

**Suspend the Rules and Pass the Bill, H.R. 1410, With an Amendment**

**(The amendment strikes all after the enacting clause and inserts a new text)**

112TH CONGRESS  
1ST SESSION

# H. R. 1410

To promote freedom and democracy in Vietnam.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 7, 2011

Mr. SMITH of New Jersey (for himself, Mr. WOLF, Ms. ZOE LOFGREN of California, Ms. LORETTA SANCHEZ of California, and Mr. ROYCE) introduced the following bill; which was referred to the Committee on Foreign Affairs

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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 2012”.

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. 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 over \$20,000,000,000 in 2011.

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.

1           (5) Although in recent years the National As-  
2           sembly of Vietnam has played an increasingly active  
3           role as a forum for highlighting local concerns, cor-  
4           ruption, and inefficiency, the National Assembly re-  
5           mains subject to the direction of the CPV and the  
6           CPV maintains control over the selection of can-  
7           didates in national and local elections.

8           (6) The Government of Vietnam forbids public  
9           challenge to the legitimacy of the one-party state, re-  
10          stricts freedoms of opinion, the press, and associa-  
11          tion and tightly limits access to the Internet and  
12          telecommunication.

13          (7) Since Vietnam's accession to the WTO on  
14          January 11, 2007, the Government of Vietnam arbi-  
15          trarily arrested and imprisoned numerous individ-  
16          uals for their peaceful advocacy of religious freedom,  
17          democracy, and human rights, including Father  
18          Nguyen Van Ly, human rights lawyers Nguyen Van  
19          Dai, Le Thi Cong Nhan, Cu Huy Ha Vu, and Le  
20          Cong Dinh, and bloggers Nguyen Van Hai and Phan  
21          Thanh Hai.

22          (8) The Government of Vietnam continues to  
23          detain, imprison, place under house arrest, convict,  
24          or otherwise restrict persons for the peaceful expres-  
25          sion of dissenting political or religious views.

1           (9) The Government of Vietnam has also failed  
2           to improve labor rights, continues to arrest and har-  
3           ass labor leaders, and restricts the right to organize  
4           independently.

5           (10) The Government of Vietnam continues to  
6           limit the freedom of religion, restrict the operations  
7           of independent religious organizations, and persecute  
8           believers whose religious activities the Government  
9           regards as a potential threat to its monopoly on  
10          power.

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

17          (12) Unregistered ethnic minority Protestant  
18          congregations, particularly Montagnards in the Cen-  
19          tral and Northwest Highlands, suffer severe abuses  
20          because of actions by the Government of Vietnam,  
21          which have included forced renunciations of faith,  
22          arrest and harassment, the withholding of social pro-  
23          grams provided for the general population, confisca-  
24          tion and destruction of property, subjection to severe  
25          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) During Easter weekend in April 2004,  
9           thousands of Montagnards gathered to protest their  
10          treatment by the Government of Vietnam, including  
11          the confiscation of tribal lands and ongoing restric-  
12          tions on religious activities. Credible reports indicate  
13          that the protests were met with violent response as  
14          many demonstrators were arrested, injured, or went  
15          into hiding, and that others were killed. Many of  
16          these Montagnards and others are still serving long  
17          sentences for their involvement in peaceful dem-  
18          onstrations in 2001, 2002, 2004, and 2008.  
19          Montagnards continue to face threats, detention,  
20          beatings, forced renunciation of faith, property de-  
21          struction, restricted movement, and reported deaths  
22          at the hands of Government officials.

23          (18) Ethnic minority Hmong in the Northwest  
24          Highlands of Vietnam also suffer restrictions,  
25          abuses, and persecution by the Government of Viet-

1       nam, and although the Government is now allowing  
2       some Hmong Protestants to organize and conduct  
3       religious activities, some Government officials con-  
4       tinue to deny or ignore additional applications for  
5       registration, and to persecute churches and believers  
6       who do not wish to affiliate with Government-con-  
7       trolled religious entities.

8           (19) In 2007, the Government of Vietnam ar-  
9       rested, beat, and defrocked several ethnic Khmer  
10      Buddhists in response to a peaceful religious protest.  
11      The Government continues to restrict Khmer Krom  
12      expression, assembly, association, and controls all re-  
13      ligious organizations and prohibits most peaceful  
14      protests.

15          (20) The Government of Vietnam controls all  
16      print and electronic media, including access to the  
17      Internet, jams the signals of some foreign radio sta-  
18      tions, including Radio Free Asia, and has detained  
19      and imprisoned individuals who have posted, pub-  
20      lished, sent, or otherwise distributed democracy-re-  
21      lated materials.

22          (21) People arrested in Vietnam because of  
23      their political or religious affiliations and activities  
24      often are not accorded due legal process as they lack  
25      full access to lawyers of their choice, may experience

1 closed trials, have often been detained for years  
2 without trial, and have been subjected to the use of  
3 torture to admit crimes they did not commit or to  
4 falsely denounce their own leaders.

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

13 (23) Although the Government of Vietnam re-  
14 ports progress in combating human trafficking, it  
15 does not fully comply with the minimum standards  
16 for the elimination of trafficking, and is not making  
17 substantial efforts to comply.

18 (24) United States refugee resettlement pro-  
19 grams, including the Humanitarian Resettlement  
20 (HR) Program, the Orderly Departure Program  
21 (ODP), Resettlement Opportunities for Vietnamese  
22 Returnees (ROVR) Program, general resettlement of  
23 boat people from refugee camps throughout South-  
24 east Asia, the Amerasian Homecoming Act of 1988,  
25 and the Priority One Refugee resettlement category,

1 have helped rescue Vietnamese nationals who have  
2 suffered persecution on account of their associations  
3 with the United States or, in many cases, because of  
4 such associations by their spouses, parents, or other  
5 family members, as well as other Vietnamese nation-  
6 als who have been persecuted because of race, reli-  
7 gion, nationality, political opinion, or membership in  
8 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 holds tens of  
21 thousands of people in government-run drug deten-  
22 tion centers and treats them as slave laborers.

23 (27) To date, over 60,000 people have signed a  
24 petition calling on the Administration to not expand

1 trade with communist Vietnam at the expense of  
2 human rights.

3 (28) Congress has passed numerous resolutions  
4 condemning human rights abuses in Vietnam, indi-  
5 cating that although there has been an expansion of  
6 relations with the Government of Vietnam, it should  
7 not be construed as approval of the ongoing and se-  
8 rious violations of fundamental human rights in  
9 Vietnam.

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

12 **SEC. 3. PROHIBITION ON INCREASED NONHUMANITARIAN**  
13 **ASSISTANCE TO THE GOVERNMENT OF VIET-**  
14 **NAM.**

15 (a) ASSISTANCE.—

16 (1) IN GENERAL.—Except as provided in sub-  
17 section (b), the Federal Government may not pro-  
18 vide nonhumanitarian assistance to the Government  
19 of Vietnam during any fiscal year in an amount that  
20 exceeds the amount of such assistance provided dur-  
21 ing fiscal year 2011 unless—

22 (A) the Federal Government provides as-  
23 sistance, in addition to the assistance author-  
24 ized under section 4, supporting the creation  
25 and facilitation of human rights training, civil

1 society capacity building, noncommercial rule of  
2 law programming, and exchange programs be-  
3 tween the Vietnamese National Assembly and  
4 the United States Congress at levels commensu-  
5 rate with, or exceeding, any increases in non-  
6 humanitarian assistance to Vietnam;

7 (B) with respect to the limitation for fiscal  
8 year 2012, 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 (C) 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 5,  
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  
25 the application of subsection (a) for any fiscal year

1 if the President determines that the provision to the  
2 Government of Vietnam of increased nonhumanitarian  
3 assistance would promote the purpose of this  
4 Act or is otherwise in the national interest of the  
5 United States.

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

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

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

13 (c) DEFINITIONS.—In this section:

14 (1) NONHUMANITARIAN ASSISTANCE.—The  
15 term “nonhumanitarian assistance” means—

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

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

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

4 (iii) assistance for environmental re-  
5 mediation of dioxin-contaminated sites and  
6 related health activities;

7 (iv) assistance to combat severe forms  
8 of trafficking in persons;

9 (v) assistance to combat pandemic  
10 diseases;

11 (vi) assistance for refugees; and

12 (vii) assistance to combat HIV/AIDS,  
13 including any assistance under section  
14 104A of that Act; and

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

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

23 (d) EFFECTIVE DATE.—This section shall take effect  
24 on the date of the enactment of this Act and shall apply  
25 with respect to the provision of nonhumanitarian assist-

1 ance to the Government of Vietnam during fiscal year  
2 2013 and subsequent fiscal years.

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

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

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

1 **SEC. 5. ANNUAL REPORT.**

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

6 (1) The determination and certification of the  
7 President that the requirements of subparagraphs  
8 (A) through (G) of section 3(a)(2) have been met,  
9 if applicable.

10 (2) Steps taken to carry out section 3(a)(1)(A),  
11 if applicable.

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

15 (4) Efforts to ensure that programs with Viet-  
16 nam promote the policy set forth in section 102 of  
17 the Human Rights, Refugee, and Other Foreign Pol-  
18 icy Provisions Act of 1996 regarding participation in  
19 programs of educational and cultural exchange.

20 (5) Lists of persons believed to be imprisoned,  
21 detained, or placed under house arrest, tortured, or  
22 otherwise persecuted by the Government of Vietnam  
23 due to their pursuit of internationally recognized  
24 human rights. In compiling such lists, the Secretary  
25 shall exercise appropriate discretion, including con-  
26 cerns regarding the safety and security of, and ben-

1       efit to, the persons who may be included on the lists  
2       and their families. In addition, the Secretary shall  
3       include a list of such persons and their families who  
4       may qualify for protections under United States ref-  
5       ugee programs.

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

8                       (A) progress toward the development of in-  
9       stitutions of democratic governance;

10                      (B) processes by which statutes, regula-  
11       tions, rules, and other legal acts of the Govern-  
12       ment of Vietnam are developed and become  
13       binding within Vietnam;

14                      (C) the extent to which statutes, regula-  
15       tions, rules, administrative and judicial deci-  
16       sions, and other legal acts of the Government of  
17       Vietnam are published and are made accessible  
18       to the public;

19                      (D) the extent to which administrative and  
20       judicial decisions are supported by statements  
21       of reasons that are based upon written statutes,  
22       regulations, rules, and other legal acts of the  
23       Government of Vietnam;

24                      (E) the extent to which individuals are  
25       treated equally under the laws of Vietnam with-

1 out regard to citizenship, race, religion, political  
2 opinion, or current or former associations;

3 (F) the extent to which administrative and  
4 judicial decisions are independent of political  
5 pressure or governmental interference and are  
6 reviewed by entities of appellate jurisdiction;  
7 and

8 (G) the extent to which laws in Vietnam  
9 are written and administered in ways that are  
10 consistent with international human rights  
11 standards, including the requirements of the  
12 International Covenant on Civil and Political  
13 Rights.

14 (b) CONTACTS WITH OTHER ORGANIZATIONS.—In  
15 preparing the report under subsection (a), the Secretary  
16 shall, as appropriate, seek out and maintain contacts with  
17 nongovernmental organizations and human rights advo-  
18 cates (including Vietnamese-Americans and human rights  
19 advocates in Vietnam), including receiving reports and up-  
20 dates from such organizations and evaluating such re-  
21 ports. The Secretary shall also seek to consult with the  
22 United States Commission on International Religious  
23 Freedom for appropriate sections of the report.