

112TH CONGRESS  
1ST SESSION

# H. R. 1410

To promote freedom and democracy in Vietnam.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 7, 2011

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

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## A BILL

To promote freedom and democracy in Vietnam.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Vietnam Human Rights Act of 2011”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Findings and purpose.

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

Sec. 4. Assistance to support democracy in Vietnam.

Sec. 5. United States public diplomacy.

Sec. 6. Refugee resettlement for nationals of Vietnam.

Sec. 7. Annual report.

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

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

3 (1) The relationship between the United States  
4 and the Socialist Republic of Vietnam has grown  
5 substantially since the end of the trade embargo in  
6 1994, with annual trade between the two countries  
7 reaching over \$15,300,000,000 in 2009.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (17) During Easter weekend in April 2004,  
4 thousands of Montagnards gathered to protest their  
5 treatment by the Government of Vietnam, including  
6 the confiscation of tribal lands and ongoing restric-  
7 tions on religious activities. Credible reports indicate  
8 that the protests were met with violent response as  
9 many demonstrators were arrested, injured, or went  
10 into hiding, and that others were killed. Many of  
11 these Montagnards and others are still serving long  
12 sentences for their involvement in peaceful dem-  
13 onstrations in 2001, 2002, 2004, and 2008.  
14 Montagnards continue to face threats, detention,  
15 beatings, forced renunciation of faith, property de-  
16 struction, restricted movement, and reported deaths  
17 at the hands of Government officials.

18 (18) Ethnic minority Hmong in the Northwest  
19 Highlands of Vietnam also suffer restrictions,  
20 abuses, and persecution by the Government of Viet-  
21 nam, and although the Government is now allowing  
22 some Hmong Protestants to organize and conduct  
23 religious activities, some Government officials con-  
24 tinue to deny or ignore additional applications for  
25 registration, and to persecute churches and believers

1 who do not wish to affiliate with Government-con-  
2 trolled religious entities.

3 (19) In 2007, the Government of Vietnam ar-  
4 rested, beat, and defrocked several ethnic Khmer  
5 Buddhists in response to a peaceful religious protest.  
6 The Government continues to restrict Khmer Krom  
7 expression, assembly, association, and controls all re-  
8 ligious organizations and prohibits most peaceful  
9 protests.

10 (20) The Government of Vietnam controls all  
11 print and electronic media, including access to the  
12 Internet, jams the signals of some foreign radio sta-  
13 tions, including Radio Free Asia, and has detained  
14 and imprisoned individuals who have posted, pub-  
15 lished, sent, or otherwise distributed democracy-re-  
16 lated materials.

17 (21) People arrested in Vietnam because of  
18 their political or religious affiliations and activities  
19 often are not accorded due legal process as they lack  
20 full access to lawyers of their choice, may experience  
21 closed trials, have often been detained for years  
22 without trial, and have been subjected to the use of  
23 torture to admit crimes they did not commit or to  
24 falsely denounce their own leaders.

1           (22) Vietnam continues to be a source country  
2           for the commercial sexual exploitation and forced  
3           labor of women and girls, as well as for men and  
4           women legally entering into international labor con-  
5           tracts who subsequently face conditions of debt  
6           bondage or forced labor, and is a destination country  
7           for child trafficking and continues to have internal  
8           human trafficking.

9           (23) Although the Government of Vietnam re-  
10          ports progress in combating human trafficking, it  
11          does not fully comply with the minimum standards  
12          for the elimination of trafficking, and is not making  
13          substantial efforts to comply.

14          (24) United States refugee resettlement pro-  
15          grams, including the Humanitarian Resettlement  
16          (HR) Program, the Orderly Departure Program  
17          (ODP), Resettlement Opportunities for Vietnamese  
18          Returnees (ROVR) Program, general resettlement of  
19          boat people from refugee camps throughout South-  
20          east Asia, the Amerasian Homecoming Act of 1988,  
21          and the Priority One Refugee resettlement category,  
22          have helped rescue Vietnamese nationals who have  
23          suffered persecution on account of their associations  
24          with the United States or, in many cases, because of  
25          such associations by their spouses, parents, or other



1 family members, as well as other Vietnamese nation-  
2 als who have been persecuted because of race, reli-  
3 gion, nationality, political opinion, or membership in  
4 a particular social group.

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

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

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

1 **SEC. 3. PROHIBITION ON INCREASED NONHUMANITARIAN**  
2 **ASSISTANCE TO THE GOVERNMENT OF VIET-**  
3 **NAM.**

4 (a) ASSISTANCE.—

5 (1) IN GENERAL.—Except as provided in sub-  
6 section (b), the Federal Government may not pro-  
7 vide nonhumanitarian assistance to the Government  
8 of Vietnam during any fiscal year in an amount that  
9 exceeds the amount of such assistance provided dur-  
10 ing fiscal year 2011 unless—

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

21 (B) with respect to the limitation for fiscal  
22 year 2012, the President determines and cer-  
23 tifies to Congress, not later than 30 days after  
24 the date of the enactment of this Act, that the  
25 requirements of subparagraphs (A) through (G)  
26 of paragraph (2) have been met during the 12-

1 month period ending on the date of the certifi-  
2 cation; and

3 (C) with respect to the limitation for sub-  
4 sequent fiscal years, the President determines  
5 and certifies to Congress, in the most recent  
6 annual report submitted pursuant to section  
7 601, that the requirements of subparagraphs  
8 (A) through (G) of paragraph (2) have been  
9 met during the 12-month period covered by the  
10 report.

11 (2) REQUIREMENTS.—The requirements of this  
12 paragraph are the following:

13 (A) The Government of Vietnam has made  
14 substantial progress toward releasing all polit-  
15 ical and religious prisoners from imprisonment,  
16 house arrest, and other forms of detention.

17 (B) The Government of Vietnam has made  
18 substantial progress toward—

19 (i) respecting the right to freedom of  
20 religion, including the right to participate  
21 in religious activities and institutions with-  
22 out interference, harassment, or involve-  
23 ment of the Government, for all of Viet-  
24 nam's diverse religious communities; and

1                   (ii) returning estates and properties  
2                   confiscated from the churches and religious  
3                   communities.

4                   (C) The Government of Vietnam has made  
5                   substantial progress toward respecting the right  
6                   to freedom of expression, assembly, and associa-  
7                   tion, including the release of independent jour-  
8                   nalists, bloggers, and democracy and labor ac-  
9                   tivists.

10                  (D) The Government of Vietnam has made  
11                  substantial progress toward repealing or revis-  
12                  ing laws that criminalize peaceful dissent, inde-  
13                  pendent media, unsanctioned religious activity,  
14                  and nonviolent demonstrations and rallies, in  
15                  accordance with international standards and  
16                  treaties to which Vietnam is a party.

17                  (E) The Government of Vietnam has made  
18                  substantial progress toward allowing Viet-  
19                  namese nationals free and open access to  
20                  United States refugee programs.

21                  (F) The Government of Vietnam has made  
22                  substantial progress toward respecting the  
23                  human rights of members of all ethnic and mi-  
24                  nority groups.

1           (G) Neither any official of the Government  
2           of Vietnam nor any agency or entity wholly or  
3           partly owned by the Government of Vietnam  
4           was complicit in a severe form of trafficking in  
5           persons, or the Government of Vietnam took all  
6           appropriate steps to end any such complicity  
7           and hold such official, agency, or entity fully  
8           accountable for its conduct.

9           (b) EXCEPTION.—

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

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

23                   (A) all United States nonhumanitarian as-  
24                   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) NONHUMANITARIAN ASSISTANCE.—The  
5 term “nonhumanitarian assistance” means—

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

11 (i) disaster relief assistance, including  
12 any assistance under chapter 9 of part I of  
13 that Act;

14 (ii) assistance which involves the pro-  
15 vision of food (including monetization of  
16 food) or medicine;

17 (iii) assistance for refugees; and

18 (iv) assistance to combat HIV/AIDS,  
19 including any assistance under section  
20 104A of that Act; and

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

23 (2) SEVERE FORMS OF TRAFFICKING IN PER-  
24 SONS.—The term “severe form of trafficking in per-  
25 sons” means any activity described in section 103(8)

1 of the Trafficking Victims Protection Act of 2000  
2 (Public Law 106–386 (114 Stat. 1470); 22 U.S.C.  
3 7102(8)).

4 (d) EFFECTIVE DATE.—This section shall take effect  
5 on the date of the enactment of this Act and shall apply  
6 with respect to the provision of nonhumanitarian assist-  
7 ance to the Government of Vietnam during fiscal year  
8 2012 and subsequent fiscal years.

9 **SEC. 4. ASSISTANCE TO SUPPORT DEMOCRACY IN VIET-**  
10 **NAM.**

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

16 **SEC. 5. UNITED STATES PUBLIC DIPLOMACY.**

17 (a) RADIO FREE ASIA TRANSMISSIONS TO VIET-  
18 NAM.—It is the policy of the United States to take such  
19 measures as are necessary to overcome the jamming of  
20 Radio Free Asia by the Government of Vietnam.

21 (b) UNITED STATES EDUCATIONAL AND CULTURAL  
22 EXCHANGE PROGRAMS WITH VIETNAM.—It is the policy  
23 of the United States that programs of educational and cul-  
24 tural exchange with Vietnam should actively promote  
25 progress toward freedom and democracy in Vietnam by

1 providing opportunities to Vietnamese nationals from a  
2 wide range of occupations and perspectives to see freedom  
3 and democracy in action and, also, by ensuring that Viet-  
4 nameese nationals who have already demonstrated a com-  
5 mitment to these values are included in such programs.

6 **SEC. 6. REFUGEE RESETTLEMENT FOR NATIONALS OF**  
7 **VIETNAM.**

8 It is the policy of the United States to offer refugee  
9 resettlement to nationals of Vietnam (including members  
10 of the Montagnard ethnic minority groups) who were eligi-  
11 ble for the Orderly Departure Program (ODP), the Hu-  
12 manitarian Resettlement (HR) Program, the Resettlement  
13 Opportunities for Vietnamese Returnees (ROVR) Pro-  
14 gram, the Amerasian Homecoming Act of 1988, or any  
15 other United States refugee program and who were  
16 deemed ineligible due to administrative error or who for  
17 reasons beyond the control of such individuals (including  
18 insufficient or contradictory information or the inability  
19 to pay bribes demanded by officials of the Government of  
20 Vietnam) were unable or failed to apply for such programs  
21 in compliance with deadlines imposed by the Department  
22 of State.

23 **SEC. 7. ANNUAL REPORT.**

24 (a) IN GENERAL.—Not later than 6 months after the  
25 date of the enactment of this Act and every 12 months



1 thereafter, the Secretary of State shall submit to the Con-  
2 gress a report on the following:

3           (1) The determination and certification of the  
4 President that the requirements of subparagraphs  
5 (A) through (G) of section 3(a)(2) have been met,  
6 if applicable.

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

9           (3) Efforts by the United States Government to  
10 secure transmission sites for Radio Free Asia in  
11 countries in close geographical proximity to Vietnam  
12 in accordance with section 5(a).

13           (4) Efforts to ensure that programs with Viet-  
14 nam promote the policy set forth in section 5(b) and  
15 with section 102 of the Human Rights, Refugee, and  
16 Other Foreign Policy Provisions Act of 1996 regard-  
17 ing participation in programs of educational and cul-  
18 tural exchange.

19           (5) Steps taken to carry out the policy under  
20 section 6.

21           (6) Lists of persons believed to be imprisoned,  
22 detained, or placed under house arrest, tortured, or  
23 otherwise persecuted by the Government of Vietnam  
24 due to their pursuit of internationally recognized  
25 human rights. In compiling such lists, the Secretary

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

8 (7) A description of the development of the rule  
9 of law in Vietnam, including—

10 (A) progress toward the development of in-  
11 stitutions of democratic governance;

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

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

21 (D) the extent to which administrative and  
22 judicial decisions are supported by statements  
23 of reasons that are based upon written statutes,  
24 regulations, rules, and other legal acts of the  
25 Government of Vietnam;

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

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

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

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

