

114TH CONGRESS
2D SESSION

S. _____

To promote freedom, human rights, and the rule of law as part of United States-Vietnam relations and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. CASSIDY introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To promote freedom, human rights, and the rule of law as part of United States-Vietnam relations and for other purposes.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Vietnam Human Rights Act of 2016”.

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. Easing of restrictions for Vietnam under the Arms Export Control Act.

- Sec. 5. United States public diplomacy.
Sec. 6. Religious freedom and human trafficking.
Sec. 7. Annual report.

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

2 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 \$36,000,000,000 in 2014.

8 (2) The Government of Vietnam's transition to-
9 ward greater economic liberalization and trade has
10 not been matched by greater political freedom and
11 substantial improvements in basic human rights for
12 Vietnamese citizens, including freedom of religion,
13 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
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 World
12 Trade Organization on January 11, 2007, the Gov-
13 ernment of Vietnam arbitrarily arrested and de-
14 tained numerous individuals for their peaceful advo-
15 cacy of religious freedom, democracy, and human
16 rights, including Father Nguyen Van Ly, Pastor
17 Nguyen Cong Chinh, labor organizers Nguyen
18 Hoang Quoc Hung and Doan Huy Chuong, and
19 bloggers Nguyen Huu Vinh, Nguyen Thi Minh
20 Thuy, and Ta Phong Tan.

21 (8) The Government of Vietnam continues to
22 detain, imprison, place under house arrest, convict,
23 or otherwise restrict persons for the peaceful expres-
24 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, force people
7 of faith to renounce their faith, expropriate lands
8 and properties belonging to independent churches,
9 and persecute believers whose religious activities the
10 Government regards as a potential threat to its mo-
11 nopoly on power.

12 (11) According to the United Nations Special
13 Rapporteur on freedom of religion or of belief, who
14 recently conducted a mission to Vietnam, “autonomy
15 and activities of independent religious or belief com-
16 munities, that is, unrecognized communities, remain
17 restricted and unsafe, with the rights to freedom of
18 religion or belief of such communities grossly vio-
19 lated in the face of constant surveillance, intimidati-
20 on, harassment and persecution”.

21 (12) Despite reported progress in church open-
22 ings and legal registrations of religious venues, the
23 Government of Vietnam has halted most positive ac-
24 tions and increasingly cracked down on independent
25 religious communities since the Department of State

1 lifted the “country of particular concern” (CPC)
2 designation for Vietnam in November 2006.

3 (13) Unregistered ethnic minority Protestant
4 congregations, particularly Montagnards in the Cen-
5 tral Highlands and Hmong in the Northwest Moun-
6 tainous Regions, suffer severe abuses because of ac-
7 tions by the Government of Vietnam, which have in-
8 cluded forced renunciations of faith, arrest and har-
9 assment, the withholding of social programs pro-
10 vided for the general population, confiscation and
11 destruction of property, subjection to severe beat-
12 ings, and reported deaths.

13 (14) There has been a pattern of violent re-
14 sponses by the Government to peaceful prayer vigils
15 and demonstrations by Catholics for the return of
16 Government-confiscated church properties. Pro-
17 testers have been harassed, beaten, and detained
18 and church properties have been destroyed. Catholics
19 also continue to face some restrictions on selection
20 of clergy, the establishment of seminaries and semi-
21 nary candidates, and individual cases of travel and
22 church registration. Catholicism is not recognized as
23 a legitimate religion by local governments in the
24 provinces of Dien Bien, Son La, and Lai Chau.

1 (15) In May 2010, the village of Con Dau, a
2 Catholic parish in Da Nang, faced escalated violence
3 during a funeral procession as police attempted to
4 prohibit a religious burial in the village cemetery;
5 more than 100 villagers were injured, 62 were ar-
6 rested, five were tortured, and at least three died.
7 The situation has remained unresolved.

8 (16) The Unified Buddhist Church of Vietnam
9 (UBCV) suffers persecution as the Government of
10 Vietnam continues to restrict contacts and move-
11 ment of senior UBCV clergy for refusing to join the
12 state-sponsored Buddhist organization, the Govern-
13 ment restricts expression and assembly, and the
14 Government continues to harass and threaten UBCV
15 monks, nuns, and youth leaders.

16 (17) The Government of Vietnam continues to
17 suppress the activities of other religious adherents,
18 including Cao Dai and Hoa Hao Buddhists who lack
19 official recognition or have chosen not to affiliate
20 with the state-sanctioned groups, including through
21 the use of detention, imprisonment, and strict Gov-
22 ernment oversight.

23 (18) Many Montagnards and others are still
24 serving long prison sentences for their involvement
25 in peaceful demonstrations in 2001, 2002, 2004,

1 and 2008. Montagnards continue to face threats, de-
2 tention, beatings, forced renunciation of faith, prop-
3 erty destruction, restricted movement, and reported
4 deaths at the hands of Government officials.

5 (19) Ethnic minority Hmong in Northern Viet-
6 nam, the Northwest Highlands, and the Central
7 Highlands of Vietnam also suffers restrictions, con-
8 fiscation of property, abuses, and persecution by the
9 Government of Vietnam. Many of their leaders have
10 been sentenced to prison terms.

11 (20) The Government of Vietnam restricts
12 Khmer Krom expression, assembly, and association,
13 maintains control over all the Theravada Buddhist
14 temples and Khmer Krom Buddhist religious organi-
15 zations, prohibits most peaceful protests, and impris-
16 ons many Khmer Krom Buddhist monks who
17 worked to preserve the Khmer Krom culture.

18 (21) People arrested in Vietnam because of
19 their political or religious affiliations and activities
20 often are not accorded due legal process as they lack
21 full access to lawyers of their choice, may experience
22 closed trials, have often been detained for years
23 without trial, and have been subjected to the use of
24 torture to admit crimes they did not commit or to
25 falsely denounce their own leaders.

1 (22) Vietnam continues to be a source country
2 for the commercial sexual exploitation and forced
3 labor of women and girls, as well as for men and
4 women legally entering into international labor con-
5 tracts who subsequently face conditions of debt
6 bondage or forced labor, and is a destination country
7 for child trafficking and continues to have internal
8 human trafficking.

9 (23) There are many reports of Vietnamese of-
10 ficials and employees participating in, facilitating,
11 condoning, or otherwise being complicit in severe
12 forms of human trafficking. Victims of human traf-
13 ficking who speak out against traffickers in the gov-
14 ernment-run labor export program receive threats of
15 punishment by government authorities.

16 (24) United States refugee resettlement pro-
17 grams, including the Humanitarian Resettlement
18 (HR) Program, the Orderly Departure Program
19 (ODP), Resettlement Opportunities for Vietnamese
20 Returnees (ROVR) Program, general resettlement of
21 boat people from refugee camps throughout South-
22 east Asia, section 584 of the Foreign Operations,
23 Export Financing, and Related Programs Appro-
24 priations Act, 1988 (Public Law 100-202; 8 U.S.C.
25 1101 note), and the Priority One Refugee resettle-

1 ment category, have helped rescue Vietnamese na-
2 tionals who have suffered persecution on account of
3 their associations with the United States or, in many
4 cases, because of such associations by their spouses,
5 parents, or other family members, as well as other
6 Vietnamese nationals who have been persecuted be-
7 cause of race, religion, nationality, political opinion,
8 or membership in a particular social group.

9 (25) While previous programs have served their
10 purposes well, a significant number of eligible refu-
11 gees from Vietnam were unfairly denied or excluded,
12 including Amerasians, in some cases by vindictive or
13 corrupt Vietnamese officials who controlled access to
14 the programs, and in others by United States per-
15 sonnel who imposed unduly restrictive interpreta-
16 tions of program criteria. In addition, the Govern-
17 ment of Vietnam has denied passports to persons
18 who the United States has found eligible for refugee
19 admission.

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

24 (27) In 2012, more than 150,000 people signed
25 an online petition calling on the Administration to

1 not expand trade with communist Vietnam at the ex-
2 pense of human rights.

3 (28) Each year close to a thousand Vietnamese-
4 American advocates from across the country convene
5 in Washington, DC, to call on the administration to
6 attach human rights conditions to trade and security
7 agreements with Vietnam.

8 (29) Congress has passed numerous resolutions
9 condemning human rights abuses in Vietnam, indi-
10 cating that although there has been an expansion of
11 relations with the Government of Vietnam, it should
12 not be construed as approval of the ongoing and se-
13 rious violations of fundamental human rights in
14 Vietnam.

15 **SEC. 3. PROHIBITION ON INCREASED NONHUMANITARIAN**
16 **ASSISTANCE TO THE GOVERNMENT OF VIET-**
17 **NAM.**

18 (a) ASSISTANCE.—

19 (1) IN GENERAL.—Except as provided in sub-
20 sections (b), the Federal Government may not pro-
21 vide nonhumanitarian assistance to the Government
22 of Vietnam, or to any organization working within
23 Vietnam under an agreement signed with an entity,
24 agency, or organization of the Government of Viet-
25 nam during any fiscal year in an amount that ex-

1 ceeds the amount of such assistance provided for fis-
2 cal year 2014 unless—

3 (A) with respect to the limitation for fiscal
4 year 2016, the President determines and cer-
5 tifies to Congress, not later than 30 days after
6 the date of the enactment of this Act, that the
7 requirements of subparagraphs (A) through (H)
8 of paragraph (2) have been met during the 12-
9 month period ending on the date of the certifi-
10 cation; and

11 (B) with respect to the limitation for a fis-
12 cal year after fiscal year 2016, the President
13 determines and certifies to Congress, in the
14 most recent annual report submitted pursuant
15 to section 7, that the requirements of subpara-
16 graphs (A) through (H) of paragraph (2) have
17 been met during the 12-month period covered
18 by the report.

19 (2) REQUIREMENTS.—The requirements of this
20 paragraph are the following:

21 (A) The Government of Vietnam has made
22 substantial progress toward releasing all polit-
23 ical and religious prisoners from imprisonment,
24 house arrest, and other forms of detention, in-
25 cluding journalists and bloggers, independent

1 labor union members, democracy and free
2 speech advocates and those detained for engag-
3 ing in religious activity or peaceful protests
4 against religious freedom restrictions.

5 (B) The Government of Vietnam has made
6 substantial progress toward ensuring freedom
7 of expression, particularly ending censorship of
8 the Internet by the government and the repeal-
9 ing of laws that restrict Internet freedom.

10 (C) The Government of Vietnam has made
11 substantial progress toward respecting the right
12 to freedom of religion, including the right to
13 participate in religious activities and institu-
14 tions without interference, harassment, or in-
15 volvement of the Government, for all of Viet-
16 nam's diverse religious communities.

17 (D) The Government of Vietnam has made
18 substantial progress toward Internet freedom, a
19 complete end to censorship, the repeal of laws
20 restricting Internet usage and the punishment
21 of anti-state comments online, the blockage of
22 content from dissidents within Vietnam and
23 from abroad, and efforts by pro-government
24 forces to disrupt, hack, and block websites and
25 operations of Vietnamese groups abroad.

1 (E) The Government of Vietnam has made
2 substantial progress toward respecting the right
3 to the freedoms of assembly and association, in-
4 cluding the right to organize labor unions inde-
5 pendent of government oversight and control
6 and the right to participate in nonviolent dem-
7 onstrations, rallies, or civil society organiza-
8 tions, in accordance with international stand-
9 ards and treaties to which Vietnam is a party.

10 (F) Neither any official of the Government
11 of Vietnam nor any agency or entity wholly or
12 partly owned by the Government of Vietnam
13 was complicit in the trafficking in persons and
14 the Government of Vietnam took all necessary
15 and appropriate steps to end any such com-
16 plicity and hold such official, agency, or entity
17 fully accountable for its conduct.

18 (G) The Government of Vietnam has made
19 substantial progress toward allowing Viet-
20 namese nationals free and open access to
21 United States refugee programs.

22 (H) The Government of Vietnam has made
23 substantial progress toward respecting the
24 internationally guaranteed human rights of
25 members of all ethnic and minority groups.

1 (b) EXCEPTION.—

2 (1) CONTINUATION OF ASSISTANCE IN THE NA-
3 TIONAL INTEREST.—Notwithstanding the failure of
4 the Government of Vietnam to meet the require-
5 ments of subparagraphs (A) through (H) of sub-
6 section (a)(2), the President may waive the applica-
7 tion of subsection (a) for any fiscal year if the Presi-
8 dent determines that the provision to the Govern-
9 ment of Vietnam of increased nonhumanitarian as-
10 sistance would promote the purpose of this Act or is
11 otherwise in the national interest of the United
12 States.

13 (2) EXERCISE OF WAIVER AUTHORITY.—The
14 President may exercise the authority under para-
15 graph (1) with respect to—

16 (A) all United States nonhumanitarian as-
17 sistance to Vietnam; or

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

20 (c) DEFINITIONS.—In this section:

21 (1) NONHUMANITARIAN ASSISTANCE.—The
22 term “nonhumanitarian assistance” means—

23 (A) any assistance under the Foreign As-
24 sistance Act of 1961 (22 U.S.C. 2151 et seq.),
25 including programs under title IV of chapter 2

1 of part I of that Act, relating to the Overseas
2 Private Investment Corporation (22 U.S.C.
3 2191 et seq.), other than—

4 (i) disaster relief assistance, including
5 any assistance under chapter 9 of part I of
6 that Act (22 U.S.C. 2292 et seq.);

7 (ii) assistance which involves the pro-
8 vision of food (including monetization of
9 food) or medicine;

10 (iii) assistance for environmental re-
11 mediation of dioxin-contaminated sites and
12 related health activities;

13 (iv) assistance for demining and
14 unexploded ordnance (UXO) remediation,
15 and related health and educational activi-
16 ties;

17 (v) assistance to combat severe forms
18 of trafficking in persons;

19 (vi) assistance to combat diseases;

20 (vii) assistance for refugees;

21 (viii) assistance to combat HIV/AIDS,
22 including any assistance under section
23 104A of that Act (22 U.S.C. 2151b-2);
24 and

1 (ix) assistance to prevent child labor;

2 and

3 (B) sales, or financing on any terms, under
4 the Arms Export Control Act (22 U.S.C. 2751
5 et seq.).

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(9)
9 of the Trafficking Victims Protection Act of 2000
10 (22 U.S.C. 7102(9)).

11 (d) EFFECTIVE DATE.—This section shall take effect
12 on the date of the enactment of this Act and shall apply
13 with respect to the provision of nonhumanitarian assist-
14 ance to the Government of Vietnam for fiscal year 2016
15 and subsequent fiscal years.

16 **SEC. 4. EASING OF RESTRICTIONS FOR VIETNAM UNDER**
17 **THE ARMS EXPORT CONTROL ACT.**

18 It is the sense of Congress that it should be the policy
19 of the United States that further easing of the prohibition
20 on the sale of lethal military equipment to the Government
21 of Vietnam under the Arms Export Control Act (22
22 U.S.C. 2751 et seq.) shall require the Government of Viet-
23 nam to take additional, significant, and sustained steps
24 to advance human rights protections, specifically inter-
25 nationally recognized norms of civil and political rights,

1 through legal reforms, the release of prisoners of con-
2 science, the establishment of independent labor unions,
3 and guarantees to the freedom of religion and expression,
4 including Internet freedom.

5 **SEC. 5. UNITED STATES PUBLIC DIPLOMACY.**

6 (a) RADIO FREE ASIA TRANSMISSIONS TO VIET-
7 NAM.—It is the sense of Congress that the United States
8 should take measures to overcome the jamming of Radio
9 Free Asia by the Government of Vietnam and that the
10 Broadcasting Board of Governors should not cut staffing,
11 funding, or broadcast hours for the Vietnamese language
12 services of the Voice of America and Radio Free Asia,
13 which shall be done without reducing any other broadcast
14 language services.

15 (b) UNITED STATES EDUCATIONAL AND CULTURAL
16 EXCHANGE PROGRAMS WITH VIETNAM.—It is the sense
17 of Congress that any programs of educational and cultural
18 exchange between the United States and Vietnam should
19 actively promote progress toward freedom and democracy
20 in Vietnam by providing opportunities to Vietnamese na-
21 tionals from a wide range of occupations and perspectives
22 to see freedom and democracy in action and, also, by en-
23 suring that Vietnamese nationals who have already dem-
24 onstrated a commitment to these values are included in
25 such programs. Cultural programs should recognize and

1 find ways to assist Vietnam's religious and ethnic diver-
2 sity.

3 **SEC. 6. RELIGIOUS FREEDOM AND HUMAN TRAFFICKING.**

4 (a) COUNTRY OF PARTICULAR CONCERN.—It is the
5 sense of Congress that Vietnam should be designated as
6 a country of particular concern for religious freedom pur-
7 suant to section 402(b) of the International Religious
8 Freedom Act of 1998 (22 U.S.C. 6442(b)).

9 (b) MINIMUM STANDARDS FOR THE ELIMINATION OF
10 HUMAN TRAFFICKING.—It is the sense of Congress that
11 the Government of Vietnam does not fully comply with the
12 minimum standards for the elimination of trafficking and
13 is not making significant efforts to bring itself into compli-
14 ance, and this determination should be reflected in the an-
15 nual report to Congress required pursuant to section
16 110(b) of the Trafficking Victims Protection Act of 2000
17 (22 U.S.C. 7107(b)).

18 **SEC. 7. ANNUAL REPORT.**

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

23 (1) The determination and certification of the
24 President that the requirements of subparagraphs

1 (A) through (H) of section 3(a)(2) have been met,
2 if applicable.

3 (2) If the President has waived the application
4 of section 3(a) pursuant to section 3(b) during the
5 reporting period—

6 (A) the national interest with respect to
7 which such a waiver was based;

8 (B) the amount of increased nonhumanitarian
9 assistance provided to the Government of
10 Vietnam; and

11 (C) a description of the type and amount
12 of commensurate assistance provided pursuant
13 to section 3(b)(1).

14 (3) Efforts by the United States Government to
15 promote access by the Vietnamese people to Radio
16 Free Asia transmissions.

17 (4) Efforts to ensure that programs with Viet-
18 nam promote the policy set forth in section 102 of
19 the Human Rights, Refugee, and Other Foreign Re-
20 lations Provisions Act of 1996 (Public Law 104–
21 319; 22 U.S.C. 2452 note) regarding participation
22 in programs of educational and cultural exchange.

23 (5) Lists of persons believed to be imprisoned,
24 detained, or placed under house arrest, tortured, or
25 otherwise persecuted by the Government of Vietnam

1 due to their pursuit of internationally recognized
2 human rights. In compiling such lists, the Secretary
3 shall exercise appropriate discretion, including con-
4 cerns regarding the safety and security of, and ben-
5 efit to, the persons who may be included on the lists
6 and their families. In addition, the Secretary shall
7 include a list of such persons and their families who
8 may qualify for protections under United States ref-
9 ugee programs.

10 (6) A description of the development of the rule
11 of law in Vietnam, including—

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

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

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

23 (D) the extent to which administrative and
24 judicial decisions are supported by statements
25 of reasons that are based upon written statutes,

1 regulations, rules, and other legal acts of the
2 Government of Vietnam;

3 (E) the extent to which individuals are
4 treated equally under the laws of Vietnam with-
5 out regard to citizenship, race, religion, political
6 opinion, or current or former associations;

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

12 (G) the extent to which laws in Vietnam
13 are written and administered in ways that are
14 consistent with international human rights
15 standards, including the rights enumerated in
16 the International Covenant on Civil and Polit-
17 ical Rights.

18 (b) CONTACTS WITH OTHER ORGANIZATIONS.—In
19 preparing each report required by subsection (a), the Sec-
20 retary of State shall—

21 (1) as appropriate, seek out and maintain con-
22 tacts with nongovernmental organizations and
23 human rights advocates (including Vietnamese-
24 Americans and human rights advocates in Vietnam),

1 including receiving reports and updates from such
2 organizations and evaluating such reports; and
3 (2) consult with the United States Commission
4 on International Religious Freedom for appropriate
5 sections of the report.