

Testimony of DAS Dan Baer Before the House Foreign Affairs Committee
U.S.-Vietnam Bilateral Relations
Wednesday, June 5, 2013; 2:00 pm

Mr. Chairman and Members of the Committee, thank you for holding this important hearing to focus attention on the bilateral relations between the United States and Vietnam. We appreciate the Committee's concern about the human rights situation in Vietnam, and are pressing the government for needed reforms.

The Department of State recently submitted to Congress both the annual *Country Reports on Human Rights Practices* and the *Report on International Religious Freedom*. These two reports prepared by the Bureau of Democracy, Human Rights and Labor with collaboration of colleagues at posts around the world, provide a detailed snapshot of our concerns relating to the human rights climate in Vietnam. I commend those reports to the Committee for greater detail on the human rights situation in Vietnam.

In April I led an interagency delegation to Vietnam that included representatives from the White House and the Department of Homeland Security for the U.S.-Vietnam Human Rights Dialogue. Throughout the course of my four-day visit, we emphasized the importance of human rights and pointed out that 2013 represents an opportunity for the government of Vietnam to choose to improve its human rights record and respect the human rights enshrined in the Universal Declaration of Human Rights.

We acknowledged positive steps such as the release (albeit with restrictions) of activist Le Cong Dinh, facilitating the visit of a senior representative from an international human rights organization, and accelerating church registrations in the Highlands. We welcomed discussions between the government and the Vatican that could improve relations, and also what appears to be potential positive movement for the human rights of LGBT persons. We are watching closely and with great interest the flood of public comments about the draft Constitution and are encouraged by the government's decision to extend the comment period. It is now incumbent upon authorities to give those comments considered and fair review and to incorporate this grassroots voice of the people into the revised text of the Constitution.

But these steps are not enough to reverse a years-long trend of deterioration, as evidenced by the cases detailed in our Human Rights Report. Nor have the isolated positive steps formed a consistent pattern. In increasing numbers, bloggers continue to be harassed and jailed for peaceful online speech and activists live under a continual cloud – activists such as Nguyen Van Dai and Pham Hong Son, whom authorities prevented from meeting with me in Hanoi.

Our concern about the human rights situation touches every aspect of the relationship. Those concerns, at their core, exemplify the lack of fairness we see. Let me outline a few of those concerns.

Many of Vietnam's more than 120 political prisoners are in jail for exercising their right to freedom of expression. Cu Huy Ha Vu, whose wife I met with in Hanoi, criticized publicly the corruption associated with bauxite mining and was sentenced to seven years in prison. Ta Phong

Tan is in prison for writing online about police corruption. Nguyen Van Hai, or Dieu Cay, peacefully expressed his views online and protested his country's policy towards China and is now serving a 12-year sentence. The state has deemed these individuals a threat, a national security concern – a charge clearly unfounded when you sit down and have a conversation with individuals such as Father Ly, whom I was able to meet in prison. Do Thi Minh Hanh, Doan Huy Chuong, and Nguyen Hoang Quoc Hung were arrested in February 2010 for distributing pamphlets calling for democratic freedoms and the right to assembly. The UN Human Rights Council Working Group on Arbitrary Detention, during its 65th session, determined that “the deprivation of liberty of Mr. Nguyen, Ms. Do and Mr. Doan is arbitrary” and stated that the adequate remedy would be the release of these three individuals. When the government arbitrarily dictates the line between what is a threat against the state and what is not – and when that line is ever shifting, then there is an inherent unfairness that undermines development.

Development of a modern, successful, and fair country also requires the free flow of information. This creates a synergy of ideas and inspires innovation. Yet Vietnam seeks to control information, even as that control is increasingly slipping out of its hands. We are very concerned about Vietnam's Internet policies of blocking, hacking, surveillance, and its detention of bloggers. Draft regulations on Internet content management, seek to restrict the flow of information further. Nonetheless, Vietnam's Internet penetration continues to grow, and the country has seen a blossoming of blogs that continue to attract the interest of large numbers of reform-minded Vietnamese – including Dan Luan [PRON: Zuhn Loo-ahn] and Thong Tan Xa Vang Anh [PRON: Tong Tun Sah Vang Anh]. Other websites, such as Anh Ba Sam, which hosted sophisticated commentary on Constitutional reform and advocated for elimination national security exceptions to its human rights protections, have been targeted with hacking and disabling.

A frequent refrain I hear whenever I visit Vietnam is the need for better implementation of the laws that are on the books. Constitutionally, citizens have the right to free speech, freedom of religious belief, and other human rights. Despite these written protections for religious freedom, we all know members of Christian, Buddhist, and other groups face harassment and are not consistently allowed to register. While we have seen some positive steps in this area, there is still a lack of fundamental fairness. The new Decree 92, which came into effect in January but has yet to be implemented, could be implemented in a manner that further restricts, rather than promotes, religious freedom. Vietnamese laws guarantee access to a lawyer and guarantee defense lawyers' equal standing with the procuracy. Reality, though, plays out differently. I have heard repeatedly from the lawyers of political prisoners who are not permitted access to case files, who are given unequal accommodations in courtrooms, are not allowed to use computers or tablets, and are not allowed to adequately defend their clients. And then there are laws that run counter to international human rights norms such as Articles 79 and 88, which are used to detain political activists critical of the state. Such imbalances in the rule of law undermine Vietnam's development and undercut its potential.

Since normalization over 18 years ago, the ties between Vietnam and the United States have improved – through trade, travel, and the cultural connections that have been reinforced. The relationship has benefitted those on both sides of the ocean, but in particular, it has benefitted the

Vietnamese living in Vietnam, where the standard of living has increased as the population becomes better off, more educated, and savvier about the world and the opportunities available.

Although Vietnam has become a more prosperous country, Vietnamese citizens still do not enjoy fully their universally recognized human rights and fundamental freedoms. Without progress on human rights, there are limits to the levels of development Vietnam can achieve.

That is why we want to work closely with Members of the Committee to push Vietnam to improve its protection of human rights – to govern more fairly – because we care about those denied human rights, and it is the right thing to do. The people of Vietnam deserve a system that provides rule of law, with equality for all before the law. The rules should be transparent and accessible to everyone, not arbitrary.

Again, thank you for holding this hearing to discuss further the U.S.-Vietnam bilateral relationship. I look forward to working with the members of the Committee, and will now be happy to take your questions.