

114TH CONGRESS
1ST SESSION

H. R. 2140

To promote freedom, human rights, and the rule of law as part of United States-Vietnam relations.

IN THE HOUSE OF REPRESENTATIVES

APRIL 30, 2015

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

A BILL

To promote freedom, human rights, and the rule of law
as part of United States-Vietnam relations.

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 2015”.

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. Easing of restrictions for Vietnam under the Arms Export Control Act.

Sec. 5. United States public diplomacy.
Sec. 6. Religious freedom and human trafficking.
Sec. 7. Annual report.

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

2 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 nearly \$36,000,000,000 in 2014.

8 (2) The Government of Vietnam's transition to-
9 ward greater economic liberalization and trade has
10 not been matched by greater political freedom and
11 substantial improvements in basic human rights for
12 Vietnamese citizens, including freedom of religion,
13 expression, 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

1 role as a forum for highlighting local concerns, cor-
2 ruption, and inefficiency, the National Assembly re-
3 mains subject to the direction of the CPV and the
4 CPV maintains control over the selection of can-
5 didates in national and local elections.

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

11 (7) Since Vietnam's accession to the WTO on
12 January 11, 2007, the Government of Vietnam arbi-
13 trarily arrested and detained numerous individuals
14 for their peaceful advocacy of religious freedom, de-
15 mocracy, and human rights, including Father
16 Nguyen Van Ly, Pastor Nguyen Cong Chinh, Pastor
17 Duong Kim Khai, labor organizers Nguyen Hoang
18 Quoc Hung and Doan Huy Chuong, and bloggers
19 Nguyen Huu Vinh, Nguyen Thi Minh Thuy, and Ta
20 Phong Tan.

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

1 (9) The Government of Vietnam continues to
2 detain labor leaders and restricts the right to orga-
3 nize independently.

4 (10) The Government of Vietnam continues to
5 limit the freedom of religion, restrict the operations
6 of independent religious organizations, force people
7 of faith to renounce their faith, expropriate lands
8 and properties belonging to independent churches,
9 and persecute believers whose religious activities the
10 Government regards as a potential threat to its mo-
11 nopoly on power.

12 (11) According to the United Nations Special
13 Rapporteur on freedom of religion or of belief, who
14 recently conducted a mission to Vietnam, “autonomy
15 and activities of independent religious or belief com-
16 munities, that is, unrecognized communities, remain
17 restricted and unsafe, with the rights to freedom of
18 religion or belief of such communities grossly vio-
19 lated in the face of constant surveillance, intimidat-
20 ion, harassment and persecution”.

21 (12) Despite reported progress in church open-
22 ings and legal registrations of religious venues, the
23 Government of Vietnam has halted most positive ac-
24 tions and increasingly cracked down on independent
25 religious communities since the Department of State

1 lifted the “country of particular concern” (CPC)
2 designation for Vietnam in November 2006.

3 (13) Unregistered ethnic minority Protestant
4 congregations, particularly Montagnards in the Cen-
5 tral Highlands and Hmong in the Northwest Moun-
6 tainous Regions, suffer severe abuses because of ac-
7 tions by the Government of Vietnam, which have in-
8 cluded forced renunciations of faith, arrest and har-
9 assment, the withholding of social programs pro-
10 vided for the general population, confiscation and
11 destruction of property, subjection to severe beat-
12 ings, and reported deaths.

13 (14) There has been a pattern of violent re-
14 sponses by the Government to peaceful prayer vigils
15 and demonstrations by Catholics for the return of
16 Government-confiscated church properties. Pro-
17 testers have been harassed, beaten, and detained
18 and church properties have been destroyed. Catholics
19 also continue to face some restrictions on selection
20 of clergy, the establishment of seminaries and semi-
21 nary candidates, and individual cases of travel and
22 church registration. Catholicism is not recognized in
23 the provinces of Dien Bien, Son La, and Lai Chau.

24 (15) In May 2010 the village of Con Dau, a
25 Catholic parish in Da Nang, faced escalated violence

1 during a funeral procession as police attempted to
2 prohibit a religious burial in the village cemetery;
3 more than 100 villagers were injured, 62 were ar-
4 rested, five were tortured, and at least three died.
5 The situation has remained unresolved.

6 (16) The Unified Buddhist Church of Vietnam
7 (UBCV) suffers persecution as the Government of
8 Vietnam continues to restrict contacts and move-
9 ment of senior UBCV clergy for refusing to join the
10 state-sponsored Buddhist organization, the Govern-
11 ment restricts expression and assembly, and the
12 Government continues to harass and threaten UBCV
13 monks, nuns, and youth leaders.

14 (17) The Government of Vietnam continues to
15 suppress the activities of other religious adherents,
16 including Cao Dai and Hoa Hao Buddhists who lack
17 official recognition or have chosen not to affiliate
18 with the state-sanctioned groups, including through
19 the use of detention, imprisonment, and strict Gov-
20 ernment oversight.

21 (18) Many Montagnards and others are still
22 serving long prison sentences for their involvement
23 in peaceful demonstrations in 2001, 2002, 2004,
24 and 2008. Montagnards continue to face threats, de-
25 tention, beatings, forced renunciation of faith, prop-

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

3 (19) Ethnic minority Hmong in Northern Viet-
4 nam, the Northwest Highlands, and the Central
5 Highlands of Vietnam also suffers restrictions, con-
6 fiscation of property, abuses, and persecution by the
7 Government of Vietnam. Many of their leaders have
8 been sentenced to prison terms.

9 (20) The Government of Vietnam restricts
10 Khmer Krom expression, assembly, and association,
11 has confiscated nearly all the Theravada Buddhist
12 temples, controls all Khmer Krom Buddhist religious
13 organizations, prohibits most peaceful protests, and
14 imprisons many Khmer Krom Buddhist monks who
15 worked to preserve the Khmer Krom culture.

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

24 (22) Vietnam continues to be a source country
25 for the commercial sexual exploitation and forced

1 labor of women and girls, as well as for men and
2 women legally entering into international labor con-
3 tracts who subsequently face conditions of debt
4 bondage or forced labor, and is a destination country
5 for child trafficking and continues to have internal
6 human trafficking.

7 (23) There are many reports of Vietnamese of-
8 ficials and employees participating in, facilitating,
9 condoning, or otherwise being complicit in severe
10 forms of human trafficking. Victims of human traf-
11 ficking who speak out against traffickers in the gov-
12 ernment-run labor export program receive threats of
13 punishment by government authorities.

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) The Government of Vietnam reportedly is
17 detaining tens of thousands of people, with some as
18 young as 12 years old, in government-run drug de-
19 tention centers and treating them as slave laborers.

20 (27) In 2012, over 150,000 people signed an
21 online petition calling on the Administration to not
22 expand trade with communist Vietnam at the ex-
23 pense of human rights.

24 (28) Each year close to a thousand Vietnamese-
25 American advocates from across the country convene

1 in Washington, DC, to call on the administration to
2 attach human rights conditions to trade and security
3 agreements with Vietnam.

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

11 **SEC. 3. PROHIBITION ON INCREASED NONHUMANITARIAN**
12 **ASSISTANCE TO THE GOVERNMENT OF VIET-**
13 **NAM.**

14 (a) ASSISTANCE.—

15 (1) IN GENERAL.—Except as provided in sub-
16 sections (b), the Federal Government may not pro-
17 vide nonhumanitarian assistance to the Government
18 of Vietnam, or to any organization working within
19 Vietnam under an agreement signed with a Govern-
20 ment of Vietnam entity, agency, or organization dur-
21 ing any fiscal year in an amount that exceeds the
22 amount of such assistance provided for fiscal year
23 2014 unless—

24 (A) with respect to the limitation for fiscal
25 year 2014, the President determines and cer-

1 tifies to Congress, not later than 30 days after
2 the date of the enactment of this Act, that the
3 requirements of subparagraphs (A) through (G)
4 of paragraph (2) have been met during the 12-
5 month period ending on the date of the certifi-
6 cation; and

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

15 (2) REQUIREMENTS.—The requirements of this
16 paragraph are the following:

17 (A) The Government of Vietnam has made
18 substantial progress toward releasing all polit-
19 ical and religious prisoners from imprisonment,
20 house arrest, and other forms of detention, in-
21 cluding journalists and bloggers, independent
22 labor union members, democracy and free
23 speech advocates and those detained for engag-
24 ing in religious activity or peaceful protests
25 against religious freedom restrictions.

1 (B) The Government of Vietnam has made
2 substantial progress toward ensuring freedom
3 of expression, particularly ending censorship of
4 the Internet by the government and the repeal-
5 ing of laws that restrict Internet freedom.

6 (C) The Government of Vietnam has made
7 substantial progress toward respecting the right
8 to freedom of religion, including the right to
9 participate in religious activities and institu-
10 tions without interference, harassment, or in-
11 volvement of the Government, for all of Viet-
12 nam's diverse religious communities.

13 (D) The Government of Vietnam has made
14 substantial progress toward Internet freedom, a
15 complete end to censorship, the repeal of laws
16 restricting internet usage and the punishment
17 of anti-state comments online, the blockage of
18 content from dissidents within Vietnam and
19 from abroad, and efforts by pro-government
20 forces to disrupt, hack, and block websites and
21 operations of Vietnamese groups abroad.

22 (E) The Government of Vietnam has made
23 substantial progress toward respecting the right
24 to the freedoms of assembly and association, in-
25 cluding the right to organize labor unions inde-

1 pendent of government oversight and control
2 and the right to participate in nonviolent dem-
3 onstrations, rallies, or civil society organiza-
4 tions, in accordance with international stand-
5 ards and treaties to which Vietnam is a party.

6 (F) Neither any official of the Government
7 of Vietnam nor any agency or entity wholly or
8 partly owned by the Government of Vietnam
9 was complicit in the trafficking in persons and
10 the Government of Vietnam took all necessary
11 and appropriate steps to end any such com-
12 plicity and hold such official, agency, or entity
13 fully accountable for its conduct.

14 (G) The Government of Vietnam has made
15 substantial progress toward allowing Viet-
16 namese nationals free and open access to
17 United States refugee programs.

18 (H) The Government of Vietnam has made
19 substantial progress toward respecting the
20 internationally guaranteed human rights of
21 members of all ethnic and minority groups.

22 (b) EXCEPTION.—

23 (1) CONTINUATION OF ASSISTANCE IN THE NA-
24 TIONAL INTEREST.—Notwithstanding the failure of
25 the Government of Vietnam to meet the require-

1 ments of subsection (a)(2), the President may waive
2 the application of subsection (a) for any fiscal year
3 if the President determines that the provision to the
4 Government of Vietnam of increased nonhumanitarian
5 assistance would promote the purpose of this
6 Act or is otherwise in the national interest of the
7 United States.

8 (2) EXERCISE OF WAIVER AUTHORITY.—The
9 President may exercise the authority under paragraph
10 (1) with respect to—

11 (A) all United States nonhumanitarian assistance
12 to Vietnam; or

13 (B) one or more programs, projects, or activities
14 of such assistance.

15 (c) DEFINITIONS.—In this section:

16 (1) NONHUMANITARIAN ASSISTANCE.—The
17 term “nonhumanitarian assistance” means—

18 (A) any assistance under the Foreign Assistance
19 Act of 1961 (including programs under
20 title IV of chapter 2 of part I of that Act, relating
21 to the Overseas Private Investment Corporation), other than—

22 (i) disaster relief assistance, including
23 any assistance under chapter 9 of part I of
24 that Act;
25 that Act;

- 1 (ii) assistance which involves the pro-
2 vision of food (including monetization of
3 food) or medicine;
- 4 (iii) assistance for environmental re-
5 mediation of dioxin-contaminated sites and
6 related health activities;
- 7 (iv) assistance for demining and
8 unexploded ordnance (UXO) remediation,
9 and related health and educational activi-
10 ties;
- 11 (v) assistance to combat severe forms
12 of trafficking in persons;
- 13 (vi) assistance to combat diseases;
- 14 (vii) assistance for refugees;
- 15 (viii) assistance to combat HIV/AIDS,
16 including any assistance under section
17 104A of that Act; and
- 18 (ix) assistance to prevent child labor;
19 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 for fiscal year 2016
7 and subsequent fiscal years.

8 **SEC. 4. EASING OF RESTRICTIONS FOR VIETNAM UNDER**
9 **THE ARMS EXPORT CONTROL ACT.**

10 It is the sense of Congress that it shall be the policy
11 of the United States that further easing of the prohibition
12 on the sale of lethal military equipment to the Government
13 of Vietnam under the Arms Export Control Act shall re-
14 quire the Government of Vietnam to take additional, sig-
15 nificant, and sustained steps to advance human rights pro-
16 tections, specifically internationally recognized norms of
17 civil and political rights, through legal reforms, the release
18 of prisoners of conscience, the establishment of inde-
19 pendent labor unions, and guarantees to the freedom of
20 religion and expression, including Internet freedom.

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

22 (a) **RADIO FREE ASIA TRANSMISSIONS TO VIET-**
23 **NAM.**—It is the sense of Congress that the United States
24 should take measures to overcome the jamming of Radio
25 Free Asia by the Government of Vietnam and that the

1 Broadcasting Board of Governors should not cut staffing,
2 funding, or broadcast hours for the Vietnamese language
3 services of the Voice of America and Radio Free Asia,
4 which shall be done without reducing any other broadcast
5 language services.

6 (b) UNITED STATES EDUCATIONAL AND CULTURAL
7 EXCHANGE PROGRAMS WITH VIETNAM.—It is the sense
8 of Congress that any programs of educational and cultural
9 exchange between the United States and Vietnam should
10 actively promote progress toward freedom and democracy
11 in Vietnam by providing opportunities to Vietnamese na-
12 tionals from a wide range of occupations and perspectives
13 to see freedom and democracy in action and, also, by en-
14 suring that Vietnamese nationals who have already dem-
15 onstrated a commitment to these values are included in
16 such programs. Cultural programs should recognize and
17 find ways to assist Vietnam’s religious and ethnic diver-
18 sity.

19 **SEC. 6. RELIGIOUS FREEDOM AND HUMAN TRAFFICKING.**

20 (a) COUNTRY OF PARTICULAR CONCERN.—It is the
21 sense of Congress that Vietnam should be designated as
22 a country of particular concern for religious freedom pur-
23 suant to section 402(b) of the International Religious
24 Freedom Act of 1998 (22 U.S.C. 6442(b)).

1 (b) MINIMUM STANDARDS FOR THE ELIMINATION OF
2 HUMAN TRAFFICKING.—It is the sense of Congress that
3 the Government of Vietnam does not fully comply with the
4 minimum standards for the elimination of trafficking and
5 is not making significant efforts to bring itself into compli-
6 ance, and this determination should be reflected in the an-
7 nual report to Congress required pursuant to section
8 110(b) of the Trafficking Victims Protection Act of 2000
9 (22 U.S.C. 7107(b)).

10 **SEC. 7. ANNUAL REPORT.**

11 (a) IN GENERAL.—Not later than six months after
12 the date of the enactment of this Act and every 12 months
13 thereafter, the Secretary of State shall submit to Congress
14 a report on the following:

15 (1) The determination and certification of the
16 President that the requirements of subparagraphs
17 (A) through (H) of section 3(a)(2) have been met,
18 if applicable.

19 (2) If the President has waived the application
20 of section 3(a) pursuant to section 3(b) during the
21 reporting period—

22 (A) the national interest with respect to
23 which such a waiver was based;

1 (B) the amount of increased nonhumanitarian assistance provided to the Government of
2 Vietnam; and
3

4 (C) a description of the type and amount
5 of commensurate assistance provided pursuant
6 to section 3(b)(1).

7 (3) Efforts by the United States Government to
8 promote access by the Vietnamese people to Radio
9 Free Asia transmissions.

10 (4) Efforts to ensure that programs with Viet-
11 nam promote the policy set forth in section 102 of
12 the Human Rights, Refugee, and Other Foreign Pol-
13 icy Provisions Act of 1996 regarding participation in
14 programs of educational and cultural exchange.

15 (5) Lists of persons believed to be imprisoned,
16 detained, or placed under house arrest, tortured, or
17 otherwise persecuted by the Government of Vietnam
18 due to their pursuit of internationally recognized
19 human rights. In compiling such lists, the Secretary
20 shall exercise appropriate discretion, including con-
21 cerns regarding the safety and security of, and ben-
22 efit to, the persons who may be included on the lists
23 and their families. In addition, the Secretary shall
24 include a list of such persons and their families who

1 may qualify for protections under United States ref-
2 ugee programs.

3 (6) A description of the development of the rule
4 of law in Vietnam, including—

5 (A) progress toward the development of in-
6 stitutions of democratic governance;

7 (B) processes by which statutes, regula-
8 tions, rules, and other legal acts of the Govern-
9 ment of Vietnam are developed and become
10 binding within Vietnam;

11 (C) the extent to which statutes, regula-
12 tions, rules, administrative and judicial deci-
13 sions, and other legal acts of the Government of
14 Vietnam are published and are made accessible
15 to the public;

16 (D) the extent to which administrative and
17 judicial decisions are supported by statements
18 of reasons that are based upon written statutes,
19 regulations, rules, and other legal acts of the
20 Government of Vietnam;

21 (E) the extent to which individuals are
22 treated equally under the laws of Vietnam with-
23 out regard to citizenship, race, religion, political
24 opinion, or current or former associations;

1 (F) the extent to which administrative and
2 judicial decisions are independent of political
3 pressure or governmental interference and are
4 reviewed by entities of appellate jurisdiction;
5 and

6 (G) the extent to which laws in Vietnam
7 are written and administered in ways that are
8 consistent with international human rights
9 standards, including the rights enumerated in
10 the International Covenant on Civil and Polit-
11 ical Rights.

12 (b) CONTACTS WITH OTHER ORGANIZATIONS.—In
13 preparing the report under subsection (a), the Secretary
14 shall, as appropriate, seek out and maintain contacts with
15 nongovernmental organizations and human rights advo-
16 cates (including Vietnamese-Americans and human rights
17 advocates in Vietnam), including receiving reports and up-
18 dates from such organizations and evaluating such re-
19 ports. The Secretary shall also seek to consult with the
20 United States Commission on International Religious
21 Freedom for appropriate sections of the report.

○