

110TH CONGRESS
1ST SESSION

H. R. 3096

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 19, 2007

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 2007”.

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.

Sec. 3. Purpose.

TITLE I—PROHIBITION ON NONHUMANITARIAN ASSISTANCE TO
THE GOVERNMENT OF VIETNAM

Sec. 101. Bilateral nonhumanitarian assistance.

TITLE II—ASSISTANCE TO SUPPORT DEMOCRACY IN VIETNAM

Sec. 201. Assistance.

TITLE III—UNITED STATES PUBLIC DIPLOMACY

Sec. 301. Radio Free Asia transmissions to Vietnam.

Sec. 302. United States educational and cultural exchange programs with Viet-
nam.

TITLE IV—UNITED STATES REFUGEE POLICY

Sec. 401. Refugee resettlement for nationals of Vietnam.

TITLE V—ANNUAL REPORT ON PROGRESS TOWARD FREEDOM
AND DEMOCRACY IN VIETNAM

Sec. 501. Annual report.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) The relationship between the United States
9 and the Socialist Republic of Vietnam has grown
10 substantially over the past 12 years, with annual
11 trade between the 2 countries reaching over
12 \$9,000,000,000 per year.

13 (2) The Government of Vietnam’s transition to-
14 ward greater economic freedom and trade has not

1 been matched by greater political freedom and sub-
2 stantial improvements in human rights for many Vi-
3 etnamese.

4 (3) The United States Congress agreed to Viet-
5 nam becoming an official member of the World
6 Trade Organization (WTO) in 2006, amidst assur-
7 ances that the Vietnamese Government was steadily
8 improving its human rights record and would con-
9 tinue to do so.

10 (4) Vietnam remains a one-party state, ruled
11 and controlled by the Communist Party of Vietnam
12 (CPV), which continues to deny the right of citizens
13 to change their government.

14 (5) Although in recent years the National As-
15 sembly of Vietnam has played an increasingly active
16 role as a forum for highlighting local concerns, cor-
17 ruption, and inefficiency, the National Assembly re-
18 mains subject to the direction of the CPV and the
19 CPV maintains control over the selection of can-
20 didates in national and local elections.

21 (6) The Government of Vietnam forbids public
22 challenge to the legitimacy of the one-party state, re-
23 stricts freedoms of opinion, the press, and associa-
24 tion and tightly limits access to the Internet and
25 telecommunication.

1 (7) Since Vietnam's accession to the WTO on
2 January 11, 2007, the Vietnamese Government arbi-
3 trarily arrested and imprisoned several individuals
4 for their peaceful advocacy of democracy, including
5 Father Nguyen Van Ly and human rights lawyers
6 Nguyen Van Dai and Le Thi Cong Nhan.

7 (8) The Government of Vietnam continues to
8 detain, imprison, place under house arrest, convict,
9 or otherwise restrict persons for the peaceful expres-
10 sion of dissenting political or religious views, includ-
11 ing Bui Kim Thanh, Hang Tan Phat, Truong Quoc
12 Huy, Vu Hoang Hai, Nguyen Ngoc Quang, Pham
13 Ba Hai, Dr. Le Nguyen Sang, Huynh Nguyen Dao,
14 Nguyen Bac Truyen, Tran Quoc Hien, Nguyen Tan
15 Hoanh, Tran Thi Le Hang, Doan Huu Chuong,
16 Doan Van Dien, Le Ba Triet, Nguyen Tuan, Tran
17 Thi Thuy Trang, Nguyen Phong, Nguyen Binh
18 Thanh, Hoang Thi Anh Dao, Le Thi Le Hang, Tran
19 Khai Thanh Thuy, Ho Thi Bich Khuong, Hong
20 Trung, Danh Tol, Kim Muot, Thach Thuong, Ly
21 Suong, Ly Hoang, Nguyen Van Tho, Le Van Soc,
22 Nguyen Van Thuy, Duong Thi Tron, Truong Minh
23 Duc, and Dr. Pham Hong Son, among others.

1 (9)(A) The Government of Vietnam continues
2 to limit freedom of religion and restrict the oper-
3 ation of religious organizations.

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

10 (C) Unregistered ethnic minority Protestant
11 congregations suffer severe abuses because of actions
12 by the Government of Vietnam, which have included
13 forced renunciations of faith, the arrest and harass-
14 ment of pastors, the withholding of social programs
15 provided for the general population, confiscation and
16 destruction of property, and subjection to severe
17 beatings.

18 (D) The Unified Buddhist Church of Vietnam
19 (UBCV) suffers persecutions as the Government of
20 Vietnam continues to restrict contacts and move-
21 ment of senior UBCV clergy, including the Most
22 Venerable Thich Huyen Quang, and the Most Vener-
23 able Thich Quang Do for refusing to join the state-
24 sponsored Buddhist organizations, and the Govern-
25 ment also continues to place leaders under “pagoda”

1 and house arrest, destroy religious property, and
2 harass and threaten local practicing Buddhists.

3 (E) The Government of Vietnam continues to
4 suppress the activities of other religious adherents,
5 including Cao Dai and Hoa Hao who lack official
6 recognition or have chosen not to affiliate with the
7 state-sanctioned groups, including through the use
8 of detention and imprisonment.

9 (F) During Easter weekend in April 2004,
10 thousands of Montagnards gathered to protest their
11 treatment by the Government of Vietnam, including
12 the confiscation of tribal lands and ongoing restric-
13 tions on religious activities. Credible reports indicate
14 that the protests were met with violent response as
15 many demonstrators were arrested, injured, went
16 into hiding, and that others were killed. Many of
17 these Montagnards are still serving long sentences
18 for their involvement in peaceful demonstrations in
19 2001 and 2004.

20 (G) Ethnic minority Hmong in the Northwest
21 Highlands of Vietnam also suffer restrictions,
22 abuses, and persecution by the Government of Viet-
23 nam, and although the Government is now allowing
24 some Hmong Protestants to organize and conduct
25 religious activity, some government officials continue

1 to deny or ignore additional applications for reg-
2 istration.

3 (10) The Government of Vietnam controls all
4 print and electronic media, including access to the
5 Internet, jams the signals of some foreign radio sta-
6 tions, including Radio Free Asia, and has detained
7 and imprisoned individuals who have posted or sent
8 democracy-related materials via the Internet.

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

17 (12)(A) United States refugee resettlement pro-
18 grams, including the Humanitarian Resettlement
19 (HR) Program, the Orderly Departure Program
20 (ODP), Resettlement Opportunities for Vietnamese
21 Returnees (ROVR) Program, general resettlement of
22 boat people from refugee camps throughout South-
23 east Asia, the Amerasian Homecoming Act of 1988,
24 and the Priority One Refugee resettlement category
25 have helped rescue Vietnamese nationals who have

1 suffered persecution on account of their associations
2 with the United States as well as Vietnamese nation-
3 als who have been persecuted because of race, reli-
4 gion, nationality, political opinion, or membership in
5 a particular social group.

6 (B) While previous programs have served their
7 purposes well, a significant number of eligible refu-
8 gees from Vietnam were unfairly denied or excluded,
9 including Amerasians, in some cases by vindictive or
10 corrupt Vietnamese officials who controlled access to
11 the programs, and in others by United States per-
12 sonnel who imposed unduly restrictive interpreta-
13 tions of program criteria. In addition, the Govern-
14 ment of Vietnam has denied passports to persons
15 who the United States has found eligible for refugee
16 admission.

17 (C) The Department of State has agreed to ex-
18 tend the September 30, 1994, registration deadline
19 for former United States employees, “re-education”
20 survivors, and surviving spouses of those who did
21 not survive “re-education” camps to sign up for
22 United States refugee programs, as well as the Viet-
23 name In Country Priority One Program in Viet-
24 nam to provide protection to victims of recent perse-
25 cution on account of race, religion, nationality, polit-

1 ical opinion, or membership in a particular social
2 group.

3 (D) The former United States Immigration and
4 Naturalization Service agreed to resume the proc-
5 essing of former United States employees under the
6 U11 program, which had been unilaterally sus-
7 pended by the United States Government, as well as
8 to review applications of Amerasians, children of
9 American servicemen left behind in Vietnam after
10 the war ended in April 1975, for resettlement to the
11 United States under the Amerasian Homecoming
12 Act of 1988.

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

20 (14) Enhancement of relations between the
21 United States and Vietnam has proved an oppor-
22 tunity for a human rights dialogue and could lead to
23 future progress on human rights issues in Vietnam.

1 **SEC. 3. PURPOSE.**

2 The purpose of this Act is to promote the develop-
3 ment of freedom and democracy in Vietnam.

4 **TITLE I—PROHIBITION ON NON-**
5 **HUMANITARIAN ASSISTANCE**
6 **TO THE GOVERNMENT OF**
7 **VIETNAM**

8 **SEC. 101. BILATERAL NONHUMANITARIAN ASSISTANCE.**

9 (a) ASSISTANCE.—

10 (1) IN GENERAL.—Except as provided in sub-
11 section (b), United States nonhumanitarian assist-
12 ance may not be provided to the Government of
13 Vietnam in an amount exceeding the amount so pro-
14 vided for fiscal year 2007—

15 (A) for fiscal year 2008 unless not later
16 than 30 days after the date of the enactment of
17 this Act the President determines and certifies
18 to Congress that the requirements of subpara-
19 graphs (A) through (D) of paragraph (2) have
20 been met during the 12-month period ending on
21 the date of the certification; and

22 (B) for each subsequent fiscal year unless
23 the President determines and certifies to Con-
24 gress in the most recent annual report sub-
25 mitted pursuant to section 501 that the re-
26 quirements of subparagraphs (A) through (E)

1 of paragraph (2) have been met during the 12-
2 month period covered by the report.

3 (2) REQUIREMENTS.—The requirements of this
4 paragraph are that—

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

9 (B)(i) the Government of Vietnam has
10 made substantial progress toward respecting
11 the right to freedom of religion, including the
12 right to participate in religious activities and in-
13 stitutions without interference by or involve-
14 ment of the Government; and

15 (ii) the Government of Vietnam has made
16 substantial progress toward returning estates
17 and properties confiscated from the churches;

18 (C) the Government of Vietnam has made
19 substantial progress toward allowing Viet-
20 nameese nationals free and open access to
21 United States refugee programs;

22 (D) the Government of Vietnam has made
23 substantial progress toward respecting the
24 human rights of members of all ethnic minority
25 groups; and

1 (E)(i) neither any official of the Govern-
2 ment of Vietnam nor any agency or entity whol-
3 ly or partly owned by the Government of Viet-
4 nam was complicit in a severe form of traf-
5 ficking in persons; or

6 (ii) the Government of Vietnam took all
7 appropriate steps to end any such complicity
8 and hold such official, agency, or entity fully
9 accountable for its conduct.

10 (b) EXCEPTION.—

11 (1) CONTINUATION OF ASSISTANCE IN THE NA-
12 TIONAL INTEREST.—Notwithstanding the failure of
13 the Government of Vietnam to meet the require-
14 ments of subsection (a)(2), the President may waive
15 the application of subsection (a) for any fiscal year
16 if the President determines that the provision to the
17 Government of Vietnam of increased nonhumani-
18 tarian assistance would promote the purpose of this
19 Act or is otherwise in the national interest of the
20 United States.

21 (2) EXERCISE OF WAIVER AUTHORITY.—The
22 President may exercise the authority under para-
23 graph (1) with respect to—

24 (A) all United States nonhumanitarian as-
25 sistance to Vietnam; or

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

3 (c) DEFINITIONS.—In this section:

4 (1) SEVERE FORMS OF TRAFFICKING IN PER-
5 SONS.—The term “severe form of trafficking in per-
6 sons” means any activity described in section 103(8)
7 of the Trafficking Victims Protection Act of 2000
8 (Public Law 106–386 (114 Stat. 1470); 22 U.S.C.
9 7102(8)).

10 (2) UNITED STATES NONHUMANITARIAN AS-
11 SISTANCE.—The term “United States nonhumani-
12 tarian assistance” means—

13 (A) any assistance under the Foreign As-
14 sistance Act of 1961 (including programs under
15 title IV of chapter 2 of part I of that Act, relat-
16 ing to the Overseas Private Investment Cor-
17 poration), other than—

18 (i) disaster relief assistance, including
19 any assistance under chapter 9 of part I of
20 that Act;

21 (ii) assistance which involves the pro-
22 vision of food (including monetization of
23 food) or medicine;

24 (iii) assistance for refugees; and

1 (iv) assistance to combat HIV/AIDS,
2 including any assistance under section
3 104A of that Act; and

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

6 **TITLE II—ASSISTANCE TO SUP-**
7 **PORT DEMOCRACY IN VIET-**
8 **NAM**

9 **SEC. 201. ASSISTANCE.**

10 (a) IN GENERAL.—The President is authorized to
11 provide assistance, through appropriate nongovernmental
12 organizations and the Human Rights Defenders Fund, for
13 the support of individuals and organizations to promote
14 internationally recognized human rights in Vietnam.

15 (b) AUTHORIZATION OF APPROPRIATIONS.—There
16 are authorized to be appropriated to the President to carry
17 out subsection (a) \$2,000,000 for each of the fiscal years
18 2008 and 2009.

19 **TITLE III—UNITED STATES**
20 **PUBLIC DIPLOMACY**

21 **SEC. 301. RADIO FREE ASIA TRANSMISSIONS TO VIETNAM.**

22 (a) POLICY OF THE UNITED STATES.—It is the pol-
23 icy of the United States to take such measures as are nec-
24 essary to overcome the jamming of Radio Free Asia by
25 the Government of Vietnam.

1 (b) AUTHORIZATION OF APPROPRIATIONS.—In addi-
2 tion to such amounts as are otherwise authorized to be
3 appropriated for the Broadcasting Board of Governors,
4 there are authorized to be appropriated to carry out the
5 policy under subsection (a) \$9,100,000 for the fiscal year
6 2008 and \$1,100,000 for fiscal year 2009.

7 **SEC. 302. UNITED STATES EDUCATIONAL AND CULTURAL**
8 **EXCHANGE PROGRAMS WITH VIETNAM.**

9 It is the policy of the United States that programs
10 of educational and cultural exchange with Vietnam should
11 actively promote progress toward freedom and democracy
12 in Vietnam by providing opportunities to Vietnamese na-
13 tionals from a wide range of occupations and perspectives
14 to see freedom and democracy in action and, also, by en-
15 suring that Vietnamese nationals who have already dem-
16 onstrated a commitment to these values are included in
17 such programs.

18 **TITLE IV—UNITED STATES**
19 **REFUGEE POLICY**

20 **SEC. 401. REFUGEE RESETTLEMENT FOR NATIONALS OF**
21 **VIETNAM.**

22 (a) POLICY OF THE UNITED STATES.—It is the pol-
23 icy of the United States to offer refugee resettlement to
24 nationals of Vietnam (including members of the
25 Montagnard ethnic minority groups) who were eligible for

1 the Humanitarian Resettlement (HR) Program, the Or-
2 derly Departure Program (ODP), Resettlement Opportu-
3 nities for Vietnamese Returnees (ROVR) Program, the
4 Amerasian Homecoming Act of 1988, or any other United
5 States refugee program and who were deemed ineligible
6 due to administrative error or who for reasons beyond the
7 control of such individuals (including insufficient or con-
8 tradictory information or the inability to pay bribes de-
9 manded by officials of the Government of Vietnam) were
10 unable or failed to apply for such programs in compliance
11 with deadlines imposed by the Department of State.

12 (b) AUTHORIZED ACTIVITY.—Of the amounts au-
13 thorized to be appropriated to the Department of State
14 for Migration and Refugee Assistance for each of the fiscal
15 years 2008, 2009, and 2010, such sums as may be nec-
16 essary are authorized to be made available for the protec-
17 tion (including resettlement in appropriate cases) of Viet-
18 namese refugees and asylum seekers, including
19 Montagnards in Cambodia.

1 **TITLE V—ANNUAL REPORT ON**
2 **PROGRESS TOWARD FREE-**
3 **DOM AND DEMOCRACY IN**
4 **VIETNAM**

5 **SEC. 501. ANNUAL REPORT.**

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

10 (1)(A) The determination and certification of
11 the President that the requirements of subpara-
12 graphs (A) through (E) of section 101(a)(2) have
13 been met, if applicable.

14 (B) The determination of the President under
15 section 101(b)(1), if applicable.

16 (2) Efforts by the United States Government to
17 secure transmission sites for Radio Free Asia in
18 countries in close geographical proximity to Vietnam
19 in accordance with section 301(a).

20 (3) Efforts to ensure that programs with Viet-
21 nam promote the policy set forth in section 302 and
22 with section 105 of the Human Rights, Refugee, and
23 Other Foreign Policy Provisions Act of 1996 regard-
24 ing participation in programs of educational and cul-
25 tural exchange.

1 (4) Steps taken to carry out the policy under
2 section 401(a).

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

15 (6) A description of the development of the rule
16 of law in Vietnam, including, but not limited to—

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

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

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

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

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

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

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

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

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

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

Passed the House of Representatives September 18,
2007.

Attest:

LORRAINE C. MILLER,

Clerk.