have a special interest in how we're going to bridge the gap, not only between our country and Vietnam, but also between the Vietnamese community in the United States and the Vietnamese who continue to rule Vietnam.

We have a kind of misperception that's crept into a lot of our dialogue over the past 20 years or so that this was a war between the United States and Vietnam. It was not. It was an effort by the



United States to assist an incipient democracy that was growing in South Vietnam that was not successful for a lot of different reasons.

But this gives us a special obligation to address issues like human rights in a different sort of way than we do with, perhaps, any other country, because there is a sizable percentage of the population in Vietnam, and a majority of the population of Vietnamese descent in the United States who are aligned with us in attempting to prevent a Communist takeover in Vietnam.

So these are not simply issues of human rights; they're issues of how the government has been treating people who were aligned with the United States and the attempt of the South Vietnamese Government to obtain a democracy in South Vietnam.

So that's an insight that I think we need to emphasize when we have these sorts of hearings. I've been privileged for more than 30 years to be working on this issue in one way or another, including working with the Vietnamese communities since the late 1970s, and having returned to Vietnam probably 20 times since 1991, and watching the improvements that, though still need to be greater, have been taking place in Vietnam.

So this is an issue that we should take a very special interest in as a country, because the number of people, who were attempting to align themselves with us, have been at risk. And I look forward very much to hearing all the witnesses today, and I thank you for holding the hearing.

Senator BOXER. Thank you, Senator. Ambassador, I hope you can share some of your wisdom with us in the next 5 to 7 minutes. We would greatly appreciate it. Please proceed.

**STATEMENT OF HON. CHRISTOPHER HILL, ASSISTANT SECRETARY, BUREAU OF EAST ASIAN AND PACIFIC AFFAIRS, DEPARTMENT OF STATE, WASHINGTON, DC**

Ambassador HILL. Thank you very much, Madam Chairman. I have, of course, a statement I'd like to read into the—or have added into the record, and then if I could read an oral statement.

Senator BOXER. Please.

Ambassador HILL. Madam Chairman, Senator Murkowski, Senator Webb, I want to thank you very much for the opportunity today to testify on the subject of the United States relationship with Vietnam. I've just returned from a trip there; in fact, my fourth in my current position. And I'm pleased to have this opportunity to share my impressions of that trip with you.

Vietnam is a country that stirs emotions in many families in the United States. We have historical ties, cultural ties, sometimes just very, very difficult memories. Yet, Vietnam is a country whose economic and democratic transition is important to the United States, and it is important that we remain engaged with Vietnam and work with Vietnam on this.

That transformation in Vietnam has enabled—it's in part been helped by the expansion of our bilateral relationship. We are working constructively with Vietnam on a growing range of important issues. Of course, many problems remain, and Madam Chairman, you alluded to a very important problem that remains, and that is human rights.

But overall, we have made broad progress where our interests have coincided, and we've also been able to engage candidly on issues where we differ, and I can say, Madam Chairman, I did just that just a few days ago. We believe this continued engagement of Vietnam is very much in the United States interests.

Engagement can be seen most clearly in our economic relations. And here, I must say our ties are thriving. Two-way trade has risen to some \$12.5 billion in 2007, and that trade has been buoyed by Vietnam's entry into the World Trade Organization, and the continued success in implementing our Bilateral Trade Agreement. U.S. exports in particular have been growing—some 70 percent last year. Investments from United States firms are also flowing into Vietnam—over \$2.5 billion since 1988, and \$639 million last year alone.

The U.S. assistance, thanks to the U.S. taxpayers, has improved good governance and transparency in Vietnam. U.S.-funded advisers have collaborated on a range of new laws to promote a level playing field in the private sector. Our cooperation on regional security matters is also expanding steadily through engagement in ASEAN, where Vietnam is a member. Also, in APEC and at the U.N. Security Council, which Vietnam joined in January of this year for a 2-year term.

We're pleased to see Vietnam support a new sanctions resolution on Iran at the U.N. Security Council just last week. We also have had a very active IMET Program. That is a military cooperation program involving training of English to their officers. We've had regular U.S. Navy port calls, and are working to build capacity for peacekeeping and search and rescue.

We have worked very closely with Vietnam on health issues. In particular, Vietnam is one of 15 focus countries under the President's Emergency Plan for AIDS relief, PEPFAR. And in fiscal year 2007, we gave some \$66 million for HIV prevention. We are also working very closely with Vietnam on the threat of avian influenza. Four people have died from that virus in Vietnam. And last year, we gave some \$10 million to strengthen emergency preparedness, laboratory capacity, and public awareness.

But in human rights, this is clearly a work in progress. Let me say first that Vietnam's transformation and its engagement with the United States has helped open its society and expand social freedoms. The average Vietnamese citizen today has more freedom to live, work, and practice his or her faith than at any time since 1975. But there is no question that serious deficiencies remain in political and civil liberties.

People cannot choose their government, and risk detention for peaceful expression of political views. The government maintains significant restrictions on freedom of the press, on speech, on assembly, and Internet content. In early 2007, in particular, the government launched a crackdown on political descent and arrested many members of fledgling prodemocracy groups.

In November, authorities arrested a group of prodemocracy activists, including two American citizens. Several individuals were released following pressure from the administration and from the Congress, but one American, Dr. Nguyen Quoc Quan, still remains in prison. And among the prominent dissidents still in prison are

Father Ly, Nguyen Van Dai, and Le Thi Cong Nhan are still—they are still awaiting their freedom. And during my visit to Hanoi this month, I raised all of these cases with senior Vietnamese officials, urging that those arrested for peacefully expressing their views should be released immediately.

There have been some gains in the last 2 years: A resumption of our bilateral human rights dialogue, the release of some high-profile prisoners, greater access to the Central Highlands, and the repeal of Administrative Decree 31, which had the effect of allowing authorities to circumvent due process.

We raise human rights issues regularly and at all levels with the Vietnamese authorities. Our annual human rights dialogue is an important channel to raise these concerns, and we do so without pulling any punches at all. We plan the next round this May in Hanoi, and I have emphasized that we need to focus on concrete actions to produce real improvements.

We're urging Vietnam to take steps now, such as ending the use of catch-all national security provisions, such as Article 88 of the Criminal Code, which outlaws conducting propaganda against the state. We've urged them to release all remaining political prisoners.

In the area of religious freedom, it has made some significant gains. From 2004 to 2006, the State Department designated Vietnam as a country of particular concern on religious freedom. And during that time, we negotiated with the Vietnamese Government an unprecedented agreement that committed them to significant religious freedom reforms. By November 2006, Vietnam was no longer on the list of serious violators of religious freedom; they had been taken off the list of countries of particular concern.

Some of these key reforms include passage of a new law that banned forced renunciations, that allowed registration of hundreds of Protestant congregations, and we continue to monitor these. This year, we've seen some further progress. The government registered seven new denominations. And while I was in Hanoi just last week, I met with officials from the Catholic Church, and also from the Evangelical churches of Vietnam to discuss the progress with them. Indeed, Vietnam can and should do more, but we continue to work with Vietnam on this.

Another challenge to our relationship is in intercountry adoptions. We have had problems in Vietnam; problems that have created—that have been caused by fraud and some illegal activities. We are working very hard with the Vietnamese Government on this. We are working with Vietnam to accede to the Hague Convention on adoptions. We want a situation that's good for all, that's good for the child above all, that's good for the adopting family, and then make sure the process functions completely.

Finally, we work very much in Vietnam on the legacy of war. We work on trying to bring the remains of our service men and women home. We are the largest donor of humanitarian assistance, from Mine Actions Programs in Vietnam. We've given some 43 million in disability assistance. We have also helped to—together with the Congress, we have worked on difficult issues, such as Agent Orange. And we're now finalizing a plan to implement \$3 million set aside by Congress for environmental remediation and health-related programs.

In conclusion, Madam Chairman, I want to emphasize the vital role that Congress has played in advancing the United States-Vietnam relationship. It is with the support of Congress that we established diplomatic relations with Vietnam, and made it a permanent normal trading partner. As our bilateral ties have improved, Congress has reinforced our efforts and ensured that human rights and religious freedom remain very much high on our agenda.

Over the last 13 years, our relationship with Vietnam has transformed from one of conflict to one of cooperation. We're eager to do more, such as establishing a Peace Corps Program, if Vietnam is so interested, increasing—also, increasing educational opportunities for Vietnamese in this country.

There are tremendous changes in Vietnam. Problems certainly remain, especially in human rights and democracy, and we need to address them squarely and honestly. It's in our national interest to keep the United States involved in Vietnam's transformation as a partner, and when needed as a constructive critic.

Thank you very much, and I would be happy to take your questions.

[The prepared statement of Ambassador Hill follows:]

PREPARED STATEMENT OF HON. CHRISTOPHER HILL, ASSISTANT SECRETARY, BUREAU OF EAST ASIAN AND PACIFIC AFFAIRS, DEPARTMENT OF STATE, WASHINGTON, DC

#### INTRODUCTION

Chairman Boxer, Senator Murkowski, and members of the subcommittee, thank you for inviting me to testify today on the subject of United States-Vietnam bilateral relations. I have just returned from a trip to Hanoi and am pleased to have this opportunity to share my impressions of Vietnam with you.

The United States-Vietnam relationship has expanded in an impressive number of areas since we reestablished diplomatic relations with Vietnam in 1995. President Bush's trip to Hanoi in November 2006 for the Asia-Pacific Economic Cooperation forum meeting and President Triet's visit to Washington in June 2007 reflect the advances in our relationship. Problems remain, especially in the area of human rights. Overall, we have made broad progress on issues where our interests coincide, as well as in our ability to engage candidly on the areas where we differ. Continued engagement with Vietnam is clearly in U.S. interests.

#### BILATERAL TIES—FROM CONFLICT TO COOPERATION

A good starting point for reviewing how our bilateral ties have evolved is to look at the dramatic transformation Vietnam has experienced as a country. When we first began reengaging with Vietnam in the 1990s, the country was just beginning to recover from years of hard-core Marxism. Those years had ravaged an economy still reeling from war, and forced thousands into reeducation camps or to flee to the United States and other countries. Vietnam's foreign policy was marked by close alignment with the Soviet Union, and it was just ending a decade-long occupation of Cambodia.

Vietnam's leaders started reversing this dead-end approach in the late-1980s, by introducing a policy of "doi moi," or renovation, to boost economic growth. They turned away from central planning in favor of efforts to promote the private sector. Vietnam's leaders saw they had to integrate with the world economy to attract foreign trade, investment, and technology. Subsequently, they launched what has turned out to be one of the most rapid economic revolutions in modern history. The United States encouraged this new orientation and has been actively facilitating change in Vietnam for over a decade through our development assistance and trade policy.

If Vietnam can continue to implement effectively more market reforms, it has the economic potential to catch up with the Asian tigers. Vietnam's GDP grew 8.5 percent in 2007, its highest growth rate in a decade. The urban middle class is growing, and retail markets are booming. In what the World Bank has described as one of the most successful antipoverty campaigns ever, Vietnam reduced its poverty rate from more than three-quarters of the population in 1990 to under 14 percent in

2007. To succeed in its ambition to be an industrialized country by 2020, however, Vietnam will need to do more to develop its physical and human infrastructure, including tackling serious shortcomings in its education system.

Vietnam is rapidly integrating with the rest of the world. The country is increasingly influential in the Association of Southeast Asian Nations (ASEAN) and the Asia Pacific Economic Cooperation (APEC) forum, and joined the World Trade Organization (WTO) in January 2007. This January, Vietnam joined the U.N. Security Council for a 2-year term. We are working closely with Vietnam in the Council and seek to strengthen our cooperation in that important forum over the coming 2 years.

#### ECONOMIC TIES

Building on the promise of the 2001 United States-Vietnam Bilateral Trade Agreement (BTA), we have continued to expand our economic relationship through substantial growth in trade and investment. At the end of 2006, Vietnam was granted Permanent Normal Trade Relations (PNTR) with the United States. Vietnam then acceded to the WTO in January 2007, to the benefit of both our countries. In June 2007, the United States and Vietnam concluded a Trade and Investment Framework Agreement (TIFA) to support implementation of the BTA and Vietnam's WTO commitments, and to identify new opportunities to advance our trade and investment ties. Vietnam's WTO accession has helped push our two-way trade to \$12.5 billion in 2007, up 29 percent from 2006. While the trade balance remains in Vietnam's favor, U.S. exports to Vietnam grew an impressive 73 percent in 2007, three times as fast as Vietnamese exports to the United States. As President Triet affirmed during his June visit to the United States, Vietnam welcomes more U.S. investment. Commerce Secretary Gutierrez led executives from 22 major U.S. companies on a trade mission to Vietnam in November 2007 to seek deals and expand our exports.

U.S. assistance for Vietnam's economic reforms focuses on good governance and transparency and has helped make possible our robust trade and investment ties. Through USAID-funded projects such as Support for Trade Acceleration, or "STAR," we have provided advice and input to Vietnam on a range of new laws related to implementation of Vietnam's BTA and WTO commitments. These efforts will help transform the Vietnamese economy by promoting a level playing field for the private sector, including both foreign and domestic companies. In the same vein, USAID's funding for the Vietnam Competitiveness Initiative has established an index that ranks each province on ease of doing business, based on the views of Vietnam's own firms. The Vietnamese Government is using that tool to encourage greater transparency and anticorruption measures at the local level. As a result, private Vietnamese firms have new influence over their own government's economic policy-making. Some Vietnamese leaders have voiced interest in expanding our economic governance programs into broader legal and administrative reform efforts.

#### REGIONAL AND SECURITY ISSUES

On regional and security issues, our cooperation with Vietnam is steadily expanding. In ASEAN and APEC, our engagement on issues such as free trade and counterterrorism has increased with Vietnam's rising influence. At the U.N. Security Council, we are seeking their backing on the full range of international peace and security issues. In a first big test of its cooperation, Vietnam voted earlier this month in favor of the new Council resolution imposing sanctions on Iran. We hope to strengthen that cooperation during Vietnam's tenure in the UNSC. Bilaterally, we are working to help build capacity for peacekeeping and search-and-rescue through International Military Education and Training (IMET) programs, and U.S. Navy ships now call at Vietnamese ports. The USNS *Mercy* will make a planned visit to Vietnam this summer.

#### COMBATING HIV/AIDS AND AVIAN INFLUENZA

Over the past few years, our cooperation with Vietnam on critical health issues, such as avian influenza and HIV/AIDS, has been expanding rapidly. Vietnamese authorities have been open and enthusiastic partners in combating both global health threats. Vietnam has welcomed U.S. assistance to combat avian influenza and has worked closely with us on this issue. Outbreaks of avian influenza have already caused four human deaths in Vietnam this year. We are the second largest bilateral donor in Vietnam, contributing approximately \$23 million since 2005, including \$10 million in FY 2007 alone. Our assistance has focused on building emergency preparedness, laboratory capacity, and public awareness. We are working with Vietnam to move from an emergency-oriented response to a sustained programmatic approach. Vietnam is also 1 of 15 focus countries under the President's Emergency

Plan for AIDS Relief (PEPFAR), and work on HIV/AIDS makes up the lion's share of our official assistance to Vietnam. In fiscal year 2007 alone, we will spend \$66 million on HIV prevention, care, and treatment.

#### HUMAN RIGHTS

Vietnam's economic and cultural integration into the world has helped open its society and expand social freedoms. Vietnamese citizens today enjoy greater freedom to live, work, and practice their faith, and most enjoy significantly improved standards of living.

However, in the area of political and civil liberties, serious deficiencies remain. People cannot freely choose their government, they risk arrest for peacefully expressing their political views, and they lack the right of fair and expeditious trials. The government continues to maintain significant restrictions on freedom of the press, speech, and assembly and Internet content. In early 2007, the government launched a crackdown on political dissent, arresting and imprisoning many individuals involved in the prodemocracy group Bloc 8406, and other fledgling prodemocracy groups. Some are still being held.

In November 2007, Vietnamese authorities arrested a group of prodemocracy activists including two American citizens. After pressure from the administration and Congress, and many others in the international community, several individuals were released, including one American. Another American, Dr. Nguyen Quoc Quan, remains held in a jail in Ho Chi Minh City. Among the prominent dissidents who are still imprisoned are Father Ly, Nguyen Van Dai and Le Thi Cong Nhan. During my visit to Hanoi this month, I raised all these cases with senior Vietnamese officials, stressing that we object to the arrest of any individual for peacefully expressing his or her views, and making clear that anyone arrested on that basis should be released immediately.

Despite the setbacks, there have been some positive developments over the past 2 years: The resumption of our bilateral human rights dialogue, the release of some high-profile prisoners of concern, greater access by the international community to the Central Highlands and to prisons to assess conditions, and the repeal of Administrative Decree 31, which allowed authorities to circumvent due process. Visiting Vietnamese officials, such as a high-level group visiting Washington this month from the Central Highlands, are showing more interest in meeting with NGOs, Vietnamese-American groups, and Members of Congress to discuss human rights issues. We strongly encourage this type of engagement. Vietnam has also taken some encouraging steps to combat corruption. Last week, the top Communist Party official in Can Tho province in southern Vietnam was reprimanded and fired for corruption related to improper land deals.

Our annual Human Rights Dialogue also provides an important channel to raise concerns with the Government of Vietnam. We held our second meeting since the resumption of the Dialogue in April 2007, and plan a third meeting this May in Hanoi. It is a frank exchange where we raise our concerns and pull no punches. The Vietnamese Government says they value it, and have made limited improvements, but they must do more. We have emphasized that the Dialogue has to focus on concrete action by the government to improve the human rights situation, and must produce tangible results.

Our message to Vietnam is that the United States cares about this issue not because we seek to destabilize their government, but because we value respect for universal human rights and human dignity. We also demonstrate to Vietnam that improving the protection of human rights is in its interests and will make the country stronger. There are steps we would like the Vietnamese to take right now, such as ending the use of catch-all "national security" provisions like article 88 of the Criminal Code, which outlaws "conducting propaganda against the State," and the release of all remaining political prisoners.

Madame Chairman, I assure you that we will continue to push vigorously for a greater expansion of the civil and political rights of all Vietnamese citizens and for the release of all political prisoners.

#### RELIGIOUS FREEDOM

In contrast to the slow progress on political rights, religious freedom in Vietnam has expanded significantly. From 2004 to 2006, the State Department designated Vietnam as a "Country of Particular Concern" (CPC) regarding religious freedom. At that time, many religious communities faced harassment and forced renunciations, and the country had 45 known religious prisoners. Official policy supported a hard-line approach, especially in some rural areas considered "sensitive" by Vietnam's Government. By November 2006, Vietnam had addressed the problems that

constituted severe violations of religious freedom as defined by the 1998 International Religious Freedom Act.

The Vietnamese Government explicitly changed many aspects of official policy that had restricted religious practice and introduced a new law on religion that banned forced renunciation, enshrined individual freedom of religion, and allowed registration of hundreds of Protestant congregations. The government released all those individuals that the United States had identified as prisoners of concern for reasons connected to their faith. It has invited any information on allegations that the law is not being carried out. We have monitored the implementation of the expansion of religious freedom carefully—and been given the access to do so. We have found cases in which local authorities have not followed the new law. When that happens, we have either brought them to the attention of the government, or monitored efforts by religious groups to ensure compliance with the new law.

During my visit to Hanoi, I met with officials of the Catholic Church and Evangelical Church of Vietnam (North), who confirmed there have been significant improvements, although they also noted concerns over property disputes and the pace of registrations of new denominations. In February, Catholics in Hanoi staged a series of large-scale prayer vigils urging the government to return a property once used by the Papal Nuncio. Before this confrontation reached a crisis point, the Hanoi Archdiocese and the government agreed to resolve the dispute through negotiation. The leaders I met also called for the government to permit a greater role for churches in charitable and social activities, such as poverty alleviation, education, health care, and disaster relief.

Since the CPC designation was removed, there has been further progress: The government has issued seven national-level registrations of denominations, and held over 3,000 training courses and 10,000 training workshops for officials throughout the country on how to implement the new law on religion. Relations with the Vatican have also improved. A meeting between Prime Minister Dung and Pope Benedict XVI led to the launch last October of a Joint Working Group to establish diplomatic relations.

Vietnam can and should do more to advance religious freedom. We would like to see the government quicken the pace of registrations for new denominations and accelerate the training of local officials on the new legal framework. Vietnam, however, no longer qualifies as a severe violator of religious freedom. Key religious leaders from different faiths within the country have confirmed this. It is vital that we continue to monitor the situation. It is also important that we recognize progress and urge that the good work continue.

#### ADOPTION

Another challenge to our bilateral relationship is intercountry adoptions. Hundreds of caring American parents have adopted children from Vietnam since the United States and Vietnam resumed processing intercountry adoptions in 2006. This renewed interest has put great pressure on a Vietnamese social and governmental infrastructure that, in our evaluation, simply has been unable to respond adequately. We have observed a disturbing trend of fraud and illegal activity in recent months that threatens the integrity of the program by denying birth parents their rights and placing the lives of infants at risk. Our goal is to work closely with the Vietnamese Government and other interested parties to reform the international adoption process in Vietnam while facilitating cases that meet the requirements of Vietnamese and United States law and regulations.

We have raised these concerns at high levels with Vietnam and urged their government to accede to the Hague Convention on Adoptions. We have offered technical assistance to develop the institutions that would enable them to become compliant with safeguards in the Hague Convention. Our goal is to work with Vietnam to fix the system, so that we can process adoptions from Vietnam while ensuring the protection of the children, the birth parents, and the adoptive parents.

#### EDUCATION

In a further sign of our growing bilateral relations, our educational ties with Vietnam are expanding rapidly. Young Vietnamese leaders have a great appetite to learn about American society and values; our support for sharing the American experience with them is a vital long-term investment. The Fulbright program for Vietnam is one of our largest in Asia; we are working to expand it further with corporate support. The Harvard-affiliated Fulbright Economics Training Program in Ho Chi Minh City is a highly successful program giving hundreds of mid-level Vietnamese officials the public policy tools to keep the country on its market-driven path. The Vietnam Education Foundation (VEF) supports Vietnamese students of

science and technology currently in U.S. colleges. Our Ambassador in Hanoi has been active in bringing harmony to all the U.S. efforts on education. Vietnam's top leaders say they want the Peace Corps in Vietnam, and the Peace Corps has discussed with the Vietnamese Government the possibility of establishing a country program. We hope to see those talks progress.

#### LEGACIES OF WAR

Finally, it is important to note that we continue to work closely with Vietnam on issues related to the legacy of war. Our efforts to obtain the fullest possible accounting for our personnel missing from the Vietnam war remain an important component of our bilateral relationship. Since 1973, we have been able to repatriate and identify the remains of 883 Americans, 627 of whom were lost in Vietnam. We continue to enjoy good cooperation from Vietnam in the accounting mission, but have requested additional records pertaining to their forces in areas of Laos and Cambodia where we still have unresolved cases. Later this year, we will meet with our Vietnamese counterparts to assess 20 years of cooperation on the accounting mission, and assess how we can do the accounting mission better.

The United States is the largest donor of humanitarian assistance for mine-action programs to Vietnam, providing \$40 million since 1993. In addition, we have given \$43 million in disability assistance since 1989 through the Leahy War Victims Fund, set up to assist Vietnamese with disabilities of all kinds. Support from Congress is also helping us defuse a delicate bilateral issue: The defoliant Agent Orange and its contaminant dioxin. Since 2002, we have given \$2 million to help Vietnam build capacity to deal with environmental challenges posed by dioxin, and we are now devising a plan to implement \$3 million more set aside by Congress for environmental remediation and health-related programs. U.S. engagement has spurred other donors, such as the Ford Foundation, UNDP, and the Czech Republic, to join in a multilateral effort to address the impact of dioxin. While the United States and Vietnam may disagree on aspects of this emotional issue, we have reached a point with Vietnam where we can focus on helping disabled individuals regardless of cause, and address this issue in a cooperative manner, increasingly free of hyperbole.

#### CONCLUSION

Madame Chairman, before I close, I want to emphasize the vital role that Congress has played in advancing United States-Vietnam relations over the years. With the support of Congress, we reestablished diplomatic relations with Vietnam and made it a permanent normal trading partner. As Vietnam and our bilateral ties have improved, Congress has reinforced our efforts to expand our engagement, and ensured that human rights and religious freedom remain high priorities in our relationship.

Over the last 13 years, our relationship with Vietnam has transformed from one of conflict to one of cooperation. The country has changed tremendously in that time, and the lives of the vast majority of its people have improved in clear and measurable ways. Problems remain, especially in the area of human rights and democracy, and we must address them squarely. It is in our national interests to keep the United States involved in Vietnam's transformation as a partner, and when needed, as a constructive critic.

Senator BOXER. Thank you so much, Ambassador. According to the U.S. Commission on International Religious Freedom, the Vietnamese Government continues to harass and detain members of religious groups that seek independence or autonomy from government control. In October 2007, Vietnamese President Nguyen Minh Triet publicly threatened to arrest the venerable Thich Quang Do, who is under detention along with 12 other leaders of the Unified Buddhist Church of Vietnam.

Up to 12 Hoa Hao Buddhists have been arrested in the past few years, including four sentenced to prison terms in 2007 for a peaceful hunger strike protesting past imprisonments of fellow Hao Hao. Five Khmer Buddhists were also sentenced last year for leading a peaceful demonstration to protest religious freedom restrictions. Five Cao Dais remain in prison for distributing pamphlets critical of restrictions on their activities. And hundreds of Montagnard



Protestants remain imprisoned after staging demonstrations for land rights and religious freedom.

In addition, Father Nguyen Van Ly, Nguyen Van Dai, and Le Thi Cong Nhan were all charged and imprisoned for the peaceful expression of universally guaranteed rights to freedom of speech, association, and religion.

Now, the U.S. Commission on International Religious Freedom has concluded in a report that these prisoners should at least be considered for their activities to promote religious freedom. As you probably know, they're imprisoned for crimes against the state. Despite the U.S. Commission's Report, the 2007 State Department International Religious Report states that, "Vietnam no longer detains any prisoners of concern."

Such prisoners are one of the main criteria used for determining whether a country will be designated as a country of particular concern, or CPC. Why are the imprisoned individuals that I just mentioned not considered prisoners of concern?

Ambassador HILL. Well, first of all, let me say that we have continued to be very concerned about both issues of political speech, but also religious belief. And in some of these cases where there have been religious figures, such as Father Ly, we believe many of these have been violations of their political rights, their rights to speak out.

We have raised these issues with the Vietnamese authorities. We will continue to do so, as such religious leaders are being held primarily for political activism rather than religious views. But we certainly don't mean to suggest that Vietnam's record on religious freedom is perfect; what we are looking at is whether it is improved or not, and we do believe there has been improvement.

With regard to the issue of the Montagnards, it is with that in mind that we pressed very substantially for access to the Central Highlands so we could see ourselves how the situation was. And I can say that Ambassador Michalak and his staff, and also our consulate in Ho Chi Minh City, have been very vigilant in getting people up to the central part of the country to see what some of the—

Senator BOXER. OK.

Ambassador HILL [continuing]. What the conditions are.

Senator BOXER. Well, to me, the facts are the facts. These people are in jail, and they're not out, and our Commission on Religious Freedom said that they're being held for their religious activities. And, it just seems to me that we're doing a two-step here. I want to see progress in this relationship. I don't think that when a friend does something wrong it helps to just keep saying, "You're wonderful." I mean, I have differences with my colleagues here.

Now, I don't doubt for a minute that the State Department is pressing the Vietnamese Government on these issues. But then you take them off the CPC list. It seems to me that redesignating Vietnam as a CPC would send a strong signal that our interests lie not only with economic and security concerns, but in real progress on religious freedom.

But let me move, in the rest of my time, to more about politics there. Is it true that only one political party is allowed in Vietnam?

Ambassador HILL. Yes. It's the Communist Party.

Senator BOXER. That's right. And you may know that a secret memo recently surfaced regarding political trials. And this secret memo has been attributed to an August 2007 Politburo meeting of the Communist Party of Vietnam.

Although the Government of Vietnam denies that it's currently holding any political prisoners, the document details the success of some of the recent "political trials," and states that the party must work to "limit the spread of false ideas in the population about democracy, human rights, and religious freedom."

Now, according to Human Rights Watch, the document also states that opposition political parties must not be allowed to take shape, "It is absolutely necessary not to let it happen that political opposition parties be established." That's supposed to be in the document.

First of all, can you confirm the authenticity of the document Human Rights Watch has, but I wonder if you can confirm the authenticity of the document?

Ambassador HILL. My understanding is the U.S. Government is not in a position to confirm the authenticity of that document.

Senator BOXER. Are you going to give us an opinion on it at some point?

Ambassador HILL. Well, certainly, we've been—you know, we're certainly checking on the authenticity of that, but what we are really concerned about, of course, is the fact that the Vietnam Government continues to imprison people of conscience and deny them their fundamental rights, the right of peaceful assembly and the right to express political views, and we have focused very much on the list of people of concern, with an effort to try to get them out of prison, to get the Vietnamese authorities not to abuse such catch-all terms, as this article 88, which essentially defines that anyone engaged in something so-called propaganda can be arrested and imprisoned.

So we have very much focused on the list of people, but also on the system which allows some of these people—

Senator BOXER. OK.

Ambassador HILL [continuing]. That can be taken by these catch-all provisions.

Senator BOXER. Well, Human Rights Watch will testify later, and we're going to ask them about how they know this is authentic, because it's fact that this is authentic. And they can prove it's authentic. We're going to see. You ought to take another look at this, because, again, you get the sense that trade and other things may be trumping this serious violation of human rights and freedom of speech and so on.

Let me just wind up my time by thanking the State Department. It has taken me quite awhile, but with the help of my wonderful staff and folks over in your shop, we've been able to conclude some adoptions that were being held up. It was so tragic. These adoptions were going through, and American families thought they were going to get the children, and then the children got caught up in a horrible bind because there are problems over in Vietnam with baby selling and all the rest.

And so, I was so glad to see that we were able to work with your people, and we've freed those children and now they are home with

their families. But, in writing, rather than taking our time today, would you let me know how the Orphans First Policy is coming along, and how you feel it may avert the kind of problems that we've had before?

And I very much want to thank you. All my other questions, I'll put in writing. Thank you.

Ambassador HILL. OK. Thank you.

Senator BOXER. Senator Murkowski.

Ambassador HILL. Thank you, Madam Chairman. I just want to thank your staff for the work we did together on this Orphans First Policy, because it was a terrible, terrible situation for the parents to wait like this. And I'm glad we were able to get through that, and we did that with a lot of cooperation, and we will get through some of these problems, as well.

Senator BOXER. I hope so, because that was a joy to see the faces when I saw families united with their children.

Thank you.

Senator MURKOWSKI. Ambassador, you had mentioned in not only your written, but in your testimony here, as you were speaking about the bilateral human rights dialogue, that while improvements had been made, they've got to do more, and you had emphasized that the dialogue has to focus on concrete action.

Define "concrete action" or what you would anticipate you could accomplish in the relatively short term, and whether or not you figure you can actually achieve some concrete steps in this bilateral human rights dialogue.

Ambassador HILL. Well, let me just take an example from the effort on religious freedom, where we actually looked at the number, the sheer number, of registrations, church registrations. So we actually had a metric. We were looking at how many registrations they were getting accomplished. This is really concrete action.

And then, in that list, we were also concerned about whether we could get to some of the places where these registrations were to take place, namely the Central Highlands. So we insisted on getting access to follow up, to make sure these things weren't just being registered and then closed again or something.

So we were able to work, I think, in very concrete terms with the government, agree on things that needed to be done, and then follow up to verify that they were done. I think we can do that kind of thing in a human rights dialogue. And we have to, in approaching this—what we want to stress is that we want to see visible changes on the ground, and we want to work with the Vietnamese authorities on how to accomplish this.

We don't want a situation where we are wagging our finger at them, and they are not responding in any positive way. We want to work with them cooperatively. A lot of these issues are not just United States issues; these are international issues where Vietnam, as it internationalizes its economy, will want to have a human rights record and procedures that live up to the international standard.

So we want to work cooperatively with them to get, for example, some of these people of concern, of conscience, who are on this list, to get them out of prison. There are some people who are now eligible for amnesty. We would like to see those people released imme-

diately. There are people on that list who were put in prison because of free speech. We want those people removed.

So we will work very specifically with specific names to try to work through this. But we do need an overall process where, as we release some people, others aren't arrested the next day, so we do need to address some of these systemic issues, such as article 88.

Senator MURKOWSKI. Well, I appreciate that, and I hope that you're making that level of progress on these action items that you feel is significant, and certainly encourage you to work there.

I want to ask you just a little bit of a detour question, recognizing all of your work with North Korea and the six-party talks. Vietnam maintains official relations with North Korea. They've got an embassy there in Pyongyang. What help can they provide in these talks? And have they been active on the sidelines at all? Where are they in this mix?

Ambassador HILL. Some 3 years ago, Vietnam assisted South Korea in taking a couple of hundred North Korean refugees and repatriating—or I should say bringing them to the Republic of Korea, to South Korea. And when this was done, the North Korean/Vietnamese relationship obviously took a turn for the worse.

We think Vietnam did the right thing, and we have encouraged them to continue to do that kind of thing. So I think doing the right thing with respect to North Korean refugees has been an important byproduct of our work with the Vietnamese, and also to the South Korean work with the Vietnamese. In addition, I think Vietnam, which has gone through a very challenging past, has a lot to offer North Korea, in terms of what it's been able to do.

Vietnam is really in the beginning of an economic transformation, but for the past 5 years it has begun to put up numbers on the order of 7.5 and 8.5 percent economic growth. They've opened up the economy to foreign investment. That's the kind of move that I think has been very successful for Vietnam, that has helped Vietnam taxi its way to the takeoff point to be that next Asian country that is going to move.

I think, given the very difficult past Vietnam has had, North Korea could learn a lot from that experience, and I do hope the Vietnamese are sharing it with them. In fact, when I see the North Koreans tomorrow in Geneva, I might give them a little trip report of my recent trip to Vietnam, so that they understand that they can change their way, and they can get some success.

Senator MURKOWSKI. So what you're saying, though, is that Vietnam has—can be seen as an example by North Korea, but in terms of any even sideline activity on the six-party talks, there's no engagement there.

Ambassador HILL. Yes. I'm not sure we need the sideline activity, although Vietnam did offer to host and did host a bilateral meeting between the Japanese and the North Koreans. I think Vietnam, because of historical circumstances, has familiarity with the North Koreans and the North Korean mindset, and I think certainly any advice they can give the North Koreans—when I was in Vietnam, I did talk to the Vietnamese officials to bring them up to date on the six-party process so that in their dealings with the North Koreans, they could be helpful to what we all want to see happen.

Vietnam has never developed nuclear capabilities or weapons capabilities, as the North Koreans are doing, and Vietnam is much more successful for that fact.

Senator MURKOWSKI. Uh-huh. Very quickly, is there an update on the status of negotiations with Vietnam for the POW/MIA searches that are offshore?

Ambassador HILL. We are working on the offshore. My understanding is that discussions have gone very well, and I think I would have to give you an—get you a—

Senator MURKOWSKI. If you can do that.

Ambassador HILL [continuing]. Prepared answer. But my understanding is that it's going very well.

[The submitted written answer by Ambassador Hill to the above requested information follows:]

Achieving the fullest possible accounting for those still listed as missing from the Vietnam war remains an important component of the bilateral relationship. Of the more than 1,300 Americans still listed as unaccounted for in Vietnam from the conflict in Indochina, approximately 450 were presumed lost in operations off the Vietnamese coast. The vast majority of those cases were the result of aircraft crashes.

Since the end of the Vietnam war, the U.S. has undertaken 13 underwater investigations or attempts to recover the remains of Americans believed to have been lost off the coast of Vietnam. The ratio of recovery attempts to personnel believed lost over water is low because it is extremely difficult—if not impossible—to locate the underwater crash sites. Of the operations conducted to date, most of which used information from Vietnamese citizens who discovered underwater wreckage since the war, only one mission resulted in the recovery of identifiable remains. Despite the limited results and the difficulty involved, the Joint POW/MIA Accounting Command (JPAC), based in Hawaii and with a forward element in Hanoi, routinely conducts one extended underwater search operation each year, involving U.S. divers and equipment staging from Vietnamese boats. The next such underwater search operation off the coast of Vietnam is planned for spring 2009.

In an attempt to develop more accurate information on underwater crash site locations, JPAC and the U.S. Navy made a proposal last year to the Government of Vietnam to use a U.S. Navy hydrographic research ship for underwater MIA search operations. The Vietnamese have agreed in principle, and the two sides are now undertaking the complicated planning needed to make such a precedent-setting operation a reality. The operation is tentatively set to occur in March–April 2009. Our hope is that the data collected by the U.S. Navy ship will provide a basis upon which to conduct more effective underwater recovery operations in the future.

Overall, we are pleased with Vietnam's cooperation with the U.S. accounting mission to date, as articulated in the Determination of Vietnamese Cooperation on POW/MIAs submitted to Congress earlier this month. To strengthen further that cooperation, we are urging Vietnam to allow greater archival access, including to records pertaining to Americans captured, missing or killed in areas of Laos and Cambodia under wartime Vietnamese control.

Senator MURKOWSKI. Good. Thank you, Madam Chair.

Senator BOXER. Thank you, Senator.

Senator Webb.

Senator WEBB. Thank you, Madam Chairman. Ambassador, I would fully agree with you that if you look back over the span of the last 15 years or more, that conditions in Vietnam have dramatically improved. When I first went back to the Vietnam 17 years ago this month, actually, it was a stalling state at that time. The educational system had come out of Central Europe. The religious institutions were in disrepair. The churches and pagodas were overgrown. And particularly, the treatment of the people who had been with us was atrocious.

There have been a couple of contributing factors to the change—the economic factors, which are obvious, and the strength of the

Vietnamese community here in the United States. Even during the dark days, one of the real ironies of the post-Vietnam war was that remittances from this country were basically keeping Saigon afloat, to the tune of \$½ billion or \$1 billion a year at some point.

It was also because of the right kind of attempt at dialogue—the willingness of this government to listen and to negotiate increased, since it is a transitional process. The one question I would have for you, and I want to hopefully get three questions in, is one of the frustrations I have when we talk about human rights in Vietnam. As I mentioned in my opening statement, we don't distinguish the unique situation of Vietnam with other human rights conditions around the world.

What I mean by that is that there is a special circumstance because of the significant percentage of the population that was technically aligned with us and, after a Communist takeover, suffered a great deal of discrimination, in addition to having to go to education camps and new economic zones and being precluded from getting jobs and education and those sorts of things.

When you're looking at Vietnam today, do you see that part of the equation changing?

Ambassador HILL. I think some of it is simply changing as the years go by, because you have some 60 percent of the population born after the Vietnam war. In my four visits there, this issue of the discrimination of all of the—of people who were on the other side, as you pointed out, this was not a United States/Vietnam war.

I mean, I have raised this issue with people, but I think the focus is on the approach to—on the question of whether Vietnam is now living up to international standards in its human rights, rather than on the effort to address broad injustices of the kind you mentioned.

Senator WEBB. Well, if I may make one strong suggestion to the professionals in the State Department who work on this issue, that they not lose sight of this. Because we are the only country that can even raise it. And it goes beyond the people who served alongside us. It goes to their children, and in some cases, to their grandchildren.

And you're not going to eliminate this type of discrimination where it still exists unless we actually put it on the table. I was attempting, actually, during the normalization process all those years ago, to try to get a provision in the language of a roadmap basically saying that you can't discriminate against someone based on a past status. And this is a status question, just as apartheid was in South Africa.

Ambassador HILL. OK.

Senator WEBB. One of my feelings about the strongest contribution we could make to the continued evolution of circumstances in Vietnam is to improve the rule of law, economically, commercially, as well as in terms of criminal law. I have found in the questions that I've asked when I've been over there, and in hearing from people here, for instance, in the Appropriations Committee, that there is a receptivity to this.

Vietnam, as you know, is the only country on the Southeast Asian Mainland that has an Anglicized alphabet, so it's much easier to transition a rule of law that everyone can understand. Are

you familiar with where those programs are right now? We have assistance programs to work with them on that.

Ambassador HILL. We have bilateral assistance programs, and I think some of those have been very successful, because I think the Vietnamese have very much bought into that, because they understand that if they're going to internationalize their economy, they need this kind of rules-based economy.

So our experience has been very positive on this, and we would look to expand those sorts of programs.

Senator WEBB. Yes. I think when that sort of openness is available, it also goes into how they viewed criminal justice in the country, and other things, as well. When you have an objective standard where every individual believes that they can have their circumstances looked at in front of a court that can make a determination rather than behind a closed door, it helps the evolution of society in other ways.

Ambassador HILL. Senator, I completely agree. And I think the fact that we address some of these rules-based issues with respect to the economy doesn't mean that we're only interested in the economy, but we see these as approaches that should be in a political or social realm, as well as economic.

And we certainly monitor very closely how all of our assistance programs work. But I think this particular one has been working well, and I think we should look to see what more we can do in this area.

Senator WEBB. I have a very short period of time, but I would like to ask your thoughts on how you would compare the overall human rights situation in Vietnam with China.

Ambassador HILL. Well, I think both countries have challenges to meet in human rights, and in particular on these rule of law issues you mentioned. I think perhaps China has been grappling with them longer than Vietnam has been, and so China may be a little further along on some of these issues than Vietnam. But I'm certainly not giving China a pass in saying that.

But I think Vietnam, if you look at just the sheer amount of time, Vietnam has begun this transformation more recently than China, and has to, I think, go further including in the economic area than China has gone.

Senator WEBB. Thank you very much. Thank you, Madam Chair.

Senator BOXER. Thank you, Senator. Thank you so much, Ambassador. We really appreciate this and look forward to getting some of your answers in writing. And good luck with all you're doing. Thank you very much.

Ambassador HILL. Thank you.

Senator BOXER. And we will now hear from Supervisor Janet Nguyen, a member of the Board of Supervisors of Orange County. We welcome her. I'm delighted to have her here. She's going to give us a message from the people that she represents back home. We are very proud of our Vietnamese community, and we welcome you.

**STATEMENT OF JANET NGUYEN, MEMBER, BOARD OF  
SUPERVISORS, ORANGE COUNTY, CA**

Ms. NGUYEN. Thank you, Honorable Chairwoman Boxer. It's an extreme honor for me to be invited here today to speak. In my oral

testimony and written statement, I express concerns regarding human rights violations in Vietnam—not as an individual, but on behalf of Vietnamese-Americans everywhere.

About one of every five Vietnamese-Americans in the United States resides in Orange County, California. In particular, out of over 600,000 residents in my supervisorial district, over 150,000 are of Vietnamese descent. And the number is increasing each year. Orange County is the home to the largest population of Vietnamese outside Vietnam. I, myself, am a former boatperson.

My father, as a member of the Army of the Republic of Vietnam, fought side by side with American soldiers in combating communism. After the fall of Saigon, my uncle was summarily and publicly executed. Our family, like those of millions of Vietnam's other enemies of the state, was part of the outcasts. Political oppression and lack of economic livelihood were part of our daily lives. We had no choice but to put our lives in providence's hand and cast our lot to whim of fate and the current of the sea.

Therefore, issues of human rights and personal freedom are of particular importance to me and my constituents. Since the 1980s, Vietnam's policy of Doi Moi or New Change has benefited that country significantly. Market-oriented policies leading to the establishment and promotion of the private sector have attracted foreign trade, investment, and technology, with an annual economic growth of over 7 percent and trade between Vietnam and the United States surpassing \$10 billion each year.

The standard of living for the people of Vietnam has improved substantially; however, there are glaring economic inequalities and injustices that continue to plague the people of Vietnam. Throughout its society, there are no labor rights, and political corruption and graft are rampant.

The cost of this corruption has proved impossibly oppressive to the people of Vietnam. The gap between the rich bureaucrats and the poor masses increases more and more each year. Accommodations are given to large multinational companies to create jobs and perpetuate an appearance of openness, but the reality for the vast majority of the people there lies in stark contrast. Extreme poverty is still commonplace. Human trafficking into sex or slave labor shows no signs of ending.

And the Government of Vietnam has shown little, if any, political will in ending this practice. In addition, Vietnam's economic integration with the rest of the world has not been met with similar progress in meeting the demands for basic, universal human rights and civil liberties for the people of Vietnam.

Its people have no opportunity to express their political views without risk of being imprisoned, even if the political expression was done peacefully. There are oppressive restrictions on freedom of the press, speech, and assembly. Even the use of the Internet is censored. The people of Vietnam have no power to pick or choose their government.

While there have been bilateral human rights dialogue taking place in the past few years, these measures have for all intents and purposes been mere window dressing. Despite the release of some high-profile prisoners of concern, alleged access to prison and the repeal of a dubious Administrative Decree 31 that allowed the de-



tention of people and taking of personal property without due process, real progress in human rights has not been results-based. Whatever progress has been only lip service, usually in response to international pressure on specific instances.

Similarly, religious freedom in Vietnam needs to be addressed by its government in a tangible and earnest manner. Removal of Vietnam's designation as a country of particular concern was premature. The quick haste to reward Vietnam after only a few nominal measures to portray religious freedom encourages that government to play a shell game with respect to compliance with the International Religious Freedom Act of 1998.

Father Nguyen Ly, a Catholic priest, was sentenced to 8 years in prison merely for attempting to exercise his fundamental human rights to peacefully advocate for change in Vietnam. Given no defense lawyer, his guilt was predetermined and his mouth was muzzled as he attempted to stand for his rights.

Vietnam continues to repress religious freedom and continues to persecute members of the Cao Dai religion, Unified Buddhist Church of Vietnam, Hao Hao Buddhists, and the Montagnards from the Central Highlands. Le Thi Cong Nhan, founder of the Vietnamese Labor Movement, and Nguyen Van Dai, a human rights lawyer, were also arrested. Father Ly's conviction and the arrests of Ms. Le and Mr. Nguyen were in direct contravention of the International Covenant on Civil and Political Rights to which Vietnam is a state party. When Vietnam joined the World Trade Organization, its membership was granted with the assurance that its government would continue to improve its human rights record. These recent crackdowns and violence are significant steps backward.

We must continue our vigilance in demanding that the commitment made by the Government of Vietnam is kept. Human rights and freedom are the core beliefs of our country, and any relationship with another government should be ground in those basic principles. Vietnam should not be an exception.

I want to thank you again for giving me this opportunity, Senator.

[The prepared statement of Ms. Nguyen follows:]

PREPARED STATEMENT OF JANET NGUYEN, MEMBER, BOARD OF SUPERVISORS,  
ORANGE COUNTY, CA

Dear Honorable Chairwoman Senator Boxer and the honorable members of the Senate Foreign Relations Subcommittee on East Asian and Pacific Affairs.

It is an honor for me to be invited to speak before this subcommittee today. Your work is extremely important to the 600,000-plus residents in my district, over 150,000 of whom are of Vietnamese descent. Orange County is home to the largest population of Vietnamese outside of Vietnam. My oral testimony and written statement speak to concerns regarding human rights violations in Vietnam, and I speak not only for myself as a former Boat Person, but also on behalf of Vietnamese-Americans everywhere.

My father, as a member of the Army of the Republic of Vietnam, fought side by side with American soldiers in combating communism. After the fall of Saigon, my uncle was summarily and publicly executed. Our family, like those of millions of Vietnam's other Enemies of the State, was part of the outcast. Political oppression and lack of economic livelihood were part of our daily lives. We had no choice but to put our life in Providence's hand and cast our lot to the whims of fate and the current of the sea. Therefore, issues of human rights and personal freedom are of particular importance to me and my constituents.

Since the late 1980s, Vietnam's policy of "Doi Moi" or "New Change" has benefited that country significantly. Vietnam has been invited to join many world economic organizations, including the World Trade Organization. Since the beginning of this year, Vietnam sits on the United Nations Security Council. These achievements reflect the significant investment of political goodwill in Vietnam that the U.S., including the Senate, has made. Consequently, Vietnam has grown from being one of the poorest nations in the world to an economy that has grown at an impressive pace, once Vietnam's leaders abandoned their Marxist doctrine. Market-oriented policies, leading to the establishment and promotion of the private sector, have attracted foreign trade, investment and technology. Vietnam is also a member of the Association of Southeast Asian Nations (ASEAN) and the Asia Pacific Economic Cooperation (APEC).

Vietnam has an annual economic growth of over 7 percent, behind only China in Asia. Per capita income grew from \$288 in 1993 to \$726 in 2006. Poverty dropped from 58 percent to 14 percent in 2004, according to the U.S. State Department. Bilateral trade between the U.S. and Vietnam reached \$9.6 billions in 2006. U.S. firms have made over \$2.5 billions in Vietnam since 1988. More than 75,000 Americans visited Vietnam in 2006 and over 6,000 student visas were issued to Vietnamese Nationals in 2007.

Militarily, the U.S. and Vietnam have also taken steps toward cooperation. Peace-keeping and search-and-rescue through the International Military Education and Training program are examples of this cooperation. U.S. Navy ships now call at Vietnamese ports, and since 1973, remains of 882 Americans have been identified and repatriated. The U.S. has also aided Vietnam in addressing health issues, such as HIV/AIDS and avian influenza (or the bird flu). Relations between the U.S. and Vietnam have warmed, with the two countries exchanging visits of high-ranking officials in 2007. However, significant, fundamental differences in political philosophy exist between the two nations.

#### HUMAN RIGHTS

Despite the encouragement and support from the U.S. in many areas as described above, Vietnam's lack of progress in many important aspects of its society cannot be said as acceptable or destined to be successful in the long run. Throughout its society, there are no labor rights, and political corruption and graft are rampant. The cost of this corruption has proved impossibly oppressive to the people of Vietnam. The gap between the rich bureaucrats and the poor masses increases more and more each year. Accommodations are given to large multinational companies to create jobs and perpetuate an appearance of openness, but the reality for the vast majority of the people there lies in stark contrast—extreme poverty is still commonplace. Human trafficking into sex or slave labor shows no signs of ending, and the Government of Vietnam has shown little if any political will in ending this practice.

Each year, Vietnam receives financial assistance from organizations, such as the World Bank, Asia Development Bank, and nations, such as Japan, Europe and the United States. Vietnamese expatriates around the world also remit hard currencies back to family members in Vietnam; total in the billions of dollars. The benefits of such financial benefits have been bestowed primarily, however, only on the bureaucrats and Communist Party leaders. The people of Vietnam are forced to eke out a living in a corrupt system that is based mostly on patronage with no social safety net. Property rights are almost nonexistent. The Economic Index published by the Heritage Foundation in 2008 places Vietnam's respect for private property rights at a dismal 10 percent. In its report, the Heritage Foundation indicates that "the judiciary is not independent. Corruption among judges and court clerks is common . . . All land belongs to the state." Throughout Vietnam, it is common to see people, city dwellers as well as villagers, protest in the street, demanding the return of their land and property.

In sum, Vietnam's economic integration with the rest of the world has not been met with similar progress in meeting the demand for basic, universal human rights and civil liberties for the people of Vietnam. Its people have no opportunity to express their political views, without risk of being imprisoned even if the political expression was done peacefully. There are oppressive restrictions on freedom of the press, speech, and assembly. Even the use of the Internet is censored. The people of Vietnam have no power to pick or change their government.

While there have been bilateral human rights dialogue taking place in the past few years, these measures have for all intents and purposes been mere window-dressing. Despite the release of some high-profile prisoners of concern, alleged access to prisons, and the dubious repeal of the Administrative Decree 31 that allowed the detention of people and taking of personal property without due process, real

progress in human rights have not been results-based; whatever progress claimed has been only lip service, usually in response to international pressure on specific instances. In fact, in the beginning of 2007 after Vietnam gained admission into the World Trade Organization, it instituted a crackdown on dissidents who fought for human rights and democracy in Vietnam. Many individuals in the prodemocracy group 8406 and other labor groups arrested and imprisoned. Religious leaders and human rights advocates who have been either imprisoned or placed under house arrest include the Eminency Thich Huyen Quang, the Eminency Thich Quang Do, Father Nguyen Van Ly, Attorney Nguyen Van Dai, Attorney Le Thi Cong Nhan, and many others. Thirty years of power and having been admitted into the world of nations have not diminished the paranoid tendency of the Government of Vietnam to resort to totalitarianism and oppression in dealing with its people.

#### RELIGIOUS FREEDOM

Religious freedom in Vietnam needs to be addressed by its government in a tangible and earnest manner. From 2004 to 2006, the U.S. State Department designated Vietnam as a "Country of Particular Concern" regarding its blatant violations of international standards on religious freedom. During this period, many religious groups were harassed and discriminated against, and Vietnam imprisoned 45 known religious protesters. Removal of Vietnam's designation in the past year and a half as a "Country of Particular Concern" was premature. The quick haste to reward Vietnam after only a few nominal measures to portray religious freedom encourages that government to play a shell-game with respect to compliance with the International Religious Freedom act of 1998. Vietnam needs to simply recognize its people's religious freedom, recognize the different religious faiths, and return land that was illegally confiscated.

Father Nguyen Van Ly, a Catholic priest, was sentenced to 8 years in prison merely for attempting to exercise his fundamental human right to peacefully advocate for change in Vietnam. Given no defense lawyer, his guilt was predetermined and his mouth was muzzled as he attempted to stand up for his rights. Vietnam continues to repress religious freedom and continues to persecute members of the Cao Dai religion, Unified Buddhist Church of Vietnam, Hoa Hao Buddhists, and the Montagnards from the Central Highlands.

Le Thi Cong Nhan, founder of the Vietnamese Labor Movement, and Nguyen Van Dai, a human rights lawyer, were also arrested. Father Ly's conviction and the arrests of Ms. Le and Mr. Nguyen were in direct contravention of the International Covenant on Civil and Political Rights, to which Vietnam is a state party.

#### CONCLUSION

Vietnam faces many uncertainties and challenges, without many viable alternatives other than to truly open its country and recognize the rights of its citizenry. With the population increase that is difficult to control and an economy that is largely unregulated, Vietnam faces formidable hurdles, such as spiraling inflation and rising fuel cost making the everyday life of its people extremely difficult. The Government of Vietnam does not have the political will to address the political corruption that exists, and the inadequacy of its urban planning and regulatory control contributes to the recurrence of medical epidemics and extreme pollution. Military aggressiveness has also caused needed resources to be diverted to a military build-up, further straining the country's ability to address the myriad problems it faces. Vietnam needs to get out of the shadow of fear and paranoia and join the rest of the world in the light of democracy and freedom.

When Vietnam joined the World Trade Organization, its membership was granted with the assurance that its government would continue to improve its human rights records. These recent crackdowns and violations are significant steps backward. We must continue our vigilance in demanding that the commitment made by the government of Vietnam is kept. Human rights and freedom are the core beliefs of our country, and any relationship with another government should be grounded in those basic principles. Vietnam should not be an exception.

Senator BOXER. Thank you, Supervisor. It's wonderful to have you here. I really do appreciate this. And I'm going to place your entire statement, in its entirety, into the record. It's very, very compelling, and we so appreciate you're being here. Thank you very much.

Ms. NGUYEN. Thank you.

Senator BOXER. And we're going to call up panel three: Ms. Sophie Richardson, Ms. Ann Mills Griffiths, Mr. Do Hoang Diem, and Mr. Matthew Daley. We are looking forward to hearing from all of you. And we will start with Ms. Sophie Richardson, advocacy director, Asia Division of Human Rights Watch.

Thank you.

Why don't we start now with Ms. Sophie Richardson? And we're going to set the clock for 5 minutes, and hope that you can complete your statement in that time. If not, go over a minute or two, but then I'll stop you at 7.

So go ahead, Ms. Richardson, advocacy director of Asia Division of Human Rights Watch. We welcome you here.

**STATEMENT OF SOPHIE RICHARDSON, ADVOCACY DIRECTOR,  
ASIA DIVISION, HUMAN RIGHTS WATCH, WASHINGTON, DC**

Ms. RICHARDSON. Thank you, Madam Chair, for inviting us to join you today. While economic engagement and other aspects of the United States/Vietnam bilateral relationship have flourished, Vietnam's respect for human rights has taken a sharp turn for the worse.

Since mid-2006, we have documented the Vietnamese Government's efforts to arrest and imprison more than 40 peaceful activists, including human rights defenders, independent trade union leaders, oppositional political party members, members of unsanctioned religious groups, and underground publishers.

Religious leaders who have advocated for human rights, democratic reforms, and land rights who have participated in peaceful demonstrations have also been imprisoned. These new prisoners join more than 350 religious and political prisoners sentenced to prison in 2001, mostly Montagnard Christians from the Central Highlands. Buddhist monks from the banned Unified Buddhist Church of Vietnam, including its two top leaders, remain confined to their monasteries under "pagoda arrest." We are submitting for the record these partial lists of people detained and imprisoned in Vietnam.

Senator BOXER. We will put those in.

[EDITOR'S NOTE.—The list mentioned above was too voluminous to include in the printed hearing but will be maintained in the committee's permanent record.]

Ms. RICHARDSON. Thank you. Vietnamese officials continue to publicly assert, as you mentioned earlier, that there are no political trials or prisoners of conscience in Vietnam, and that only people who are arrested are those who violated Vietnamese law. You spoke earlier about this document. I'm happy to note that we have verified its authenticity with an even higher degree of care than we normally do with documents. We've checked with six different sources in several different countries, including in Vietnam, and we are quite confident that the document is what it presents itself to be.

It details the conclusions of a Politburo Meeting on August 6, 2007. And I'd just like to read on excerpt on it.

Senator BOXER. Please do.

Ms. RICHARDSON. "Recently, the disposition of these political trials has achieved some degree of success. It has the purpose of

teaching a lesson to effectively prevent the contrarian political activities of the enemy forces while they're still in the embryonic stages, not allowing them to publicly establish themselves in the country to organize violent insurrection in order to overthrow the rule of the people. It is absolutely necessary not to let it happen, the political opposition parties be established.”

Aside from the harassment and imprisonment of political activists, the Vietnamese Government continues to exert strong control over religious activities. It has to be noted that religion in Vietnam remains a right that the government grants, not one that people fundamentally possess as individuals.

In June 2007, the Prime Minister calls for the training of 22,000 new cadres to oversee and monitor religious activities. And an updated training manual for local cadre to guide them in religious affairs continues to advance the policy that religious believers must follow the leadership of the Communist Party of Vietnam and contribute to the revolutionary task of the people.

It states that the government will “implement its management of religion through the leaders of various religions.” As a result of international pressure, and of the United States designation of Vietnam in 2004 as a country of particular concern, we have seen the release of a handful of religious prisoners, and some implementation of reform, such as directives that expedite church registration and requirements that forbids forced recantations of faith.

But we know that these abuses continue. And several people, including Ambassador Hill, have already enumerated on several denominations that continue to suffer persecution. Of serious concern to us is the fact that followers of religions that are not officially recognized by the government come under particular pressure.

The recommendations we would respectfully make, given the United States relationship with Vietnam—it's now Vietnam's largest export market—really need to underscore that Vietnam needs to make some very serious, significant improvements, or it will impinge on the overall bilateral relationship.

We have six recommendations, and those include that if Vietnam does not promptly implement significant tangible reforms and end its crackdown on peaceful dissent and unsanctioned religious activities, the United States should reinstate Vietnam to the list of countries of particular concern as a warning that the United States will not tolerate the ongoing restrictions on religious freedom.

The United States must also insist that the Vietnamese Government release its hundreds of religious and political prisoners, and the United States itself must not be selective in advocating for the release of some religious or some political prisoners and not others. To distinguish between victims who are equally subject to human rights abuse is really underlying the cause as a whole.

The United States should call on Vietnam to remove prohibitions on workers forming or joining independent unions, and ask the Vietnamese Government specifically for information about the whereabouts of labor activist, Le Tri Tue, who “disappeared” in May 2007 after claiming political asylum in Cambodia.

Fourth, the United States and other members of the international community should insist that now that Vietnam is on the

Security Council it cooperate better with its international obligations, particularly with respect to standing invitations to U.N.'s Special Rapporteurs, particularly on religious intolerance, torture, indigenous people, and arbitrary detention.

Fifth, if Vietnam is to be a reliable trading partner, the rule of law is essential, and the Vietnamese Government must demonstrate its willingness to observe international rules and standards. A first step, of course, would be for the Vietnamese Government to repeal provisions in the law that criminalize peaceful dissent, unsanctioned religious activities, and nonviolent demonstrations.

Last, if concrete progress is not made on human rights before May, obviously the next bilateral dialogue should be seriously reconsidered. We've seen this happen in China, where the government has recently quite cynically offered to restart the human rights dialogue. We feel that it is appropriate to be equally skeptical about whether having one with Vietnam would have any real consequence, or whether it would send the wrong signal.

I'll stop there. We have further recommendations in our written testimony, which I'm happy to elaborate on. Thank you for inviting us to join you.

[The prepared statement of Ms. Richardson follows:]

PREPARED STATEMENT OF SOPHIE RICHARDSON, ADVOCACY DIRECTOR, ASIA DIVISION,  
HUMAN RIGHTS WATCH, WASHINGTON, DC

The bilateral relationship between the United States and Vietnam has steadily improved during the last 20 years. In 1994 the United States lifted its trade embargo on Vietnam, normalizing relations in 1995. The two countries exchanged ambassadors in 1997 and signed a Bilateral Trade Agreement in 2001.

During the last 2 years trade, foreign policy and security ties have grown dramatically, with the United States and Vietnam conducting historic, high-level state visits with each other, resuming an annual human rights dialogue, and embarking on military and antiterror collaboration. The week of President Bush's November 2006 visit to Hanoi, the United States lifted its designation of Vietnam as a Country of Particular Concern for religious freedom violations. Following Vietnam's entry into the World Trade Organization in January 2007, the United States granted Vietnam permanent normal trade relations status.

While economic engagement and other aspects of the bilateral relationship between the United States and Vietnam flourish, Vietnam's respect for human rights has taken a sharp turn for the worse. As a state party to the International Covenant on Civil and Political Rights (ICCPR), Vietnam is obligated to protect basic rights and freedoms. This is all the more important now that Vietnam has been elected to a 2-year seat on the United Nations Security Council.

#### ARBITRARY ARREST, TORTURE, DETENTION, AND UNFAIR TRIALS

Article 14 of the ICCPR states that no one shall be subjected to arbitrary arrest or detention. Anyone arrested or detained on a criminal charge shall be brought promptly before a judicial officer and is entitled to trial within a reasonable time or to release.

Since mid-2006, the Vietnamese Government has arrested and imprisoned more than 40 peaceful activists, including human rights defenders, independent trade union leaders, opposition political party members, members of unsanctioned religious groups, and underground publishers. Religious leaders who have advocated for respect for human rights, democratic reforms and land rights, or who have participated in peaceful demonstrations, have also been imprisoned.<sup>1</sup>

These new prisoners join more than 350 religious and political prisoners sentenced to prison since 2001, mostly Montagnard Christians from the Central High-

<sup>1</sup>Religious leaders imprisoned for nonviolent political activities or participation in peaceful demonstrations include ethnic Khmer Buddhists, evangelical Christians, and Roman Catholic priest Nguyen Van Ly.

lands. Buddhist monks from the banned Unified Buddhist Church of Vietnam, including its top two leaders, remained confined to their monasteries under “pagoda arrest.”

There is compelling evidence of torture and other mistreatment of detainees. Prison conditions are extremely harsh and fall far short of international standards. We have received reports of solitary confinement of detainees in cramped, dark, unsanitary cells and of police beating, kicking, and using electric shock batons on detainees, or allowing inmates or prison gangs to carry out beatings of fellow prisoners with impunity.

We are submitting for the record partial listings of people detained and imprisoned in Vietnam.

*No political trials?*

Vietnamese officials continue to publicly assert that there are no political trials or prisoners of conscience in Vietnam and that the only people who are arrested are those who have violated Vietnamese laws.

In a press briefing last month, Ministry of Foreign Affairs spokesman Le Dzong asserted once again that there is “no political crackdown” taking place in Vietnam and that no one is arrested for their political or religious beliefs. “The State of Vietnam always respects the rights to freedom and democracy of all citizens,” he said.

In Vietnam people can be sent to prison for exercising their basic rights to peaceful expression, association, and assembly. This is in violation of international human rights conventions to which Vietnam is a state party, such as the ICCPR.

Vietnam’s Penal Code lists vaguely worded “national security” crimes under which peaceful critics have been imprisoned, such as conducting propaganda against the government (article 88); “abusing democratic freedoms” of speech, press, belief, religion, assembly, and association to “infringe upon the interests of the State” (article 258); “undermining the unity police” (article 87); “disrupting security” (article 89); “causing public disorder” (article 245), and “spying” (article 80).

In addition, Vietnamese law continues to authorize arbitrary detention without trial. Administrative detention decree 31/CP was repealed in 2007, but a more repressive law, Ordinance 44, authorizes placing people suspected of threatening national security under house arrest or in detention without trial in Social Protection Centers, rehabilitation camps, or mental hospitals.

A recently leaked internal document from the Communist Party of Vietnam (VCP) unequivocally establishes that “political trials” are conducted in Vietnam. I quote from a translation of the confidential document, which we have determined to be authentic. It details the conclusions of a Politburo meeting of August 6, 2007:

Recently, the disposition of these political trials has achieved some degree of success. It has the purpose of making an example or of teaching a lesson, to effectively prevent the contrarian political activities of the enemy forces while they are still in the embryonic stages, not allowing them to publicly establish themselves in the country to organize violent insurrection, in order to overthrow the rule of the people.

Therefore, we need to fortify the security measures to ensure our political stability, peaceful order in society and to protect the rule of socialism, to resolutely contribute to the economic and social development, to build a political system and promote the strength of the whole solidarity bloc of our Nation’s populace, to ensure the perpetuation and stability of socialism. Our teams of cadres and soldiers who specialize in the ad-hoc task forces have made efforts in the handling of the political trials. . . .

However, the quality and effectiveness of the execution of political cases have not met the requirements to enable the struggle to prevent and deal with these crimes. . . .

In the near term, the reactionary antistate activities from both inside and outside the country will continue unabated and resolute. They will conspire with ruses and innovative and refined methods, armed with insidious intentions in order to successfully organize loyal opposition parties inside the country to provide support for their radical and extremist counterparts to utilize international forums on democracy and human rights, religions and races to strengthen their reputation, slander and make false accusation against the state in our national policy regarding the great solidarity of our people; they will increase domestic infiltration activities, conducting espionage inside various central and local agencies. They will utilize IT [information technology] and telecommunication in their intention to seek the destruction of socialism. Therefore, to fight and defeat the attack plot of the enemy forces is our first line of defense, urgent and immediate. Long-term, difficult and complex tasks still lie ahead requiring the effort of the whole

party and the people, where we cannot be vague, drop our guard or leaning to the right in this effort. . . .

The administrative execution of the arrests, prosecution and trials of these reactionary and opportunist elements is necessary but it needs to be weighed carefully on many fronts; to apply uniformly various fighting measures and techniques such as political, rhetorical, argumentative and professional, which at once should be firm, responsive and intelligent: To expose the plot and nature of the enemy forces, to isolate the recalcitrant leaders, to wrest the people who are being pulled by the other side and try to win their sympathy, to limit the spread of false ideas in the population about democracy, human rights, religious freedom, which impacts negatively on the Party and the State foreign policy.<sup>2</sup>

The Politburo congratulates the public security police for cleverly handling some of these “political” cases while noting weaknesses in the handling of other cases, most notably instances in which defendants were able to respond strongly during their trials.

Finally, the Politburo spells out the order that opposition political parties are to be neutralized: “It is absolutely necessary not to let it happen that political opposition parties be established.

#### *Arrests and trials continue*

While high-profile arrests may appear to have abated recently, this is in part due to the fact the most of the opposition parties, independent trade unions, and pro-democracy bulletins that emerged during the brief opening of the political space in Vietnam in 2006 have now been forced underground or collapsed after their key leaders and founders were imprisoned, decided to cease their activities or engage in self-censorship, or were forced to flee the country.

The government continues to try to silence its critics by isolating them, cutting their phone lines, monitoring their Internet usage, keeping them under surveillance, having them removed from their jobs, and subjecting them to verbal abuse in public meetings orchestrated by authorities or physical attacks by police or civilians working on their behalf.

Despite the sense of relative calm in recent weeks, however, the arrests, harassment and political trials of activists have not stopped.

We have learned that just last week, Ms. Bui Kim Thanh, champion of the farmers’ movement for settlement of land conflicts and lawyer for the opposition Dang Dan Chu 21 (Democracy 21) party, was arrested by police once again, on March 6, and involuntarily committed to Bien Hoa mental hospital. She was previously involuntarily committed at the same institution for more than 9 months after police arrested her in November 2006 at the time of the Asia Pacific Economic Cooperation (APEC) summit in Hanoi.

Next week, on March 18, Internet reporter Truong Minh Duc from the opposition Vi Dan (Populist) party is expected to go to trial in Kien Giang province on charges of “abusing democratic freedoms,” most likely for his political views and coverage of bureaucratic corruption.

#### FREEDOM OF RELIGION

Aside from harassment and imprisonment of political activists, the Vietnamese Government continues to exert strong control over religious activities, as outlined in a June 2007 decision by the Prime Minister calling for the training of 22,000 cadre to oversee and monitor religious matters.

An updated training manual for local cadre to guide them in religious affairs continues to advance the policy that religious believers must follow the leadership of the Communist Party of Vietnam and contribute to the revolutionary task of the people. It states that the government will “implement its management of religion through the leaders of the various religions.”<sup>3</sup>

As a result of international pressure and from the United States designation of Vietnam in 2004 as a Country of Particular Concern for religious freedom violations, the Vietnamese Government released a handful of religious prisoners and implemented some reforms, such as directives that expedite church registration requirements and forbid forced recantations of faith.

<sup>2</sup> Vietnam Communist Party, “Notice: Conclusion of the Political Party concerning raising the quality and effectiveness in the execution of the political trials in the face of new development,” Hanoi, September 12, 2007. Disseminated by the People’s Democratic Party in February 2008.

<sup>3</sup> International Society for Human Rights and Christian Solidarity Worldwide, “Analysis: 2007 Revision of Internal Training Manual Concerning the Task of the Protestant Religion in the Northern Mountainous Region,” February 2008, p. 4.



The 2004 Ordinance on Beliefs and Religions affirms the right to freedom of religion, as provided for in article 18 of the ICCPR. However, it requires that all religious groups register with the government in order to be legal, and bans any religious activity deemed to cause public disorder, harm national security and national unity, or “sow divisions.”

While a number of new religious organizations have been allowed to register, the government continues to apply strict religious restrictions on members of the Unified Buddhist Church of Vietnam, ethnic Khmer Theravada Buddhists, Hoa Hao Buddhists, some Mennonite churches, and evangelical Christians in the northern and central highlands.<sup>4</sup>

Followers of religions that are not officially recognized by the government continue to be persecuted. Security officials disperse their religious gatherings, confiscate religious literature, and summon religious leaders to police stations for interrogation. Buddhist monks from the banned Unified Buddhist Church of Vietnam, including its Supreme Patriarch, Thich Huyen Quang, and second-ranking leader, Thich Quang Do, have been confined without charges to their monasteries for years, under police surveillance.

#### CONTROLS OVER FREEDOM OF EXPRESSION AND INFORMATION

Article 19 of the ICCPR provides for the right to freedom of expression. In contrast, Vietnam’s 1993 Law on Publications prohibits private ownership of media and publishing houses and strictly bans publications that oppose the government, divulge state secrets, or disseminate “reactionary” ideas. According to Vietnam’s 1989 Press Law (as revised in 1999), the role of the media is to “disseminate, popularize and contribute to the elaboration and protection of the party’s lines, directions and policies” and “building and defending the Socialist Fatherland [of] Vietnam.”

Criminal penalties apply to publications, Web sites, and Internet users that disseminate information that opposes the government, threatens national security, or reveals state secrets. In addition, the government controls the Internet by monitoring e-mail and online forums and blocking Web sites covering human rights, religious freedom, democracy groups, and independent media.

Internet users such as democracy activist Truong Quoc Huy have been detained or imprisoned for alleged national security crimes after using the Internet to disseminate views disfavored by the government. Truong Quoc Huy was first arrested in 2005 and detained for more than 8 months on charges of attempting to overthrow the government (article 79 of the Penal Code) after participating in prodemocracy discussion forums on the Internet. He was subsequently rearrested and sentenced in January 2008 to 6-years’ imprisonment and 3-years’ house arrest for “abusing democratic rights” (article 258) for allegedly distributing leaflets criticizing the Communist Party of Vietnam.

#### RESTRICTIONS ON FREEDOM OF ASSOCIATION AND ASSEMBLY

Article 21 of the ICCPR recognizes the right of peaceful assembly, and article 22 provides for the right to freedom of association with others. In Vietnam, however, political parties, unions, and nongovernmental human rights organizations that are independent of the government, the party or mass organizations controlled by the party are not allowed to operate.

Public demonstrations are rare, especially after government crackdowns against mass protests in the Central Highlands in 2001 and 2004. Decree 38 bans public gatherings in front of places where government, party, and international conferences are held, and requires organizers of public gatherings to apply for and obtain government permission in advance. Despite the restrictions, farmers from the provinces are increasingly conducting peaceful protests in provincial towns, Ho Chi Minh City or Hanoi against government land seizures. In December 2007, thousands of Catholics in Hanoi participated in unprecedented rallies and prayer vigils for more than a month to call for return of church property confiscated by the Vietnamese Government in the 1950s. In late January 2008, municipal officials ordered the demonstrators to disperse and launched an investigation into crimes allegedly committed during the course of the protests, while reportedly pledging to return the property to the church.

<sup>4</sup>U.S. Commission on International Religious Freedom, Letter to Secretary Rice with 2007 CPC recommendations, May 1, 2007.

## LABOR RIGHTS

In 2007 the government announced it would raise the minimum monthly salary for workers in foreign companies for the first time in 6 years. Despite this, unprecedented numbers of workers—mostly at South Korean, Japanese, Taiwanese, and Singaporean enterprises—have continued to strike for better pay and working conditions.

A new draft law would fine workers who participate in “illegal” strikes not approved by the VCP-controlled union confederation. Decrees issued in 2007 enable local officials to force striking workers back to work, and ban strikes in strategic sectors including power stations, railways, airports, post offices, and oil, gas, and forestry enterprises.

Members of independent trade unions are arrested, harassed, and intimidated, with at least six members of newly formed independent trade unions such as the United Worker-Farmers Organization arrested since 2006. Le Tri Tue of the Independent Workers’ Union “disappeared” in May 2007 after claiming political asylum in Cambodia with the United Nations High Commissioner for Refugees (UNHCR). He was presumed to have been abducted and sent to prison in Vietnam.

## CONCLUSIONS AND GENERAL RECOMMENDATIONS

Although Vietnam has made important strides in poverty reduction and economic reforms, the country remains a one-party state that denies its citizens the freedoms of speech, press, and religion, as well as the right to form independent trade unions and political parties. Vietnam’s eagerness to engage with the global economy must be linked with respect for basic human rights and rule of law. Commitments such as those made last week by the Deputy Minister of Foreign Affairs, who asserted at the United Nations Human Rights Council that Vietnam is open and willing to engage more deeply in international dialogue and cooperation on human rights, must be vigorously pursued. This is especially important now that Vietnam has been elected to the U.N. Security Council.

The United States, which is now Vietnam’s largest export market, needs to send a clear signal to Vietnam that its increasingly blatant disregard for its international human rights commitments will affect other aspects of the evolving bilateral relationship. Because of its growing economic ties with Hanoi, the United States needs to take a firm stance with Vietnam regarding human rights.

We therefore respectfully recommend that:

1. If Vietnam does not promptly implement significant, tangible reforms and end its crackdown on peaceful dissent and unsanctioned religious activities, the United States should reinstate Vietnam on its list of Countries of Particular Concern as a warning that the United States will not tolerate restrictions on religious freedom.

2. The United States must insist that the Vietnamese Government release the hundreds of religious and political prisoners in prison. In addition, the United States itself must not be selective in advocating for the release of religious and political prisoners, and must not distinguish between religious and political prisoners—both are equally victims because of their exercise of fundamental human rights.

3. The United States should call on Vietnam to remove prohibitions on workers forming or joining independent unions, and ask the Vietnamese Government for information about the whereabouts of labor activist Le Tri Tue who “disappeared” in May 2007 after claiming political asylum in Cambodia.

4. The United States and other members of the international community should also insist that as a member of the Security Council, Vietnam must cooperate more fully with the United Nations’ human rights mechanisms and special rapporteurs, none of whom have been granted an invitation to Vietnam since 1998. Specifically, Vietnam should promptly issue standing invitations to the U.N. special rapporteurs on religious intolerance, torture, and indigenous people, and the U.N. Working Group on Arbitrary Detention.

5. If Vietnam is to be a reliable trading partner, the rule of law is essential, and the Vietnamese Government must demonstrate its willingness to observe international rules and standards, including those governing respect for fundamental human rights. A first step would be for the Vietnamese Government to repeal provisions in Vietnamese law that criminalize peaceful dissent, unsanctioned religious activity, and nonviolent demonstrations and rallies.

6. If concrete progress is not made on human rights before the next bilateral dialogue, the United States should seriously reconsider whether to proceed with the annual exercise.

More specific recommendations for human rights issues that the United States should raise with Vietnam follow below.

## RECOMMENDATIONS

*1. Arbitrary arrest, torture, detention, and unfair trials*

- Immediately release or exonerate all people imprisoned, detained, or placed under house arrest, administrative detention, or involuntary commitment to mental hospitals for the peaceful expression of political or religious beliefs.
- Amend provisions in domestic law that criminalize dissent and certain religious activities on the basis of imprecisely defined “national security” crimes. Specifically:
  - Amend or repeal Vietnam’s Criminal Code to bring it into conformity with international standards.
  - Eliminate ambiguities in the Criminal Code’s section on crimes against national security to ensure that these laws cannot be applied against those who have exercised their basic rights to freedom of expression, assembly, religion and belief, and association.
  - Amend or repeal provisions in the Ordinance on Religion, which restrict and criminalize the right to peaceful membership in independent religious groups.
- Repeal Ordinance 44, which authorizes administrative detention, house arrest, or detention in Social Protection Centers and psychiatric facilities for 2-year renewable periods, without trial, for individuals deemed to have violated national security laws.
- Extend a standing invitation to the U.N. Working Group on Arbitrary Detention, which visited Vietnam in 1994, and the Special Rapporteur on Torture to visit Vietnam.

*2. Freedom of religion*

- Release people who have been imprisoned or placed under house arrest for their religious beliefs, including members of the Unified Buddhist Church of Vietnam, ethnic Khmer Buddhists, ethnic minority Christians, Roman Catholics, and members of the Cao Dai and Hoa Hao religions.
- End the restrictions on peaceful gatherings or activities by religious groups that are not registered with the government; pressure to join government-authorized churches; and abusive police surveillance and harassment of religious leaders and followers.
- Ensure that churches and religious organizations seeking to register with the government are granted approval for “religious operations” in general and not just for “specific activities.”
- Allow independent religious organizations to freely conduct peaceful religious activities and govern themselves. Recognize the legitimate status of churches and denominations that do not choose to join or affiliate with one of the officially authorized religious organizations whose governing boards are under the control of the government. Allow these religious organizations to register with the government and operate independently of already registered religious organizations if they choose to do so.
- Invite the U.N. Special Rapporteur on Religious Intolerance to return to Vietnam.

*3. Controls over freedom of expression and information*

- Amend provisions of Vietnam’s Criminal Code that restrict and criminalize the right to peaceful dissent, particularly the provisions on national security.
- Bring press laws into compliance with article 19 of the ICCPR.
- Authorize the publication of independent, privately run newspapers and magazines.
- Remove filtering, surveillance, and other restrictions on Internet usage and release people imprisoned for peaceful dissemination of their views over the Internet.

*4. Restrictions on freedom of association and assembly*

- Permit individuals the right to associate freely and peacefully with others of similar views regardless of whether those views run counter to the political or ideological views approved by the party and state.
- Bring legislation regulating public gatherings and demonstrations into conformity with the rights of free association and assembly in the ICCPR.
- Address rural grievances without violating the rights of petitioners by strengthening the legal system, the independence of the judiciary, and making legal services available to the rural poor.

5. *Labor Rights*

- Immediately and unconditionally release all persons detained for peaceful activities to promote the rights of workers to freely associate, including the right to form and join trade unions of their own choice; to peacefully assemble to protect and advance their rights; and to exercise their right to freedom of expression on behalf of workers and their concerns.
- Recognize independent labor unions.

Senator BOXER. Well, thank you. I am going to ask you later, all of you, for your recommendations. Thank you very much.

We'll hear from Ms. Ann Mills Griffiths, executive director of National League of POW/MIA Families in Arlington. We welcome you, ma'am.

**STATEMENT OF ANN MILLS GRIFFITHS, EXECUTIVE DIRECTOR, NATIONAL LEAGUE OF POW/MIA FAMILIES, ARLINGTON, VA**

Ms. GRIFFITHS. Thank you, Madam Chair. Thank you very much. It's a pleasure to be here. I have represented the POW/MIA Families for the three decades that encompass the entire post-war relationship between the United States and Vietnam. The issue I represent played a central role in the normalization process, as Vietnam has agreed and indicated it was their bridge to normalization.

There were fits and starts, but little real priority on obtaining answers until 1981. President Reagan came into office with commitment to this issue that was well-known to those of us in California that were then involved in POW/MIA matters. The policies developed and improved and implemented from 1981 to 1989 formed a solid basis on which to build a mutually beneficial bilateral relationship.

In the lead was the POW/MIA Interagency Group, on which I served as the only nongovernment member. Without diplomatic relations, I often served as a direct communication link between Washington and Hanoi, and usually in New York City. One such private meeting with a Politburo member brought the first bilateral dialogue between senior U.S. officials and the Government of Vietnam, a sensitive thing at the time, because of Vietnam's occupation of Cambodia and the sensitivity of the ASEAN countries to any direct dialogue, in the mistaken belief, actually, that it might have meant a premature, backchannel normalization between the United States and Vietnam.

A September 1982 League Delegation to Vietnam and Laos sort of broke things open. Progress in those early years was very hard-earned and sporadic, but our expectations then and now were realistic and based squarely on U.S. Government evidence and analysis. We've always known that answers could only come through the government-to-government process, yet I could paper my walls with agreements reached with and broken by Vietnam.

There were many disappointments, but none more damaging than United States and Vietnamese violations of the 1991 roadmap that Senator Webb alluded to, which was also developed by the POW/MIA Interagency Group on which I served.

The three-phase roadmap specified actions by Vietnam to address accounting issues, with reciprocal U.S. steps leading to withdrawal of Vietnamese forces from Cambodia and normalization of

U.S.-SRV relations. With agreement to proceed along the roadmap course of action, Vietnam began withdrawing troops and pressure rose within the U.S. bureaucracy on the need to respond, despite Vietnam's failure and stalling on POW/MIA provisions.

And this process continued to erode, with the altered priorities that came in in 1993 and led fairly quickly to normalization of political relations in 1995, a bilateral trade agreement in 2001, and permanent normal trade relations in 2006. But still, the League has consistently relied on sustainable official information.

Since 1982, I have conveyed these facts and our expectations to officials in Hanoi, Vientiane, and Phnom Penh; most recently, in October 2006, I think my 29th visit to Hanoi since 1982. Each time, we have commended Vietnam for their support in joint field operations, past and present, and that aspect is going fairly well. It's improved dramatically in scope and quality, especially when compared to early efforts, which were really more focused on the perception of cooperation and openness, whether real or not, to justify moving forward on the political and economic objectives.

But that's all past, and today we have 820 U.S. personnel that have been accounted for since the actual end of the war in 1975, with the assistance of the Vietnamese, Lao, and Cambodian Governments, 569 of them from Vietnam. Though this hearing is focused solely on United States/Vietnam relations, I would be remiss if I failed to mention and to commend Cambodia for truly unfettered cooperation, and Laos for extraordinary efforts over the years, always working to improve the process and be responsive to the families.

It is remarkable, considering the fact that 90 percent of the 1,763 that are still listed as missing from the Vietnam war were either lost in Vietnam itself, or in areas of Cambodia and Laos that were under Vietnam's wartime control. Over the years, we've overcome countless obstacles, including 1978 speculation that all the records were eaten by bugs and that weather and other elements had destroyed all the remains, even disbelief that Vietnam was storing remains in large numbers.

These excuses have all proven to be false. Archived material that we have been able to get has reinforced the long-held analysis, and Vietnam's postwar repatriation of stored remains began in earnest in the mid-1980s. It's now widely accepted that much more can be achieved jointly and unilaterally by Vietnam.

Today's challenges are most succinctly outlined in the State Department's Determination to Congress. Although they must say that Vietnam is fully cooperating in good faith on the accounting effort—otherwise the relationship would revert to prenormalization levels, which is absurd—there was language added in 2002 that specifically lays out four steps that need to be followed by Vietnam, unilaterally taken by Vietnam, and would, in fact, bring about the fullest possible accounting.

Without those efforts, joint operations can never reach that goal. And those steps are outlined in the full testimony. Again, I stress accounting goals can't be obtained without those steps, so I would like to call on Congress, and have articulated this more directly in the full testimony, asking for some—for the Congress—in fact, all

officials of the United States Government to make a unified effort to press Vietnam to move on those four actions.

It's not that they're difficult. They're not difficult and sensitive like many of the human rights steps that need to be taken, that leaders in Hanoi may consider potentially dangerous to their control. But these POW/MIA accounting steps are just being ignored and overlooked.

And I would disagree, unfortunately, with Secretary Hill's comment in response to Senator Murkowski that the U.S. Navy ship effort for underwater recoveries is going well; frankly, it's not. But that was as much the fault of U.S. officials and the bureaucracy as it was the Vietnamese; although, the Vietnamese have balked at implementing the agreements that they pledged, and that needs to be pursued further.

Thank you, Madam Chairman.

[The prepared statement of Ms. Griffiths follows:]

PREPARED STATEMENT OF ANN MILLS GRIFFITHS, EXECUTIVE DIRECTOR, NATIONAL LEAGUE OF POW/MIA FAMILIES, ARLINGTON, VA

Thank you, Madam Chairman, members of the subcommittee, for inviting League participation in this hearing.

I'm pleased to be able to join you and give the views of the Vietnam war POW/MIA families whom I have represented for three decades, though my personal involvement began much earlier. On September 21, 1966, my brother, LCDR James B. Mills, USNR disappeared in an F4B flying off the USS *Coral Sea* over northern Vietnam, his second such tour of duty, the first being on the USS *Midway*. He deployed from Alameda Naval Air Station, listing Bakersfield, CA, as his home of record, the State where the vast majority of the extended Mills family still resides.

These three decades encompass the entire spectrum of the postwar bilateral relationship between Vietnam and the United States. The issue I represent played a central role in the normalization process and its evolution. Vietnam agrees, citing the POW/MIA issue as their bridge to normalization of relations.

The League did not support immediate post-war normalization of relations, due to Vietnam's failure to implement provisions in the 1973 Paris Peace Accords calling for a full accounting for unreturned American POW/MIAs. The process became one of fits and starts, dialogue and movement, stalling, backtracking and resumption, but not with focused priority on obtaining answers until 1981. President Reagan came into office with a commitment to this issue that was well known to the returned POWs, as it was to the MIA families, especially those of us in California.

The policies developed, approved, and implemented from 1981-1989 formed a solid basis on which to build a mutually beneficial bilateral relationship. In the lead throughout that time was the POW/MIA Interagency Group, on which I served as the only nongovernment member. Without diplomatic relations, I frequently served as a direct communication link between Washington and Hanoi, most often in New York City. Such a meeting with the late Vietnamese Deputy Prime Minister and Foreign Minister Nguyen Co Thach brought subsequent bilateral discussions with senior U.S. officials, a sensitive prospect at the time due to Vietnam's military occupation of neighboring Cambodia. All members of the Association of Southeast Asian Nations (ASEAN) strongly objected to Vietnam's presence. My participation in such high level discussions offered assurance that the primary purpose was humanitarian, not, as ASEAN could have thought, a backdoor, premature effort by the United States to normalize bilateral U.S.-SRV relations. Yes; those were unique times . . . not yet adequately chronicled.

A September 1982 League delegation to Vietnam and Laos was credited with jump-starting cooperation between these two governments and the United States. Progress during those early years was hard-earned and sporadic, but the families' expectations, with very few exceptions, were realistic and based squarely on U.S. Government evidence and analysis. We have always recognized that this issue could be solved only through government-to-government efforts; yet I've often said I could paper my walls with agreements reached with and broken by Vietnam. There were frequent disappointments, none more damaging to the issue than United States and Vietnamese violations of the 1991 "roadmap" to normalization of relations developed by the POW/MIA Interagency Group.

The three-phase “roadmap” specified actions by Vietnam to address accounting issues and reciprocal steps by the United States, leading to withdrawal of Vietnamese forces from Cambodia and normalization of bilateral U.S.–SRV relations. With agreement to proceed along the “roadmap” course of action, Vietnam began withdrawing troops from Cambodia, and pressure rose within the U.S. bureaucracy on the need to respond positively, despite Vietnam’s stalling on specified POW/MIA accounting steps. The process continued to erode with the altered priorities that came in 1993, leading fairly quickly to normalization of political relations in 1995, a bilateral trade agreement in 2001, and permanent normal trade relations (PNTR) in 2006.

Throughout these years, the League has relied on sustainable information provided by the U.S. Government. Since 1982, I have conveyed these facts and our well-founded expectations to officials in Hanoi, Vientiane, and Phnom Penh, most recently in October 2006. I believe that was my 29th visit to Hanoi, a beautiful, historic city. I’ve also visited Bangkok, Moscow, and elsewhere to appeal for help from those willing and able. Each time, the League commended Vietnam for support provided to joint field operations, past and present.

The joint field operations aspect of the accounting process has improved dramatically in quality and scope. Our highly skilled and motivated personnel in Hanoi, Vientiane, Bangkok, and Phnom Penh continue to find ways to make improvements. This is especially true when compared with efforts in the early 1990s that focused more on form than substance in an effort to visibly demonstrate cooperation and openness, whether or not real. At the time, the higher priority was generating support for political and economic objectives, never fully grasping that pursuing POW/MIA accounting and those priorities was, in reality, quite doable and complimentary.

But that is past, and today we have 820 U.S. personnel returned and accounted for since the actual end of the war in 1975, with the assistance of the Vietnamese, Lao, and Cambodia Governments, 569 of them from Vietnam. Remains of another 63 U.S. personnel were recovered and identified before the end of the war, but without the bilateral cooperation that is the subject of today’s hearing.

In that regard, and even though this hearing is focused solely on the United States-Vietnam relationship, I would be remiss if I failed to commend Cambodia for its unfettered cooperation and Laos for the extraordinary effort they have made over the years, always working to improve the process and be responsive to the families. That is especially true when considering the fact that approximately 90 percent of all the 1,763 still listed as unaccounted for from the Vietnam war were lost in Vietnam or in areas of Cambodia and Laos under Vietnam’s wartime control.

Over the years, we have overcome countless obstacles that were raised, either in this country or overseas. These ranged from speculation in 1978 that bugs had probably eaten the archival records and the elements had ravaged most of the remains, to disbelief that Vietnam was storing large quantities of remains. These excuses have been proven false. Sufficient archival material has been provided to reinforce long-held analysis on Vietnam’s ability to provide relevant archival documents, and Vietnam’s postwar repatriation of stored remains began in earnest in the mid-1980s. It is now widely accepted: Much can yet be achieved jointly and unilaterally by the Government of Vietnam.

Today’s challenges are most succinctly outlined in the State Department’s determination just sent to Congress assessing the level of Vietnam’s cooperation, as required by section 109 of the Department of State, Foreign Operations and Related Programs Appropriations Act, 2008 (P.L. 110–161). The standard determination language citing Vietnam as “fully cooperating in good faith” on the accounting effort lists some specific criteria that have not been met, but the precise language is required or the bilateral relationship would revert to prenormalization levels. That would be absurd, and no objective observer or participant would support such a drastic course. The most helpful aspect of this required determination was added by President Bush in 2002, outlining how cooperation can be improved.

Originally signed by the President in his certification in 2002, since signed by the Secretary of State, the determination explains: “To further strengthen that cooperation, however, I urge Vietnam to work aggressively to improve tangibly its unilateral provision of POW/MIA-related documents and records, focused initially on archival data pertaining to Americans captured, missing, or killed in areas of Laos and Cambodia under wartime Vietnamese control. Vietnam should also focus greater attention on locating and providing information on discrepancy cases, with priority on those last known alive in captivity or in immediate proximity to capture, and to locating and repatriating the remains of those who died while in Vietnamese control that have not yet been returned. I also call upon Vietnam to continue per-

mitting our recovery teams to have access to restricted areas for the sole purpose of conducting our humanitarian accounting operations.”

The determination concludes with commitment and a pledge of continued priority: “Finally, in making this determination, I wish to reaffirm my continuing personal commitment to the entire POW/MIA community, especially to the immediate families, relatives, friends, and supporters of these brave individuals, and to reconfirm that achieving the fullest possible accounting for our prisoners of war and missing in action remains one of the most important priorities in our relations with Vietnam.”

We welcome this year’s determination. It defines four specific steps that Vietnam should take, again reinforcing the need for unilateral actions. Despite the praiseworthy field operations of the Joint POW/MIA Accounting Command, augmented by the Defense Intelligence Agency’s special POW/MIA investigation team, the fullest possible accounting can not be achieved without authorization by Vietnam’s leadership to take the unilateral actions outlined in the determination to Congress.

Knowing the importance of the POW/MIA Issue to America—both government and people—major decisions during and after the war were historically made by Politburo consensus. Relations with the United States, a long-desired Vietnamese objective, was mismanaged and flubbed more than once, but it remains a matter of high national security interest to Vietnam, and understandably so, to retain a balance of powers, as well as regional economic health and political equilibrium.

We continue to hope that Vietnam’s leaders will authorize the unilateral cooperation long sought. We urge all U.S. officials, including Members of Congress, to press for the specific actions needed. To start, they can provide the documents on the list attached to my testimony, a list compiled by the Defense POW/MIA Office and JPAC and presented many times in Hanoi, including my most recent trip, a family member delegation exactly 1 year ago, and again that fall by Ambassador Charles Ray, the Deputy Assistant Secretary of Defense for POW/MIA Affairs.

Historically, Vietnam has responded best when there was high-level executive and legislative branch interest. Information from the current POW/MIA bureaucracy is pro forma on the need for unilateral action; therefore, we are concerned that the Vietnamese leadership may believe joint field operations are sufficient to meet requirements. They are not, and Congress can help by passing a bipartisan resolution urging Vietnam to respond to the provisions in the administration’s recent determination. We respectfully request this action be taken quickly and transmitted to the Vietnamese leadership.

We deeply appreciate the leading role our Ambassadors have taken to promote cooperation from the host governments and their full support for field operations. We are indebted to nearly all who served as U.S. Ambassadors in each of these countries, to Presidents who cared, and to senior officials in the NSC, State, and Defense who demonstrated by their actions the leadership that was needed. All Americans and those we elect in Congress have a useful role in fulfilling our Nation’s commitment to those who serve—past, present, and future—and to signal those serving today, especially in Iraq and Afghanistan, that should they be captured or become missing, they won’t be forgotten and, if possible, they will be brought home.

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NATIONAL LEAGUE OF FAMILIES OF AMERICAN PRISONERS AND MISSING IN  
SOUTHEAST ASIA

STATUS OF THE POW/MIA ISSUE: MARCH 7, 2008

1,763 Americans are still listed by DOD as missing and unaccounted for from the Vietnam War, though over 450 were at sea/over water losses: Vietnam—1,353 (VN—481; VS—872); Laos—348; Cambodia—55; Peoples Republic of China territorial waters—7. The League seeks the return of all U.S. prisoners, the fullest possible accounting for those still missing and repatriation of all recoverable remains. The League’s highest priority is accounting for Americans last known alive. Official intelligence indicates that Americans known to be in captivity in Vietnam, Laos and Cambodia were not returned at the end of the war. In the absence of evidence to the contrary, it must be assumed that these Americans may still be alive. As a policy, the U.S. Government does not rule out the possibility that Americans could still be held.

Unilateral return of remains by the Government of the Socialist-Republic of Vietnam (SRV) has been proven an effective means of obtaining accountability, as have joint field operations in recent years, though the first joint excavation in northern Vietnam occurred in 1985. A comprehensive wartime and post-war process was established by Vietnam to collect and retain information and remains; thus, unilateral



efforts by Vietnam to locate and return remains and provide records continue to offer significant potential. Hanoi's earlier commitments to expedite interviews to obtain intelligence information and move forward on coastline cases, including working out a bilateral agreement for use of a U.S. recovery ship, are welcome and appreciated. These topics have repeatedly been raised during League Delegations, most recently in September 2006, and have now been raised regularly by U.S. officials at the highest levels. Archival research, also a high priority with Vietnam, has produced thousands of documents and photos, but to date the vast majority pertain to returned POWs and Americans previously accounted for, though recent commitments offer promise, if implemented.

Joint field operations in Laos are very productive. Over the years, the Lao regularly increased flexibility and the number of U.S. personnel permitted in-country in an effort to improve field operations. The Lao approved an archival research program, but results thus far have been disappointing. Agreements between the U.S. and the Indochina governments now permit Vietnamese witnesses to participate in joint operations in Laos and Cambodia when necessary; but it is a time-consuming, expensive process that could be at least partially alleviated with a decision in Hanoi to unilaterally provide relevant documents, as President Bush requested during his November 2006 visit to Hanoi. He also certified such to Congress on March 20, 2002, as did Secretary of State Powell September 7, 2004, and Secretary of State Rice July 15, 2005, and August 8, 2006. Research and field activities in Cambodia have received excellent support with a full-time DIA Stony Beach specialist working in the U.S. Embassy in Phnom Penh. Over 80% of U.S. losses in Laos and 90% in Cambodia occurred in areas where Vietnam's forces operated during the war, but Hanoi has not responded to countless U.S. requests for case-specific records on our losses in these countries. Records research and field operations are the most likely means of increased accounting for Americans missing in Laos and Cambodia.

U.S. intelligence and other evidence indicate that many Americans can be accounted for by unilateral Vietnamese efforts to locate and return remains and provide relevant documents and records. Despite this reality, President Clinton regularly certified to Congress that Vietnam was "fully cooperating in good faith" to resolve this issue. The League recognizes that legislation requiring certification includes punitive measures that would reverse political and economic relations to the level in place in 1994. The League supported steps by the U.S. to respond to concrete results, not advancing political and economic concessions in the hope that Hanoi would respond. The Clinton administration lifted the trade embargo, established the U.S. Embassy in Hanoi, normalized diplomatic relations, posted a U.S. Ambassador to Vietnam, signed a bilateral trade agreement and established normal trade relations. The Bush administration also issued the required certification that Vietnam is "fully cooperating in good faith," but added criteria Vietnam should meet which the League welcomed. These included the need to increase unilateral provision of POW/MIA-related documents and records on Americans missing in areas of Laos and Cambodia under wartime Vietnamese control, greater attention to locating and providing information on discrepancy cases, with priority on those last known alive in captivity or in immediate proximity to capture, and the need to locate and repatriate the remains of those who died while in Vietnamese control that can't be recovered jointly and have not yet been returned. Senior officials from the Departments of State and Defense regularly press Hanoi for increased cooperation.

#### NATIONAL COMBINED FEDERAL CAMPAIGN ELIGIBILITY #10218 POW/MIA STATISTICS

(Live Sighting statistics are provided by the Defense POW/MIA Office (DPMO))

*Live Sightings:* As of December 5, 2007, 1,989 first-hand live sighting reports in Indochina have been received since 1975; 1,942 (97.64%) have been resolved. 1,341 (67.49%) were equated to Americans now accounted for (i.e., returned POWs, missionaries or civilians detained for violating Vietnamese codes); 45 (2.26%) correlated to wartime sightings of military personnel or pre-1975 sightings of civilians still unaccounted for; 556 (27.95%) were determined to be fabrications. The remaining 47 (2.36%) unresolved first-hand reports are the focus of current analytical and collection efforts: 42 (2.11%) concern Americans in a captive environment; 5 (0.25%) are noncaptive sightings. The years in which these 47 first-hand sightings occurred is listed below:

Year	Pre-76	76-80	81-85	86-90	91-95	96-2000	01-07	Total
	35	3	0	1	0	4	4	47

*Accountability:* At the end of the Vietnam War, there reportedly were 2,583 unaccounted for American prisoners, missing or killed in action/body not recovered. As of March 7, 2008, the Defense POW/MIA Office lists 1,763 Americans as still missing and unaccounted for, 90+% of them in Vietnam or areas of Cambodia and Laos where Vietnamese forces operated during the war. A breakdown by year of recovery for the \*820 Americans accounted for from Vietnam, Laos, Cambodia, and China since the end of the war in 1975 follows:

1965–1974—War years (recently identified): 2  
 1974–1975—Post war years: 28  
 1976–1978—US/SRV normalization negotiations: 47  
 1979–1980—US/SRV talks break down: 1  
 1981–1984—1st Reagan Administration: 23  
 1985–1988—2nd Reagan Administration: 162  
 1989–1992—George H.W. Bush Administration: 121  
 1993–1996—1st Clinton Administration: 258  
 1997–2001—2nd Clinton Administration: 94  
 2001–2007—George W. Bush Administration: 84

According to CILHI, unilateral SRV repatriations of remains with scientific evidence of storage have accounted for only 180 of the 569 from Vietnam; two were mistakenly listed as KIA/BNR in Vietnam in 1968, but remains were actually recovered at that time. All but 6 of the 219 Americans accounted for in Laos have been the result of joint excavations. Four remains were recovered and turned over by indigenous personnel, one from Vietnam and five from Laos. In addition, three persons identified were recovered in Vietnam before the end of the war. The breakdown by country of the 820\* Americans accounted for since the end of the Vietnam War in 1975:

Vietnam—569 (627)  
 China—3  
 Laos—219 (224)  
 Cambodia—29

\* An additional 63 U.S. personnel were accounted between 1973 and 1975, for a grand total of 883. These Americans were accounted for by unilateral U.S. effort in areas where the U.S. could gain access at that time, not due to government-to-government cooperation with the post-war governments of Vietnam, Laos, or Cambodia.

For the latest information, call the League's Office (703) 465-7432 and log onto the League Web site: [www.pow-miafamilies.org](http://www.pow-miafamilies.org).

NUMBER OF AMERICANS MISSING AND UNACCOUNTED FOR FROM EACH STATE—  
 MARCH 7, 2008

Alabama .....	32	New Hampshire .....	6
Alaska .....	2	New Jersey .....	48
Arizona .....	17	New Mexico .....	12
Arkansas .....	20	New York .....	115
California .....	179	North Carolina .....	44
Colorado .....	27	North Dakota .....	10
Connecticut .....	27	Ohio .....	82
Delaware .....	4	Oklahoma .....	36
District of Columbia .....	8	Oregon .....	39
Florida .....	59	Pennsylvania .....	96
Georgia .....	33	Rhode Island .....	7
Hawaii .....	7	South Carolina .....	29
Idaho .....	10	South Dakota .....	7
Illinois .....	72	Tennessee .....	33
Indiana .....	57	Texas .....	114
Iowa .....	26	Utah .....	15
Kansas .....	28	Vermont .....	5
Kentucky .....	14	Virginia .....	48
Louisiana .....	24	Washington .....	43
Maine .....	13	West Virginia .....	17
Maryland .....	25	Wisconsin .....	29
Massachusetts .....	40	Wyoming .....	5
Michigan .....	53	Canada .....	2
Minnesota .....	36	Panama .....	1

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Mississippi .....	12	Philippines .....	4
Missouri .....	38	Puerto Rico .....	1
Montana .....	18	Virgin Islands .....	0
Nebraska .....	19	Civilians* .....	8
Nevada .....	7		
Total missing and unaccounted for: 1763			

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\*These 8 civilians do not have a listed home of record.

Senator BOXER. Thank you very much. I really appreciate that, and we'll have questions for all of our panelists. Mr. Do Hoang Diem, Chairman, Viet Tan, that's the Vietnam Reform Party, from Orange County. Welcome, sir.

**STATEMENT OF DO HOANG DIEM, CHAIRMAN, VIET TAN  
(VIETNAM REFORM PARTY), ORANGE COUNTY, CA**

Mr. DIEM. Madam Chair, Senator Webb, thank you for the invitation to testify today. I am here on behalf of Viet Tan, an unsanctioned prodemocracy party active in Vietnam. The goal of Viet Tan is to work alongside with other Vietnamese democratic forces to bring about peaceful, nonviolent political change through the power of the people.

We believe that a free society is the best means to harness the tremendous potential of Vietnamese citizens, and that a democratic Vietnam would be an anchor for posterity and stability in Asia. I would like to focus first on the current situation in Vietnam, next on the challenge and opportunity facing us, and last on specific recommendations.

There are two recent important developments—the surge in social discontent and an emboldened challenge to one-party rule.

First, due to pervasive corruption, social discontent has risen to an unprecedented level. This is shown by widespread protest by farmers and labor unrest. For almost 2 years, farmers have staged numerous protests to demand fair compensation for land lost to corrupt officials. The most significant event was the 27 days' protest in Saigon last summer by thousands of people before the police forcibly removed them.

Workers also have walked out by the thousands in hundreds of strikes. More recently, the Catholic community joined in when thousands of followers protested from December 2007 into January of this year, demanding the return of confiscated church properties in Hanoi. Meanwhile, the government continues to arbitrarily arrest those suspected of leading the protests and harassing others who have participated. However, so far this has failed to prevent new protests from taking place.

On the political front, the democracy movement in Vietnam today is similar to Czechoslovakia during the 1970s and Poland in the 1980s. For the first time, the movement no longer consists of individuals, but organized groups with increasing popular support. Since 2006, dozens of political parties and grassroots' associations have sprung up to challenge one-party rule.

The government retaliated in February 2007 when they unleashed the worst crackdown in the last 20 years. Scores of democracy leaders have been imprisoned, others put under house arrest or subjected to constant harassment by the police. Although bat-

tered by the crackdowns, these groups are still hanging on and building coalitions from both overseas and inside Vietnam.

Recently, on November 17, 2007, three members of my party were arrested in Vietnam, along with three associates, for attempting to publicize nonviolent principles and methods to the people. Among the arrested are two American citizens. Mr. Leon Truong, from Hawaii, was later released in December. But Dr. Le Quoc Quan of California is still in prison today.

Just last week, his wife's visa to Vietnam was revoked, despite her plea to visit her husband. Mrs. Nguyen is here at the hearing today as a vivid reminder that the Vietnamese people are still living under a brutal and dictatorial regime.

I also would like to take this opportunity to express our appreciation to Members of Congress, State Department officials, Ambassador Michael Michalak, and his staff for maintaining constant pressure on the Vietnamese Government. It is clear that what is happening in Vietnam is very unusual and significant. After more than 50 years in power, for the first time, the Vietnamese Communist Party is facing numerous and unprecedented challenges to its rule.

The desire for real change in Vietnam is stronger now than ever before, and in response, the regime is using terror tactics to silence opposition and severely violate human rights. The democracy movement in Vietnam is facing a huge challenge; that is, to survive the crackdown at all costs. If the movement can survive the next year or two, it will prove to the Vietnamese people that: One, there is a viable alternative that can withstand the persecution and continues to challenge the regime; and two, fear can be overcome, and the ruling dictatorship is not as invincible as it claims.

For the United States, an excellent opportunity also exists because: First, a democratic Vietnam would be a much more reliable partner in the long run, on both economic and security fronts, especially in dealing with China; and second, a victory for democracy in Vietnam would have a tremendous impact on political openness and respect for human rights throughout the region.

The choice for American policy is not whether to isolate or engage Vietnam, but how to pursue the relationship in the most constructive way. I would like to offer three recommendations.

First, saying that Vietnam human rights are active to President Bush by his signature. Last September, the House overwhelmingly passed the Vietnam Human Rights Act. The result was warmly welcomed by the Vietnamese-American community and democracy activists inside Vietnam. We strongly urge you to pass this important legislation in the Senate.

Second, speak out on human rights abuse in Vietnam. Your voices in today's hearing, through letters, speeches on the Senate floor, and in meetings with officials are important in demanding that the regime release all political prisoners. We ask you to particularly focus on the following cases: Father Nguyen Ly, Attorney Nguyen Dai, Attorney Le Thi Nhan, imprisoned members of the Vietnamese Progression Party, People's Democratic Party, Vietnam Populist Party, and the United Workers and Farmers Organization, and last, Dr. Nguyen Quoc Quan and three associates of Viet Tan—Somsak Khunmi, Nguyen The Vu, and Nguyen Viet Trung.

And last, support democratic change. As long as there is one-party dictatorship, human rights abuse will persist. The solution to human rights is a democratic society where all stakeholders have the voice in the future of their country. The international community can help by enabling the activities of independent NGOs, promoting an independent media, and collaborating with grassroots' organizations inside Vietnam.

Once again, thank you for holding this hearing, and for your continued support.

[The prepared statement of Mr. Diem follows:]

PREPARED STATEMENT OF DO HOANG DIEM, CHAIRMAN, VIET TAN (VIETNAM REFORM PARTY), ORANGE COUNTY, CA

Madam Chairwoman and members of the committee, thank you for the invitation to testify today. I am here on behalf of Viet Tan, an unsanctioned prodemocracy party active in Vietnam. The goal of Viet Tan is to work alongside other Vietnamese democratic forces to bring about peaceful, nonviolent political change through the power of the people. We believe that a free society is the best means to harness the tremendous potential of Vietnamese citizens and that a democratic Vietnam would be an anchor for prosperity and stability in Asia.

I would like to focus first on the current situation in Vietnam, next on the challenge and opportunity facing us, and last on specific recommendations.

#### CURRENT SITUATION IN VIETNAM

There are two important developments: A surge in social discontent and an emboldened challenge to one-party rule.

First, due to pervasive corruption, social discontent has risen to an unprecedented level. This is shown by widespread protests by farmers and labor unrest. For almost 2 years, farmers have staged numerous protests to demand fair compensation for land lost to corrupt officials. The most significant event was the 27 days protest in Saigon last summer by thousands of people before the police forcibly removed them. Workers also have walked out by the thousands in hundreds of strikes. More recently, the Catholic community joined in when thousands of followers protested from December 2007 into January of this year demanding the return of confiscated church properties in Hanoi. Meanwhile, the government continues to arbitrarily arrest those suspected of leading the protests and harassing others who participated. However, so far this has failed to prevent new protests from taking place.

On the political front, the democracy movement in Vietnam today is similar to Czechoslovakia during the 1970s and Poland in the 1980s. For the first time, the movement no longer consists of individuals but organized groups with increasing popular support. Since 2006, dozens of political parties and grassroots associations have sprung up to challenge one-party rule. The government retaliated in February 2007 when they unleashed the worst crackdown in the last 20 years. Scores of democracy leaders have been imprisoned; others put under house arrest or subjected to constant harassment by the police. Although battered by the crackdown, these groups are still hanging on and building coalitions from both overseas and inside Vietnam.

Recently, on November 17, 2007, three members of my party, Viet Tan, were arrested in Vietnam along with three associates for attempting to publicize nonviolent principles and methods to the people. Among the arrested are two American citizens. Mr. Leon Truong of Hawaii was later released in December, but Dr. Nguyen Quoc Quan of California is still in prison today. Just last week, his wife's visa to Vietnam was retracted despite her plea to visit her husband. Mrs. Nguyen Quoc Quan is at the hearing today as a vivid reminder that the Vietnamese people are still living under a brutal and dictatorial regime. I also would like to take this opportunity to express our appreciation to Members of Congress, State Department officials, Ambassador Michael Michalak and his staff for maintaining constant pressure on the Vietnamese Government for the release of Dr. Nguyen Quoc Quan and other Viet Tan colleagues who were detained.

It is clear that what is happening in Vietnam is very unusual and significant. After more than 50 years in power, for the first time, the Vietnamese Communist Party is facing numerous and unprecedented challenges to its rule. The desire for real changes in Vietnam is stronger now than ever before. In response, the regime is using terror tactics to silence opposition, and severely violate human rights of not

just political dissidents but also bloggers, farmers, workers, students or whoever dares to question the regime's authority.

#### CHALLENGE AND OPPORTUNITY

The democracy movement in Vietnam is facing a huge challenge: That is to survive the crackdown at all costs. And by overcoming the challenge, a tremendous opportunity also exists. If the movement can survive the next year or two, it will prove to the Vietnamese people that:

1. There is a viable alternative that can withstand the persecution and continues to challenge the regime, and
2. Fear can be overcome for the ruling dictatorship is not as invincible as it claims.

And that will lead to a tipping point to accelerate real democratic changes.

For the United States, an excellent opportunity also exists because:

1. A democratic Vietnam will be a much more reliable partner in the long run on both economic and security fronts, especially in dealing with China.
2. A victory for democracy in Vietnam will have a tremendous impact on political openness and respect for human rights throughout the region.

#### RECOMMENDATIONS

The choice for American policy is not whether to isolate or engage Vietnam, but how to pursue the bilateral relationship in the most constructive way. To deepen America's relationship with the Vietnamese people, I would like to offer three recommendations:

##### *1. Send the Vietnam Human Rights Act to President Bush for his signature*

Last September, the House of Representatives overwhelmingly passed the Vietnam Human Rights Act (H.R. 3096). This result was warmly welcomed by the Vietnamese American community and democracy activists inside Vietnam. In a letter thanking the House, the Vietnam-based Alliance for Democracy and Human Rights stated: "The fraternal and economic relationship between Vietnam and the United States is only sustainable and benefiting the peoples of the two countries when Vietnam is truly a democratic nation where human rights are respected."

We strongly urge you to pass this important legislation in the Senate.

##### *2. Speak out on the human rights abuses in Vietnam*

Your voices—in today's hearing, through letters, speeches on the Senate floor, and in meetings with Hanoi officials—are important in demanding that the regime release all political prisoners and cease all forms of harassment against democracy activists and their families. We ask you to particularly focus on the following cases:

- Father Nguyen Van Ly, attorney Nguyen Van Dai, and attorney Le Thi Cong Nhan.
- Imprisoned members of the Vietnam Progression Party, People's Democratic Party, Vietnam Populist Party, and United Workers-Farmers Organization.
- Dr. Nguyen Quoc Quan and three associates of Viet Tan: Somsak Khunmi, Nguyen The Vu, and Nguyen Viet Trung.

##### *3. Support democratic change*

As long as there is a one-party dictatorship, human rights abuses will persist. The solution to human rights is a democratic society where all stakeholders have a voice in the future of their country. While achieving democracy must be foremost an effort of the Vietnamese people, the international community can help by enabling the activities of independent NGOs, promoting an independent media and collaborating with grassroots organizations inside Vietnam. This is essential for empowering the Vietnamese people and building a civil society, the critical foundation upon which a long lasting democracy can be achieved.

Once again, thank you for holding this hearing and for your continued support for democracy and human rights in Vietnam.

Senator BOXER. Thank you so very much. It's a pleasure and honor to have you here. And our last panelist, Mr. Matthew Daley, president of US-ASEAN Business Council, Washington, DC. Welcome, sir.

**STATEMENT OF MATTHEW P. DALEY, PRESIDENT, US-ASEAN  
BUSINESS COUNCIL, WASHINGTON, D.C.**

Mr. DALEY. Thank you very much for the opportunity to appear at this hearing. I do have a somewhat lengthy statement, which I would submit for the record, with your—thank you.

The US-ASEAN Business Council is a private, nonprofit organization that consists of American corporations with the purpose of trying to expand trade and investment linkages between the United States and Southeast Asia. And to that end, our members take a very long-term perspective on their relationships. They approach dealing with individual countries with a firm commitment to the rule of law, to high standards of corporate social responsibility, and to being the benchmark in human resource development and employee relations.

The Council has long judged that strong commercial and business ties are integral to strengthening bilateral relationships between the United States and Vietnam. We think that transparency, the rule of law, access to information and communications, and government accountability—all of which help foster a favorable business climate—will contribute to the other objectives of the United States.

We see Vietnam itself as an exciting new frontier for trade and investment. With its succession to the WTO and permanent normal trade relations with the United States last year, Vietnam is set to undergo a new era of reform and opening.

Over the last 6 years, starting with the conclusion of Bilateral Trade Agreement, our firms have expanded their operations in Vietnam significantly. I think it's already been noted that Vietnam has had roughly an 8.5-percent increase in gross domestic product in the past year. And this has led to a dramatic reduction in poverty rates across the country.

Vietnam's exports to the United States have increased tenfold, from \$1 billion in 2001 to about \$10 billion last year. And the United States has made investments of over \$1.3 billion in the first 2 months of this year, and that compares to a total of only \$3.2 billion during the previous two decades.

Our corporate activity sets high standards. And through our members' projects, we contribute to Vietnam's social welfare, through a variety of local initiatives on health and education. Several examples of these projects are mentioned in my written statement.

Taken together, these business activities have helped lower poverty and increased standards of living, and I think it's important to note that the benefits of the poverty reduction and the increase in the standards of living are distributed throughout the country, including in the Central Highlands.

Even with economic success, concerns remain about corruption, judicial reform, and human rights. These are on Hanoi's agenda. Prime Minister Nguyen Tan Dung has made corruption one of his main priorities. For our part in the business community, we realize that over the past two decades, the political and human rights situation in Vietnam has moved along an uneven path. A lot of progress has been made, looking back. Very much remains to be done.

In this respect, our members have traditionally encouraged promotion of the rule of law, increasing respect for labor rights, promoting human rights, and also encouraging environmental protection. In 2007, Vietnam regressed in some aspects, including those allowing for free speech and freedom of assembly. At the same time, we've seen the government work toward greater religious freedom, easier movement in and out of the country, and greater collaboration with international groups in such areas as legal reform and curbing human trafficking.

We respect and we support the broad goals of the Vietnam Human Rights Act of 2007. At the same time, we believe providing positive models and encouragement to Vietnam, rather than a policy of sanctions, will encourage the kind of change that we want to see. And I'd be prepared to discuss one concrete example of that drawn from another country in the Qs&As.

We think that the process of internalizing human rights and legal reform is underway in Vietnam. It's going to be a long and complex path. Vietnam has shown a willingness to engage with the international community and with the United States on these issues, to include trafficking persons and religious freedom.

We noted these efforts led the State Department to remove Vietnam from its list of countries of particular concern for religious freedom in 2007, and we know that the distinction that Secretary Hill made between those that have been imprisoned because of religious activity as opposed to political activity.

On human trafficking, we think Vietnam has made significant strides by providing funding and implementation of its 2004–2010 National Program of Action, that includes a comprehensive package of prevention and prosecution of trafficking, and provides for protection of victims. As it works to alter its bureaucracy, its statutes, and its legal system to encourage economic growth, we think Vietnam is going to aspire to higher international standards across the full issue area.

We think American assistance programs can be an integral part of this process. We see them not as a reward for good behavior. We see them as devices that address, on the one hand, basic human needs; and on the other hand, a way to set the agenda for a reform. We would hope that they would not be curtailed as the inevitable disappointments arise moving forward.

We think we need to focus on the trend lines, not the particular concern of the moment, as deciders of policy, and we need to press on. We, at the Council, look forward to working with the Governments of Vietnam and the United States to support the reform effort.

And again, Senator, I thank you very much for the opportunity to appear here today.

[The prepared statement of Mr. Daley follows:]

PREPARED STATEMENT OF MATTHEW P. DALEY, PRESIDENT, US-ASEAN BUSINESS COUNCIL, WASHINGTON, DC

Senator Boxer, thank you for the opportunity to testify at today's hearing. My name is Matthew Daley, President of the US-ASEAN Business Council, a private, nonprofit organization which works to expand trade and investment between the United States and the member countries of ASEAN, an acronym for the Association of Southeast Asian Nations. Consisting of over 120 leading American companies, the



US-ASEAN Business Council has for two decades promoted American interests in Southeast Asia. Our corporate members have in common a long-term perspective on the relationship with the Southeast Asian nations, a commitment to the rule of law and to high standards of corporate social responsibility. The Council's Vietnam committee chair is the General Electric Company, while its vice-chair is the largest single investor from any sector and any country in Vietnam, ConocoPhillips.

The Council's has long judged that strong commercial ties are integral to the strengthening of the bilateral relationship between the United States and Vietnam. We think that transparency, access to information and communications, respect for the rule of law and government accountability help to foster a favorable business climate that contributes to America's other objectives. Over the past two decades, the United States-Vietnam relationship has seen significant strengthening of these commercial and bilateral ties. The relationship has progressed from the lifting of the trade embargo in the 1990s and improving cooperation on POW/MIA affairs, where we support efforts to obtain the fullest possible accounting for our civilian and military personnel, to the normalization of diplomatic relations in July 1995 and subsequent normalization of economic relations with the passage of the Bilateral Trade Agreement. Most recently, the Council and its Vietnam WTO coalition members supported granting Vietnam Permanent Normalized Trade Relations with the United States and Vietnam's accession to the World Trade Organization in January 2007. Since 1999, the United States and Vietnam have seen a growing warmth in their relationship with the historic visit to Vietnam of President Clinton in 2000 and President Bush in 2006. In return, Prime Minister Phan Van Khai came to the United States in 2005 and President Nguyen Minh Triet visited States in 2007. The Council was honored to host the Prime Minister and the President during their visits to Washington, DC. Most recently, during the United Nations General Assembly meeting in September 2007, we were also honored to host the current Prime Minister—Prime Minister Nguyen Tan Dung. As we look back upon the history of the post-war period we would like to recognize the tremendously important role played by Senator John Kerry and Senator John McCain in furthering the reconciliation between our two nations.

As the United States continues to engage Vietnam, tens of thousands of young bright Vietnamese have had opportunities that were unthinkable in the past to come to America for their studies through exchange programs funded by the U.S. Government, universities, private businesses, and increasingly by themselves. The number of Vietnamese students coming here has been rising steadily, reaching over 6,000 last year, a 31.3 percent increase over the previous year. Many came for higher education in the sciences and engineering, but others also came for studies in social science and the humanities. In the narrow commercial sense, these students represent the sale of intellectual goods and services to Vietnam, but they are far more significant. After returning to Vietnam, these people are making tremendous contributions toward changing their country in the private sector, the government sector,<sup>1</sup> the academic sector. They use the United States as the benchmark and standard to calibrate these goals and their country's progress. The U.S. Ambassador to Vietnam, Michael Michalak, sees this as a great avenue to help Vietnam and its people and identifies one of the top 3 priorities during his term there to double the number of Vietnamese students coming to the United States.

At the Council, we see Vietnam as an exciting new frontier for even greater trade and investment opportunities as we strive to meet Prime Minister Nguyen Tan Dung's challenge to make the United States the No. 1 one investor in Vietnam. With Vietnam's accession to the WTO and PNTR with the United States, Vietnam is set to undergo a new era of reform and opening. As it works to meet these WTO and PNTR commitments, it must implement and pass legislation that will streamline its bureaucracy, open up key sectors for competition, equitize its state-owned enterprises, work toward a market pricing regime, and build the institutions that will enable the government to follow through with its commitments. These steps will take time, but Vietnam is well on its way to meet its commitments. Recently, the Vietnamese Government announced legislation and plans that cover the expansion of trading and distribution rights, a master plan for radio and broadcast, a review of its Criminal Code in order to criminalize intellectual property violations, the opening of the banking sector to wholly owned foreign institutions, and a master plan to develop and apply the biotechnology sector, to name but a few policy departures.

In addition, the Government of Vietnam remains active in its engagement with the United States Government as it works on a number of initiatives including the

<sup>1</sup>The current Deputy PM, Nguyen Thien Nhan, who's in charge of education, technology and rural development, among other things, is a former Fulbright student.

recently signed Trade and Investment Framework Agreement (TIFA) and the Bilateral Investment Treaty (BIT) that is currently under consideration. In each case, the Vietnamese Government has welcomed insight and input from the United States and active engagement with the United States private sector. This point was strongly underscored during the December, 2007, TIFA dialogue headed by the Chairman of the Office of the Government, Minister Nguyen Xuan Phuc.

Over the past 6 years, starting with the signing of the Bilateral Trade Agreement, United States businesses have expanded their operations into vast sectors of the Vietnamese market. The US-ASEAN Business Council's members operate in the financial services, information technology, manufacturing, entertainment, insurance, retail, fast food, and energy markets. They are contributing to the fastest economic development in Vietnam in 11 years, reaching a GDP growth rate of 8.5 percent in 2007. The path of United States trade and investment with Vietnam is striking. Since the passage of the BTA in 2001, trade between the United States and Vietnam has grown tenfold. Within 1 year after the United States granted Vietnam PNTR status and helped it join the WTO, exports of United States goods to Vietnam has almost doubled from \$1.1 billion in 2006 to over \$1.9 billion last year. The value of imports from Vietnam has also grown from about \$1 billion USD in 2001 to over \$10 billion by the end of year 2007. We expect the imbalance to diminish as Vietnam becomes more prosperous. United States investment in Vietnam has increased. During the first 2 months of 2008, the United States was the No. 1 investor in Vietnam, with new investments of over \$1.3 billion USD. This lies in sharp contrast to total investments made over the past two decades of just over \$3.2 billion USD.<sup>2</sup> As the government continues to open new sectors such as banking and other services, United States companies seek to have a growing share in these markets.

Among the projects nearing completion or recently completed in Vietnam include Black & Veatch's first electric substation and transmission line project for the Saigon Hi-Tech Park in Ho Chi Minh City. This project received an excellence in safety award from the National Institute of Labor Protection in Vietnam and includes a first of its kind installation of a portion of underground line to ensure reliable energy delivery in the Hi-Tech Park. In the past year an agreement was reached between Vietnam Airlines and Boeing for the purchase of a dozen Boeing 787-7 Dreamliners worth an estimated \$2 billion USD. As Vietnam Airlines moves to modernize its fleet to provide the safest and most up to date equipment for its customers, one may anticipate future sales. The largest single investor in Vietnam, ConocoPhillips, currently holds investments amounting to over \$1.3 billion USD. Intel has also announced a \$1 billion USD investment in Vietnam. In December 2005, AES in partnership with Vinacomin, has signed a MOU with Government of Vietnam to develop a BOT coal-fired power project of 1000 to 1200 MW capacity. The total investment is estimated to be \$1.5 billion USD. Ford Vietnam Limited also holds the largest automotive investment in Vietnam at 102 million USD. During the January 8, 2008, summit in Vietnam organized by the Economist, Stuart Dean of General Electric and the chair of the Council's Vietnam committee announced plans to expand local operations, regarding Vietnam as a new tiger in Asia thanks to an abundant workforce and efficient operations.<sup>3</sup>

Through cooperation with the United States Government, our members also participate in a number of capacity-building projects in Vietnam to create the environment and legal landscape that leads to the most up-to-date and transparent systems. Among these are the United States Trade and Development Agency funded programs for standards implementation and customs valuation that look to ensure that as Vietnam implements its commitments, it does so to international standards. These standards enable our companies to operate in an environment that is conducive to transparency and fairness in competition. Member corporations also engage in other United States Government sponsored projects including the latest State Department organized United States-Vietnam Joint Commission on Science and Technology held in late February 2008 as well as the October 2007 Department of Commerce United States-Vietnam Information and Communication Technologies Commercials Dialogue. These forums engage the United States private sector and establish channels of communication with the Vietnamese Government during the policy and legislative formulation process.

In addition to these projects, the Council's members also contribute to Vietnam's social welfare through a variety of local projects on health and education. As a Glob-

<sup>2</sup>"Foreign Direct Investment Projects Licensed From 1988 to 2006 by Main Counterparts" General Statistics Office of Vietnam. ([http://www.gso.gov.vn/default\\_en.aspx?tabid=471&idmid=3&ItemID=6227](http://www.gso.gov.vn/default_en.aspx?tabid=471&idmid=3&ItemID=6227)).

<sup>3</sup>"Great Opportunities in Vietnam." Vietnam Net Bridge. (<http://english.vietnamnet.vn/reports/2008/02/767899/>) February 8, 2008.

ally Integrated Enterprise, the IBM Corporation has developed a number of collaborative partnerships in Vietnam to foster the skills and educational base in the information technology services sector. These arrangements include investing in early learning through its KidSmart program, Reinventing Education Program and tertiary level support and training through its newly launched Career Education in IBM Software program, which aims to create skilled engineers and programmers through a cooperation with Ha Noi University of Technologies and DTT. The chair of the Vietnam Committee, the General Electric Company, conducts a wide range of activities in Vietnam including volunteer work for environmental clean up on Nha Trang beach, donations for emergency relief work after the many devastating natural disasters including VND 1 billion for the victims of Can Tho Bridge collapse. GE, through its foundation also offers 3-year scholarships for qualified, but disadvantaged Vietnamese students to attend leading Vietnamese universities, and also offers leadership development work for Vietnam's promising rising leaders. The committee's vice chair, ConocoPhillips works with nongovernmental organizations (NGOs) such as Operation Smile. ConocoPhillips also builds orphanages and homes in local communities where it operates, and grants scholarships to students studying at the Hanoi University of Mining and Geology. Another member company, Chevron, has a number of community-based programs active in Vietnam. The most far-reaching of Chevron's projects is jointly managed by Michigan State University and Can Tho University, and is designed to reduce poverty in the Mekong Delta region by linking school improvements with community development. The project focuses on helping farmers diversify sources of income by training teachers, students, and farmers in sustainable agricultural practices such as organic vegetable growing as well as improved animal husbandry and aquaculture. These highlight but a few of the many programs carried out by the Council's member corporations in Vietnam.

Vietnam's high GDP growth rate, reaching 8.5 percent last year, and the rising wealth of the Vietnamese population has led to the reduction of poverty from 60 percent in 1993 to 14 percent today. Vietnam has consistently exemplified a country that has fought poverty effectively. These accolades were given by no other than Kofi Annan, the former Secretary General of the United Nations who noted Vietnam's achievements toward reaching the Millennium Development Goals. The country's success in alleviating poverty was also noted by Ajay Chibber, Country Director of the World Bank. Mr. Chibber observed that, remarkably, unlike other emerging economies, there has only been a very small increase in wealth inequality among the populace especially between urban and rural areas.<sup>4</sup> Poverty reduction is inclusive and countrywide. The government must be applauded for its far-reaching economic development activities paying particular focus on the central highlands and northern poorer provinces. Over the past year, ministry directives have increasingly focused on development projects in some of the poorest regions and provinces including Son La and Nghe An. Combined, these achievements provide the people of Vietnam a higher standard of living.

Vietnam's soon to be finished distribution legislation will allow it to become a retail market destination. Today, it already ranks among the top markets for retailers as noted by the latest AT Kearney report. Wealth has allowed the Vietnamese populace to buy goods that they could never have afforded to buy in decades past. Lower tariffs and taxes have allowed both common and luxury goods to enter the market. On January 1, 2008, over 700 tax rates on over 30 categories of goods were slashed by 1–6 percent to conform to Vietnam's WTO commitments. Even more impressive, sales of automobiles surged 156 percent year on year in January to over 12,000 vehicles sold. The Vietnamese population is becoming wealthier as they pull themselves out of poverty. The Vietnamese Government is working to become a middle-income country with a per capita GDP of 1000 USD by 2009. In 2004, the International Monetary Fund (IMF) reported that Vietnam's per capita GDP was just over 550 USD. The IMF estimates that by end of 2008, Vietnam's GDP per capita will be close to 920 USD.<sup>5</sup>

With all these economic reforms taking place, concerns remain in a number of areas including corruption, judicial reform, intellectual property rights, and fair competition. On IPR and competition, Vietnam is moving steadily toward formulating policies and legislation to tackle these issues and we look forward to reviewing them with the Vietnamese Government. Prime Minister Nguyen Tan Dung has

<sup>4</sup>"Vietnam Leads Way in Tackling Poverty." Thanh Nien News. (<http://www.thanhvienews.com/politics/?catid=1&newsid=35780>) February 16, 2008.

<sup>5</sup>"Vietnam GDP per capita," current prices, International Monetary Fund. (<http://www.imf.org/external/pubs/ft/weo/2007/02/weodata/weorept.aspx?sy=2004&ey=2008&scsm=1&ssd=1&sort=country&ds=.&br=1&pr1.x=75&pr1.y=9&c=582&s=NGDPDPC&grp=0&a>) Run March 10th, 2008.

made corruption one of his main priorities, setting up a task force headed by the Chairman of the Office of the Government to pursue whatever policy is necessary to identify, prevent, and eliminate corruption among all ranks. Following Vietnam's celebration of its Lunar New Year this past February, the Prime Minister once again called on the ministries to be vigilant of corruption in the system, calling for renewed efforts to eradicate it, viewing corruption as the greatest threat to the survival of the country's political system. In fact the Prime Minister directed state agencies' to improve the provision of information to the media about corruption inspections and investigations to ensure "objectiveness, accuracy, and conformity with the regulations."<sup>6</sup>

The Council and its members realize that over the past two decades the political and human rights situation in Vietnam has moved along an uneven path and much remains to be done. In this respect, our members have traditionally encouraged the promotion of the rule of law, increasing respect for labor rights, promoting human rights, and encouraging environmental protection in countries in which they operate. In 2007, Vietnam regressed in some respects including those allowing for free speech and freedom of assembly. At the same time we have seen the government work toward greater religious freedom, freedom of movement, and greater collaboration with international groups on issues ranging from legal reform to human trafficking. While we respect the broad goals of the Vietnam Human Rights Act of 2007, we believe, based on past experience that providing positive models and encouragement in Vietnam, rather than a policy of sanctions, will bring about more significant change for the people of Vietnam. Our view is informed by our own experience working quietly with the Government of Vietnam in this area.

Internalizing human rights and legal reform are under way in Vietnam. This will be a long and complex path. Already through cooperation with a number of aid agencies, including the United Nations Development Program (UNDP), the Danish International Development Agency (DANIDA), the Canadian International Development Agency (CIDA), and the Swedish International Development Agency (SIDA), Vietnam is embarking on a number of judicial reform, good governance, and human rights programs. These programs include those run by UNDP in partnership with Vietnam's Ministry of Foreign Affairs to understand international human rights mechanisms as well as restructuring its judicial system under their "Assistance for the Implementation of Vietnam's Legal System Development Strategy to 2010" and farther reaching "Judicial Reform Strategy to the year 2020." These reforms look to review issues ranging from criminal and civil policy legislation and judicial procedures to international cooperation in the judicial sector.<sup>7</sup> Following the passage of the Bilateral Trade Agreement, the United States Vietnam Trade Council has also conducted a number of programs on judicial and administrative reform to transform Vietnam's legal system. As Vietnam moves forward, these programs will help implement a judicial regime that is in line with both its national legal system as well as international standards.

We endorse the Vietnamese Government's attempt to engage with the overseas Vietnamese community. Granting 5-year visa exemptions for overseas Vietnamese is a step forward. In addition, the current Ambassador to the United States, Ambassador Le Cong Phung, held his first-ever press conference with a wide range of media including, *Nguoi Viet*. *Nguoi Viet*, a newspaper based out of Orange County, California, serves the largest community of Vietnamese outside of Vietnam.

In addition the Vietnamese Government has reviewed and extended laws allowing housing permits for foreigners to include not only overseas Vietnamese but those that have long term interests in the country.<sup>8</sup> These steps are gestures of goodwill made by the Vietnamese Government in its engagement with foreign individuals including many investors.

Vietnam has shown a willingness to engage with the international community and the United States on other issues as well. Vietnam has increasingly cooperated with the United States on human trafficking and religious freedom issues. These efforts led the United States Department of State to remove Vietnam from its list of Countries of Particular Concern for religious freedom in 2007. On human trafficking, Vietnam has made significant strides to eliminate trafficking by providing funding

<sup>6</sup>"Vietnam PM Renews Anti-Corruption Push." Thanh Nien News. (<http://www.thanhvienews.com/politics/?catid=1&newsid=35639>) February 10, 2008.

<sup>7</sup>For more information on these programs please see: (<http://www.undp.org.vn/undpLive/System/What-We-Do/Focus-Areas/Democratic-Governance/Project-Details?contentId=1765&categoryName=Rule-of-law-and-Access&CategoryConditionUse=Subject-Areas/Democratic-Governance/Rule-of-law-and-Access&>) and (<http://www.danidadevforum.um.dk/en/menu/Topics/GoodGovernance/Programmes/CountryProgrammes/Asia/Vietnam/>).

<sup>8</sup>"Vietnam Builds a Future for Itself." The Financial Times. <http://www.ft.com/cms/s/0/d1bf34ce-ecb4-11dc-86be-0000779fd2ac.html>. March 8, 2008.

and implementation for its 2004–2010 National Program of Action which includes a comprehensive package including prosecution, prevention, and protection against trafficking. Most recently, the Vietnamese police shut down a baby trafficking ring involving the arrest of four Vietnamese citizens.

Vietnam is a vibrant country that is coming into its own. Its dynamic leadership is well on its way toward transforming the economy into that of an industrialized nation by 2020. As it works to alter its bureaucracy, statutes, and legal system to allow for growth, Vietnam will continue to aspire to even higher standards. American assistance programs in Vietnam are part of the process. These programs are not rewards for good behavior. Rather, they address basic humanitarian needs while others set the agenda for reforms. We do not think they should be curtailed as the inevitable disappointments arise. Instead, we need to focus on the trend lines and press forward. At the Council, we look forward to the opportunity to work with the Vietnamese and American Governments as they pursue a broad range of reforms and continue to engage in activities that lead to both the economic and social welfare of its populace.

Senator BOXER. Thank you very much.

Ms. Griffiths, I want to thank you so much for everything you've done on this POW/MIA issue. Your commitment is outstanding, and it is a great tribute to your brother, who has been missing since 1966, I believe. Is that correct?

In your written testimony, you state that historically Vietnam has responded best when there was high-level executive and legislative branch interest in the POW/MIA issue. I certainly would agree with that. Shining the light on these things always helps. And when I asked Michael Michalak about the POW/MIA issue, he answered by saying that he'd do everything he could to get access to the archives, to do searches along the coast. He admitted that more had to be done.

Now, you have written that there is no lack of serious interest from the Ambassador, so that's good. Yet, I understand these underwater surveys are not expected to take place until May 2009. And you've cited the Vietnamese failure to complete interministerial coordination as one reason why these surveys are delayed.

What do you mean by interministerial coordination, and how can we help in this committee to resolve the issue?

Ms. GRIFFITHS. What I was told specifically, and I have a great deal of interest in this, because—we've all seen—and I applaud—the increased military-to-military cooperation be broadened across the board. We have seen a lot of port calls, even basketball and volleyball playing, and all of that's great. I love to see that expansion.

But what we haven't seen is use of the U.S. Navy vessel that was agreed to when I was there in October 2006, formalized in November 2006, for using the U.S. Navy vessel. I think the one they want to use is the USNS *Heezen* for along the coastline, underwater surveys and excavations.

What I was told is that the Vietnamese were saying that the coordination process is very difficult for the Foreign Ministry to coordinate with the other agencies or departments and ministries of their government. But I also know that there were some—in our government, below Mike Michalak, the Ambassador's level, who are giving excuses for the Vietnamese, rather than making this proposal to the Vietnamese, saying it would be much too difficult for them to handle two official humanitarian visits at the same time.

So POW/MIA, that has been around since the beginning of time, got postponed in the interests of a different humanitarian mis-

sion—a worthy one, and that is the USNS *Mercy*'s dental humanitarian mission.

Senator BOXER. Uh-huh, uh-huh.

Ms. GRIFFITHS. Now, I applaud that. The Families have supported humanitarian assistance to Vietnam since long before it was a popular thing to do. So—

Senator BOXER. But you're saying we should be able to walk and chew gum at the same time.

Ms. GRIFFITHS. Yes.

Senator BOXER. We can do more than one thing. And we—

Ms. GRIFFITHS. When I talked—

Senator BOXER. This is America.

Ms. GRIFFITHS. Yes. When I talked—

Senator BOXER. This is—

Ms. GRIFFITHS [continuing]. To Admiral Keating in Hawaii, when I went out since the first of the year, he agreed that that proposal needed to be made. The reason it's not until May 2009 is because it wasn't yet made. So that isn't Vietnam's fault; that's our fault.

Senator BOXER. OK, OK. Well, I would love to work with you on this. And we'll—

Ms. GRIFFITHS. I'll be glad to do that.

Senator BOXER [continuing]. Get some kind of a leader to go in, and I'll see if my colleagues want to help us just with this issue, because it seems to me that it's something we could do and we should do. So we will be going to back to you, and we'll definitely work on that.

Now, for me, and I know I differ from many members on this committee, I think it might be time for some legislation over here. We've had human rights legislation on the House side that's passed. I don't know that Senate legislation would be identical, but it could be similar.

And I know that, for example, Mr. Daley was very upfront about his views on the House legislation, and I appreciate that. But from all my many years here, I've found that if you push hard in the legislative branch, it gives leverage to the executive branch to move forward. And so, I'm leaning pretty heavily in that direction.

I guess I really would like to ask Human Rights Watch for input. I'm very impressed at the fact that you feel that the document that you talk about, that you quoted from, which is very disturbing, is a legitimate document. And if you could, if you would, present my staff with—not right now, but chapter and verse of why you believe it's real, and I would like to have a meeting with Chris Hill, and I'd like to present him with this, to talk about this.

I'll also bring up the possibility of legislation with Secretary Hill, because I think he's a wonderful public servant, and because I just think we need to push harder on this. So I'm assuming, and I don't want to—I shouldn't assume this, Ms. Richardson—do you support the House bill or something like the House bill?

Ms. RICHARDSON. It's hard to argue against anything that would bring greater scrutiny and more regular discussion to Vietnam's human rights record.

Senator BOXER. Uh-huh.

Ms. RICHARDSON. I mean, you know, I think 50 percent of the battle is simply that this record and the different problems get discussed sporadically. Different kinds of cases get very different—  
 Senator BOXER. Yeah.

Ms. RICHARDSON [continuing]. Levels or kinds of attention. It's extremely problematic from our perspective that the State Department echoes the Vietnamese Government's line about speaking differently about purely religious prisoners as opposed to religious adherents who are imprisoned because of—on the grounds of national security or propaganda or those kinds of charges.

And so, you know, I think legislation that would oblige the State Department to engage these issues more consistently—

Senator BOXER. OK. Would you work with us on such legislation?

Ms. RICHARDSON. Of course.

Senator BOXER. Because I would like to work with you on it, because I don't want to send the wrong message here, that we have lost faith or hope that we can make things better. We want to keep on improving, and so I think the tone of this legislation has to be set in a way that it's no-nonsense, but it rewards for good behavior and—

Ms. RICHARDSON. Yes.

Senator BOXER [continuing]. It does, in fact, use the leverage of cutting off funding for bad behavior. Let's see. I'm going to go to Mr. Diem, and then I'll turn it over to Senator Webb.

Is it true that owners of domestic Web sites must submit their content to the government for approval?

Mr. DIEM. It is widely known in Vietnam that the government strictly controls access to the Internet, even in the Internet cafe out on the street. It is known that the owners of this site have to register, people who use their service have to log on, and for certain owners of Web sites, they do have to register their content. It is widely known that the government uses that as a means to maintain control on their population.

If I may, just quickly, regarding the document that you had mentioned awhile ago?

Senator BOXER. Yes.

Mr. DIEM. We have also received that document. We have also—we are in the process of verifying it, as well. And at this point, we also have reason to believe that it is authentic. On top of that, in Vietnam, in the Vietnamese Constitution, Article 4, it guarantees the Vietnamese Communist Party the right to be the only party to exist. And just 6 months ago, or 9 months ago, if my memory serves me right, President Nguyen Minh Triet of Vietnam was quoted in the Vietnamese newspaper saying that if the article 4 is removed, that means we have just committed suicide. He was quoted that in the Vietnamese newspaper. So I have no surprise at all—

Senator BOXER. He seems to have a great sense of self-importance. He's the only one that knows how to run a country. And I understand, also, there's been a history of jamming Radio Free Asia, as well.

Mr. DIEM. That's correct.

Senator BOXER. OK. Well, let me just thank the panel. I'm going to ask Senator Webb to take as much time as he needs at this time.

Senator WEBB. Thank you, Madam Chairman. Ms. Griffiths, good to see you. I want to thank you so much for all of your years of work in this area. I think I go back a long way doing it, and you were there before I got there, and so you've given a great service to our country for continuing to focus on all of these issues.

Ms. Richardson, I regret that I missed hearing your testimony. I had a meeting that I had to take outside the room. I want to put something to the panel. Before I do, I want to say that I think I can honestly say that there's nobody up here in the United States Senate who feels more strongly than I do, there's some people who feel as strongly, about wanting to see a government in Vietnam where everyone has an opportunity for advancement into the future and for participation.

I was very proud to have fought in the U.S. Marine Corps on behalf of that concept. I've never backed away from it, despite what happened after 1975. The question really is how we get there, and we're at a critical juncture in many ways, and I think we need to continue to look at an analytical model through which we can make this case.

And so, Ms. Richardson, could you first tell me the scope of your responsibilities, in terms of countries and working with Human Rights Watch? Are you all through Southeast Asia, or East Asia, or all of Asia?

Ms. RICHARDSON. I'm fared only South Asia. I actually direct all of our work on China, and I'm the advocacy director for all of East and Southeast Asia.

Senator WEBB. So you go all the way over into Burma.

Ms. RICHARDSON. Correct.

Senator WEBB. OK. How would you rate the overall human rights challenges in Vietnam compared to other countries in your jurisdiction?

Ms. RICHARDSON. Well, the most significant distinction between Vietnam and several other countries, particularly in Southeast Asia, of course, is that it's a one-party government. And obviously, it shares that with China and North Korea.

Senator WEBB. Burma.

Ms. RICHARDSON. Burma. It's different variations of one-party governments, perhaps, meaning Vietnam's is not a military government. You know, I think Vietnam also falls in a distinct category for impenetrability. Again, with perhaps the exception of North Korea. You know, other countries in Southeast Asia are much easier to get into, much easier to do research on, it's much easier to engage a government directly.

You know, I mean, the reality is now, for us, that—and this has happened even in the last 48 hours—when we comment publicly about China, we get a public response from the Foreign Ministry. That almost never happens with the Vietnamese Government, and if there is a response at all, it's usually a pretty unilateral denial of the fact.

And so, I think it's sort of a particular kind of isolation, an impenetrability, that distinguishes it from some of its neighbors.

Senator WEBB. Having spent a lot of time in that part of the world, in a number of different capacities, frequently as a journalist, the only country that has denied me a journalist visa is



China. No doubt because of a lot of writings that I have made over the past 20 years about a lot of different situations there. So they're sort of a veil within a veil themselves.

Mr. Diem, have you been able to examine situations inside Vietnam where the people who are family members and close associates with the former government are still suffering a special type of discrimination?

Mr. DIEM. When you say "former government," are you referring to the Former Republic of South Vietnam?

Senator WEBB. Right.

Mr. DIEM. For a long while, after the end of the war, that was and had been a situation. Actually, Supervisor Janet Nguyen, in her testimony, she did refer to the fact that her family suffered greatly, and that lasted a long time. However, my understanding is that by the late eighties and into the nineties, the situation seems to have faded away, if you will.

So right now, at this point, there's no particular incident that I'm aware of. Now, is that still going on? I have to say that I'm not 100 percent certain. But I do know that it did go on, and I have talked to people who have suffered that greatly. But, like I said, until the late eighties, early nineties, that seemed—

Senator WEBB. Well, I'm personally aware that it went on well into the nineties that, for many of the families—not just military people, but—

Mr. DIEM. Right.

Senator WEBB [continuing]. Also politicians, government officials, anyone who had associated with the government, and even their children—it was impossible, in many cases, to go beyond a basic level of education or to get certain jobs. I was bringing American companies into Vietnam after the embargo was lifted, and it was very difficult to be able to hire someone who had come from the Vietnam Quon Hua government.

That seems to have gone away, to a certain extent, in recent experience. My time is going to go away, but if it's OK with you, Madam Chairman, I have just a couple more minutes of line of questioning here that I'm trying to get at a couple of things, in terms of how we proceed forward.

The first is, I watched Vietnam at a time when sanctions were in place, and I supported the sanctions. They had made an agreement at the Paris Peace Talks in 1972 to have elections. They were discriminating strongly against the people who had been with us. There was nobody else making this case.

But I don't see sanctions as a way to get to where things need to go. There are two examples of that. One is in Vietnam itself. I think when sanctions were lifted, it allowed the average Vietnamese to see people from the outside, to be able to talk, and to gain an understanding that wasn't there before.

And the other is Burma, right now, quite frankly. I was in Burma in 2001, at a time just before the really strict sanctions went into place, and I was hosted by an American businessman who had put together an outdoor furniture company in Burma. And he was basically saying, if you respond to these human rights violations by putting sanctions in place, really what's going to happen

is the people of Burma are going to lose contact with the outside world, which is basically what has happened.

At the same time, now, China's trade has doubled into Burma. There was an article in *The Economist* magazine 2 weeks ago, saying that Burma is actually looking at moving toward the yuan as its currency.

So, looking at that, sanctions don't appear to work, as a general policy, unless the entire world gets together. All the different countries in the world get together and say, "We are going to sanction that behavior," as is what happened in South Africa. But that's not happening in this part of the world.

Then, the question becomes—how do we proceed in a way that will open up this society and, at the same time, not destabilize the region? What are your thoughts on that, Mr. Diem? Or the panel, in general? I'm really interested in getting your views on this.

Mr. DIEM. If I may, I'd like to start to respond to that question. First of all, sanction, in my viewpoint, has to be chosen or applied really case by case. Sanction as a blanket means may not work in certain instances or in certain cases; but then, in others, it may stand a very good chance.

Let's take Vietnam, for example. In 1985, the Vietnamese economy was on the brink of collapse. The Vietnamese Communist Party was on its knees, and they quickly abandoned their old policy in 1986, and implemented the new Economic Openness Policy, and we must admit that during the last 20-plus years, yes, the Vietnamese economy had improved, and yes, the living standard has increased.

However, at the same time, yes, the Vietnamese Communist Party had bought more time, and consolidated their power. They had 20-years-plus to prepare their next step. They had 20-plus years to entrench even further, and that is the reality of Vietnam right now.

Senator WEBB. But if I may, sir, on that point, the real transition in Vietnam came after the fall of the Soviet Union. The Soviet Union was putting up to \$3 billion a year into the Vietnamese economy. I was there in 1991. There wasn't anything going on.

And when the Soviet Union collapsed, the government realized it had to look to the outside world. The point with sanction is it only works when you have a large number of countries involved. The United States sanctions in Burma basically are pushing Burma into China. The United States sanctions in Iran, quite frankly, are doubling Iran's trade with China right now.

So as a general principle, unless you have the collective body, the collective world body involved, sanctions aren't going to get us where we need to go. So the question, again, is what do you think we should do?

Mr. DIEM. Well, in my testimony, I did mention a number—I did offer a number of specific recommendations. But let me say this. In my viewpoint, given the current situation in Vietnam right now, the most appropriate way to assist transition over to a more democratic and open society is to really help the Vietnamese people, to empower them through building a civil society in Vietnam.

A civil society in Vietnam is growing. It's budding. It is a budding civil society in Vietnam right now. More and more in recent

years, we have autonomous grassroots organizations that do not fall under the control of the government begin to spring up. And that is the base. And I think we—because the United States can do a lot to assist that process.

Senator WEBB. OK. I thank you. Mr. Daley or Ms. Richardson, do you have a comment on that? Actually, Ann, it isn't an area you've been working, but if you have an observation, any of you?

Mr. DALEY. Yes, Senator, if I may. I think that some of the programs that both the government and the private sector have been working on are helping to build what I would call the infrastructure for a future more open and responsive system of government in Vietnam.

For example, one project that our affiliate at U.S. Vietnam Trade Council worked on resulted in a decision in Vietnam that judicial decisions and the rationale for those decisions would be published. Now, this was done with reference to the BTA in order to help bring it into compliance with modern business principles, but it has brought ramifications in opening up the judicial sector and making it accountable and transparent, understandable, and giving points of leverage for future change.

Those are worth continuing. I also think that in all kinds of ways, private corporations and organizations can work with the Government in Vietnam. Last year, we worked with a Montagnard organization in the United States to remove barriers to the immigration of roughly two dozen Montagnards who had been encountering considerable difficulties from local authorities in the Central Highland.

And those barriers were taken away in relatively short time. This was a matter of a private discussion done on a humanitarian basis. Did it change the overall situation in Vietnam? Perhaps not. But to those two dozen families, it made a big difference.

In the broader area of policy, I would offer the example of what the United States did with Cambodia and labor reform. We cut a deal with the Government of Cambodia that if they accepted international labor standards and a presence in Phnom Penh by the ILO, and free guaranteed access to the factories that were working in the export garment sector, we would increase their textile quota. And they—

Senator BOXER. They what? I'm sorry.

Mr. DALEY. We would increase their textile quota, in the days when we had textile quotas. And they bit on it. They agreed to this approach. And even though the multifiber agreements have expired and that whole area has changed, the ILO is still operating in Cambodia, they still have full access. And in those areas in the export sectors, those workers are treated according to international standards.

And not only that, the pattern of relationships that they established with American suppliers after the quota system sort of faded away was sustained. And Cambodia's textile exports, which everybody thought would be just wiped off the map by China, have continued to—

Senator BOXER. Mr. Daley, I'm sorry. We've gone 8 minutes, almost, over, and—

Mr. DALEY. I apologize.

Senator BOXER [continuing]. We have to clear the room, and I've got to be at a meeting at 4:30.

Senator WEBB. I thank the chairman for her patience.

Senator BOXER. I just want to say that we do have to move on. Let me just tell you where I come out on this. I think what you have discussed, Mr. Daley, is a good example of something we can do using the economic purse. No question. But, I don't see it in any way as being the only thing we can do.

And I agree with Senator Webb when he says it takes the whole world to really change another country, if that country doesn't want to change, but it's got to start somewhere. Who's the first country that's going to step up and say, "You know what, the rest of the world, this is a problem." It's always been America before, in most cases, it seems to me.

So, I've been very careful to weigh what I want to do here, representing so many constituents, from Supervisor Nguyen to the whole community, and I haven't jumped up and said, "Oh, this is the perfect answer or that is," but I'll tell you what I think after hearing what I've heard today.

I believe that document is real. I believe that right now, in Vietnam, there's no dissent allowed. I believe we are making some progress through trade. I think we should continue, because I believe that is important. And we all know that when people are exposed to freedom, eventually it will come. But that doesn't mean there's nothing else we can do.

I think when Mr. Daley made the point that the power of the purse works, that's really what the House bill does. It uses the power of our purse, in America. It doesn't sanction anybody. It just says, "We're going to freeze aid where it is, nonhumanitarian aid." It doesn't say we're going to take away anything.

It says we're going to freeze everything but humanitarian aid, and we're going to say we need some improvements in respect to human rights. I frankly think it's actually a small and important step to take. So I know that I may be in a minority in this committee, but that's today, and it may not be tomorrow.

So what I'm going to do, because I believe in a transparent process, is begin putting together a bill that I think will send an undeniable signal to the Vietnamese Government that you can't say one thing and then have a secret meeting and admit that you're having political trials. The Vietnamese Government can't say, "Oh, it's got nothing to do with that"—the fact that these people were, you know, some kind of a threat because they practice a religion that the government doesn't like.

I just think we can do this in a way that's productive. I think we can do this in a way that will bring about change. And again, in my experience here—and I cosponsor many bills that are pretty tough bills—you have to just push and push. This is what I have found, and I think Senator Webb has been my ally in the example of the Philippines. We held one hearing on extrajudicial killings, and it really reverberated there.

They get the message when Congress is looking. And we should not underestimate that power. So I think Congress needs to keep looking at this, and I think we can put together something that is not punitive, that is not a sanctions bill, per se, but essentially just

says the American taxpayers are very generous, but there's a point at which we're going to say, "No more, unless you step up to the plate."

And we're not asking for things that aren't, frankly, internationally recognized as human rights. And, you know, when I started going through the names on the list, just on and on and on of people who have been detained, including one of my constituents from Sacramento, I thought, they have been detained for doing what? Trying to fight for freedom? I mean, something's wrong, and if we're not the ones, then who is going to step up to the plate here? If we're not the ones, who is going to do it?

So I have great respect for those who caution us not to do too much that would reverse progress, and I think they're right for warning us. But on the other hand, it doesn't mean you can't do something more. And again, it's always one country that starts, and I believe that we can see improvements in Vietnam.

So I just want to say to all of you on this panel, thank you very much. You've all been terrific witnesses. And when I put together this bill, I'm going to include a chapter on POW/MIA, just to bring that back and say, "We expect to see continued cooperation," because we need that cooperation.

Ms. GRIFFITHS. Could I ask you, please, not—

Senator BOXER. Yes.

Ms. GRIFFITHS [continuing]. To link the two issues together? Because if you do—

Senator BOXER. Oh, we'll do a separate thing, then.

Ms. GRIFFITHS [continuing]. POW/MIA will suffer from their internal unwillingness—

Senator BOXER. Well, we'll do something separate.

Ms. GRIFFITHS [continuing]. To risk their government.

Senator BOXER. We'll do something separate on that.

Ms. GRIFFITHS. I will count on that.

Senator BOXER. Yes, we will do something separate on that. Because I do believe that's another area where we could do more. I mean, how many years do we have to struggle. You're the ones. I feel just so deeply saddened by the fact that we could be doing so much more, and it just seems there's always a reason and an excuse, and it doesn't make sense to me.

So we'll do something separate. We'll do a letter separately. If we have to do legislation, we'll get it done. We won't link the two, but in my mind, it is important that Vietnam step up to the plate in both ways. And I think you make the point that our country has to step up to the plate, also, and not just Vietnam, on this POW/MIA issue.

So I thank you all very much for coming. We'll work with you to get a good bill. Thank you very much.

[Whereupon, at 4:30 p.m., the hearing was adjourned.]

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

RESPONSES OF ASSISTANT SECRETARY CHRISTOPHER HILL TO QUESTIONS SUBMITTED  
BY SENATOR BARBARA BOXER

*Question.* A secret memo recently surfaced regarding “political trials” that has been attributed to an August 6, 2007, Politburo Meeting of the Communist Party of Vietnam.

Although the Government of Vietnam denies that it is currently holding any political prisoners, the document details the success of some of the recent “political trials” and states that the party must work to “limit the spread of false ideas in the population about democracy, human rights, [and] religious freedom. . . .”

According to Human Rights Watch, the document also states that opposition political parties must not be allowed to take shape: “It is absolutely necessary not to let it happen that political opposition parties be established.”

Can you confirm the authenticity of this document? If so, what is the reaction of the State Department?

*Answer.* We are not able to confirm the authenticity of the alleged Politburo document posted on the Internet. We are aware, however, that the Government of Vietnam has shown little tolerance for political dissent or any political alternative to the ruling Communist Party of Vietnam. These circumstances are documented in the Department of State’s annual Human Rights Report to Congress, released in early March 2008.

Promotion of greater respect for human rights continues to be one of the highest priorities of U.S. policy toward Vietnam. We raise our concerns about human rights and religious freedom in Vietnam frequently and with officials at all levels of the Vietnamese Government, including through our annual Human Rights Dialogue.

*Question.* How is the new adoption policy, known as “Orphans First,” being implemented?

*Answer.* On October 29, 2007, the U.S. Citizenship and Immigration Services (USCIS), in cooperation with the Department of State, instituted the “Orphans First” program for Vietnam. Under this program, I-600 Petitions (to Classify Orphans as an Immediate Relative) for Vietnamese children are adjudicated before a formal Vietnamese adoption occurs. Our goal in instituting this new procedure is to address any problems that may arise as early as possible in the adoption process. We aim to notify petitioners of a decision on their I-600 within 60 days after a petition is filed. Initially, an extraordinarily high number of U.S. and Vietnamese holidays in December and January made it impossible for us to meet that timeline for all cases. According to a recent analysis by USCIS, however, 90 percent of these petitions are now being processed within 60 days or less. As of June 27, only 51 of 647 cases submitted under Orphans First had been pending longer than 60 days, most because of fraud indications related to the petition. For the first 8 months of the program, the average processing time of all cases is 49 days, except where our field investigations are blocked by Vietnamese authorities.

- Once a case is recommended for approval, petitioners can travel to Vietnam to complete the adoption and schedule their immigrant visa interview. The new process has eliminated the need for a separate I-600 interview, as would be required in other countries.
- If the case cannot be adjudicated within 60 days, USCIS informs the petitioner in writing of the reason for the delay.
- If a case is not recommended for approval, petitioners are provided the reasons for the USCIS decision and given written instructions on how to proceed, should they want to appeal.

In some cases, U.S. officials attempting to complete the required review have been prevented by Vietnamese officials from interviewing local officials and individuals. Such interference in the investigations has delayed those cases. The Department of State is reaching out to these Vietnamese Government officials to underscore the necessity of our performing the reviews. In many cases these problems have been resolved, although as of June 27, there were still 45 blocked investigations.

We are making every effort to review and resolve cases as quickly as possible. We are working to ensure good communication among all involved as we continue to develop procedures to respond to an evolving situation. In addition, the Department of State and USCIS continue to assess the situation in Vietnam with an eye toward finding new measures designed to safeguard against baby trafficking and ensure reliable adoptions for American parents.

*Question.* Do the State Department and DHS have the resources and staff necessary to review adoption applications quickly and completely?

*Answer.* In the last year, there has been a four-fold increase in adoption cases from Vietnam as well as a surge in fraud indicators that necessitate a greater number of investigations for possible fraud. The Departments of State and Homeland Security continue to review staffing levels to ensure there are sufficient personnel and resources to review and adjudicate orphan cases quickly and completely.

The USCIS office in Ho Chi Minh City is currently staffed by one officer. USCIS has provided temporary personnel to augment the office and plans an increase in permanent staffing. The consular section in Hanoi currently has sufficient staff to process adoption applications; however, we plan to provide some short-term TDY assistance to ensure all pending cases are resolved.

*Question.* How long should families expect to wait to receive decisions on their adoption applications?

*Answer.* Our goal is that petitioners receive a response within 60 days of filing a petition. Currently, the average processing time for an I-600 petition filed with the USCIS office in Ho Chi Minh City is 49 days. Based on recent experience, we anticipate that in most cases the petition will be approved; however, in some cases the response will be a request for further information or instructions on what further action may be taken.

In cases where we have been prevented by Vietnamese officials from completing the required investigation to verify the child's orphan status, we will inform petitioners of the reasons for the delay in concluding their cases. We are reaching out to Vietnamese Government officials in order to establish mutually agreeable procedures which would allow U.S. officials to perform these reviews.

*Question.* How have the State Department and DHS reformed their procedures to improve communication with U.S. citizens who are going through the adoption process?

*Answer.* The Departments of State and DHS appreciate the importance of communication with U.S. citizens who are undertaking an international adoption. Adoptive parents are notified when their case is received and again when a determination is made to approve the petition, request further information, or issue a Notice of Intent to Deny. The Embassy has a dedicated e-mail address for prospective adoptive parents, and our goal is to answer all e-mail inquiries within 3 working days.

In addition, following the implementation of the Orphans First program, we have established a local Consular Section/USCIS combined case-tracking database to ensure that cases do not languish without a response. Through this system, we can identify any cases that are approaching the 60-day target to make sure that the petitioner is informed of the status of the case and that all possible efforts are being made to resolve any outstanding issues in a timely manner.

*Question.* Have the State Department and DHS come to an agreement on the standards by which international adoptions will be considered?

*Answer.* Each orphan petition and visa application is adjudicated individually on the basis of applicable laws and regulations. The State Department and DHS play different roles in an international adoption. In essence, our two agencies function as strong partners in a deliberative process that requires investigation, recommendations, and decisions. Sometimes during that process, new information is discovered. The deliberation therefore evolves as a case is reviewed.

USCIS and the Department of State share the same legal standards and policy objective for immigration petitions: To ensure cases are adjudicated on the most accurate and timely basis practicable. Within Vietnam there is excellent cooperation and communication between the consular section and the USCIS office. Similarly, State Department and USCIS officials in Washington are in daily—sometimes even hourly—contact. We continue to review the situation in Vietnam carefully to safeguard the process while at the same time looking for ways to provide petitioners with the best possible service.

With our colleagues at USCIS we are looking to determine what additional steps might be taken to prevent emotional and financial hardship for prospective adopting parents after September 1. We want to work with the Government of Vietnam to address problems in Vietnam's adoption system, so that we can pursue a new agreement that allows adoptions under a system that is more transparent and protects the children and parents involved.

The United States continues to urge that Vietnam demonstrate its commitment to the establishment of appropriate safeguards and procedures by acceding to the Hague Convention on Intercountry Adoptions.

*Question.* A report facilitated by the Office of the United Nations High Commissioner for Refugees in 2007 found that “severe forms of religion-based punitive action” against the indigenous Montagnard Christian communities in Vietnam’s Central Highlands continue to this day.

According to the June 2006 Human Rights Watch report “No Sanctuary: Ongoing Threats to Indigenous Montagnards in Vietnam’s Central Highlands,” Vietnamese officials continue to force Montagnard Christians to renounce their religion despite passing regulations to ban these practices.

The Vietnamese Government harshly persecutes peaceful dissent among the Montagnards. Last year, at least 13 were sentenced to prison. Since 2001, over 350 have been arrested and imprisoned on national security charges, for affiliating with independent or unregistered house churches, participating in land rights protests, or attempting to flee the country to seek asylum.

- How does the State Department monitor abuses in Vietnam’s provinces and rural areas, including the Central Highlands?
- What actions has the State Department taken or will it take to address the Government of Vietnam’s harassment and imprisonment of the Montagnards in violation of new laws that it has passed on religion?
- How can we engage the Government of Vietnam to improve religious freedom for all of its people?

*Answer.* Officials of the United States Embassy in Hanoi and United States Consulate in Ho Chi Minh City monitor the situation in the Central Highlands through their contacts with community leaders and NGOs. They also work closely with the Office of the U.N. High Commissioner for Refugees (UNHCR). In the past 3 years, U.S. and UNHCR monitors have had unprecedented access to the Central Highlands. Since January 2007 alone, U.S. or UNHCR personnel have made nine visits to the Central Highlands. In its 2007 report, the UNHCR concluded there is no systematic persecution of ethnic minorities, though individual instances occur. The Department of State’s 2007 International Religious Freedom Report notes that the number of credible reports of religious freedom abuses in the Central Highlands was “significantly lower compared with previous years and appeared to reflect individual bias at the local level rather than official central government policy. In a number of instances, the local officials involved were reprimanded or fired.” This conclusion is based on our direct observation and information collected from credible sources.

Between 2004 and 2006, the Government of Vietnam released all 45 prisoners raised by the U.S. Government as prisoners of concern for reasons clearly related to their religious beliefs and practices. Many Montagnards currently in prison were incarcerated for involvement in the 2001 and 2004 demonstrations in the Central Highlands. While some of these individuals may have deep religious convictions, we are not aware of individuals in prison in the Central Highlands for violation of laws passed in recent years liberalizing religious practice. Authorities continue to restrict the activities of individuals and groups whom they say are affiliated with ethnic minority separatist movements calling for an independent homeland. The majority of Central Highland ethnic minority Protestants are not affiliated with these groups and have enjoyed greater freedom in recent years. This does not mean that we are no longer active and vigilant.

U.S. attention to these issues over past years contributed to the improvements we are witnessing in the Central Highlands. The U.S. Ambassador and other U.S. officials, including the Ambassador at Large for International Religious Freedom, have raised concerns about restrictions on religious freedom in the Central Highlands with the Prime Minister, Deputy Prime Minister, government cabinet ministers, Communist Party of Vietnam (CPV) leaders, senior provincial officials, and others, and will continue to do so. U.S. officials also meet regularly with religious leaders in Vietnam, including in the Central Highlands. In February 2008, the Ambassador at Large for International Religious Freedom met with a delegation of senior government and CPV officials from the Central Highlands, and addressed a wide range of ongoing religious freedom concerns. In March 2008, Ambassador Michalak met with some of those same leaders during his visit to the Central Highlands, and discussed ways to improve the socio-economic conditions for ethnic minorities, as well as potential cooperation to promote safe migration.

Our diplomatic engagement with Vietnam has helped to encourage significant advances in religious freedom. Nearly all religious communities throughout the country report greater freedom to practice their faith, and there is an overall increase in religious activity and observance throughout the country. The legal framework on religion bans forced renunciation of faith and has allowed hundreds of congregations to register their places of worship. The Government of Vietnam has granted full national recognition to 19 different religious denominations and intends to reg-



ister and recognize many more by the end of 2008. Implementation of the government's legal framework on religion has been uneven, but over the past 2 years, the government has organized 70 workshops in 17 provinces and cities to familiarize thousands of officials and religious leaders and practitioners with the provisions of the law on religion.

Even as we highlight this progress, we recognize that problems affecting religious freedom continue in Vietnam and we will continue to raise the concerns cited here with the Government of Vietnam at all levels. We call on the government to streamline and speed up the registration process for religious organizations that request it, or to eliminate the need for registration altogether. Although registrations of congregations have begun in the North and Northwest Highlands, the process has been slow. Local officials in some areas ignore the central government's policy of promoting religious freedom and continue to interfere with religious believers there. U.S. Embassy contacts have reported that in certain areas in the Central, North and Northwest Highlands, some officials are using new methods, including denial of government benefits, to encourage followers (primarily recently converted Protestants) to abandon their faith. While religious leaders themselves have told us that these cases are not widespread, we take these allegations seriously and raise them with Government of Vietnam authorities. Furthermore, the government has continued to ban and actively discourage participation in certain unrecognized religious groups, including the Unified Buddhist Church of Vietnam, and certain Hoa Hao, Cao Dai, and Protestant Church groups. We continue to press the Vietnamese Government to expand freedom of religion for all citizens.

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PREPARED STATEMENT OF ANDRE SAUVAGEOT, COLONEL, U.S. ARMY (RET.)

I am a retired U.S. Army officer, with 9 tours (years) of duty in wartime Vietnam, followed by post-war U.S. Government service to do political analysis of Vietnam and assist with the MIA/POW issue. Following this, I helped American companies develop markets in Vietnam and create jobs for American workers, in strict compliance with U.S. policy.

*I. Vietnam provides stable, friendly, predictable environment*

The Vietnamese have forged a society in which 85 million people of some 54 different ethnic groups with a wide variety of religions all live peacefully together, free of the ethnic and religious strife with which so many other countries are afflicted.

After the September 11, 2001, attacks on the World Trade Center and the Pentagon, the Political and Economic Research Company (PERC) based in Hong Kong upgraded its assessment of the security among 14 Asian Pacific countries to reflect the changing post-9/11 perceptions of entrepreneurs. Their assessment soon after 9/11 ranked Vietnam as the most secure of those 14 countries.

*II. Human Rights*

*A. Already relatively good considering: (relative to other countries among some 190 sovereign nations including, (sadly) the post 9/11 United States*

The frequent atrocities occurring in so many countries, such as floggings, amputations and death by stoning, long prison sentences for consensual sex between adults (e.g., United States—and worse in some countries governed by Sharia law) round-ups, torture, and killing of gays, all would be unthinkable in Vietnam.

A few years ago people were shocked when religious police forced little girls back to their deaths in a burning school because they did not meet the dress codes as they fled the flames. More recently, the world was shocked again when the same country sentenced a female rape victim to prison and 90 lashes because she was in a car with an unrelated male when the couple were kidnapped and raped by 7 men. The female victim's punishment was for being in a car with an unrelated male. When her lawyer courageously appealed her sentence, the punishment increased to 200 lashes and his license to practice law was suspended.

By contrast, with the above, Vietnam is a tolerant humane country for all of its citizens regardless of race, ethnicity, gender, or sexual orientation. A paucity of hate crimes based on the foregoing factors obviates any need for hate crimes legislation. Women and ethnic minorities are well represented in the National Assembly. The Vietnamese Communist Party has committed itself (Article 4, Constitution of 1992) to work within the laws passed by the National Assembly and continues steady progress toward this commitment.

*B. And improving (improvement will continue, but the United States can be a supportive, negative, or neutral factor)*

A basic reason that human rights in Vietnam is continuing to improve is that Vietnam's leadership has an enlightened concept of its self interest. But enlightened self-interest does not entail self destruction, e.g., yielding quickly to foreign or hostile pressures to undermine the leadership role of the Communist Party.

Therefore, if the SRV leadership perceives that an approach to improve a particular aspect of human rights is sincere, i.e., based on human rights qua human rights and therefore potentially beneficial to Vietnam or maybe even of mutual benefit to Vietnam and the United States there is a real chance for progress.

On the contrary, if the SRV leadership perceives a human rights approach is superficial, unrealistic, or basically posturing for an American constituency, the end result may be no change. And again, if it perceives a hostile intent, the result could be to elicit tightened security procedures, which could constitute a regression in civil liberties.

Vietnam's Constitution (Article 4) stipulates the leadership role of the Communist Party and is supported by most of the population (in Vietnam) because the party (from enlightened self-interest) has spear-headed political and economic reform under difficult conditions from the the 6th Party Congress which concluded in December 1986 through the 10th Party Congress which concluded in April 2006.

*(C) Threat perception (plays key role—can be positive or negative)*

The degree of civil liberties granted to the citizens of any country may be greatly influenced by the degree to which a country's leadership believes it (or the country at large) is threatened by hostile forces—whether domestic or external or a combination thereof. The U.S. regression in human rights and civil liberties after the 9/11 terrorist attack provides a recent stark example.

Vietnam's leadership understands the role of threat perception and that it applies in some degree to all countries. The difference is that the perception of threat may be paranoid or pathological in the case of ruthless dictatorships as existed under the former Taliban regime in Afghanistan, Saddam Hussein's Baath Party in Iraq, or the Khmer Rouge in Cambodia to cite some of the most extreme examples.

However, even relatively moderate governments will restrict civil liberties given a reasonable perception of threat.

The United States provides a number of examples:

During the civil war President Abraham Lincoln suspended habeous corpus.

After Japan attacked the U.S. Navy at Pearl Harbor 7 December 1941, President Roosevelt signed an Executive order to imprison many Japanese-Americans who were not guilty of any crimes and against whom there was no evidence.

After the terror attack of 11 September 2001, Congress quickly passed the Patriot Act, and the executive branch has assumed many powers which remain very controversial in the United States and abroad.

Vietnam provides other examples. Although committed to political and economic reform it is not surprising that Vietnam's Communist Party leadership is very sensitive to the possibility that they may face covert, hostile actions against Vietnam's basic political system. Consider:

- The United States maintained a trade embargo against Vietnam during the same time that it advocated and practiced "constructive engagement" with China.
- The United States supported China and the genocidal Khmer Rouge against Vietnam's liberation of Cambodia, e.g., by lobbying the U.N. to keep "Democratic Kampuchea's" seat at the U.N. and lobbying ASEAN to form a united front against Vietnam in Cambodia.
- Various groups from the United States have from time to time infiltrated into Vietnam through Thailand or Cambodia. Even if these activities were illegal and had no support from the U.S. Government they still exacerbated Vietnam's threat perception.

Therefore, the more that Vietnam ascertains that the United States is serious about improving overall relations in a serious manner based on mutual benefit the less Vietnam will feel threatened by unreasonable hostility. And the sooner that Vietnam's leadership will be amenable to constructive U.S. ideas on human rights. Setting a better example would also help—not only with Vietnam but many other countries with human rights situations much worse than either Vietnam or the United States.

*(D) Freedom of religion*

Vietnam with its "live and let live" attitude about religion provides a relaxed atmosphere from the very devout to agnostics and atheists. My secular humanist philosophy did not dissuade a devote Roman Catholic friend from episodic efforts to

convert me through conversation and books such as a Vietnamese language copy of the new testament. Vietnam's Party leadership is strongly supportive of religious freedom qua religion, maintains strict separation of church and state, with no stigma attached to being an atheist or agnostic.

The Vietnamese enjoy essentially 100 percent freedom of religion qua religion. Buddhists, Roman Catholics, Protestants, Muslims, Hoa Hao, and Cao Dai are all free to practice their religion. Vietnam's secular state combines freedom to believe in any religion with the freedom to not believe in any religion. Thus, there are no pressures against agnostics or atheists. It is "live and let live."

Some religious leaders get into trouble mixing politics with religion in a manner that violates existing law and exacerbates perceptions of threat reasonably derived from experience. For example, some foreigners visiting Vietnam have visited rural villages in the highlands and presented themselves as Protestants who offered money and a so-called religious or political rationale to entice people to flee to Cambodia and request political asylum.

In view of the history, it is quite commendable that Vietnam's leadership has put the past behind and that devout Roman Catholics attend mass and are very open about and proud of their religion. Their brand of religion tends to be humane, long on self-discipline and ethics and short on marginalizing others who do not share their religion.

### *III. United States and Vietnam have many shared interests. Consider:*

(1) United States and Vietnam (SRV) have full diplomatic relations; (2) United States has granted Vietnam PNTR status in compliance with our respective WTO membership; (3) United States now Vietnam's single largest export market, with implicit leverage to work cooperatively toward shared objectives; (4) SRV is one of the 21 most trade dependent nations (trade as percent of GDP) in the world—North Korea is the least; (5) SRV plays an increasingly important role in ASEAN in which it is the second most populous member and among the most politically stable; (6) the United States and SRV have shared geopolitical interests in a prosperous, peaceful region in which critical sealanes are not dominated by East Asia's emerging giant; (7) Vietnam maintains a secular state—a natural ally against terrorism generated by Islamic (or any) extremism; (8) SRV cooperates with the United States against trafficking in drugs and people.

### *IV. Vietnam's cooperation on MIA accounting*

I had the honor of serving as the interpreter for the U.S. Government's most senior officials heading delegations visiting Hanoi with, at first the sole, but always the primary objective of achieving the fullest possible accounting of Americans missing in action from the war in Vietnam. These included Richard Armitage (1982–1986, first Deputy Assistant and later Assistant Secretary of Defense, International Security Affairs; General John W. Vessey, U.S. Army retired) then-Special Emissary for MIA/POW Affairs for Presidents Reagan and Bush (1987–1991) and Senator John Kerry, then-chairman, Senate Select Committee on MIA/POW Affairs (1991–1992).

Since then I have continued to follow events from personal interest, both because of its intrinsic value (to families who lost loved ones) and also because it is an important component of the overall bilateral relationship from which both countries derive significant and growing benefit.

My key observations from years of intense, albeit episodic, exposure are:

1. Vietnam's cooperation has increased through the years as a function of improvement in the overall relationship, e.g., lifting the trade embargo, establishing diplomatic relations, signing a bilateral trade agreement, waiving the Jackson-Vanik amendment, ship visits, etc.

2. Vietnam's aforementioned humanitarian and pragmatic propensities have combined to enable its leadership and specialists to work effectively with the U.S. Government and our MIA/POW specialists, notwithstanding initial perceptions (understandably) among many Vietnamese who suffered more dead or missing from the war than we did, that there was something unseemly about their own leaders devoting so much effort (and publicity) to MIA accounting for their erstwhile enemies who many perceived had "invaded" their country. Tough sell, but sell it they did, and public cooperation has grown over the years.

3. The U.S. Government's effort over the years has been of the highest quality, from the senior officials for whom I had the honor of interpreting to the many specialized and dedicated officials, most notably Department of Defense personnel, who worked directly with the Vietnamese through the years.

The facts speak for themselves: Since the end of the war in Vietnam, the United States has repatriated and identified the remains of 627 Americans lost in Vietnam during the war. Efforts continue to account for some 1,353 remaining. The Joint

POW/MIA Accounting Command (JPAC) normally executes three joint field activities (JFAs) per year in Vietnam. The next JFA is scheduled for March 1–April 14, 2008.

My current contacts at the Department of Defense tell me that they appreciate Vietnam's assistance in the accounting mission, but also say that they are urging Vietnam to take some additional steps with potential mutual benefit to both countries. These are quite technical and Department of Defense personnel would be better to address these point by point. However, whatever the technical issues, I strongly believe that on MIA accounting, past is prologue, i.e., Vietnam's cooperation, for years amazingly good, will only grow as our overall relationship continues to move forward in accordance with our multifaceted interests.

#### CONCLUSION

The Vietnamese leadership's commitment to economic reform and to the diversification of Vietnam's international relationships, poverty alleviation and the growth if individual freedom adumbrate a bright future for Vietnam and an increasingly significant regional role.

The strategic geopolitical question is how close a relationship will we form with Vietnam—a natural ally against terrorism and political or religious extremism. Clearly, as the United States-Vietnam relationship continues to improve on the basis of mutual respect and mutual benefit, progress will continue on all fronts.

