

114TH CONGRESS
2D SESSION

S. 2447

To impose sanctions on individuals who are complicit in human rights abuses committed against nationals of Vietnam or their family members, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 19, 2016

Mr. CORNYN (for himself, Mr. BOOZMAN, Mr. RUBIO, and Mr. CASSIDY) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To impose sanctions on individuals who are complicit in human rights abuses committed against nationals of Vietnam or their family members, and for other purposes.

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.**

4 This Act may be cited as the “Vietnam Human
5 Rights Sanctions Act”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1 (1) The relationship between the United States
2 and the Socialist Republic of Vietnam has grown
3 substantially since the end of the trade embargo in
4 1994, with annual trade between the countries
5 reaching more than \$36,000,000,000 in 2014.

6 (2) However, the transition by the Government
7 of Vietnam toward greater economic activity and
8 trade, which has led to increased bilateral engage-
9 ment between the United States and Vietnam, has
10 not been matched by greater political freedom or
11 substantial improvements in basic human rights for
12 the people of Vietnam.

13 (3) Vietnam remains an authoritarian state
14 ruled by the Communist Party of Vietnam, which
15 continues to deny the right of the people of Vietnam
16 to participate in free and fair elections.

17 (4) According to the Department of State's
18 2014 Country Reports on Human Rights Practices,
19 Vietnam's "most significant human rights problems
20 . . . were severe government restrictions of citizens'
21 political rights, particularly their right to change
22 their government through free and fair elections;
23 limits on citizens' civil liberties, including freedom of
24 assembly and expression; and inadequate protection

1 of citizens' due process rights, including protection
2 against arbitrary detention”.

3 (5) The Country Reports also state that the
4 Government of Vietnam “continued to restrict
5 speech that criticized individual government leaders;
6 promoted political pluralism or multi-party democ-
7 racy; or questioned policies on sensitive matters,
8 such as human rights, religious freedom, or sov-
9 ereignty disputes with China” and “sought to im-
10 pede criticism by monitoring meetings and commu-
11 nications of political activists”.

12 (6) Furthermore, the Department of State doc-
13 uments that “arbitrary arrest and detention, par-
14 ticularly for political activists, remained a problem”,
15 with the Government of Vietnam sentencing 29 ar-
16 rested activists during 2014. Of those, 6 activists
17 were convicted on national security charges in the
18 penal code for “undermining the unity policy”, 17
19 for “causing public disorder”, and 6 for “abusing
20 democratic freedoms”.

21 (7) At the end of 2014, the Government of
22 Vietnam reportedly held more than 125 political
23 prisoners.

24 (8) On September 24, 2012, 3 prominent Viet-
25 nameese bloggers—Nguyen Van Hai (also known as

1 Dieu Cay), Ta Phong Tan, and Phan Thanh Hai
2 (also known as Anh Ba Saigon)—were sentenced to
3 prison based on 3-year-old blog postings criticizing
4 the Government and leaders of Vietnam and the
5 Communist Party of Vietnam. Nguyen Van Hai
6 served 2 years of a 12-year prison sentence on
7 charges of “conducting propaganda against the
8 state” but was later released and departed from
9 Vietnam. If he were to return, he would likely have
10 to complete his prison sentence.

11 (9) United Nations High Commissioner for
12 Human Rights Navi Pillay responded to the sen-
13 tencing of the bloggers on September 25, 2012, stat-
14 ing that “[t]he harsh prison terms handed down to
15 bloggers exemplify the severe restrictions on freedom
16 of expression in Vietnam” and calling the sentences
17 an “unfortunate development that undermines the
18 commitments Vietnam has made internationally . . .
19 to protect and promote the right to freedom of ex-
20 pression”.

21 (10) On March 21, 2013, Deputy Assistant
22 Secretary of State for Democracy, Human Rights,
23 and Labor Daniel B. Baer testified before the Sub-
24 committee on East Asian and Pacific Affairs of the
25 Committee on Foreign Relations of the Senate that

1 “in Vietnam we’ve been disappointed in recent years
2 to see backsliding, particularly on . . . freedom of ex-
3 pression issues . . . people are being prosecuted for
4 what they say online under really draconian national
5 security laws . . . that is an issue that we continue
6 to raise, both in our human rights dialogue with the
7 Vietnamese as well as in other bilateral engage-
8 ments”.

9 (11) Although the Constitution of Vietnam pro-
10 vides for freedom of religion, the Department of
11 State’s 2013 International Religious Freedom Re-
12 port maintains, “Government practices and bureau-
13 cratic impediments restricted religious freedom. Un-
14 registered and unrecognized religious groups were
15 often subject to harassment, as well as coercive and
16 punitive actions by authorities.”.

17 (12) Likewise, the United States Commission
18 on International Religious Freedom 2015 Annual
19 Report states, “The Vietnamese government con-
20 tinues to control all religious activities through law
21 and administrative oversight, restrict severely inde-
22 pendent religious practice, and repress individuals
23 and religious groups it views as challenging its au-
24 thority, including independent Buddhists, Hoa Hao,
25 Cao Dai, Catholics, and Protestants.”.

1 (13) The 2013 Annual Report notes that in
2 2004 the United States designated Vietnam as a
3 country of particular concern for religious freedom
4 pursuant to section 402(b)(1) of the International
5 Religious Freedom Act of 1998 (22 U.S.C.
6 6442(b)(1)), and that Vietnam responded at that
7 time by releasing prisoners, prohibiting the policy of
8 forced renunciations of faith, and expanding protec-
9 tions for religious groups, and that “[m]ost religious
10 leaders in Vietnam attributed these positive changes
11 to the [country of particular concern] designation
12 and the priority placed on religious freedom con-
13 cerns in U.S.-Vietnamese bilateral relations”.

14 (14) However, the 2013 Annual Report con-
15 cludes that since the designation as a country of
16 particular concern was lifted from Vietnam in 2006,
17 “religious freedom conditions in Vietnam remain
18 mixed”, and therefore recommends to the Depart-
19 ment of State that Vietnam should be redesignated
20 as a country of particular concern.

21 (15) Deputy Assistant Secretary of State Baer
22 likewise testified that “[i]n Vietnam the right to reli-
23 gious freedom, which seemed to be improving several
24 years ago, has been stagnant for several years”.

1 **SEC. 3. IMPOSITION OF SANCTIONS ON CERTAIN INDIVID-**
2 **UALS WHO ARE COMPLICIT IN HUMAN**
3 **RIGHTS ABUSES COMMITTED AGAINST NA-**
4 **TIONALS OF VIETNAM OR THEIR FAMILY**
5 **MEMBERS.**

6 (a) DEFINITIONS.—In this section:

7 (1) ADMITTED; ALIEN; IMMIGRATION LAWS; NA-
8 TIONAL.—The terms “admitted”, “alien”, “immigra-
9 tion laws”, and “national” have the meanings given
10 those terms in section 101 of the Immigration and
11 Nationality Act (8 U.S.C. 1101).

12 (2) APPROPRIATE CONGRESSIONAL COMMIT-
13 TEES.—The term “appropriate congressional com-
14 mittees” means—

15 (A) the Committee on Finance, the Com-
16 mittee on Banking, Housing, and Urban Af-
17 fairs, and the Committee on Foreign Relations
18 of the Senate; and

19 (B) the Committee on Ways and Means,
20 the Committee on Financial Services, and the
21 Committee on Foreign Affairs of the House of
22 Representatives.

23 (3) CONVENTION AGAINST TORTURE.—The
24 term “Convention against Torture” means the
25 United Nations Convention against Torture and
26 Other Cruel, Inhuman or Degrading Treatment or

1 Punishment, done at New York on December 10,
2 1984.

3 (4) UNITED STATES PERSON.—The term
4 “United States person” means—

5 (A) a United States citizen or an alien law-
6 fully admitted for permanent residence to the
7 United States; or

8 (B) an entity organized under the laws of
9 the United States or of any jurisdiction within
10 the United States, including a foreign branch of
11 such an entity.

12 (b) IMPOSITION OF SANCTIONS.—Except as provided
13 in subsections (e) and (f), the President shall impose the
14 sanctions described in subsection (d) with respect to each
15 individual on the list required by subsection (c)(1).

16 (c) LIST OF INDIVIDUALS WHO ARE COMPLICIT IN
17 CERTAIN HUMAN RIGHTS ABUSES.—

18 (1) IN GENERAL.—Not later than 90 days after
19 the date of the enactment of this Act, the President
20 shall submit to the appropriate congressional com-
21 mittees a list of individuals who are nationals of
22 Vietnam that the President determines are complicit
23 in human rights abuses committed against nationals
24 of Vietnam or their family members, regardless of
25 whether such abuses occurred in Vietnam.

1 (2) UPDATES OF LIST.—The President shall
2 submit to the appropriate congressional committees
3 an updated list under paragraph (1) as new infor-
4 mation becomes available and not less frequently
5 than annually.

6 (3) PUBLIC AVAILABILITY.—The list required
7 by paragraph (1) shall be made available to the pub-
8 lic and posted on the Web sites of the Department
9 of the Treasury and the Department of State.

10 (4) CONSIDERATION OF DATA FROM OTHER
11 COUNTRIES AND NONGOVERNMENTAL ORGANIZA-
12 TIONS.—In preparing the list required by paragraph
13 (1), the President shall consider data already ob-
14 tained by other countries and nongovernmental orga-
15 nizations, including organizations in Vietnam, that
16 monitor the human rights abuses of the Government
17 of Vietnam.

18 (d) SANCTIONS.—

19 (1) PROHIBITION ON ENTRY AND ADMISSION TO
20 THE UNITED STATES.—An individual on the list re-
21 quired by subsection (c)(1) may not—

22 (A) be admitted to, enter, or transit
23 through the United States;

24 (B) receive any lawful immigration status
25 in the United States under the immigration

1 laws, including any relief under the Convention
2 Against Torture; or

3 (C) file any application or petition to ob-
4 tain such admission, entry, or status.

5 (2) FINANCIAL SANCTIONS.—The President
6 shall block and prohibit all transactions in all prop-
7 erty and interests in property of an individual on the
8 list required by subsection (c)(1) if such property
9 and interests in property are in the United States,
10 come within the United States, or are or come with-
11 in the possession or control of a United States per-
12 son.

13 (e) EXCEPTIONS TO COMPLY WITH INTERNATIONAL
14 AGREEMENTS.—The President may, by regulation, au-
15 thorize exceptions to the imposition of sanctions under this
16 section to permit the United States to comply with the
17 Agreement regarding the Headquarters of the United Na-
18 tions, signed at Lake Success June 26, 1947, and entered
19 into force November 21, 1947, between the United Na-
20 tions and the United States, and other applicable inter-
21 national agreements.

22 (f) WAIVER.—The President may waive the require-
23 ment to impose or maintain sanctions with respect to an
24 individual under subsection (b) or the requirement to in-

1 clude an individual on the list required by subsection
2 (c)(1) if the President—

3 (1) determines that such a waiver is in the na-
4 tional interest of the United States; and

5 (2) submits to the appropriate congressional
6 committees a report describing the reasons for the
7 determination.

8 (g) TERMINATION OF SANCTIONS.—The provisions of
9 this section shall terminate on the date on which the Presi-
10 dent determines and certifies to the appropriate congres-
11 sional committees that the Government of Vietnam has—

12 (1) unconditionally released all political pris-
13 oners;

14 (2) ceased its practices of violence, unlawful de-
15 tention, torture, and abuse of nationals of Vietnam
16 while those nationals are engaging in peaceful polit-
17 ical activity; and

18 (3) conducted a transparent investigation into
19 the killings, arrest, and abuse of peaceful political
20 activists in Vietnam and prosecuted those respon-
21 sible.

1 **SEC. 4. SENSE OF CONGRESS ON DESIGNATION OF VIET-**
2 **NAM AS A COUNTRY OF PARTICULAR CON-**
3 **CERN WITH RESPECT TO RELIGIOUS FREE-**
4 **DOM.**

5 It is the sense of Congress that—

6 (1) the relationship between the United States
7 and Vietnam cannot progress while the record of the
8 Government of Vietnam with respect to human
9 rights and the rule of law continues to deteriorate;

10 (2) the designation of Vietnam as a country of
11 particular concern for religious freedom pursuant to
12 section 402(b)(1) of the International Religious
13 Freedom Act of 1998 (22 U.S.C. 6442(b)(1)) would
14 be a powerful and effective tool in highlighting
15 abuses of religious freedom in Vietnam and in en-
16 couraging improvement in the respect for human
17 rights in Vietnam; and

18 (3) the Secretary of State should, in accordance
19 with the recommendation of the United States Com-
20 mission on International Religious Freedom, des-
21 ignate Vietnam as a country of particular concern
22 for religious freedom.

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