

108TH CONGRESS  
1ST SESSION

# H. R. 1587

To promote freedom and democracy in Viet Nam.

---

## IN THE HOUSE OF REPRESENTATIVES

APRIL 3, 2003

Mr. SMITH of New Jersey (for himself, Mr. ROYCE, Mr. ROHRBACHER, Mr. WOLF, Mr. SOUDER, Mr. PENCE, Mr. CROWLEY, Ms. LOFGREN, Ms. ROS-LEHTINEN, Mr. TOM DAVIS of Virginia, Mr. TOWNS, Mr. McNULTY, Ms. GINNY BROWN-WAITE of Florida, Mr. BALLENGER, Ms. LORETTA SANCHEZ of California, Mr. SAM JOHNSON of Texas, Mr. CLAY, Mr. BEAUPREZ, Mr. GREEN of Texas, Mr. ENGLISH, Mr. GREEN of Wisconsin, Ms. NORTON, Mr. WYNN, Mr. BELL, Mr. MORAN of Virginia, Mr. PAYNE, Mr. COX, Mr. GALLEGLY, Mr. MOORE, Mr. VAN HOLLEN, and Mr. WELDON of Pennsylvania) introduced the following bill; which was referred to the Committee on International Relations, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

## A BILL

To promote freedom and democracy in Viet Nam.

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 “Viet Nam Human Rights Act of 2003”.

1 (b) TABLE OF CONTENTS.—The table of contents for  
 2 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 VIET NAM

Sec. 101. Bilateral nonhumanitarian assistance.  
 Sec. 102. Multilateral nonhumanitarian assistance.

TITLE II—ASSISTANCE TO SUPPORT DEMOCRACY IN VIET NAM

Sec. 201. Assistance.

TITLE III—UNITED STATES PUBLIC DIPLOMACY

Sec. 301. Radio Free Asia transmissions to Viet Nam.  
 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 Viet Nam.

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

Sec. 501. Annual report.

3 **SEC. 2. FINDINGS.**

4 Congress finds the following:

5 (1) Viet Nam is a one-party state, ruled and  
 6 controlled by the Vietnamese Communist Party.

7 (2)(A) The Government of Viet Nam denies the  
 8 people of Viet Nam the right to change their govern-  
 9 ment and prohibits independent political, social, and  
 10 labor organizations.

11 (B) The Government of Viet Nam prohibits and  
 12 hinders the formation of civil society in Viet Nam.

1           (3)(A) The Government of Viet Nam consist-  
2           ently pursues a policy of harassment, discrimination,  
3           and intimidation, and sometimes of imprisonment  
4           and other forms of detention, against those who  
5           peacefully express dissent from government or party  
6           policy. This policy includes collectively punishing  
7           family members of individuals targeted for persecu-  
8           tion. A government decree allows detention without  
9           trial for 6 months to 2 years.

10           (B) Following the United States ratification of  
11           the Bilateral Trade Agreement with Viet Nam in  
12           2001, the human rights situation in Viet Nam has  
13           remained extremely poor. For certain groups, such  
14           as the Montagnards, and other ethnic minorities in  
15           Central and North Vietnam, conditions have deterio-  
16           rated dramatically. In late 2002, the Government of  
17           Viet Nam launched a fresh wave of arrests and  
18           crackdowns against peaceful critics of the Viet-  
19           namese Government, its policy of repression, and its  
20           corrupt practices.

21           (C) Recent victims of such mistreatment, which  
22           violates the rights to freedom of expression and as-  
23           sociation recognized in the Universal Declaration of  
24           Human Rights, include Dr. Nguyen Dan Que, a  
25           leading human rights activist who was arrested on

1 March 17, 2003, and has already served two lengthy  
2 prison sentences, Dr. Nguyen Thanh Giang, Most  
3 Venerable Thich Huyen Quang, Most Venerable  
4 Thich Quang Do, linguist Tran Khue, businessman  
5 Nguyen Khac Toan, journalist Nguyen Vu Binh,  
6 publicist Le Chi Quang, writer Hoang Tien, military  
7 historian Pham Que Duong, Hoang Minh Chinh,  
8 Tran Dung Tien, Hoang Trong Dung, Nguyen Vu  
9 Viet, Nguyen Truc Cuong, Nguyen Thi Hoa, Vu Cao  
10 Quan, Nguyen The Dam, Nguyen Thi Thanh Xuan,  
11 Father Chan Tin, author Duong Thu Huong, poet  
12 Bui Minh Quoc, Dr. Nguyen Xuan Tu (Ha Si Phu),  
13 Dr. Pham Hong Son, Mai Thai Linh, Most Vener-  
14 able Thich Huyen Quang, Most Venerable Thich  
15 Quang Do, Father Nguyen Van Ly, Pastor Nguyen  
16 Lap Ma, Father Phan Van Loi, numerous leaders of  
17 the Hoa Hao Buddhist Church and of independent  
18 Protestant churches, and an undetermined number  
19 of members of the Montagnard ethnic minority  
20 groups who participated in peaceful demonstrations  
21 in the Central Highlands of Viet Nam during Feb-  
22 ruary 2001.

23 (4) The Government of Viet Nam systematically  
24 deprives its citizens of the fundamental right or or-  
25 ganized religious activities outside the state's con-

1 trol. Although some freedom of worship is permitted,  
2 believers are forbidden to participate in religious ac-  
3 tivities except under circumstances rigidly defined  
4 and controlled by the Government:

5 (A)(i) In April, 1999 the Government  
6 issued a Decree Concerning Religious Activities,  
7 which declared in pertinent part that “[a]ll ac-  
8 tivities using religious belief in order to oppose  
9 the State of the Socialist Republic of Viet Nam,  
10 to prevent the believers from carrying out civic  
11 responsibilities, to sabotage the union of all the  
12 people, and against the healthy culture of our  
13 nation, as well as superstitious activities, will be  
14 punished in conformity with the law”.

15 (ii) All public religious activities must be  
16 approved by the Government in advance. The  
17 United States Commission on International Re-  
18 ligious Freedom in October 2002 recommended  
19 that Viet Nam be classified as a country of par-  
20 ticular concern. At its Seventh Plenum in Janu-  
21 ary 2003, the Communist Party’s Central Com-  
22 mittee issued a resolution calling for the estab-  
23 lishment of cells of Communist Party members  
24 within each of Vietnam’s 6 approved religions  
25 in order to foil “hostile forces”.

1           (B)(i) The Unified Buddhist Church of  
2 Viet Nam (UBCV), the largest religious de-  
3 nomination in the country, has been declared il-  
4 legal by the Government, and over the last 27  
5 years its clergy have often been imprisoned and  
6 subjected to other forms of persecution. The  
7 Patriarch of the Unified Buddhist Church, 85-  
8 year-old Most Venerable Thich Huyen Quang,  
9 has been detained for 25 years in a ruined tem-  
10 ple in an isolated area of central Viet Nam.

11           (ii) Most Venerable Thich Quang Do, the  
12 Executive President of the Unified Buddhist  
13 Church, has also been in various forms of de-  
14 tention since 1977, and was recently rearrested  
15 and placed under house arrest after he had pro-  
16 posed to bring Most Venerable Thich Huyen  
17 Quang to Saigon for medical treatment.

18           (iii) Many other leading Buddhist figures,  
19 including Thich Hai Tang, Thich Khong Tanh,  
20 Thich Thai Hoa, Thich Tue Si, Thich Quang  
21 Hue, Thich Tam An, Thich Nguyen Ly, Thich  
22 Thanh Huyen, Thich Thong Dat, Thich Chi  
23 Mau, Thich Chi Thang, Thich Chon Niem,  
24 Thich Thanh Quang are under tight surveil-

1 lance. Several members of the UBCV have fled  
2 to Cambodia.

3 (C)(i) The Hao Hoa Buddhist Church was  
4 also declared to be illegal until 1999, when the  
5 Government established an organization which  
6 purports to govern the Hao Hoa. According to  
7 the United States Commission on International  
8 Religious Freedom, “[t]his organization is made  
9 up almost entirely of Communist Party mem-  
10 bers and apparently is not recognized as legiti-  
11 mate by the vast majority of Hao Hoas . . .  
12 [n]evertheless, [this government-sponsored or-  
13 ganization] has sought to control all Hao Hoa  
14 religious activity, particularly at the Hao Hoa  
15 village, which is the center of Hao Hoa religious  
16 life”.

17 (ii)(I) Hao Hoa believers who do not recog-  
18 nize the legitimacy of the government organiza-  
19 tion are denied the right to visit the Hao Hoa  
20 village, to conduct traditional religious celebra-  
21 tions, or to display Hao Hoa symbols. Many  
22 have been arrested and subjected to administra-  
23 tive detention, and several Hao Hoa have been  
24 sentenced to prison terms for protesting these  
25 denials of religious freedom.

1           (II) The Government interferes with Hao  
2           Hoa efforts to conduct charitable works, and  
3           prohibits public celebration to commemorate the  
4           founder's disappearance as well as the distribu-  
5           tion of the founder's teachings. The Govern-  
6           ment controls greatly the leadership selection  
7           process of the Cao Dais, another indigenous Vi-  
8           etnamese religion.

9           (III) At least the following Hao Hoa be-  
10          lievers are known to be in prison or house de-  
11          tention: Ha Hai, Tran Van Be Cao, Tran  
12          Nguyen Huon, Phan Thi Tiem, Le Quang  
13          Liem, Nguyen Van Dien, Le Minh Triet, and  
14          Vo Van Thanh Liem.

15          (D)(i) Independent Protestants, most of  
16          whom are members of ethnic minority groups,  
17          are subjected to particularly harsh treatment by  
18          the Government of Viet Nam. According to the  
19          United States Commission on International Re-  
20          ligious Freedom, such treatment includes "po-  
21          lice raids on homes and house churches, deten-  
22          tion, imprisonment, confiscation of religious and  
23          personal property, physical and psychological  
24          abuse, and fines for engaging in unapproved re-  
25          ligious activities (such as collective worship,



1 public religious expression and distribution of  
2 religious literature, and performing baptisms,  
3 marriages, or funeral services) . . . [i]n addi-  
4 tion, it is reported that ethnic Hmong Protes-  
5 tants have been forced by local officials to agree  
6 to abandon their faith”.

7 (ii)(I) According to human rights activists  
8 in Viet Nam, 2 secret central plans—Plan  
9 184A and 184B—issued in 1999 by the Com-  
10 munist Party to combat Protestant believers  
11 were fully implemented throughout the country,  
12 and led to a crackdown on the Protestant move-  
13 ment, especially in the Central and Northern  
14 Highland areas.

15 (II) An estimated 14,000 Christians fled  
16 from the North to the Central Highlands in the  
17 past 5 years. According to the Southern Evan-  
18 gelical Church of Viet Nam, the Government of  
19 Viet Nam forcibly closed 354 of the 412  
20 churches in Dak Lak province, 56 pastors from  
21 the Central Highlands have disappeared, and at  
22 least 43 evangelical Montagnards have been  
23 sentenced to prison. Freedom House has re-  
24 ported on the beating death of Hmong Chris-  
25 tian Mua Bua Senh by police authorities.

1           (E)(i) Other religious organizations, such  
2 as the Catholic Church, are formally recognized  
3 by the Government but are subjected to perva-  
4 sive regulation which violates the right to free-  
5 dom of religion. For instance, the Catholic  
6 Church is forbidden to appoint its own bishops  
7 without Government consent, which is fre-  
8 quently denied, to accept seminarians without  
9 specific official permission, and to profess  
10 Catholic doctrines which are inconsistent with  
11 Government policy. Government restrictions on  
12 the seminary process have caused a severe  
13 shortage of priests.

14           (ii) A Catholic priest, Father Nguyen Van  
15 Ly, was arrested in March 2001 and remains in  
16 detention after submitting written testimony to  
17 the United States Commission on International  
18 Religious Freedom. On October 19, 2001, he  
19 was sentenced to a total of 20 years of impris-  
20 onment and house arrest; the trial in Hue took  
21 place closed to the public and without a defense  
22 lawyer.

23           (iii) In October 2002, the Vietnamese  
24 Bishops Conference took an unprecedented step  
25 when they protested to the National Assembly

1 about the persecutions endured by Catholic eth-  
2 nic minorities.

3 (F) The Government has also confiscated  
4 numerous churches, temples, and other prop-  
5 erties belonging to religious organizations. The  
6 vast majority of these properties—even those  
7 belonging to religious organizations formally  
8 recognized by the Government—have never  
9 been returned.

10 (5)(A) Since 1975 the Government of Viet Nam  
11 has persecuted veterans of the Army of the Republic  
12 of Viet Nam and other Vietnamese who had opposed  
13 the Viet Cong insurgency and the North Vietnamese  
14 invasion of South Viet Nam. Such persecution typi-  
15 cally included substantial terms in “re-education  
16 camps”, where detainees were often subjected to tor-  
17 ture and other forms of physical abuse, and in which  
18 many died.

19 (B) Re-education camp survivors and their fam-  
20 ilies were often forced into internal exile in “New  
21 Economic Zones”. Many of these former allies of the  
22 United States, as well as members of their families,  
23 continue until the present day to suffer various  
24 forms of harassment and discrimination, including

1 denial of basic social benefits and exclusion from  
2 higher education and employment.

3 (6)(A) The Government of Viet Nam has been  
4 particularly harsh in its treatment of members of  
5 the Montagnard ethnic minority groups of the Cen-  
6 tral Highlands of Viet Nam, who were the first line  
7 in the defense of South Viet Nam against invasion  
8 from the North and who fought courageously beside  
9 members of the Special Forces of the United States,  
10 suffering disproportionately heavy casualties, and  
11 saving the lives of many of their American and Viet-  
12 nameese comrades-in-arms.

13 (B) Since 1975 the Montagnard peoples have  
14 been singled out for severe repression, in part be-  
15 cause of their past association with the United  
16 States and in part because their strong commitment  
17 to their traditional way of life and to their Christian  
18 religion is regarded as inconsistent with the absolute  
19 loyalty and control demanded by the Communist sys-  
20 tem. The Government employs a policy of assimila-  
21 tion and oppression against the Montagnards, forc-  
22 ibly displacing them from their ancestral lands to  
23 make way for North Vietnamese settlers, coffee  
24 plantations, and logging operations.

1           (C) Between February and March 2001, several  
2 thousand members of the mountain tribes Djarai,  
3 Bahnar, and Rhadé from the provinces of Pleiku,  
4 Gialai, and Daklak took part in a series of peaceful  
5 demonstrations to demand the release of 2  
6 Montagnard Christians, religious freedom and res-  
7 toration of their confiscated lands. The Government  
8 responded by closing off the Central Highlands and  
9 sending in military forces, tanks, and helicopter  
10 gunships. Hundreds of demonstrators were injured.  
11 Altogether, more than 200 people, among them 60  
12 evangelical priests and tribal chieftains, were ar-  
13 rested. Some regions of the Central Highlands re-  
14 main closed to journalists and foreign diplomats.

15           (D) Credible reports by refugees who have es-  
16 caped to Cambodia indicate that the Government  
17 has executed some participants in the demonstra-  
18 tions and has subjected others to imprisonment, tor-  
19 ture, and other forms of physical abuse.

20           (E) The Government of Viet Nam has also  
21 taken steps to prevent further Montagnards from es-  
22 caping, and there are credible reports that Viet-  
23 nameese security forces in Cambodia are offering  
24 bounties for the surrender of Montagnard asylum  
25 seekers.

1 (F) According to Human Rights Watch, in De-  
2 cember 2002 “[The Government] arrested or de-  
3 tained dozens of highlanders and banned Christmas  
4 church services in order to prevent minority Chris-  
5 tians from gathering. Six highlanders were detained  
6 during the third week in December in Krong Ana  
7 and Cu Jut districts, Dak Lak, during Christmas  
8 prayer services, while another eight were taken into  
9 custody as they were attempting to cross the border  
10 to Cambodia. Villagers throughout the Central High-  
11 lands were warned they would face fines and even  
12 imprisonment if they organized Christmas services.  
13 In many areas authorities banned gatherings of four  
14 or more people.”.

15 (7) The Government of Viet Nam has also per-  
16 secuted members of other ethnic minority groups, in-  
17 cluding the Khmer Krom from the Mekong Delta,  
18 many of whom fought alongside United States mili-  
19 tary personnel during the Viet Nam war and whose  
20 Hinayana Buddhist religion is not among those rec-  
21 ognized by the Government.

22 (8) The Government of Viet Nam also engages  
23 in or condones serious violations of the rights of  
24 workers. In August 1997, the United Nations Chil-  
25 dren’s Fund (UNICEF) reported that child labor ex-

1       exploitation is on the rise in Viet Nam with tens of  
2       thousands of children under 15 years of age being  
3       subjected to such exploitation. The government's of-  
4       ficial labor export program also has subjected work-  
5       ers, many of whom are women, to involuntary ser-  
6       vitude, debt bondage, and other forms of abuse, and  
7       the reaction of government officials to worker com-  
8       plaints of such abuse has been to threaten the work-  
9       ers with punishment if they do not desist in their  
10      complaints. The government of Viet Nam has made  
11      some minor efforts to improve this situation, but en-  
12      forcement of child labor laws remains weak, and the  
13      child exploitation still persists.

14           (9)(A) United States refugee resettlement pro-  
15      grams for Vietnamese nationals, including the Or-  
16      derly Departure Program (ODP), the Resettlement  
17      Opportunities for Returning Vietnamese (ROVR)  
18      program, and resettlement of boat people from ref-  
19      ugee camps throughout Southeast Asia, were author-  
20      ized by law in order to rescue Vietnamese nationals  
21      who have suffered persecution on account of their  
22      wartime associations with the United States, as well  
23      as those who currently have a well-founded fear of  
24      persecution on account of race, religion, nationality,

1 political opinion, or membership in a particular so-  
2 cial group.

3 (B) In general, these programs have served  
4 their purpose well. However, many refugees who  
5 were eligible for these programs were unfairly denied  
6 or excluded, in some cases by vindictive or corrupt  
7 Communist officials who controlled access to the  
8 programs, and in others by United States personnel  
9 who imposed unduly restrictive interpretations of  
10 program criteria. These unfairly excluded refugees  
11 include some of those with the most compelling  
12 cases, including many Montagnard combat veterans  
13 and their families.

14 (C) The Department of State has agreed to ex-  
15 tend the September 30, 1994, registration deadline  
16 for former United States employees, “re-education”  
17 survivors, and surviving spouses of those who did  
18 not survive “re-education” camps to sign up for  
19 United States refugee programs.

20 (D) The Department of State has agreed to re-  
21 sume the Vietnamese In-Country Priority One Pro-  
22 gram in Viet Nam to provide protection to victims  
23 of persecution on account of race, religion, nation-  
24 ality, political opinion, or membership in a particular



1 social group who otherwise have no access to the Or-  
2 derly Departure Program.

3 (E) The Bureau of Citizenship and Immigra-  
4 tion Service in the Department of Homeland Secu-  
5 rity has agreed to resume the processing of former  
6 United States employees under the U11 program,  
7 which had been unilaterally suspended by the United  
8 States Government.

9 (F) The Bureau of Citizenship and Immigration  
10 Service has agreed to review the applications of  
11 Amerasians, children of American servicemen left  
12 behind in Viet Nam after the war ended in April  
13 1975, for resettlement to the United States under  
14 the Amerasian Homecoming Act of 1988.

15 (10) The Government of Viet Nam systemati-  
16 cally jams broadcasts by Radio Free Asia, an inde-  
17 pendent broadcast service funded by the United  
18 States in order to provide news and entertainment  
19 to the people of countries in Asia whose governments  
20 deny the right to freedom of expression and of the  
21 press.

22 (11) In 1995 the Governments of the United  
23 States and Viet Nam announced the “normaliza-  
24 tion” of diplomatic relations. In 1998 then-President  
25 Clinton waived the application of section 402 of the

1 Trade Act of 1974 (commonly known as the “Jack-  
2 son-Vanik Amendment”), which restricts economic  
3 assistance to countries with non-market economies  
4 whose governments also restrict freedom of emigra-  
5 tion. In 1999 the Governments of the United States  
6 and Viet Nam announced “an agreement in prin-  
7 ciple” on a bilateral trade agreement. This agree-  
8 ment was signed in 2000 and came into effect on  
9 December 10, 2001.

10 (12) The Congress and the American people are  
11 united in their determination that the extension or  
12 expansion of trade relations with a country whose  
13 government engages in serious and systematic viola-  
14 tions of fundamental human rights must not be con-  
15 strued as a statement of approval or complacency  
16 about such practices. The promotion of freedom and  
17 democracy around the world—and particularly for  
18 people who have suffered in large part because of  
19 their past associations with the United States and  
20 because they share our values—is and must continue  
21 to be a central objective of United States foreign  
22 policy.

23 **SEC. 3. PURPOSE.**

24 The purpose of this Act is to promote the develop-  
25 ment of freedom and democracy in Viet Nam.

1 **TITLE I—PROHIBITION ON NON-**  
2 **HUMANITARIAN ASSISTANCE**  
3 **TO THE GOVERNMENT OF**  
4 **VIET NAM**

5 **SEC. 101. BILATERAL NONHUMANITARIAN ASSISTANCE.**

6 (a) ASSISTANCE.—

7 (1) IN GENERAL.—Except as provided in sub-  
8 section (b), United States nonhumanitarian assist-  
9 ance may not be provided to the Government of Viet  
10 Nam—

11 (A) for fiscal year 2004 unless not later  
12 than 30 days after the date of the enactment of  
13 this Act the President determines and certifies  
14 to Congress that the requirements of subpara-  
15 graphs (A) through (D) of paragraph (2) have  
16 been met during the 12-month period ending on  
17 the date of the certification; and

18 (B) for each subsequent fiscal year unless  
19 the President determines and certifies to Con-  
20 gress in the most recent annual report sub-  
21 mitted pursuant to section 501 that the re-  
22 quirements of subparagraphs (A) through (E)  
23 of paragraph (2) have been met during the 12-  
24 month period covered by the report.

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

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

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

13           (ii) has made substantial progress toward  
14 returning estates and properties confiscated  
15 from the churches;

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

20           (D) the Government of Viet Nam has  
21 made substantial progress toward respecting  
22 the human rights of members of ethnic minority  
23 groups in the Central Highlands or elsewhere in  
24 Viet Nam; and

1           (E)(i) neither any official of the Govern-  
2           ment of Viet Nam nor any agency or entity  
3           wholly or partly owned by the Government of  
4           Viet Nam was complicit in a severe form of  
5           trafficking in persons; or

6           (ii) the Government of Viet Nam 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) IN GENERAL.—Subsection (a) shall not  
12           apply for any fiscal year with respect to the provi-  
13           sion of United States nonhumanitarian assistance  
14           for any program or activity for which such assist-  
15           ance was provided to the Government of Viet Nam  
16           for fiscal year 2003 in an amount not to exceed the  
17           amount so provided for fiscal year 2003.

18           (2) CONTINUATION OF ASSISTANCE IN THE NA-  
19           TIONAL INTEREST.—Notwithstanding the failure of  
20           the Government of Viet Nam to meet the require-  
21           ments of subsection (a)(2), the President may waive  
22           the application of subsection (a) for any fiscal year  
23           if the President determines that the provision to the  
24           Government of Viet Nam of increased United States  
25           nonhumanitarian assistance would promote the pur-

1 poses of this Act or is otherwise in the national in-  
2 terest of the United States.

3 (3) EXERCISE OF WAIVER AUTHORITY.—The  
4 President may exercise the authority under para-  
5 graph (2) with respect to—

6 (A) all United States nonhumanitarian as-  
7 sistance to Viet Nam; or

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

10 (c) DEFINITIONS.—In this section:

11 (1) SEVERE FORM OF TRAFFICKING IN PER-  
12 SONS.—The term “severe form of trafficking in per-  
13 sons” means any activity described in section 103(8)  
14 of the Trafficking Victims Protection Act of 2000  
15 (Public Law 106–386 (114 Stat. 1470); 22 U.S.C.  
16 7102(8)).

17 (2) UNITED STATES NONHUMANITARIAN AS-  
18 SISTANCE.—The term “United States nonhumani-  
19 tarian assistance” means—

20 (A) any assistance under the Foreign As-  
21 sistance Act of 1961 (including programs under  
22 title IV of chapter 2 of part I of that Act, relat-  
23 ing to the Overseas Private Investment Cor-  
24 poration), other than—

1 (i) disaster relief assistance, including  
2 any assistance under chapter 9 of part I of  
3 that Act;

4 (ii) assistance which involves the pro-  
5 vision of food (including monetization of  
6 food) or medicine; and

7 (iii) assistance for refugees; and

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

10 **SEC. 102. MULTILATERAL NONHUMANITARIAN ASSIST-**  
11 **ANCE.**

12 (a) HUMAN RIGHTS.—The President shall ensure  
13 that section 701 of the International Financial Institu-  
14 tions Act (22 U.S.C. 262d), relating to human rights, is  
15 carried out with respect to Viet Nam.

16 (b) RELIGIOUS FREEDOM.—The President shall in-  
17 struct the United States Executive Directors at the World  
18 Bank and the International Monetary Fund to use the  
19 voice and vote of the United States to oppose any loans  
20 or other assistance (except loans or assistance for humani-  
21 tarian purposes) to the Government of Viet Nam until the  
22 President determines that the Government of Viet Nam  
23 has made substantial progress to protect religious free-  
24 dom.

1 **TITLE II—ASSISTANCE TO SUP-**  
2 **PORT DEMOCRACY IN VIET**  
3 **NAM**

4 **SEC. 201. ASSISTANCE.**

5 (a) IN GENERAL.—The President is authorized to  
6 provide assistance, through appropriate nongovernmental  
7 organizations, for the support of individuals and organiza-  
8 tions to promote internationally recognized human rights  
9 in Viet Nam.

10 (b) AUTHORIZATION OF APPROPRIATIONS.—There  
11 are authorized to be appropriated to the President to carry  
12 out subsection (a) \$2,000,000 for each of the fiscal years  
13 2004 and 2005.

14 **TITLE III—UNITED STATES**  
15 **PUBLIC DIPLOMACY**

16 **SEC. 301. RADIO FREE ASIA TRANSMISSIONS TO VIET NAM.**

17 (a) POLICY OF THE UNITED STATES.—It is the pol-  
18 icy of the United States to take such measures as are nec-  
19 essary to overcome the jamming of Radio Free Asia by  
20 the Government of Viet Nam.

21 (b) AUTHORIZATION OF APPROPRIATIONS.—In addi-  
22 tion to such amounts as are otherwise authorized to be  
23 appropriated for the Broadcasting Board of Governors,  
24 there are authorized to be appropriated to carry out the



1 policy under subsection (a) \$9,100,000 for the fiscal year  
2 2004 and \$1,100,000 for the fiscal year 2005.

3 **SEC. 302. UNITED STATES EDUCATIONAL AND CULTURAL**  
4 **EXCHANGE PROGRAMS WITH VIET NAM.**

5 It is the policy of the United States that programs  
6 of educational and cultural exchange with Viet Nam  
7 should actively promote progress toward freedom and de-  
8 mocracy in Viet Nam by providing opportunities to Viet-  
9 nameese nationals from a wide range of occupations and  
10 perspectives to see freedom and democracy in action and,  
11 also, by ensuring that Vietnamese nationals who have al-  
12 ready demonstrated a commitment to these values are in-  
13 cluded in such programs.

14 **TITLE IV—UNITED STATES**  
15 **REFUGEE POLICY**

16 **SEC. 401. REFUGEE RESETTLEMENT FOR NATIONALS OF**  
17 **VIET NAM.**

18 (a) POLICY OF THE UNITED STATES.—It is the pol-  
19 icy of the United States to offer refugee resettlement to  
20 nationals of Viet Nam (including members of the  
21 Montagnard ethnic minority groups) who were eligible for  
22 the Orderly Departure Program (ODP), Resettlement Op-  
23 portunities for Vietnamese Returnees (ROVR) or any  
24 other United States refugee program and who were  
25 deemed ineligible due to administrative error or who for

1 reasons beyond the control of such individuals (including  
2 insufficient or contradictory information or the inability  
3 to pay bribes demanded by officials of the Government of  
4 Viet Nam) were unable or failed to apply for such pro-  
5 grams in compliance with deadlines imposed by the De-  
6 partment of State.

7 (b) AUTHORIZED ACTIVITY.—Of the amounts au-  
8 thorized to be appropriated to the Department of State  
9 for Migration and Refugee Assistance for each of the fiscal  
10 years 2004, 2005, and 2006, such sums as may be nec-  
11 essary are authorized to be made available for the protec-  
12 tion (including resettlement in appropriate cases) of Viet-  
13 namese refugees and asylum seekers, including  
14 Montagnards in Cambodia.

15 **TITLE V—ANNUAL REPORT ON**  
16 **PROGRESS TOWARD FREE-**  
17 **DOM AND DEMOCRACY IN**  
18 **VIET NAM**

19 **SEC. 501. ANNUAL REPORT.**

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

24 (1)(A) The determination and certification of  
25 the President that the requirements of subpara-

1 graphs (A) through (D) of section 101(a)(2) have  
2 been met, if applicable.

3 (B) The determination of the President under  
4 section 101(b)(2), if applicable.

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

9 (3) Efforts to ensure that programs with Viet  
10 Nam promote the policy set forth in section 302 and  
11 with section 102 of the Human Rights, Refugee, and  
12 Other Foreign Policy Provisions Act of 1996 regard-  
13 ing participation in programs of educational and cul-  
14 tural exchange.

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

17 (5) Actions of the Government of Viet Nam  
18 which reflect compliance with or violation of human  
19 rights, in particular, those contained in the Inter-  
20 national Covenant on Civil and Political Rights and  
21 in the Universal Declaration of Human Rights, in-  
22 cluding, but not limited to, effectively affording—

23 (A) the right to engage in free expression;

24 (B) the right to peaceful assembly;

1           (C) religious freedom, including the right  
2 to worship, to appoint clergy members, to form  
3 religious associations and institutions, to par-  
4 ticipate in religious activities, and to conduct  
5 charity work free of involvement of and inter-  
6 ference by the government;

7           (D) the right to establish nongovernmental  
8 organizations and civic associations;

9           (E) the right to liberty of movement and  
10 freedom to choose a residence within Viet Nam  
11 and the right to leave from and return to Viet  
12 Nam;

13           (F) the right of a criminal defendant—

14               (i) to be tried in his or her presence,  
15 and to defend himself or herself in person  
16 or through legal assistance of his or her  
17 own choosing;

18               (ii) to be informed, if he or she does  
19 not have legal assistance, of the right set  
20 forth in clause (i);

21               (iii) to have legal assistance assigned  
22 to him or her in any case in which the in-  
23 terests of justice so require and without  
24 payment by him or her in any such case if

1 he or she does not have sufficient means to  
2 pay for it;

3 (iv) to a fair and public hearing by a  
4 competent, independent, and impartial tri-  
5 bunal established by the law;

6 (v) to be presumed innocent until  
7 proved guilty according to law; and

8 (vi) to be tried without undue delay;

9 (G) the right to be free from torture and  
10 other forms of cruel or unusual punishment;

11 (H) protection of internationally recognized  
12 worker rights;

13 (I) freedom from incarceration as punish-  
14 ment for political opposition to the government;

15 (J) freedom from incarceration as punish-  
16 ment for exercising or advocating human rights  
17 (including those described in this section);

18 (K) freedom from arbitrary arrest, deten-  
19 tion, or exile;

20 (L) the right to fair and public hearings by  
21 an independent tribunal for the determination  
22 of a citizen's rights and obligations; and

23 (M) free choice of employment.

24 (6) Lists of persons believed to be imprisoned,  
25 detained, or placed under house arrest, tortured, or

1 otherwise persecuted by the Government of Viet  
2 Nam due to their pursuit of the rights described in  
3 paragraph (5). In compiling such lists, the Secretary  
4 shall exercise appropriate discretion, including con-  
5 cerns regarding the safety and security of, and ben-  
6 efit to, the persons who may be included on the lists  
7 and their families. In addition, the Secretary shall  
8 include a list of such persons and their families who  
9 may qualify for protection under United States ref-  
10 ugee programs.

11 (7) A description of the development of the rule  
12 of law in Viet Nam, including, but not limited to—

13 (A) progress toward the development of in-  
14 stitutions of democratic governance;

15 (B) processes by which statutes, regula-  
16 tions, rules, and other legal acts of the Govern-  
17 ment of Viet Nam are developed and become  
18 binding within Viet Nam;

19 (C) the extent to which statutes, regula-  
20 tions, rules, administrative and judicial deci-  
21 sions, and other legal acts of the Government of  
22 Viet Nam are published and are made acces-  
23 sible to the public;

24 (D) the extent to which administrative and  
25 judicial decisions are supported by statements

1 of reasons that are based upon written statutes,  
2 regulations, rules and other legal acts of the  
3 Government of Viet Nam;

4 (E) the extent to which individuals are  
5 treated equally under the laws of Viet Nam  
6 without regard to citizenship, race, religion, po-  
7 litical opinion, or current or former associa-  
8 tions;

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

14 (G) the extent to which laws in Viet Nam  
15 are written and administered in ways that are  
16 consistent with international human rights  
17 standards, including the requirements of the  
18 International Covenant on Civil and Political  
19 Rights.

20 (8) A description of projects funded by multilat-  
21 eral organizations operating in Viet Nam, including  
22 projects funded by the World Bank, International  
23 Monetary Fund, Asian Development Bank, United  
24 Nations, and Global Fund.

1           (b) CONTACTS WITH OTHER ORGANIZATIONS.—In  
2 preparing the report under subsection (a), the Secretary  
3 shall, as appropriate, seek out and maintain contacts with  
4 nongovernmental organizations and human rights advo-  
5 cates (including Vietnamese-Americans, human rights ad-  
6 vocates in Viet Nam), including receiving reports and up-  
7 dates from such organizations and evaluating such re-  
8 ports. The Secretary shall also seek to consult with the  
9 United States Commission on Religious Freedom for ap-  
10 propriate sections of the report.

○