

**Suspend the Rules and Pass the Bill, H. R. 1897, With an
Amendment**

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

113TH CONGRESS
1ST SESSION

H. R. 1897

To promote freedom and democracy in Vietnam.

IN THE HOUSE OF REPRESENTATIVES

MAY 8, 2013

Mr. SMITH of New Jersey (for himself, Mr. ROYCE, Mr. WOLF, Ms. LOFGREN,
and Mr. LOWENTHAL) 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 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.

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 detained numerous individuals
16 for their peaceful advocacy of religious freedom, de-
17 mocracy, 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, Ta
21 Phong Tan, and Le Van Son.

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 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 (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 nalisists, 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 for demining and
8 unexploded ordnance (UXO) remediation,
9 and related health and educational activi-
10 ties;

11 (v) assistance to combat severe forms
12 of trafficking in persons;

13 (vi) assistance to combat pandemic
14 diseases;

15 (vii) assistance for refugees; and

16 (viii) assistance to combat HIV/AIDS,
17 including any assistance under section
18 104A of that Act; and

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

21 (2) SEVERE FORM OF TRAFFICKING IN PER-
22 SONS.—The term “severe form of trafficking in per-
23 sons” means any activity described in section 103(8)
24 of the Trafficking Victims Protection Act of 2000

1 (Public Law 106–386 (114 Stat. 1470); 22 U.S.C.
2 7102(8)).

3 (d) **EFFECTIVE DATE.**—This section shall take effect
4 on the date of the enactment of this Act and shall apply
5 with respect to the provision of nonhumanitarian assist-
6 ance to the Government of Vietnam for fiscal year 2014
7 and subsequent fiscal years.

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

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

18 (b) **UNITED STATES EDUCATIONAL AND CULTURAL**
19 **EXCHANGE PROGRAMS WITH VIETNAM.**—It is the sense
20 of Congress that any programs of educational and cultural
21 exchange between the United States and Vietnam should
22 actively promote progress toward freedom and democracy
23 in Vietnam by providing opportunities to Vietnamese na-
24 tionals from a wide range of occupations and perspectives
25 to see freedom and democracy in action and, also, by en-

1 suring that Vietnamese nationals who have already dem-
2 onstrated a commitment to these values are included in
3 such programs.

4 (c) UNITED NATIONS HUMAN RIGHTS COUNCIL.—
5 It is the sense of Congress that the Secretary of State
6 should strongly oppose, and encourage other members of
7 the United Nations to oppose, the candidacy of Vietnam
8 for membership on the United Nations Human Rights
9 Council for the term beginning in 2014.

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

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

16 (b) MINIMUM STANDARDS FOR THE ELIMINATION OF
17 HUMAN TRAFFICKING.—It is the sense of Congress that
18 the Government of Vietnam does not fully comply with the
19 minimum standards for the elimination of trafficking and
20 is not making significant efforts to bring itself into compli-
21 ance, and this determination should be reflected in the an-
22 nual report to Congress required pursuant to section
23 110(b) of the Trafficking Victims Protection Act of 2000
24 (22 U.S.C. 7107(b)).

1 **SEC. 6. ANNUAL REPORT.**

2 (a) IN GENERAL.—Not later than six months after
3 the date of the enactment of this Act and every 12 months
4 thereafter, the Secretary of State shall submit to Congress
5 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) If the President has waived the application
11 of section 3(a) pursuant to section 3(b) during the
12 reporting period—

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

15 (B) the amount of increased nonhumanitarian
16 assistance provided to the Government of
17 Vietnam; and

18 (C) a description of the type and amount
19 of commensurate assistance provided pursuant
20 to section 3(b)(1).

21 (3) Efforts by the United States Government to
22 promote access by the Vietnamese people to Radio
23 Free Asia transmissions.

24 (4) Efforts to ensure that programs with Viet-
25 nam promote the policy set forth in section 102 of
26 the Human Rights, Refugee, and Other Foreign Pol-

1 icy Provisions Act of 1996 regarding participation in
2 programs of educational and cultural exchange.

3 (5) 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 (6) 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 rights enumerated in
21 the International Covenant on Civil and Polit-
22 ical 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.