Union Calendar No. 117

107TH CONGRESS 1ST SESSION

H. R. 2368

[Report No. 107-199, Part I]

To promote freedom and democracy in Viet Nam.

IN THE HOUSE OF REPRESENTATIVES

June 28, 2001

Mr. Smith of New Jersey (for himself, Mr. Tom Davis of Virginia, Ms. Sanchez, Mr. Rohrabacher, Ms. Lofgren, Mr. Royce, Mr. Wolf, and Mr. Gilman) introduced the following bill; which was referred to the Committee on International Relations, and in addition to the Committees on Financial Services, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

SEPTEMBER 5, 2001

Additonal sponsors: Ms. Lee, Mr. Clay, Mr. Burton of Indiana, Mr. Souder, Ms. McKinney, Mr. Markey, Ms. Ros-Lehtinen, and Ms. McCollum

SEPTEMBER 5, 2001

Reported from the Committee on International Relations with an amendment [Strike out all after the enacting clause and insert the part printed in italic]

September 5, 2001

Referral to the Committees on Financial Services and Rules extended for a period ending not later than September 5, 2001

SEPTEMBER 5, 2001

The Committees on Financial Services and Rules discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To promote freedom and democracy in Viet Nam.

- 1 Be it enacted by the Senate and House of Representa-
- 2 tives of the United States of America in Congress assembled,
- 3 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.
- 4 (a) Short Title.—This Act may be cited as the "Viet
- 5 Nam Human Rights Act".
- 6 (b) Table of Contents for
- 7 this Act is as follows:
 - Sec. 1. Short title; table of contents.

TITLE I—GENERAL PROVISIONS

Sec. 101. Findings.

Sec. 102. Purpose.

TITLE II—PROMOTION OF FREEDOM AND DEMOCRACY IN VIET NAM

- Subtitle A—Prohibition on Nonhumanitarian Assistance to the Government of Viet Nam
- Sec. 201. Bilateral nonhumanitarian assistance.
- Sec. 202. Multilateral nonhumanitarian assistance.

Subtitle B—Assistance to Support Democracy in Viet Nam

Sec. 211. Assistance.

Subtitle C—United States Public Diplomacy

- Sec. 221. Radio Free Asia transmissions to Viet Nam.
- Sec. 222. United States educational and cultural exchange programs with Viet Nam.

Subtitle D—United States Refugee Policy

 $Sec.\ 232.\ Refugee\ resettlement\ for\ nationals\ of\ Viet\ Nam.$

Sec. 241. Annual report.

1 TITLE I—GENERAL PROVISIONS

2	SEC. 101. FINDINGS.
3	Congress finds the following:
4	(1) Viet Nam is a one-party state, ruled and
5	controlled by the Vietnamese Communist Party.
6	(2) The Government of Viet Nam denies the peo-
7	ple of Viet Nam the right to change their government
8	and prohibits independent political, social, and labor
9	organizations.
10	(3)(A) The Government of Viet Nam consistently
11	pursues a policy of harassment, discrimination, and
12	intimidation, and sometimes of imprisonment and
13	other forms of detention, against those who peacefully
14	express dissent from government or party policy.
15	(B) Recent victims of such mistreatment, which
16	violates the rights to freedom of expression and asso-
17	ciation recognized in the Universal Declaration of
18	Human Rights, include Dr. Nguyen Dan Que, Dr.
19	Nguyen Thanh Giang, General Tran Do, Most Vener-
20	able Thich Huyen Quang, Most Venerable Thick
21	Quang Do, Father Nguyen Van Ly, numerous leaders

of the Hoa Hao Buddhist Church and of independent

Protestant churches, and an undetermined number of

22

- 1 members of the Montagnard ethnic minority groups 2 who participated in peaceful demonstrations in the 3 Central Highlands of Viet Nam during February 4 2001.
 - (4) The Government of Viet Nam systematically deprives its citizens of the fundamental right to freedom of religion. Although some freedom of worship is permitted, believers are forbidden to participate in religious activities except under circumstances rigidly defined and controlled by the government:
 - (A) In 1999 the Government issued a Decree Concerning Religious Activities, which declared in pertinent part that "[a]ll activities using religious belief in order to oppose the State of the Socialist Republic of Viet Nam, to prevent the believers from carrying out civic responsibilities, to sabotage the union of all the people, to against the healthy culture of our nation, as well as superstitious activities, will be punished in conformity with the law".
 - (B) The Unified Buddhist Church of Viet Nam (UCBV), the largest religious denomination in the country, has been declared illegal by the Government, and over the last twenty-five years its clergy have often been imprisoned and sub-

jected to other forms of persecution. The Patriarch of the Unified Buddhist Church, 83-year-old Most Venerable Thich Huyen Quang, has been detained for 21 years in a ruined temple in an isolated area of central Viet Nam. Most Venerable Thich Quang Do, the Executive President of the Unified Buddhist Church, has also been in various forms of detention for many years, and was recently rearrested and placed under house arrest after he had proposed to bring Most Venerable Thich Huyen Quang to Saigon for medical treatment.

(C) The Hoa Hao Buddhist Church was also declared to be illegal until 1999, when the Government established an organization which purports to govern the Hoa Hao. According to the United States Commission on International Religious Freedom, "[t]his organization is made up almost entirely of Communist Party members and apparently is not recognized as legitimate by the vast majority of Hoa Haos . . . [n]evertheless, [this government-sponsored organization] has sought to control all Hoa Hao religious activity, particularly at the Hoa Hao village, which is the center of Hoa Hao religious

life". Hoa Hao believers who do not recognize the legitimacy of the government organization are denied the right to visit the Hoa Hao village, to conduct traditional religious celebrations, or to display Hoa Hao symbols. Many have been arrested and subjected to administrative detention, and several Hoa Hao have been sentenced to prison terms for protesting these denials of religious freedom.

(D) Independent Protestants, most of whom are members of ethnic minority groups, are subjected to particularly harsh treatment by the Government of Viet Nam. According to the United States Commission on International Religious Freedom, such treatment includes "police raids on homes and house churches, detention, imprisonment, confiscation of religious and personal property, physical and psychological abuse, and fines for engaging in unapproved religious activities (such as collective worship, public religious expression and distribution of religious literature, and performing baptisms, marriages, or funeral services) . . . [i]n addition, it is reported that ethnic Hmong Protestants have been forced

by local officials to agree to abandon their faith".

(E) Other religious organizations, such as the Catholic Church, are formally recognized by the Government but are subjected to pervasive regulation which violates the right to freedom of religion. For instance, the Catholic Church is forbidden to appoint its own bishops without Government consent, which is frequently denied, to accept seminarians without specific official permission, and to profess Catholic doctrines which are inconsistent with Government policy. A Catholic priest, Father Nguyen Van Ly, was arrested in March 2001 and remains in detention after submitting written testimony to the United States Commission on International Religious Freedom.

(F) The Government has also confiscated numerous churches, temples, and other properties belonging to religious organizations. The vast majority of these properties—even those belonging to religious organizations formally recognized by the Government—have never been returned

turned.

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(5) Since 1975 the Government of Viet Nam has persecuted veterans of the Army of the Republic of Viet Nam and other Vietnamese who had opposed the Viet Cong insurgency and the North Vietnamese invasion of South Viet Nam. Such persecution typically included substantial terms in "re-education camps", where detainees were often subjected to torture and other forms of physical abuse, and in which many died. Re-education camp survivors and their families were often forced into internal exile in "New Economic Zones". Many of these former allies of the United States, as well as members of their families, continue until the present day to suffer various forms of harassment and discrimination, including denial of basic social benefits and exclusion from higher education and employment.

(6)(A) The Government of Viet Nam has been particularly harsh in its treatment of members of the Montagnard ethnic minority groups of the Central Highlands of Viet Nam, who were the first line in the defense of South Viet Nam against invasion from the North and who fought courageously beside members of the Special Forces of the United States Army, suffering disproportionately heavy casualties, and saving

- the lives of many of their American and Vietnamese
 comrades-in-arms.
 - (B) Since 1975 the Montagnard peoples have been singled out for severe repression, in part because of their past association with the United States and in part because their strong commitment to their traditional way of life and to their Christian religion is regarded as inconsistent with the absolute loyalty and control demanded by the Communist system.
 - (C) In February 2001 several thousand Montagnards participated in a series of peaceful demonstrations throughout the Central Highlands, demanding religious freedom and restoration of their confiscated lands, and the Government responded by closing off the Central Highlands and sending in military forces, tanks, and helicopter gunships.
 - (D) Credible reports by refugees who have escaped to Cambodia indicate that the Government has executed some participants in the demonstrations and has subjected others to imprisonment, torture, and other forms of physical abuse.
 - (E) The Government of Viet Nam has also taken steps to prevent further Montagnards from escaping, and there are credible reports that Vietnamese secu-

- 1 rity forces in Cambodia are offering bounties for the 2 surrender of Montagnard asylum seekers.
 - (7) The Government of Viet Nam has also persecuted members of other ethnic minority groups, including the Khmer Krom from the Mekong Delta, many of whom fought alongside United States military personnel during the Viet Nam war and whose Hinayana Buddhist religion is not among those recognized by the Government.
 - (8) The Government of Viet Nam also engages in or condones serious violations of the rights of workers. In August 1997, the United Nations Children's Fund (UNICEF) reported that child labor exploitation is on the rise in Viet Nam with tens of thousands of children under 15 years of age being subjected to such exploitation. The government's official labor export program also has subjected workers, many of whom are women, to involuntary servitude, debt bondage, and other forms of abuse, and the reaction of government officials to worker complaints of such abuse has been to threaten the workers with punishment if they do not desist in their complaints.
 - (9)(A) United States refugee resettlement programs for Vietnamese nationals, including the Orderly Departure Program (ODP), the Resettlement

- Opportunities for Returning Vietnamese (ROVR) program, and resettlement of boat people from refugee camps throughout Southeast Asia, were authorized by law in order to rescue Vietnamese nationals who have suffered persecution on account of their wartime associations with the United States, as well as those who currently have a well-founded fear of persecution on account of race, religion, nationality, political opinion, or membership in a particular social group.
 - (B) In general, these programs have served their purpose well. However, many refugees who were eligible for these programs were unfairly denied or excluded, in some cases by vindictive or corrupt Communist officials who controlled access to the programs, and in others by United States personnel who imposed unduly restrictive interpretations of program criteria. These unfairly excluded refugees include some of those with the most compelling cases, including many Montagnard combat veterans and their families.
 - (10) The Government of Viet Nam systematically jams broadcasts by Radio Free Asia, an independent broadcast service funded by the United States in order to provide news and entertainment to the people

of countries in Asia whose governments deny the right to freedom of expression and of the press.

(11) In 1995 the Governments of the United States and Viet Nam announced the "normalization" of diplomatic relations. In 1998 then-President Clinton waived the application of section 402 of the Trade Act of 1974 (commonly known as the "Jackson-Vanik Amendment"), which restricts economic assistance to countries with non-market economies whose governments also restrict freedom of emigration. In 1999 the Governments of the United States and Viet Nam announced "agreement in principle" on a bilateral trade agreement. This agreement was signed in 2000 and has been presented to Congress for approval or disapproval.

(12) The Congress and the American people are united in their determination that the extension or expansion of trade relations with a country whose government engages in serious and systematic violations of fundamental human rights must not be construed as a statement of approval or complacency about such practices. The promotion of freedom and democracy around the world—and particularly for people who have suffered in large part because of their past associations with the United States and because

1	they share our values—is and must continue to be a				
2	central objective of United States foreign policy.				
3	SEC. 102. PURPOSE.				
4	The purpose of this Act is to promote the development				
5	of freedom and democracy in Viet Nam.				
6	TITLE II—PROMOTION OF FREE-				
7	DOM AND DEMOCRACY IN				
8	VIET NAM				
9	Subtitle A—Prohibition on Non-				
10	humanitarian Assistance to the				
11	Government of Viet Nam				
12	SEC. 201. BILATERAL NONHUMANITARIAN ASSISTANCE.				
13	(a) Assistance.—				
14	(1) In general.—Except as provided in sub-				
15	section (b), United States nonhumanitarian assist-				
16	ance may not be provided to the Government of Viet				
17	Nam—				
18	(A) for fiscal year 2002 unless not later				
19	than 30 days after the date of the enactment of				
20	this Act the President determines and certifies to				
21	Congress that the requirements of subparagraphs				
22	(A) through (D) of paragraph (2) have been met				
23	during the 12-month period ending on the date				
24	of the certification; and				

1	(B) for each subsequent fiscal year unless
2	the President determines and certifies to Con-
3	gress in the most recent annual report submitted
4	pursuant to section 241 that the requirements of
5	subparagraphs (A) through (D) of paragraph (2)
6	have been met during the 12-month period cov-
7	ered by the report.
8	(2) Requirements of this
9	paragraph are that—
10	(A) the Government of Viet Nam has made
11	substantial progress toward releasing all polit-
12	ical and religious prisoners from imprisonment,
13	house arrest, and other forms of detention;
14	(B) the Government of Viet Nam has made
15	substantial progress toward respecting the right
16	to freedom of religion, including the right to par-
17	ticipate in religious activities and institutions
18	without interference by or involvement of the
19	Government;
20	(C) the Government of Viet Nam has made
21	substantial progress toward respecting the
22	human rights of members of ethnic minority
23	groups in the Central Highlands or elsewhere in
24	Viet Nam; and

1	(D)(i) neither any official of the Govern-
2	ment of Viet Nam nor any agency or entity
3	wholly or partly owned by the Government of
4	Viet Nam was complicit in a severe form of traf-
5	ficking in persons; or
6	(ii) the Government of Viet Nam took all
7	appropriate steps to end any such complicity
8	and hold such official, agency, or entity fully ac-
9	countable for its conduct.
10	(b) Exception.—Subsection (a) shall not apply for
11	any fiscal year with respect to the provision of United
12	States nonhumanitarian assistance for any program or ac-
13	tivity for which such assistance was provided to the Govern-
14	ment of Viet Nam for fiscal year 2001 in an amount not
15	to exceed the amount so provided for fiscal year 2001.
16	(c) Definitions.—In this section:
17	(1) Severe form of trafficking in per-
18	SONS.—The term "severe form of trafficking in per-
19	sons" means any activity described in section 103(8)
20	of the Trafficking Victims Protection Act of 2000
21	(Public Law 106–386 (114 Stat. 1470); 22 U.S.C.
22	7102(8)).
23	(2) United states nonhumanitarian assist-
24	ANCE.—The term "United States nonhumanitarian
25	assistance'' means—

1	(A) any assistance under the Foreign As-
2	sistance Act of 1961 (including programs under
3	title IV of chapter 2 of part I of that Act, relat-
4	ing to the Overseas Private Investment Corpora-
5	tion), other than—
6	(i) disaster relief assistance, including
7	any assistance under chapter 9 of part I of
8	$that \ Act;$
9	(ii) assistance which involves the pro-
10	vision of food (including monetization of
11	food) or medicine; and
12	(iii) assistance for refugees;
13	(B) sales, or financing on any terms, under
14	the Arms Export Control Act; and
15	(C) financing under the Export-Import
16	Bank Act of 1945.
17	SEC. 202. MULTILATERAL NONHUMANITARIAN ASSISTANCE.
18	The Secretary of the Treasury shall instruct the United
19	States Executive Director of each multilateral development
20	bank and of the International Monetary Fund to use the
21	voice, vote, and influence of the United States to deny any
22	loan or other utilization of the funds of such bank or insti-
23	tution (other than for humanitarian assistance) to Viet
24	Nam for fiscal year 2002 and each subsequent fiscal year
25	unless the President determines and certifies to Congress for

- 1 such fiscal year that the requirements of subparagraphs (A)
- 2 through (D) of section 201(a)(2) have been met.

3 Subtitle B—Assistance to Support

4 Democracy in Viet Nam

- 5 SEC. 211. ASSISTANCE.
- 6 (a) In General.—The President is authorized to pro-
- 7 vide assistance, through appropriate nongovernmental or-
- 8 ganizations, for the support of individuals and organiza-
- 9 tions to promote human rights and nonviolent democratic
- 10 change in Viet Nam.
- 11 (b) AUTHORIZATION OF APPROPRIATIONS.—There are
- 12 authorized to be appropriated to the President to carry out
- 13 subsection (a) \$2,000,000 for each of the fiscal years 2002
- 14 and 2003.

15 Subtitle C—United States Public

16 **Diplomacy**

- 17 SEC. 221. RADIO FREE ASIA TRANSMISSIONS TO VIET NAM.
- 18 (a) Policy of the United States.—It is the policy
- 19 of the United States to take such measures as are necessary
- 20 to overcome the jamming of Radio Free Asia by the Govern-
- 21 ment of Viet Nam.
- 22 (b) Authorization of Appropriations.—In addi-
- 23 tion to such amounts as are otherwise authorized to be ap-
- 24 propriated for the Broadcasting Board of Governors, there
- 25 are authorized to be appropriated to carry out the policy

1	under subsection (a) \$9,100,000 for the fiscal year 2002 and
2	\$1,100,000 for the fiscal year 2003.
3	SEC. 222. UNITED STATES EDUCATIONAL AND CULTURAL
4	EXCHANGE PROGRAMS WITH VIET NAM.
5	It is the policy of the United States that programs of
6	educational and cultural exchange with Viet Nam should
7	actively promote progress toward freedom and democracy
8	in Viet Nam by providing opportunities to Vietnamese na-
9	tionals from a wide range of occupations and perspectives
10	to see freedom and democracy in action and, also, by ensur-
11	ing that Vietnamese nationals who have already dem-
12	onstrated a commitment to these values are included in such
13	programs.
13 14	subtitle D—United States Refugee
14	Subtitle D—United States Refugee
14 15	Subtitle D—United States Refugee Policy
141516	Subtitle D—United States Refugee Policy SEC. 232. REFUGEE RESETTLEMENT FOR NATIONALS OF
14151617	Subtitle D—United States Refugee Policy SEC. 232. REFUGEE RESETTLEMENT FOR NATIONALS OF VIET NAM.
14 15 16 17 18	Subtitle D—United States Refugee Policy SEC. 232. REFUGEE RESETTLEMENT FOR NATIONALS OF VIET NAM. (a) POLICY OF THE UNITED STATES.—It is the policy
141516171819	Subtitle D—United States Refugee Policy SEC. 232. REFUGEE RESETTLEMENT FOR NATIONALS OF VIET NAM. (a) POLICY OF THE UNITED STATES.—It is the policy of the United States to offer refugee resettlement to nation-
14 15 16 17 18 19 20	Subtitle D—United States Refugee Policy SEC. 232. REFUGEE RESETTLEMENT FOR NATIONALS OF VIET NAM. (a) POLICY OF THE UNITED STATES.—It is the policy of the United States to offer refugee resettlement to nationals of Viet Nam (including members of the Montagnard eth-
14 15 16 17 18 19 20 21	Subtitle D—United States Refugee Policy SEC. 232. REFUGEE RESETTLEMENT FOR NATIONALS OF VIET NAM. (a) POLICY OF THE UNITED STATES.—It is the policy of the United States to offer refugee resettlement to nationals of Viet Nam (including members of the Montagnard ethnic minority groups) who were eligible for the Orderly De-
14 15 16 17 18 19 20 21 22	Subtitle D—United States Refugee Policy SEC. 232. REFUGEE RESETTLEMENT FOR NATIONALS OF VIET NAM. (a) POLICY OF THE UNITED STATES.—It is the policy of the United States to offer refugee resettlement to nationals of Viet Nam (including members of the Montagnard ethnic minority groups) who were eligible for the Orderly Departure Program or any other United States refugee pro-
14 15 16 17 18 19 20 21 22 23	Subtitle D—United States Refugee Policy SEC. 232. REFUGEE RESETTLEMENT FOR NATIONALS OF VIET NAM. (a) POLICY OF THE UNITED STATES.—It is the policy of the United States to offer refugee resettlement to nationals of Viet Nam (including members of the Montagnard ethnic minority groups) who were eligible for the Orderly Departure Program or any other United States refugee program and who were deemed ineligible due to administrative

1	officials of the Government of Viet Nam) were unable to				
2	apply for such programs in compliance with deadlines im-				
3	posed by the Department of State.				
4	(b) Authorized Activity.—Of the amounts author-				
5	ized to be appropriated to the Department of State for Mi-				
6	gration and Refugee Assistance for each of the fiscal years				
7	2001, 2002, and 2003, such sums as may be necessary are				
8	authorized to be made available for the protection (includ-				
9	ing resettlement in appropriate cases) of Vietnamese refu-				
10	gees and asylum seekers, including Montagnards in Cam-				
11	bodia.				
12	Subtitle E—Annual Report on				
12 13					
	•				
13	Progress Toward Freedom and				
13 14	Progress Toward Freedom and Democracy in Viet Nam				
13 14 15	Progress Toward Freedom and Democracy in Viet Nam SEC. 241. ANNUAL REPORT.				
13 14 15 16 17	Progress Toward Freedom and Democracy in Viet Nam SEC. 241. ANNUAL REPORT. Not later than May 31 of each year, the Secretary of				
13 14 15 16 17	Progress Toward Freedom and Democracy in Viet Nam SEC. 241. ANNUAL REPORT. Not later than May 31 of each year, the Secretary of State shall submit to Congress a report for the 12-month				
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13 14 15 16 17 18	Progress Toward Freedom and Democracy in Viet Nam SEC. 241. ANNUAL REPORT. Not later than May 31 of each year, the Secretary of State shall submit to Congress a report for the 12-month period ending on the date of submission of the report, on the following:				
13 14 15 16 17 18 19 20	Progress Toward Freedom and Democracy in Viet Nam SEC. 241. ANNUAL REPORT. Not later than May 31 of each year, the Secretary of State shall submit to Congress a report for the 12-month period ending on the date of submission of the report, on the following: (1) The determination and certification of the				
13 14 15 16 17 18 19 20 21	Progress Toward Freedom and Democracy in Viet Nam SEC. 241. ANNUAL REPORT. Not later than May 31 of each year, the Secretary of State shall submit to Congress a report for the 12-month period ending on the date of submission of the report, on the following: (1) The determination and certification of the President that the requirements of subparagraphs (A)				

 $secure \ transmission \ sites \ for \ Radio \ Free \ Asia \ in$

- countries in close geographical proximity to Viet Nam
 in accordance with section 221(a).
- 3 (3) Efforts to ensure that programs with Viet 4 Nam promote the policy set forth in section 222 and 5 with section 102 of the Human Rights, Refugee, and 6 Other Foreign Policy Provisions Act of 1996 regard-7 ing participation in programs of educational and 8 cultural exchange.
- 9 (4) Steps taken to carry out the policy under sec-10 tion 232(a).

Union Calendar No. 117

107TH CONGRESS 1ST SESSION

H.R. 2368

[Report No. 107-199, Part I]

A BILL

To promote freedom and democracy in Viet Nam.

September 5, 2001

Reported from the Committee on International Relations with an amendment

Referral to the Committees on Financial Services and Rules extended for a period ending not later than September 5, 2001

The Committees on Financial Services and Rules discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed