

111TH CONGRESS
2D SESSION

H. R. 6432

To promote freedom and democracy in Vietnam.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 18, 2010

Mr. CAO introduced the following bill; which was referred to the Committee
on Foreign Affairs

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 Democracy Promotion Act of 2010”.

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.
- Sec. 3. Purpose.

TITLE I—ASSISTANCE TO PROMOTE FREEDOM AND DEMOCRACY IN VIETNAM

- Sec. 101. Authorization of assistance.
- Sec. 102. Authorization of appropriations.

TITLE II—UNITED STATES PUBLIC DIPLOMACY AND REFUGEE
POLICY

Sec. 201. Radio Free Asia transmissions to Vietnam.

Sec. 202. United States educational and cultural exchange programs with Vietnam.

Sec. 203. Refugee resettlement for nationals of Vietnam.

TITLE III—CONDITIONS ON INCREASED NONHUMANITARIAN
ASSISTANCE TO THE GOVERNMENT OF VIETNAM

Sec. 301. Conditions.

Sec. 302. Definitions.

Sec. 303. Effective date.

TITLE IV—ANNUAL REPORT ON FREEDOM AND DEMOCRACY IN
VIETNAM

Sec. 401. Annual report.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

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 countries
7 reaching more than \$15,200,000,000 in 2008.

8 (2) The transition of the Government of Viet-
9 nam toward greater economic activity and trade has
10 not been matched by greater political freedom and
11 substantial improvements in basic human rights for
12 the citizens of Vietnam, including freedom of reli-
13 gion, expression, association, and assembly.

14 (3) The United States Congress agreed to Viet-
15 nam becoming an official member of the World
16 Trade Organization in 2006, amidst assurances that

1 the Government of Vietnam was steadily improving
2 its human rights record and would continue to do so.

3 (4) Despite assurances that Vietnam's accession
4 to the World Trade Organization would be met with
5 greater respect for human rights, the Government of
6 Vietnam has continued to strictly regulate some reli-
7 gious practices and to imprison or put under house
8 arrest an undetermined number of individuals for
9 their peaceful advocacy of political views or religious
10 beliefs, including Father Nguyen Van Ly, Tran
11 Huynh Duy Thuc, Nguyen Tien Trung, Le Thang
12 Long, Tran Duc Thach, Tran Anh Kim, Pham Van
13 Troi, Nguyen Xuan Nghia, Nguyen Van Tuc,
14 Nguyen Manh Son, Nguyen Manh Tinh, Ngo
15 Quynh, Nguyen Kim Nhan, Truong Minh Duc,
16 Nguyen Van Hai, Vu Hung, Tran Khai Thanh
17 Thuy, and Pham Thanh Nghien, and human rights
18 lawyers, Le Cong Dinh, Nguyen Van Dai, and Le
19 Thi Cong Nhan. Others arrested during 2010 are
20 being held incommunicado, including Cu Huy Ha
21 Vu, Pham Minh Hoang, Phan Thanh Hai, and Vi
22 Duc Hoi.

23 (5) Vietnam remains a one-party state, ruled
24 and controlled by the Communist Party of Vietnam,

1 which continues to deny the right of citizens to
2 change their government.

3 (6) Although in recent years the National As-
4 sembly of Vietnam has on occasion played a role as
5 a forum for highlighting local concerns, corruption,
6 and inefficiency, the National Assembly remains sub-
7 ject to the direction of the Communist Party of Viet-
8 nam and that party maintains control over the selec-
9 tion of candidates in national and local elections.

10 (7) The Government of Vietnam forbids public
11 challenge to the legitimacy of the one-party state, re-
12 stricts freedoms of opinion, the press, assembly, and
13 association, and tightly limits access to the Internet
14 and telecommunication. Cyberattacks originating
15 from Vietnam-based servers have disabled dissident
16 websites and the Government of Vietnam introduced
17 new restrictions on public internet shops while con-
18 tinuing to restrict access to numerous overseas and
19 domestic blogs, news sites, and other websites per-
20 ceived to carry content critical of the Government of
21 Vietnam.

22 (8) The Government of Vietnam continues to
23 detain, imprison, place under house arrest, convict,
24 and otherwise restrict individuals for the peaceful
25 expression of dissenting political or religious views,

1 including democracy and human rights activists,
2 independent trade union leaders, non-state-san-
3 tioned publishers, journalists, bloggers, members of
4 ethnic minorities, and unsanctioned religious groups.

5 (9) The Government of Vietnam has also failed
6 to improve labor rights, continues to harass, arrest,
7 and imprison workers rights activists, including
8 Doan Huy Chuong, Do Thi Minh Hanh, and
9 Nguyen Hoang Quoc Hung, and restricts the right
10 to organize independently.

11 (10) The Government of Vietnam continues to
12 limit freedom of religion, pressure all religious
13 groups to come under the control of government-
14 and party-controlled management boards, and re-
15 strict the operation of independent religious organi-
16 zations, including the Unified Buddhist Church of
17 Vietnam and members of unsanctioned Mennonite,
18 Cao Dai, Theravada Buddhist, and Hoa Hao Bud-
19 dhist religious groups and independent Protestant
20 house churches, primarily in the central and north-
21 ern highlands. Religious leaders who do not conform
22 to the Government's demands are often harassed,
23 arrested, imprisoned, or put under house arrest.

24 (11) As noted in the October 2009 report of the
25 United States Commission on International Reli-

1 religious Freedom, “[T]here continue to be far too
2 many serious abuses and restrictions of religious
3 freedom in the country. Individuals continue to be
4 imprisoned or detained for reasons related to their
5 religious activity or religious freedom advocacy; po-
6 lice and government officials are not held fully ac-
7 countable for abuses; independent religious activity
8 remains illegal; and legal protection for government-
9 approved religious organizations are both vague and
10 subject to arbitrary or discriminatory interpretations
11 based on political factors. In addition, improvements
12 experienced by some religious communities are not
13 experienced by others, including the Unified Bud-
14 dhist Church of Vietnam (UBCV), independent Hoa
15 Hao, Cao Dai, and Protestant groups, and some eth-
16 nic minority Protestants and Buddhists. Also, over
17 the past year, property disputes between the govern-
18 ment and the Catholic Church in Hanoi led to deten-
19 tion, threats, harassment, and violence by ‘contract
20 thugs’ against peaceful prayer vigils and religious
21 leaders.”.

22 (12) Despite reported progress in church open-
23 ings and legal registrations of religious venues, the
24 Government of Vietnam has halted most religious re-
25 forms since the Department of State lifted the

1 “country of particular concern” for religious freedom
2 violations designation for Vietnam in November
3 2006.

4 (13) Unregistered ethnic minority Protestant
5 congregations suffer severe abuses because of actions
6 by the Government of Vietnam, which have included
7 forced renunciations of faith, pressure to join gov-
8 ernment-recognized religious groups, arrest and har-
9 assment, the withholding of social programs pro-
10 vided for the general population, destruction of
11 churches and pagodas, confiscation and destruction
12 of property, and subjection to severe beatings.

13 (14) During peaceful Catholic prayer vigils call-
14 ing for the return of government-confiscated church
15 properties during 2008 at the Thai Ha Church in
16 Ha Noi, protestors were dispersed after being har-
17 assed, some were detained, and some of the church
18 property was destroyed. Similar incidents happened
19 at Bau Sen, Loan Ly, and Tam Toa parishes in cen-
20 tral Vietnam and more recently at Dong Chiem par-
21 ish in Hanoi, where religious statues and a crucifix
22 were destroyed and parishioners and clergies were
23 physically harmed, and at Con Dau parish, where
24 police forcibly dispersed a Catholic funeral ceremony
25 in May 2010 to a cemetery located on disputed land.

1 Afterwards, police and members of the civilian de-
2 fense forces arrested and interrogated dozens of Con
3 Dau parishioners, with one parishioner dying from
4 injuries sustained during a beating in July 2010 by
5 civilian defense forces and two women suffered mis-
6 carriages resulted from police tortures. Catholics
7 continue to face some restrictions on selection of
8 clergy, the establishment of seminaries and seminary
9 candidates, and restrictions on individual cases of
10 travel and church registration. Dissident clerics such
11 as Father Phan Van Loi and Father Nguyen Van
12 Ly are currently under house arrest.

13 (15) The Unified Buddhist Church of Vietnam
14 suffers persecution as the Government of Vietnam
15 continues to restrict contacts and movement of sen-
16 ior clergy for refusing to join the state-sponsored
17 Buddhist organizations, the Government restricts ex-
18 pression and assembly, and the Government con-
19 tinues to harass and threaten monks, nuns, and
20 youth leaders of the Unified Buddhist Church of
21 Vietnam. The Supreme Patriarch of Unified Bud-
22 dhist Church of Vietnam, Thich Quang Do, is cur-
23 rently under house arrest.

24 (16) The Bat Nha Buddhists monastery in
25 Lam Dong province was attacked by government

1 thugs in October 2009. About 400 monks and nuns
2 were physically abused and forcibly evicted from the
3 monastery.

4 (17) The Government of Vietnam continues to
5 suppress the activities of other religious adherents,
6 including Cao Dai, Hoa Hao, Mennonites, and
7 Montagnard Christians belonging to churches that
8 lack official recognition or have chosen not to affil-
9 iate with the state-sanctioned groups, including
10 through the use of detention and imprisonment.

11 (18) During Easter weekend in April 2004,
12 thousands of Montagnard Christians in the Central
13 Highlands gathered to protest their treatment by the
14 Government of Vietnam, including the confiscation
15 of tribal lands and ongoing restrictions on religious
16 activities. Credible reports indicate that the protests
17 were met with violent response as many demonstra-
18 tors were arrested or went into hiding, that many
19 were injured, and that some were killed. At least
20 200 of these Montagnard Christians are still serving
21 long sentences for their involvement in peaceful dem-
22 onstrations in 2001 and 2004. Government officials
23 continue to severely restrict movement by the
24 Montagnards and prohibit them from seeking asy-
25 lum in Cambodia. Many Montagnards were also im-

1 prisoned and otherwise mistreated for their involve-
2 ment in demonstrations in 2008.

3 (19) Ethnic minority Hmong in the Northwest
4 Highlands of Vietnam also suffer restrictions,
5 abuses, and persecution by the Government of Viet-
6 nam, and although the Government is now allowing
7 some Hmong Protestants to organize and conduct
8 religious activity, some government officials continue
9 to deny or ignore additional applications for reg-
10 istration.

11 (20) In 2007, the Government of Vietnam ar-
12 rested and expelled at least 20 ethnic Khmer Bud-
13 dhist monks in Soc Trang province from the monk-
14 hood and imprisoned 5 monks in response to a
15 peaceful religious protest in February 2007. In July
16 2010, authorities in Tra Vinh arrested and pur-
17 ported to defrock Khmer Krom Buddhist abbot
18 Thach Sophon, sentencing him in September to a 9-
19 month suspended sentence. He remains under house
20 arrest.

21 (21) The Government of Vietnam controls all
22 print and electronic media, including access to the
23 Internet, jams the signals of some foreign radio sta-
24 tions, including Radio Free Asia, and has detained
25 and imprisoned individuals who have posted, pub-

1 lished, sent, or otherwise distributed democracy-re-
2 lated materials.

3 (22) People arrested in Vietnam because of
4 their political or religious affiliations and activities
5 and charged with vaguely defined national security
6 crimes are not accorded due process of law. During
7 the pre-trial investigatory phase of their detention,
8 religious and political prisoners are often held in-
9 communicado without access to legal counsel and
10 family members. They are routinely tortured during
11 interrogation to force them to confess to crimes they
12 did not commit or to falsely denounce others. Their
13 trials are usually closed to international press and
14 diplomats and members of the public.

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

23 (24) Labor export companies partly or wholly
24 owned by the Ministry of Labor, War Invalids and
25 Social Affairs, and other agencies of the Government

1 of Vietnam have frequently been identified as par-
2 ticipants in human trafficking. There are a number
3 of well-documented cases in which these state enter-
4 prises have misled workers by promising specific
5 wages and working conditions, often in the form of
6 signed contracts, only to require the workers to sign
7 different contracts immediately before leaving for
8 their foreign destinations. When workers have pro-
9 tested debt bondage or slavery-like conditions in the
10 foreign workplaces to which these Vietnamese state
11 enterprises have sent them, officials of the Ministry
12 of Labor have traveled from Hanoi to threaten the
13 trafficking victims with “punishment under the laws
14 of Vietnam” if they do not cease their protests.
15 Workers who have returned to Vietnam after being
16 exploited by their foreign employers have reported
17 being harassed and intimidated by public security
18 forces, who typically accuse them of being liars, col-
19 laborating with reactionary forces overseas, and hav-
20 ing betrayed their country.

21 (25) United States refugee resettlement pro-
22 grams, including the Humanitarian Resettlement
23 Program, the Orderly Departure Program, the Re-
24 settlement Opportunities for Vietnamese Returnees
25 Program, general resettlement of boat people from

1 refugee camps throughout Southeast Asia, the
2 Amerasian Homecoming Act of 1988, and the pri-
3 ority one refugee resettlement category have helped
4 resettle nationals of Vietnam who have suffered per-
5 secution on account of their associations with the
6 United States as well as nationals of Vietnam who
7 have been persecuted because of race, religion, na-
8 tionality, political opinion, or membership in a par-
9 ticular social group.

10 (26) While previous programs have served their
11 purposes well, a significant number of eligible refu-
12 gees from Vietnam were unfairly denied or excluded,
13 including Amerasians and Montagnards, in some
14 cases by vindictive or corrupt officials of Vietnam
15 who controlled access to the programs, and in others
16 by United States personnel who imposed unduly re-
17 strictive interpretations of program criteria. In addi-
18 tion, the Government of Vietnam has denied pass-
19 ports to persons whom the United States has found
20 eligible for refugee admission.

21 (27) Congress has passed numerous resolutions
22 condemning human rights violations in Vietnam, in-
23 dicating that although there has been an expansion
24 of relations with the Government of Vietnam, it
25 should not be construed as approval of the ongoing

1 and serious violations of fundamental human rights
2 in Vietnam, particularly those enshrined in the
3 International Covenant on Civil and Political Rights,
4 of which Vietnam is a signatory.

5 (28) Enhancement of relations between the
6 United States and Vietnam has provided an oppor-
7 tunity for a human rights dialogue, but is unlikely
8 to lead to future progress on human rights issues in
9 Vietnam unless the United States makes clear that
10 such progress is an essential prerequisite for further
11 enhancements in the bilateral relationship.

12 **SEC. 3. PURPOSE.**

13 The purpose of this Act is to promote freedom and
14 democracy in Vietnam.

15 **TITLE I—ASSISTANCE TO PRO-**
16 **MOTE FREEDOM AND DEMOC-**
17 **RACY IN VIETNAM**

18 **SEC. 101. AUTHORIZATION OF ASSISTANCE.**

19 The President is authorized to provide assistance,
20 through appropriate nongovernmental organizations and
21 the Human Rights Defenders Fund, for the support of
22 individuals and organizations to promote freedom and de-
23 mocracy in Vietnam.

1 **SEC. 102. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) IN GENERAL.—There are authorized to be appro-
3 priated to the President to carry out section 101
4 \$2,000,000 for each of the fiscal years 2011 and 2012.

5 (b) OTHER REQUIREMENTS.—Amounts appropriated
6 pursuant to the authorization of appropriations under sub-
7 section (a)—

8 (1) are authorized to remain available until ex-
9 pended; and

10 (2) are in addition to amounts otherwise avail-
11 able for such purposes.

12 **TITLE II—UNITED STATES PUB-**
13 **LIC DIPLOMACY AND REF-**
14 **UGEE POLICY**

15 **SEC. 201. RADIO FREE ASIA TRANSMISSIONS TO VIETNAM.**

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

20 (b) AUTHORIZATION OF APPROPRIATIONS.—

21 (1) IN GENERAL.—There are authorized to be
22 appropriated to the Broadcasting Board of Gov-
23 ernors to carry out the policy under subsection (a)
24 \$12,5000,000 for fiscal year 2011 and \$2,500,000
25 for fiscal year 2012.

1 (2) OTHER REQUIREMENTS.—Amounts appro-
2 priated pursuant to the authorization of appropria-
3 tions under paragraph (1)—

4 (A) are authorized to remain available
5 until expended; and

6 (B) are in addition to amounts otherwise
7 available for such purposes.

8 **SEC. 202. UNITED STATES EDUCATIONAL AND CULTURAL**
9 **EXCHANGE PROGRAMS WITH VIETNAM.**

10 It is the policy of the United States that programs
11 of educational and cultural exchange with Vietnam should
12 actively promote progress toward freedom and democracy
13 in Vietnam by providing opportunities to Vietnamese na-
14 tionals from a wide range of occupations and perspectives
15 to see freedom and democracy in action and, also, by en-
16 suring that Vietnamese nationals who have already dem-
17 onstrated a commitment to these values are included in
18 such programs.

19 **SEC. 203. REFUGEE RESETTLEMENT FOR NATIONALS OF**
20 **VIETNAM.**

21 (a) POLICY OF THE UNITED STATES.—It is the pol-
22 icy of the United States to offer refugee resettlement to
23 nationals of Vietnam (including members of the
24 Montagnard ethnic minority groups) who were eligible for
25 the Orderly Departure Program (ODP), the Human-

1 tarian Resettlement (HR) Program, the Resettlement Op-
 2 portunities for Vietnamese Returnees (ROVR) Program,
 3 the Amerasian Homecoming Act of 1988, or any other
 4 United States refugee program and who were deemed in-
 5 eligible due to administrative error or who for reasons be-
 6 yond the control of such individuals (including insufficient
 7 or contradictory information or the inability to pay bribes
 8 demanded by officials of the Government of Vietnam) were
 9 unable or failed to apply for such programs in compliance
 10 with deadlines imposed by the Department of State.

11 (b) AUTHORIZED ACTIVITY.—Of the amounts au-
 12 thorized to be appropriated to the Department of State
 13 for Migration and Refugee Assistance for each of the fiscal
 14 years 2011 and 2012, such sums as may be necessary are
 15 authorized to be made available for the protection (includ-
 16 ing resettlement in appropriate cases) of Vietnamese refu-
 17 gees and asylum seekers, including Montagnards and eth-
 18 nic Khmer in Cambodia and Thailand.

19 **TITLE III—CONDITIONS ON IN-**
 20 **CREASED NONHUMANI-**
 21 **TARIAN ASSISTANCE TO THE**
 22 **GOVERNMENT OF VIETNAM**

23 **SEC. 301. CONDITIONS.**

24 (a) CONDITIONS.—

1 (1) IN GENERAL.—Except as provided in para-
2 graph (2), the United States Government may not
3 provide nonhumanitarian assistance to the Govern-
4 ment of Vietnam during any fiscal year in an
5 amount that is greater than the amount of non-
6 humanitarian assistance provided by the United
7 States Government to the Government of Vietnam
8 during fiscal year 2010.

9 (2) EXCEPTION.—The United States Govern-
10 ment may provide nonhumanitarian assistance to the
11 Government of Vietnam during any fiscal year in an
12 amount that is greater than the amount of non-
13 humanitarian assistance provided by the United
14 States Government to the Government of Vietnam
15 during fiscal year 2010 but is not greater than twice
16 the amount of nonhumanitarian assistance provided
17 by the United States Government to the Government
18 of Vietnam during fiscal year 2010 if—

19 (A) the President certifies to Congress that
20 the United States Government has provided as-
21 sistance, in addition to assistance authorized
22 under section 102, supporting the creation and
23 facilitation of human rights training, civil soci-
24 ety capacity building, noncommercial rule of law
25 programming, and exchange programs between

1 the Vietnamese National Assembly and the
2 United States Congress during the 12-month
3 period ending on the date of the certification in
4 an amount that is not less than the amount of
5 nonhumanitarian assistance provided by the
6 United States Government to the Government
7 of Vietnam during the 12-month period ending
8 on the date of the certification; and

9 (B)(i) with respect to fiscal year 2011, the
10 President certifies to Congress, not later than
11 30 days after the date of the enactment of this
12 Act, that the requirements of paragraphs (1)
13 through (7) of subsection (b) have been met
14 during the 12-month period ending on the date
15 of the certification; and

16 (ii) with respect to subsequent fiscal years,
17 the President certifies to Congress, in the most
18 recent annual report submitted pursuant to sec-
19 tion 401, that the requirements of paragraphs
20 (1) through (7) of subsection (b) have been met
21 during the 12-month period covered by the re-
22 port.

23 (b) REQUIREMENTS.—The requirements of this sub-
24 section are the following:

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

5 (2) The Government of Vietnam has made sub-
6 stantial progress toward—

7 (A) respecting the right to freedom of reli-
8 gion, including the right to participate in reli-
9 gious activities and institutions without inter-
10 ference, harassment, or involvement of the Gov-
11 ernment, for all of Vietnam’s diverse religious
12 communities; and

13 (B) returning estates and properties con-
14 fiscated from the churches and religious com-
15 munities.

16 (3) The Government of Vietnam has made sub-
17 stantial progress toward respecting the right to free-
18 dom of expression, assembly, and association, includ-
19 ing the release of independent journalists, bloggers,
20 and democracy and labor activists.

21 (4) The Government of Vietnam has made sub-
22 stantial progress toward repealing or revising laws
23 that criminalize peaceful dissent, independent media,
24 unsanctioned religious activity, and nonviolent dem-
25 onstrations and rallies, in accordance with inter-

1 national standards and treaties to which Vietnam is
2 a party.

3 (5) The Government of Vietnam has made sub-
4 substantial progress toward allowing Vietnamese nation-
5 als free and open access to United States refugee
6 programs.

7 (6) The Government of Vietnam has made sub-
8 substantial progress toward respecting the human rights
9 of members of all ethnic and minority groups.

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

17 (8) The Government of Vietnam treats govern-
18 ment officials and military personnel of the former
19 Government of South Vietnam with dignity and
20 equality.

21 (c) EXCEPTION.—

22 (1) CONTINUATION OF ASSISTANCE IN THE NA-
23 TIONAL INTEREST.—Notwithstanding the failure of
24 the Government of Vietnam to meet the require-
25 ments of paragraphs (1) through (7) of subsection

1 (b), the President may waive the application of sub-
2 section (a) for any fiscal year if the President deter-
3 mines that the provision of increased nonhumani-
4 tarian assistance to the Government of Vietnam
5 would promote the purpose of this Act or is other-
6 wise in the national interest of the United States.

7 (2) EXERCISE OF WAIVER AUTHORITY.—The
8 President may exercise the authority under para-
9 graph (1) with respect to—

10 (A) all United States nonhumanitarian as-
11 sistance to Vietnam; or

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

14 **SEC. 302. DEFINITIONS.**

15 In this title:

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

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

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

1 (ii) assistance which involves the pro-
2 vision of food (including monetization of
3 food) or medicine;

4 (iii) assistance for refugees; and

5 (iv) assistance to combat HIV/AIDS,
6 including any assistance under section
7 104A of that Act; and

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

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

16 **SEC. 303. EFFECTIVE DATE.**

17 The prohibition on the amount of nonhumanitarian
18 assistance to the Government of Vietnam during a fiscal
19 year under section 301 applies with respect to fiscal year
20 2011 and subsequent fiscal years.

1 **TITLE IV—ANNUAL REPORT ON**
2 **FREEDOM AND DEMOCRACY**
3 **IN VIETNAM**

4 **SEC. 401. ANNUAL REPORT.**

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

9 (1) The determination and certification of the
10 President that the requirements of paragraphs (1)
11 through (7) of section 301(b) have been met, if ap-
12 plicable.

13 (2) Steps taken to carry out section 301(a)(1),
14 if applicable.

15 (3) Efforts by the United States Government to
16 secure transmission sites for Radio Free Asia in
17 countries in close geographical proximity to Vietnam
18 in accordance with section 201(a).

19 (4) Efforts to ensure that programs with Viet-
20 nam promote the policy set forth in section 202 and
21 with section 105 of the Human Rights, Refugee, and
22 Other Foreign Policy Provisions Act of 1996 regard-
23 ing participation in programs of educational and cul-
24 tural exchange.

1 (5) Steps taken to carry out the policy under
2 section 203(a).

3 (6) Lists of persons believed to be imprisoned,
4 detained, or placed under house arrest, tortured, or
5 otherwise persecuted by the Government of Vietnam
6 due to their pursuit of internationally recognized
7 human rights. In compiling such lists, the Secretary
8 shall exercise appropriate discretion, including con-
9 cerns regarding the safety and security of, and ben-
10 efit to, the persons who may be included on the lists
11 and their families. In addition, the Secretary shall
12 include a list of such persons and their families who
13 may qualify for protections under United States ref-
14 ugee programs.

15 (7) A description of the development of the rule
16 of law in Vietnam, including—

17 (A) progress toward the development of in-
18 stitutions of democratic governance;

19 (B) processes by which statutes, regula-
20 tions, rules, and other legal acts of the Govern-
21 ment of Vietnam are developed and become
22 binding within Vietnam;

23 (C) the extent to which statutes, regula-
24 tions, rules, administrative and judicial deci-
25 sions, and other legal acts of the Government of

1 Vietnam are published and are made accessible
2 to the public;

3 (D) the extent to which administrative and
4 judicial decisions are supported by statements
5 of reasons that are based upon written statutes,
6 regulations, rules, and other legal acts of the
7 Government of Vietnam;

8 (E) the extent to which individuals are
9 treated equally under the laws of Vietnam with-
10 out regard to citizenship, race, religion, political
11 opinion, or current or former associations;

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

17 (G) the extent to which laws in Vietnam
18 are written and administered in ways that are
19 consistent with international human rights
20 standards, including the requirements of the
21 International Covenant on Civil and Political
22 Rights.

23 (b) CONTACTS WITH OTHER ORGANIZATIONS.—In
24 preparing the report under subsection (a), the Secretary
25 shall, as appropriate, seek out and maintain contacts with

1 nongovernmental organizations and human rights advo-
2 cates (including Vietnamese-Americans and human rights
3 advocates in Vietnam), including receiving reports and up-
4 dates from such organizations and evaluating such re-
5 ports. The Secretary shall also seek to consult with the
6 United States Commission on International Religious
7 Freedom for appropriate sections of the report.

○