

HR 3096-Vietnam Human Rights Act of 2007

110th CONGRESS
1st Session
H. R. 3096

To Promote Freedom and Democracy in Vietnam.

IN THE HOUSE OF REPRESENTATIVES

July 19, 2007

Mr. SMITH of New Jersey (for himself, Ms. ROS-LEHTINEN, Mr. WOLF, Mr. ROYCE, Ms. ZOE LOFGREN of California, Mr. AL GREEN of Texas, Mr. SALI, Mr. ROHRABACHER, Ms. LORETTA SANCHEZ of California, and Mr. TOM DAVIS of Virginia) introduced the following bill; which was referred to the Committee on Foreign Affairs

A BILL

To promote freedom and democracy in Vietnam.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

- (a) Short Title- This Act may be cited as the 'Vietnam Human Rights Act of 2007'.
- (b) Table of Contents- The table of contents for 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

HR 3096-Vietnam Human Rights Act of 2007

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 Vietnam.

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.

SEC. 2. FINDINGS.

Congress finds the following:

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

(2) The Government of Vietnam's transition toward greater economic freedom and trade has not been matched by greater political freedom and substantial improvements in human rights for many Vietnamese.

(3) The United States Congress agreed to Vietnam becoming an official member of the World Trade Organization (WTO) in 2006, amidst assurances that the Vietnamese Government was steadily improving its human rights record and would continue to do so.

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

(5) Although in recent years the National Assembly of Vietnam has played an increasingly active role as a forum for highlighting local concerns, corruption, and inefficiency, the National Assembly remains subject to the direction of the CPV and the

HR 3096-Vietnam Human Rights Act of 2007

CPV maintains control over the selection of candidates in national and local elections.

(6) The Government of Vietnam forbids public challenge to the legitimacy of the one-party state, restricts freedoms of opinion, the press, and association and tightly limits access to the Internet and telecommunication.

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

(8) The Government of Vietnam continues to detain, imprison, place under house arrest, convict, or otherwise restrict persons for the peaceful expression of dissenting political or religious views, including Bui Kim Thanh, Hang Tan Phat, Truong Quoc Huy, Vu Hoang Hai, Nguyen Ngoc Quang, Pham Ba Hai, Dr. Le Nguyen Sang, Huynh Nguyen Dao, Nguyen Bac Truyen, Tran Quoc Hien, Nguyen Tan Hoanh, Tran Thi Le Hang, Doan Huu Chuong, Doan Van Dien, Le Ba Triet, Nguyen Tuan, Tran Thi Thuy Trang, Nguyen Phong, Nguyen Binh Thanh, Hoang Thi Anh Dao, Le Thi Le Hang, Tran Khai Thanh Thuy, Ho Thi Bich Khuong, Hong Trung, Danh Tol, Kim Muot, Thach Thuong, Ly Suong, Ly Hoang, Nguyen Van Tho, Le Van Soc, Nguyen Van Thuy, Duong Thi Tron, and Truong Minh Duc, among others.

(9)(A) The Government of Vietnam continues to limit freedom of religion and restrict the operation of religious organizations.

(B) Despite reported progress in church openings and legal registrations of religious venues, the Government of Vietnam has halted most positive actions since the Department of State lifted the 'country of particular concern' (CPC) designation for Vietnam in November 2006.

(C) Unregistered ethnic minority Protestant congregations suffer severe abuses because of actions by the Government of Vietnam, which have included forced renunciations of faith, the arrest and harassment of pastors, the withholding of social programs provided for the general population, confiscation and destruction of property, and subjection to severe beatings.

HR 3096-Vietnam Human Rights Act of 2007

(D) The Unified Buddhist Church of Vietnam (UBCV) suffers persecutions as the Government of Vietnam continues to restrict contacts and movement of senior UBCV clergy, including the Most Venerable Thich Huyen Quang, and the Most Venerable Thich Quang Do for refusing to join the state-sponsored Buddhist organizations, and the Government also continues to place leaders under 'pagoda' and house arrest, destroy religious property, and harass and threaten local practicing Buddhists.

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

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

(G) Ethnic minority Hmong in the Northwest Highlands of Vietnam also suffer restrictions, abuses, and persecution by the Government of Vietnam, and although the Government is now allowing some Hmong Protestants to organize and conduct religious activity, some government officials continue to deny or ignore additional applications for registration.

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

(11) People arrested in Vietnam because of their political or religious affiliations and activities often are not accorded due legal process as they lack full access to lawyers of their choice, may experience closed trials, have often been detained for years without trial, and have been subjected to the use of torture to

HR 3096-Vietnam Human Rights Act of 2007

admit crimes they did not commit or to falsely denounce their own leaders.

(12)(A) United States refugee resettlement programs, including the Humanitarian Resettlement (HR) Program, the Orderly Departure Program (ODP), Resettlement Opportunities for Vietnamese Returnees (ROVR) Program, general resettlement of boat people from refugee camps throughout Southeast Asia, the Amerasian Homecoming Act of 1988, and the Priority One Refugee resettlement category have helped rescue Vietnamese nationals who have suffered persecution on account of their associations with the United States as well as Vietnamese nationals who have been persecuted because of race, religion, nationality, political opinion, or membership in a particular social group.

(B) While previous programs have served their purposes well, a significant number of eligible refugees from Vietnam were unfairly denied or excluded, including Amerasians, in some cases by vindictive or corrupt Vietnamese officials who controlled access to the programs, and in others by United States personnel who imposed unduly restrictive interpretations of program criteria. In addition, the Government of Vietnam has denied passports to persons who the United States has found eligible for refugee admission.

(C) The Department of State has agreed to extend the September 30, 1994, registration deadline for former United States employees, 're-education' survivors, and surviving spouses of those who did not survive 're-education' camps to sign up for United States refugee programs, as well as the Vietnamese In Country Priority One Program in Vietnam to provide protection to victims of recent persecution on account of race, religion, nationality, political opinion, or membership in a particular social group.

(D) The former United States Immigration and Naturalization Service agreed to resume the processing of former United States employees under the U11 program, which had been unilaterally suspended by the United States Government, as well as to review applications of Amerasians, children of American servicemen left behind in Vietnam after the war ended in April 1975, for resettlement to the United States under the Amerasian Homecoming Act of 1988.

HR 3096-Vietnam Human Rights Act of 2007

(13) Congress has passed numerous resolutions condemning human rights abuses in Vietnam, indicating that although there has been an expansion of relations with the Government of Vietnam, it should not be construed as approval of the ongoing and serious violations of fundamental human rights in Vietnam. (14) Enhancement of relations between the United States and Vietnam has proved an opportunity for a human rights dialogue and could lead to future progress on human rights issues in Vietnam.

SEC. 3. PURPOSE.

The purpose of this Act is to promote the development of freedom and democracy in Vietnam.

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

SEC. 101. BILATERAL NONHUMANITARIAN ASSISTANCE.

(a) Assistance-

(1) IN GENERAL- Except as provided in subsection (b), United States nonhumanitarian assistance may not be provided to the Government of Vietnam.

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

(B) for each subsequent fiscal year unless the President determines and certifies to Congress in the most recent annual report submitted pursuant to section 501 that the requirements of subparagraphs (A) through (E) of paragraph (2) have been met during the 12-month period covered by the report.

(2) REQUIREMENTS- The requirements of this paragraph are that--

(A) the Government of Vietnam has made substantial progress toward releasing all political and religious

HR 3096-Vietnam Human Rights Act of 2007

prisoners from imprisonment, house arrest, and other forms of detention;

(B)(i) the Government of Vietnam has made substantial progress toward respecting the right to freedom of religion, including the right to participate in religious activities and institutions without interference by or involvement of the Government; and

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

(C) the Government of Vietnam has made substantial progress toward allowing Vietnamese nationals free and open access to United States refugee programs;

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

(E)(i) neither any official of the Government of Vietnam nor any agency or entity wholly or partly owned by the Government of Vietnam was complicit in a severe form of trafficking in persons; or

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

(b) Exception

(1) CONTINUATION OF ASSISTANCE IN THE NATIONAL INTEREST- Notwithstanding the failure of the Government of Vietnam to meet the requirements of subsection (a)(2), the President may waive the application of subsection (a) for any fiscal year if the President determines that the provision to the Government of Vietnam of nonhumanitarian assistance would promote the purpose of this Act or is otherwise in the national interest of the United States.

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

HR 3096-Vietnam Human Rights Act of 2007

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

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

(c) Definitions- In this section:

(1) SEVERE FORMS OF TRAFFICKING IN PERSONS- The term 'severe form of trafficking in persons' means any activity described in section 103(8) of the Trafficking Victims Protection Act of 2000 (Public Law 106-386 (114 Stat. 1470); 22 U.S.C. 7102(8)).

(2) UNITED STATES NONHUMANITARIAN ASSISTANCE- The term 'United States nonhumanitarian assistance' means--

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

- (i) disaster relief assistance, including any assistance under chapter 9 of part I of that Act;
- (ii) assistance which involves the provision of food (including monetization of food) or medicine; and
- (iii) assistance for refugees; and

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

TITLE II--ASSISTANCE TO SUPPORT DEMOCRACY IN VIETNAM

SEC. 201. ASSISTANCE.

(a) In General- The President is authorized to provide assistance, through appropriate nongovernmental organizations and the Human Rights Defenders Fund, for the support of individuals and organizations to promote internationally recognized human rights in Vietnam.

(b) Authorization of Appropriations- There are authorized to be appropriated to the President to carry out subsection (a) \$2,000,000 for each of the fiscal years 2008 and 2009.

TITLE III--UNITED STATES PUBLIC DIPLOMACY

SEC. 301. RADIO FREE ASIA TRANSMISSIONS TO VIETNAM.

HR 3096-Vietnam Human Rights Act of 2007

(a) Policy of the United States- It is the policy of the United States to take such measures as are necessary to overcome the jamming of Radio Free Asia by the Government of Vietnam.

(b) Authorization of Appropriations- In addition to such amounts as are otherwise authorized to be appropriated for the Broadcasting Board of Governors, there are authorized to be appropriated to carry out the policy under subsection (a) \$9,100,000 for the fiscal year 2008 and \$1,100,000 for fiscal year 2009.

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

It is the policy of the United States that programs of educational and cultural exchange with Vietnam should actively promote progress toward freedom and democracy in Vietnam by providing opportunities to Vietnamese nationals from a wide range of occupations and perspectives to see freedom and democracy in action and, also, by ensuring that Vietnamese nationals who have already demonstrated a commitment to these values are included in such programs.

TITLE IV--UNITED STATES REFUGEE POLICY

SEC. 401. REFUGEE RESETTLEMENT FOR NATIONALS OF VIETNAM.

(a) Policy of the United States- It is the policy of the United States to offer refugee resettlement to nationals of Vietnam (including members of the Montagnard ethnic minority groups) who were eligible for the Humanitarian Resettlement (HR) Program, the Orderly Departure Program (ODP), Resettlement Opportunities for Vietnamese Returnees (ROVR) Program, the Amerasian Homecoming Act of 1988, or any other United States refugee program and who were deemed ineligible due to administrative error or who for reasons beyond the control of such individuals (including insufficient or contradictory information or the inability to pay bribes demanded by officials of the Government of Vietnam) were unable or failed to apply for such programs in compliance with deadlines imposed by the Department of State.

(b) Authorized Activity- Of the amounts authorized to be appropriated to the Department of State for Migration and Refugee Assistance for each of the fiscal years 2008, 2009, and 2010, such sums as may be necessary are authorized to be made available for the protection

HR 3096-Vietnam Human Rights Act of 2007

(including resettlement in appropriate cases) of Vietnamese refugees and asylum seekers, including Montagnards in Cambodia.

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

SEC. 501. ANNUAL REPORT.

(a) In General- Not later than 6 months after the date of the enactment of this Act and every 12 months thereafter, the Secretary of State shall submit to the Congress a report on the following:

(1)(A) The determination and certification of the President that the requirements of subparagraphs (A) through (E) of section 101(a)(2) have been met, if applicable.

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

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

(3) Efforts to ensure that programs with Vietnam promote the policy set forth in section 302 and with section 105 of the Human Rights, Refugee, and Other Foreign Policy Provisions Act of 1996 regarding participation in programs of educational and cultural exchange.

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

(5) Lists of persons believed to be imprisoned, detained, or placed under house arrest, tortured, or otherwise persecuted by the Government of Vietnam due to their pursuit of internationally recognized human rights. In compiling such lists, the Secretary shall exercise appropriate discretion, including concerns regarding the safety and security of, and benefit to, the persons who may be included on the lists and their families. In addition, the Secretary shall include a list of such persons and their families who may qualify for protections under United States refugee programs.

HR 3096-Vietnam Human Rights Act of 2007

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

- (A) progress toward the development of institutions of democratic governance;
- (B) processes by which statutes, regulations, rules, and other legal acts of the Government of Vietnam are developed and become binding within Vietnam;
- (C) the extent to which statutes, regulations, rules, administrative and judicial decisions, and other legal acts of the Government of Vietnam are published and are made accessible to the public;
- (D) the extent to which administrative and judicial decisions are supported by statements of reasons that are based upon written statutes, regulations, rules, and other legal acts of the Government of Vietnam;
- (E) the extent to which individuals are treated equally under the laws of Vietnam without regard to citizenship, race, religion, political opinion, or current or former associations;
- (F) the extent to which administrative and judicial decisions are independent of political pressure or governmental interference and are reviewed by entities of appellate jurisdiction; and
- (G) the extent to which laws in Vietnam are written and administered in ways that are consistent with international human rights standards, including the requirements of the International Covenant on Civil and Political Rights.

(b) **Contacts With Other Organizations-** In preparing the report under subsection (a), the Secretary shall, as appropriate, seek out and maintain contacts with nongovernmental organizations and human rights advocates (including Vietnamese-Americans and human rights advocates in Vietnam), including receiving reports and updates from such organizations and evaluating such reports. The Secretary shall also seek to consult with the United States Commission on International Religious Freedom for appropriate sections of the report.

END