

112TH CONGRESS
2^D SESSION

H. R. 1410

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 12, 2012

Received; read twice and referred to the Committee on Foreign Relations

AN ACT

To promote freedom and democracy in Vietnam.

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

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Vietnam Human Rights Act of 2012”.

4 (b) TABLE OF CONTENTS.—The table of contents for
5 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings and purpose.

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

Sec. 4. United States public diplomacy.

Sec. 5. Annual report.

6 **SEC. 2. FINDINGS AND PURPOSE.**

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

8 (1) The relationship between the United States
9 and the Socialist Republic of Vietnam has grown
10 substantially since the end of the trade embargo in
11 1994, with annual trade between the two countries
12 reaching over \$20,000,000,000 in 2011.

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

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

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

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

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

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

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

1 Cong Dinh, and bloggers Nguyen Van Hai and Phan
2 Thanh Hai.

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

7 (9) The Government of Vietnam has also failed
8 to improve labor rights, continues to arrest and har-
9 ass labor leaders, and restricts the right to organize
10 independently.

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

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

23 (12) Unregistered ethnic minority Protestant
24 congregations, particularly Montagnards in the Cen-
25 tral and Northwest Highlands, suffer severe abuses

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

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

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

23 (15) The Unified Buddhist Church of Vietnam
24 (UBCV) suffers persecution as the Government of
25 Vietnam continues to restrict contacts and move-

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

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

13 (17) During Easter weekend in April 2004,
14 thousands of Montagnards gathered to protest their
15 treatment by the Government of Vietnam, including
16 the confiscation of tribal lands and ongoing restric-
17 tions on religious activities. Credible reports indicate
18 that the protests were met with violent response as
19 many demonstrators were arrested, injured, or went
20 into hiding, and that others were killed. Many of
21 these Montagnards and others are still serving long
22 sentences for their involvement in peaceful dem-
23 onstrations in 2001, 2002, 2004, and 2008.
24 Montagnards continue to face threats, detention,
25 beatings, forced renunciation of faith, property de-

1 struction, restricted movement, and reported deaths
2 at the hands of Government officials.

3 (18) Ethnic minority Hmong in the Northwest
4 Highlands of Vietnam also suffer restrictions,
5 abuses, and persecution by the Government of Viet-
6 nam, and although the Government is now allowing
7 some Hmong Protestants to organize and conduct
8 religious activities, some Government officials con-
9 tinue to deny or ignore additional applications for
10 registration, and to persecute churches and believers
11 who do not wish to affiliate with Government-con-
12 trolled religious entities.

13 (19) In 2007, the Government of Vietnam ar-
14 rested, beat, and defrocked several ethnic Khmer
15 Buddhists in response to a peaceful religious protest.
16 The Government continues to restrict Khmer Krom
17 expression, assembly, association, and controls all re-
18 ligious organizations and prohibits most peaceful
19 protests.

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

1 lished, sent, or otherwise distributed democracy-re-
2 lated materials.

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

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

19 (23) Although the Government of Vietnam re-
20 ports progress in combating human trafficking, it
21 does not fully comply with the minimum standards
22 for the elimination of trafficking, and is not making
23 substantial efforts to comply.

24 (24) United States refugee resettlement pro-
25 grams, including the Humanitarian Resettlement

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

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

1 (26) The Government of Vietnam holds tens of
2 thousands of people in government-run drug deten-
3 tion centers and treats them as slave laborers.

4 (27) To date, over 60,000 people have signed a
5 petition calling on the Administration to not expand
6 trade with communist Vietnam at the expense of
7 human rights.

8 (28) Congress has passed numerous resolutions
9 condemning human rights abuses in Vietnam, indi-
10 cating that although there has been an expansion of
11 relations with the Government of Vietnam, it should
12 not be construed as approval of the ongoing and se-
13 rious violations of fundamental human rights in
14 Vietnam.

15 (b) PURPOSE.—The purpose of this Act is to promote
16 the development of freedom and democracy in Vietnam.

17 **SEC. 3. PROHIBITION ON INCREASED NONHUMANITARIAN**

18 **ASSISTANCE TO THE GOVERNMENT OF VIET-**

19 **NAM.**

20 (a) ASSISTANCE.—

21 (1) IN GENERAL.—Except as provided in sub-
22 section (b), the Federal Government may not pro-
23 vide nonhumanitarian assistance to the Government
24 of Vietnam during any fiscal year in an amount that

1 exceeds the amount of such assistance provided dur-
2 ing fiscal year 2011 unless—

3 (A) the Federal Government provides as-
4 sistance, in addition to the assistance author-
5 ized under section 4, supporting the creation
6 and facilitation of human rights training, civil
7 society capacity building, noncommercial rule of
8 law programming, and exchange programs be-
9 tween the Vietnamese National Assembly and
10 the United States Congress at levels commensu-
11 rate with, or exceeding, any increases in non-
12 humanitarian assistance to Vietnam;

13 (B) with respect to the limitation for fiscal
14 year 2012, the President determines and cer-
15 tifies to Congress, not later than 30 days after
16 the date of the enactment of this Act, that the
17 requirements of subparagraphs (A) through (G)
18 of paragraph (2) have been met during the 12-
19 month period ending on the date of the certifi-
20 cation; and

21 (C) with respect to the limitation for sub-
22 sequent fiscal years, the President determines
23 and certifies to Congress, in the most recent
24 annual report submitted pursuant to section 5,
25 that the requirements of subparagraphs (A)

1 through (G) of paragraph (2) have been met
2 during the 12-month period covered by the re-
3 port.

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

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

10 (B) The Government of Vietnam has made
11 substantial progress toward—

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

18 (ii) returning estates and properties
19 confiscated from the churches and religious
20 communities.

21 (C) The Government of Vietnam has made
22 substantial progress toward respecting the right
23 to freedom of expression, assembly, and associa-
24 tion, including the release of independent jour-

1 nalists, bloggers, and democracy and labor ac-
2 tivists.

3 (D) The Government of Vietnam has made
4 substantial progress toward repealing or revis-
5 ing laws that criminalize peaceful dissent, inde-
6 pendent media, unsanctioned religious activity,
7 and nonviolent demonstrations and rallies, in
8 accordance with international standards and
9 treaties to which Vietnam is a party.

10 (E) The Government of Vietnam has made
11 substantial progress toward allowing Viet-
12 namese nationals free and open access to
13 United States refugee programs.

14 (F) The Government of Vietnam has made
15 substantial progress toward respecting the
16 human rights of members of all ethnic and mi-
17 nority groups.

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

1 (b) EXCEPTION.—

2 (1) CONTINUATION OF ASSISTANCE IN THE NA-
3 TIONAL INTEREST.—Notwithstanding the failure of
4 the Government of Vietnam to meet the require-
5 ments of subsection (a)(2), the President may waive
6 the application of subsection (a) for any fiscal year
7 if the President determines that the provision to the
8 Government of Vietnam of increased nonhumani-
9 tarian assistance would promote the purpose of this
10 Act or is otherwise in the national interest of the
11 United States.

12 (2) EXERCISE OF WAIVER AUTHORITY.—The
13 President may exercise the authority under para-
14 graph (1) with respect to—

15 (A) all United States nonhumanitarian as-
16 sistance to Vietnam; or

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

19 (c) DEFINITIONS.—In this section:

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

22 (A) any assistance under the Foreign As-
23 sistance Act of 1961 (including programs under
24 title IV of chapter 2 of part I of that Act, relat-

1 ing to the Overseas Private Investment Cor-
2 poration), other than—

3 (i) disaster relief assistance, including
4 any assistance under chapter 9 of part I of
5 that Act;

6 (ii) assistance which involves the pro-
7 vision of food (including monetization of
8 food) or medicine;

9 (iii) assistance for environmental re-
10 mediation of dioxin-contaminated sites and
11 related health activities;

12 (iv) assistance to combat severe forms
13 of trafficking in persons;

14 (v) assistance to combat pandemic
15 diseases;

16 (vi) assistance for refugees; and

17 (vii) assistance to combat HIV/AIDS,
18 including any assistance under section
19 104A of that Act; and

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

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

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

3 (d) **EFFECTIVE DATE.**—This section shall take effect
4 on the date of the enactment of this Act and shall apply
5 with respect to the provision of nonhumanitarian assist-
6 ance to the Government of Vietnam during fiscal year
7 2013 and subsequent fiscal years.

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

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

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

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

4 **SEC. 5. ANNUAL REPORT.**

5 (a) IN GENERAL.—Not later than 6 months after the
6 date of the enactment of this Act and every 12 months
7 thereafter, the Secretary of State shall submit to the Con-
8 gress a report on the following:

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

13 (2) Steps taken to carry out section 3(a)(1)(A),
14 if applicable.

15 (3) Efforts by the United States Government to
16 promote access by the Vietnamese people to Radio
17 Free Asia transmissions.

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

23 (5) Lists of persons believed to be imprisoned,
24 detained, or placed under house arrest, tortured, or
25 otherwise persecuted by the Government of Vietnam

1 due to their pursuit of internationally recognized
2 human rights. In compiling such lists, the Secretary
3 shall exercise appropriate discretion, including con-
4 cerns regarding the safety and security of, and ben-
5 efit to, the persons who may be included on the lists
6 and their families. In addition, the Secretary shall
7 include a list of such persons and their families who
8 may qualify for protections under United States ref-
9 ugee programs.

10 (6) A description of the development of the rule
11 of law in Vietnam, including—

12 (A) progress toward the development of in-
13 stitutions of democratic governance;

14 (B) processes by which statutes, regula-
15 tions, rules, and other legal acts of the Govern-
16 ment of Vietnam are developed and become
17 binding within Vietnam;

18 (C) the extent to which statutes, regula-
19 tions, rules, administrative and judicial deci-
20 sions, and other legal acts of the Government of
21 Vietnam are published and are made accessible
22 to the public;

23 (D) the extent to which administrative and
24 judicial decisions are supported by statements
25 of reasons that are based upon written statutes,

1 regulations, rules, and other legal acts of the
2 Government of Vietnam;

3 (E) the extent to which individuals are
4 treated equally under the laws of Vietnam with-
5 out regard to citizenship, race, religion, political
6 opinion, or current or former associations;

7 (F) the extent to which administrative and
8 judicial decisions are independent of political
9 pressure or governmental interference and are
10 reviewed by entities of appellate jurisdiction;
11 and

12 (G) the extent to which laws in Vietnam
13 are written and administered in ways that are
14 consistent with international human rights
15 standards, including the requirements of the
16 International Covenant on Civil and Political
17 Rights.

18 (b) CONTACTS WITH OTHER ORGANIZATIONS.—In
19 preparing the report under subsection (a), the Secretary
20 shall, as appropriate, seek out and maintain contacts with
21 nongovernmental organizations and human rights advo-
22 cates (including Vietnamese-Americans and human rights
23 advocates in Vietnam), including receiving reports and up-
24 dates from such organizations and evaluating such re-
25 ports. The Secretary shall also seek to consult with the

- 1 United States Commission on International Religious
- 2 Freedom for appropriate sections of the report.

Passed the House of Representatives September 11,
2012.

Attest:

KAREN L. HAAS,

Clerk.