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(Original Signature of Member)

113TH CONGRESS  
1ST SESSION

# H. R.

To promote freedom and democracy in Vietnam.

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## IN THE HOUSE OF REPRESENTATIVES

Mr. SMITH of New Jersey (for himself and Mr. ROYCE) introduced the following bill; which was referred to the Committee on

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# A BILL

To promote freedom and democracy in Vietnam.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Vietnam Human Rights Act of 2013”.

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. United States public diplomacy.

Sec. 5. United Nations Human Rights Council.

Sec. 6. Annual report.

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

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

3 (1) The relationship between the United States  
4 and the Socialist Republic of Vietnam has grown  
5 substantially since the end of the trade embargo in  
6 1994, with annual trade between the two countries  
7 reaching nearly \$25,000,000,000 in 2012.

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

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

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

23 (5) Although in recent years the National As-  
24 sembly of Vietnam has played an increasingly active

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, human rights lawyers Nguyen Van  
17      Dai, Le Thi Cong Nhan, Cu Huy Ha Vu, and Le  
18      Cong Dinh, and bloggers Nguyen Van Hai, Ta  
19      Phong Tan, and Le Van Son.

20             (8) The Government of Vietnam continues to  
21      detain, imprison, place under house arrest, convict,  
22      or otherwise restrict persons for the peaceful expres-  
23      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, and persecute  
7           believers whose religious activities the Government  
8           regards as a potential threat to its monopoly on  
9           power.

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

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

1           (13) There has been a pattern of violent re-  
2           sponses by the Government to peaceful prayer vigils  
3           and demonstrations by Catholics for the return of  
4           Government-confiscated church properties. Pro-  
5           testers have been harassed, beaten, and detained  
6           and church properties have been destroyed. Catholics  
7           also continue to face some restrictions on selection  
8           of clergy, the establishment of seminaries and semi-  
9           nary candidates, and individual cases of travel and  
10          church registration.

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

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

1           (16) The Government of Vietnam continues to  
2           suppress the activities of other religious adherents,  
3           including Cao Dai and Hoa Hao Buddhists who lack  
4           official recognition or have chosen not to affiliate  
5           with the state-sanctioned groups, including through  
6           the use of detention, imprisonment, and strict Gov-  
7           ernment oversight.

8           (17) Many Montagnards and others are still  
9           serving long prison sentences for their involvement  
10          in peaceful demonstrations in 2001, 2002, 2004,  
11          and 2008. Montagnards continue to face threats, de-  
12          tention, beatings, forced renunciation of faith, prop-  
13          erty destruction, restricted movement, and reported  
14          deaths at the hands of Government officials.

15          (18) Ethnic minority Hmong in Northern Viet-  
16          nam, the Northwest Highlands, and the Central  
17          Highlands of Vietnam also suffer restrictions, confis-  
18          cation of property, abuses, and persecution by the  
19          Government of Vietnam.

20          (19) The Government of Vietnam restricts  
21          Khmer Krom expression, assembly, and association,  
22          has confiscated nearly all the Theravada Buddhist  
23          temples, controls all Khmer Kaon Buddhist religious  
24          organizations and prohibits most peaceful protests.

1           (20) The Government of Vietnam controls near-  
2           ly all print and electronic media, including access to  
3           the Internet, jams the signals of some foreign radio  
4           stations, including Radio Free Asia, and has de-  
5           tained and imprisoned individuals who have posted,  
6           published, sent, or otherwise distributed democracy-  
7           related materials.

8           (21) People arrested in Vietnam because of  
9           their political or religious affiliations and activities  
10          often are not accorded due legal process as they lack  
11          full access to lawyers of their choice, may experience  
12          closed trials, have often been detained for years  
13          without trial, and have been subjected to the use of  
14          torture to admit crimes they did not commit or to  
15          falsely denounce their own leaders.

16          (22) Vietnam continues to be a source country  
17          for the commercial sexual exploitation and forced  
18          labor of women and girls, as well as for men and  
19          women legally entering into international labor con-  
20          tracts who subsequently face conditions of debt  
21          bondage or forced labor, and is a destination country  
22          for child trafficking and continues to have internal  
23          human trafficking.

24          (23) There are many reports of Vietnamese of-  
25          ficials and employees participating in, facilitating,

1       condoning, or otherwise being complicit in severe  
2       forms of human trafficking.

3           (24) United States refugee resettlement pro-  
4       grams, including the Humanitarian Resettlement  
5       (HR) Program, the Orderly Departure Program  
6       (ODP), Resettlement Opportunities for Vietnamese  
7       Returnees (ROVR) Program, general resettlement of  
8       boat people from refugee camps throughout South-  
9       east Asia, the Amerasian Homecoming Act of 1988,  
10      and the Priority One Refugee resettlement category,  
11      have helped rescue Vietnamese nationals who have  
12      suffered persecution on account of their associations  
13      with the United States or, in many cases, because of  
14      such associations by their spouses, parents, or other  
15      family members, as well as other Vietnamese nation-  
16      als who have been persecuted because of race, reli-  
17      gion, nationality, political opinion, or membership in  
18      a particular social group.

19           (25) While previous programs have served their  
20      purposes well, a significant number of eligible refu-  
21      gees from Vietnam were unfairly denied or excluded,  
22      including Amerasians, in some cases by vindictive or  
23      corrupt Vietnamese officials who controlled access to  
24      the programs, and in others by United States per-  
25      sonnel who imposed unduly restrictive interpreta-

1 tions of program criteria. In addition, the Govern-  
2 ment of Vietnam has denied passports to persons  
3 who the United States has found eligible for refugee  
4 admission.

5 (26) The Government of Vietnam reportedly is  
6 detaining tens of thousands of people, with some as  
7 young as 12 years old, in government-run drug de-  
8 tention centers and treating them as slave laborers.

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

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

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

22 **SEC. 3. PROHIBITION ON INCREASED NONHUMANITARIAN**  
23 **ASSISTANCE TO THE GOVERNMENT OF VIET-**  
24 **NAM.**

25 (a) ASSISTANCE.—

1           (1) IN GENERAL.—Except as provided in sub-  
2           section (b), the Federal Government may not pro-  
3           vide nonhumanitarian assistance to the Government  
4           of Vietnam during any fiscal year in an amount that  
5           exceeds the amount of such assistance provided for  
6           fiscal year 2012 unless—

7                   (A) with respect to the limitation for fiscal  
8                   year 2014, the President determines and cer-  
9                   tifies to Congress, not later than 30 days after  
10                  the date of the enactment of this Act, that the  
11                  requirements of subparagraphs (A) through (G)  
12                  of paragraph (2) have been met during the 12-  
13                  month period ending on the date of the certifi-  
14                  cation; and

15                  (B) with respect to the limitation for sub-  
16                  sequent fiscal years, the President determines  
17                  and certifies to Congress, in the most recent  
18                  annual report submitted pursuant to section 6,  
19                  that the requirements of subparagraphs (A)  
20                  through (G) of paragraph (2) have been met  
21                  during the 12-month period covered by the re-  
22                  port.

23           (2) REQUIREMENTS.—The requirements of this  
24           paragraph are the following:

1           (A) The Government of Vietnam has made  
2           substantial progress toward releasing all polit-  
3           ical and religious prisoners from imprisonment,  
4           house arrest, and other forms of detention.

5           (B) The Government of Vietnam has made  
6           substantial progress toward—

7                   (i) respecting the right to freedom of  
8                   religion, including the right to participate  
9                   in religious activities and institutions with-  
10                  out interference, harassment, or involve-  
11                  ment of the Government, for all of Viet-  
12                  nam's diverse religious communities; and

13                   (ii) returning estates and properties  
14                   confiscated from the churches and religious  
15                   communities.

16           (C) The Government of Vietnam has made  
17           substantial progress toward respecting the right  
18           to freedom of expression, assembly, and associa-  
19           tion, including the release of independent jour-  
20           nalists, bloggers, and democracy and labor ac-  
21           tivists.

22           (D) The Government of Vietnam has made  
23           substantial progress toward repealing or revis-  
24           ing laws that criminalize peaceful dissent, inde-  
25           pendent media, unsanctioned religious activity,

1 and nonviolent demonstrations and rallies, in  
2 accordance with international standards and  
3 treaties to which Vietnam is a party.

4 (E) The Government of Vietnam has made  
5 substantial progress toward allowing Viet-  
6 nameese nationals free and open access to  
7 United States refugee programs.

8 (F) The Government of Vietnam has made  
9 substantial progress toward respecting the  
10 human rights of members of all ethnic and mi-  
11 nority groups.

12 (G) Neither any official of the Government  
13 of Vietnam nor any agency or entity wholly or  
14 partly owned by the Government of Vietnam  
15 was complicit in a severe form of trafficking in  
16 persons, or the Government of Vietnam took all  
17 appropriate steps to end any such complicity  
18 and hold such official, agency, or entity fully  
19 accountable for its conduct.

20 (b) EXCEPTION.—

21 (1) CONTINUATION OF ASSISTANCE IN THE NA-  
22 TIONAL INTEREST.—Notwithstanding the failure of  
23 the Government of Vietnam to meet the require-  
24 ments of subsection (a)(2), the President may waive

1 the application of subsection (a) for any fiscal year  
2 if—

3 (A) the President determines that the pro-  
4 vision to the Government of Vietnam of in-  
5 creased nonhumanitarian assistance would pro-  
6 mote the purpose of this Act or is otherwise in  
7 the national interest of the United States; and

8 (B) the Federal Government provides as-  
9 sistance, at levels commensurate with, or ex-  
10 ceeding, any increases in nonhumanitarian as-  
11 sistance to Vietnam, that supports—

12 (i) training about the obligation of the  
13 Government of Vietnam to respect the  
14 rights enumerated in the International  
15 Covenant on Civil and Political Rights;

16 (ii) noncommercial rule of law pro-  
17 gramming; and

18 (iii) measures to overcome the jam-  
19 ming of Radio Free Asia by the Govern-  
20 ment of Vietnam.

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

24 (A) all United States nonhumanitarian as-  
25 sistance to Vietnam; or

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

3 (c) DEFINITIONS.—In this section:

4 (1) NONHUMANITARIAN ASSISTANCE.—The  
5 term “nonhumanitarian assistance” means—

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

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

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

17 (iii) assistance for environmental re-  
18 mediation of dioxin-contaminated sites and  
19 related health activities;

20 (iv) assistance to combat severe forms  
21 of trafficking in persons;

22 (v) assistance to combat pandemic  
23 diseases;

24 (vi) assistance for refugees; and

1 (vii) assistance to combat HIV/AIDS,  
2 including any assistance under section  
3 104A of that Act; and

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

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

12 (d) EFFECTIVE DATE.—This section shall take effect  
13 on the date of the enactment of this Act and shall apply  
14 with respect to the provision of nonhumanitarian assist-  
15 ance to the Government of Vietnam for fiscal year 2014  
16 and subsequent fiscal years.

17 **SEC. 4. UNITED STATES PUBLIC DIPLOMACY.**

18 (a) RADIO FREE ASIA TRANSMISSIONS TO VIET-  
19 NAM.—It is the sense of Congress that the United States  
20 should take measures to overcome the jamming of Radio  
21 Free Asia by the Government of Vietnam and that the  
22 Broadcasting Board of Governors should not cut staffing,  
23 funding, or broadcast hours for the Vietnamese language  
24 services of the Voice of America and Radio Free Asia,

1 which shall be done without reducing any other broadcast  
2 language services.

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

14 (c) UNITED NATIONS HUMAN RIGHTS COUNCIL.—  
15 It is the sense of Congress that the Secretary of State  
16 should strongly oppose, and encourage other members of  
17 the United Nations to oppose, the candidacy of Vietnam  
18 for membership on the United Nations Human Rights  
19 Council for the term beginning in 2014.

20 **SEC. 5. RELIGIOUS FREEDOM AND HUMAN TRAFFICKING.**

21 (a) COUNTRY OF PARTICULAR CONCERN.—It is the  
22 sense of Congress that Vietnam should be designated as  
23 a country of particular concern for religious freedom pur-  
24 suant to section 402(b) of the International Religious  
25 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. 6. 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 (G) 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 (C) a description of the type and amount  
4 of commensurate assistance provided pursuant  
5 to section 3(b)(1)(B).  
6

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.