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HOUSE OF REPRESENTATIVES

REPORT
107–

VIET NAM HUMAN RIGHTS ACT

SEPTEMBER 5, 2001.—Ordered to be printed

Mr. HYDE, from the Committee on International Relations, submitted the following

REPORT

[To accompany H.R. 2368]

The Committee on International Relations, to whom was referred the bill (H.R. 2368) to promote freedom and democracy in Viet Nam, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

TABLE OF CONTENTS

	Page
The Amendment	2
Purpose and Summary	7
Background and Need for the Legislation	7
Hearings	9
Committee Consideration	9
Committee Oversight Findings	9
New Budget Authority and Tax Expenditures	9
Committee Cost Estimate	10
Performance Goals and Objectives	10
Constitutional Authority Statement	10
Section-by-Section Analysis	10
New Advisory Committees	13

THE AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Viet Nam Human Rights Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—GENERAL PROVISIONS

Sec. 101. Findings.
Sec. 102. Purpose.

TITLE II—PROMOTION OF FREEDOM AND DEMOCRACY IN VIET NAM

Subtitle A—Prohibition on Nonhumanitarian Assistance to the Government of Viet Nam

Sec. 201. Bilateral nonhumanitarian assistance.
Sec. 202. Multilateral nonhumanitarian assistance.

Subtitle B—Assistance to Support Democracy in Viet Nam

Sec. 211. Assistance.

Subtitle C—United States Public Diplomacy

Sec. 221. Radio Free Asia transmissions to Viet Nam.
Sec. 222. United States educational and cultural exchange programs with Viet Nam.

Subtitle D—United States Refugee Policy

Sec. 232. Refugee resettlement for nationals of Viet Nam.

Subtitle E—Annual Report on Progress Toward Freedom and Democracy in Viet Nam

Sec. 241. Annual report.

TITLE I—GENERAL PROVISIONS

SEC. 101. FINDINGS.

Congress finds the following:

(1) Viet Nam is a one-party state, ruled and controlled by the Vietnamese Communist Party.

(2) The Government of Viet Nam denies the people of Viet Nam the right to change their government and prohibits independent political, social, and labor organizations.

(3)(A) The Government of Viet Nam consistently pursues a policy of harassment, discrimination, and intimidation, and sometimes of imprisonment and other forms of detention, against those who peacefully express dissent from government or party policy.

(B) Recent victims of such mistreatment, which violates the rights to freedom of expression and association recognized in the Universal Declaration of Human Rights, include Dr. Nguyen Dan Que, Dr. Nguyen Thanh Giang, General Tran Do, Most Venerable Thich Huyen Quang, Most Venerable Thich Quang Do, Father Nguyen Van Ly, numerous leaders of the Hoa Hao Buddhist Church and of independent Protestant churches, and an undetermined number of members of the Montagnard ethnic minority groups who participated in peaceful demonstrations in the Central Highlands of Viet Nam during February 2001.

(4) The Government of Viet Nam systematically deprives its citizens of the fundamental right to freedom of religion. Although some freedom of worship is permitted, believers are forbidden to participate in religious activities except under circumstances rigidly defined and controlled by the government:

(A) In 1999 the Government issued a Decree Concerning Religious Activities, which declared in pertinent part that "[a]ll activities using religious belief in order to oppose the State of the Socialist Republic of Viet Nam, to prevent the believers from carrying out civic responsibilities, to sabotage the union of all the people, to against the healthy culture of our nation, as well as superstitious activities, will be punished in conformity with the law".

(B) The Unified Buddhist Church of Viet Nam (UCBV), the largest religious denomination in the country, has been declared illegal by the Govern-

ment, and over the last twenty-five years its clergy have often been imprisoned and subjected to other forms of persecution. The Patriarch of the Unified Buddhist Church, 83-year-old Most Venerable Thich Huyen Quang, has been detained for 21 years in a ruined temple in an isolated area of central Viet Nam. Most Venerable Thich Quang Do, the Executive President of the Unified Buddhist Church, has also been in various forms of detention for many years, and was recently rearrested and placed under house arrest after he had proposed to bring Most Venerable Thich Huyen Quang to Saigon for medical treatment.

(C) The Hoa Hao Buddhist Church was also declared to be illegal until 1999, when the Government established an organization which purports to govern the Hoa Hao. According to the United States Commission on International Religious Freedom, "[t]his organization is made up almost entirely of Communist Party members and apparently is not recognized as legitimate by the vast majority of Hoa Haos . . . [n]evertheless, [this government-sponsored organization] has sought to control all Hoa Hao religious activity, particularly at the Hoa Hao village, which is the center of Hoa Hao religious life". Hoa Hao believers who do not recognize the legitimacy of the government organization are denied the right to visit the Hoa Hao village, to conduct traditional religious celebrations, or to display Hoa Hao symbols. Many have been arrested and subjected to administrative detention, and several Hoa Hao have been sentenced to prison terms for protesting these denials of religious freedom.

(D) Independent Protestants, most of whom are members of ethnic minority groups, are subjected to particularly harsh treatment by the Government of Viet Nam. According to the United States Commission on International Religious Freedom, such treatment includes "police raids on homes and house churches, detention, imprisonment, confiscation of religious and personal property, physical and psychological abuse, and fines for engaging in unapproved religious activities (such as collective worship, public religious expression and distribution of religious literature, and performing baptisms, marriages, or funeral services) . . . [i]n addition, it is reported that ethnic Hmong Protestants have been forced by local officials to agree to abandon their faith".

(E) Other religious organizations, such as the Catholic Church, are formally recognized by the Government but are subjected to pervasive regulation which violates the right to freedom of religion. For instance, the Catholic Church is forbidden to appoint its own bishops without Government consent, which is frequently denied, to accept seminarians without specific official permission, and to profess Catholic doctrines which are inconsistent with Government policy. A Catholic priest, Father Nguyen Van Ly, was arrested in March 2001 and remains in detention after submitting written testimony to the United States Commission on International Religious Freedom.

(F) The Government has also confiscated numerous churches, temples, and other properties belonging to religious organizations. The vast majority of these properties—even those belonging to religious organizations formally recognized by the Government—have never been returned.

(5) Since 1975 the Government of Viet Nam has persecuted veterans of the Army of the Republic of Viet Nam and other Vietnamese who had opposed the Viet Cong insurgency and the North Vietnamese invasion of South Viet Nam. Such persecution typically included substantial terms in "re-education camps", where detainees were often subjected to torture and other forms of physical abuse, and in which many died. Re-education camp survivors and their families were often forced into internal exile in "New Economic Zones". Many of these former allies of the United States, as well as members of their families, continue until the present day to suffer various forms of harassment and discrimination, including denial of basic social benefits and exclusion from higher education and employment.

(6)(A) The Government of Viet Nam has been particularly harsh in its treatment of members of the Montagnard ethnic minority groups of the Central Highlands of Viet Nam, who were the first line in the defense of South Viet Nam against invasion from the North and who fought courageously beside members of the Special Forces of the United States Army, suffering disproportionately heavy casualties, and saving the lives of many of their American and Vietnamese comrades-in-arms.

(B) Since 1975 the Montagnard peoples have been singled out for severe repression, in part because of their past association with the United States and

in part because their strong commitment to their traditional way of life and to their Christian religion is regarded as inconsistent with the absolute loyalty and control demanded by the Communist system.

(C) In February 2001 several thousand Montagnards participated in a series of peaceful demonstrations throughout the Central Highlands, demanding religious freedom and restoration of their confiscated lands, and the Government responded by closing off the Central Highlands and sending in military forces, tanks, and helicopter gunships.

(D) Credible reports by refugees who have escaped to Cambodia indicate that the Government has executed some participants in the demonstrations and has subjected others to imprisonment, torture, and other forms of physical abuse.

(E) The Government of Viet Nam has also taken steps to prevent further Montagnards from escaping, and there are credible reports that Vietnamese security forces in Cambodia are offering bounties for the surrender of Montagnard asylum seekers.

(7) The Government of Viet Nam has also persecuted members of other ethnic minority groups, including the Khmer Krom from the Mekong Delta, many of whom fought alongside United States military personnel during the Viet Nam war and whose Hinayana Buddhist religion is not among those recognized by the Government.

(8) The Government of Viet Nam also engages in or condones serious violations of the rights of workers. In August 1997, the United Nations Children's Fund (UNICEF) reported that child labor exploitation is on the rise in Viet Nam with tens of thousands of children under 15 years of age being subjected to such exploitation. The government's official labor export program also has subjected workers, many of whom are women, to involuntary servitude, debt bondage, and other forms of abuse, and the reaction of government officials to worker complaints of such abuse has been to threaten the workers with punishment if they do not desist in their complaints.

(9)(A) United States refugee resettlement programs for Vietnamese nationals, including the Orderly Departure Program (ODP), the Resettlement Opportunities for Returning Vietnamese (ROVR) program, and resettlement of boat people from refugee camps throughout Southeast Asia, were authorized by law in order to rescue Vietnamese nationals who have suffered persecution on account of their wartime associations with the United States, as well as those who currently have a well-founded fear of persecution on account of race, religion, nationality, political opinion, or membership in a particular social group.

(B) In general, these programs have served their purpose well. However, many refugees who were eligible for these programs were unfairly denied or excluded, in some cases by vindictive or corrupt Communist officials who controlled access to the programs, and in others by United States personnel who imposed unduly restrictive interpretations of program criteria. These unfairly excluded refugees include some of those with the most compelling cases, including many Montagnard combat veterans and their families.

(10) The Government of Viet Nam systematically jams broadcasts by Radio Free Asia, an independent broadcast service funded by the United States in order to provide news and entertainment to the people of countries in Asia whose governments deny the right to freedom of expression and of the press.

(11) In 1995 the Governments of the United States and Viet Nam announced the "normalization" of diplomatic relations. In 1998 then-President Clinton waived the application of section 402 of the Trade Act of 1974 (commonly known as the "Jackson-Vanik Amendment"), which restricts economic assistance to countries with non-market economies whose governments also restrict freedom of emigration. In 1999 the Governments of the United States and Viet Nam announced "agreement in principle" on a bilateral trade agreement. This agreement was signed in 2000 and has been presented to Congress for approval or disapproval.

(12) The Congress and the American people are united in their determination that the extension or expansion of trade relations with a country whose government engages in serious and systematic violations of fundamental human rights must not be construed as a statement of approval or complacency about such practices. The promotion of freedom and democracy around the world—and particularly for people who have suffered in large part because of their past associations with the United States and because they share our values—is and must continue to be a central objective of United States foreign policy.

SEC. 102. PURPOSE.

The purpose of this Act is to promote the development of freedom and democracy in Viet Nam.

TITLE II—PROMOTION OF FREEDOM AND DEMOCRACY IN VIET NAM

Subtitle A—Prohibition on Nonhumanitarian Assistance to the Government of Viet Nam

SEC. 201. BILATERAL NONHUMANITARIAN ASSISTANCE.

(a) ASSISTANCE.—

(1) IN GENERAL.—Except as provided in subsection (b), United States nonhumanitarian assistance may not be provided to the Government of Viet Nam—

(A) for fiscal year 2002 unless not later than 30 days after the date of the enactment of this Act the President determines and certifies to Congress that the requirements of subparagraphs (A) through (D) of paragraph (2) have been met during the 12-month period ending on the date of the certification; and

(B) for each subsequent fiscal year unless the President determines and certifies to Congress in the most recent annual report submitted pursuant to section 241 that the requirements of subparagraphs (A) through (D) of paragraph (2) have been met during the 12-month period covered by the report.

(2) REQUIREMENTS.—The requirements of this paragraph are that—

(A) the Government of Viet Nam has made substantial progress toward releasing all political and religious prisoners from imprisonment, house arrest, and other forms of detention;

(B) the Government of Viet Nam has made substantial progress toward respecting the right to freedom of religion, including the right to participate in religious activities and institutions without interference by or involvement of the Government;

(C) the Government of Viet Nam has made substantial progress toward respecting the human rights of members of ethnic minority groups in the Central Highlands or elsewhere in Viet Nam; and

(D)(i) neither any official of the Government of Viet Nam nor any agency or entity wholly or partly owned by the Government of Viet Nam was complicit in a severe form of trafficking in persons; or

(ii) the Government of Viet Nam took all appropriate steps to end any such complicity and hold such official, agency, or entity fully accountable for its conduct.

(b) EXCEPTION.—Subsection (a) shall not apply for any fiscal year with respect to the provision of United States nonhumanitarian assistance for any program or activity for which such assistance was provided to the Government of Viet Nam for fiscal year 2001 in an amount not to exceed the amount so provided for fiscal year 2001.

(c) DEFINITIONS.—In this section:

(1) SEVERE FORM OF TRAFFICKING IN PERSONS.—The term "severe form of trafficking in persons" means any activity described in section 103(8) of the Trafficking Victims Protection Act of 2000 (Public Law 106–386 (114 Stat. 1470); 22 U.S.C. 7102(8)).

(2) UNITED STATES NONHUMANITARIAN ASSISTANCE.—The term "United States nonhumanitarian assistance" means—

(A) any assistance under the Foreign Assistance Act of 1961 (including programs under title IV of chapter 2 of part I of that Act, relating to the Overseas Private Investment Corporation), other than—

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

(ii) assistance which involves the provision of food (including monetization of food) or medicine; and

(iii) assistance for refugees;

(B) sales, or financing on any terms, under the Arms Export Control Act; and

(C) financing under the Export-Import Bank Act of 1945.

SEC. 202. MULTILATERAL NONHUMANITARIAN ASSISTANCE.

The Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank and of the International Monetary Fund to use the voice, vote, and influence of the United States to deny any loan or other utilization of the funds of such bank or institution (other than for humanitarian assistance) to Viet Nam for fiscal year 2002 and each subsequent fiscal year unless the President determines and certifies to Congress for such fiscal year that the requirements of subparagraphs (A) through (D) of section 201(a)(2) have been met.

Subtitle B—Assistance to Support Democracy in Viet Nam

SEC. 211. ASSISTANCE.

(a) IN GENERAL.—The President is authorized to provide assistance, through appropriate nongovernmental organizations, for the support of individuals and organizations to promote human rights and nonviolent democratic change in Viet Nam.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the President to carry out subsection (a) $2,000,000 for each of the fiscal years 2002 and 2003.

Subtitle C—United States Public Diplomacy

SEC. 221. RADIO FREE ASIA TRANSMISSIONS TO VIET NAM.

(a) POLICY OF THE UNITED STATES.—It is the policy of the United States to take such measures as are necessary to overcome the jamming of Radio Free Asia by the Government of Viet Nam.

(b) AUTHORIZATION OF APPROPRIATIONS.—In addition to such amounts as are otherwise authorized to be appropriated for the Broadcasting Board of Governors, there are authorized to be appropriated to carry out the policy under subsection (a) $9,100,000 for the fiscal year 2002 and $1,100,000 for the fiscal year 2003.

SEC. 222. UNITED STATES EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS WITH VIET NAM.

It is the policy of the United States that programs of educational and cultural exchange with Viet Nam should actively promote progress toward freedom and democracy in Viet Nam by providing opportunities to Vietnamese nationals from a wide range of occupations and perspectives to see freedom and democracy in action and, also, by ensuring that Vietnamese nationals who have already demonstrated a commitment to these values are included in such programs.

Subtitle D—United States Refugee Policy

SEC. 232. REFUGEE RESETTLEMENT FOR NATIONALS OF VIET NAM.

(a) POLICY OF THE UNITED STATES.—It is the policy of the United States to offer refugee resettlement to nationals of Viet Nam (including members of the Montagnard ethnic minority groups) who were eligible for the Orderly Departure Program or any other United States refugee program and who were deemed ineligible due to administrative error or who for reasons beyond the control of such individuals (including the inability to pay bribes demanded by officials of the Government of Viet Nam) were unable to apply for such programs in compliance with deadlines imposed by the Department of State.

(b) AUTHORIZED ACTIVITY.—Of the amounts authorized to be appropriated to the Department of State for Migration and Refugee Assistance for each of the fiscal years 2001, 2002, and 2003, such sums as may be necessary are authorized to be made available for the protection (including resettlement in appropriate cases) of Vietnamese refugees and asylum seekers, including Montagnards in Cambodia.

Subtitle E—Annual Report on Progress Toward Freedom and Democracy in Viet Nam

SEC. 241. ANNUAL REPORT.

Not later than May 31 of each year, the Secretary of State shall submit to Congress a report for the 12-month period ending on the date of submission of the report, on the following:

(1) The determination and certification of the President that the requirements of subparagraphs (A) through (D) of section 201(a)(2) have been met, if applicable.

(2) Efforts by the United States Government to secure transmission sites for Radio Free Asia in countries in close geographical proximity to Viet Nam in accordance with section 221(a).

(3) Efforts to ensure that programs with Viet Nam promote the policy set forth in section 222 and with section 102 of the Human Rights, Refugee, and Other Foreign Policy Provisions Act of 1996 regarding participation in programs of educational and cultural exchange.

(4) Steps taken to carry out the policy under section 232(a).

PURPOSE AND SUMMARY

H.R. 2368, the Viet Nam Human Rights Act, is designed to ensure that the promotion of freedom and democracy will be a central element in U.S. policy toward Viet Nam.

First, the Act contains an honest and detailed assessment of the human rights situation in Viet Nam. It describes violations by the Government of Viet Nam of the rights to freedom of expression, association, and religion, and the rights of workers, as well as persecution of ethnic minorities including the Montagnards and of persons associated with the U.S. prior to 1975.

The Act conditions future increases in foreign assistance (other than humanitarian assistance) to the government of Viet Nam in each fiscal year after FY 2001 on a finding by the President that the government of Viet Nam has made "substantial progress" during the previous year toward meeting certain human rights benchmarks.

The Act also authorizes assistance to nongovernmental organizations committed to promoting freedom and democracy in Viet Nam; supports efforts to overcome the jamming of Radio Free Asia by the government of Viet Nam; requires efforts by the State Department to ensure that U.S. cultural and educational exchange programs are open to people who share our values, not just to Vietnamese government and Communist Party officials and persons close to such officials; and declares it to be the policy of the United States to offer refugee resettlement to residents of Viet Nam who meet the statutory criteria for U.S. refugee programs but have been wrongly excluded from such programs.

BACKGROUND AND NEED FOR THE LEGISLATION

Viet Nam is a one-party state, ruled and controlled by the Vietnamese Communist Party. The Government of Viet Nam denies the people of Viet Nam the right to change their government and prohibits independent political, social, and labor organizations. The Government consistently pursues a policy of harassment, discrimination, and intimidation, and sometimes of imprisonment and other forms of detention, against those who peacefully express dis-

sent from government or party policy. The Government also systematically deprives its citizens of the fundamental right to freedom of religion. Although some freedom of worship is permitted, believers are forbidden to participate in religious activities except under circumstances rigidly defined and controlled by the government.

Since 1975 the Government of Viet Nam has persecuted veterans of the Army of the Republic of Viet Nam and other Vietnamese who had opposed the Viet Cong insurgency and the North Vietnamese invasion of South Viet Nam. Such persecution typically included substantial terms in 're-education camps', where detainees were often subjected to torture and other forms of physical abuse, and in which many died. Re-education camp survivors and their families were often forced into internal exile in 'New Economic Zones'. Many of these former allies of the United States, as well as members of their families, continue until the present day to suffer various forms of harassment and discrimination, including denial of basic social benefits and exclusion from higher education and employment.

The Government of Viet Nam has been particularly harsh in its treatment of members of the Montagnard ethnic minority groups of the Central Highlands of Viet Nam, who were the first line in the defense of South Viet Nam against invasion from the North and who fought courageously beside members of the Special Forces of the United States Army, suffering disproportionately heavy casualties, and saving the lives of many of their American and Vietnamese comrades-in-arms. Since 1975 the Montagnard peoples have been singled out for severe repression, in part because of their past association with the United States and in part because their strong commitment to their traditional way of life and to their Christian religion is regarded as inconsistent with the absolute loyalty and control demanded by the Communist system. The Government of Viet Nam has also persecuted members of other ethnic minority groups, including the Khmer Krom from the Mekong Delta, many of whom fought alongside United States military personnel during the Viet Nam war and whose Hinayana Buddhist religion is not among those recognized by the Government.

The Government of Viet Nam also engages in or condones serious violations of the rights of workers. In August 1997, the United Nations Children's Fund (UNICEF) reported that child labor exploitation is on the rise in Viet Nam with tens of thousands of children under 15 years of age being subjected to such exploitation. The government's official labor export program also has subjected workers, many of whom are women, to involuntary servitude, debt bondage, and other forms of abuse, and the reaction of government officials to worker complaints of such abuse has been to threaten the workers with punishment if they do not desist in their complaints. The Government systematically jams broadcasts by Radio Free Asia, an independent broadcast service funded by the United States in order to provide news and entertainment to the people of countries in Asia whose governments deny the right to freedom of expression and of the press.

Enactment of comprehensive Viet Nam human rights legislation is particularly important in light of pending Congressional consid-

eration of a resolution approving the U.S.-Viet Nam Bilateral Trade Agreement. Passage of H.R. 2368 contemporaneously with approval of the trade agreement will send a balanced message to Hanoi and to the world: that the United States wishes to have free trade with Viet Nam, in part because we believe that in the long run trade will help to open up Vietnamese society, but that approval of expanded trade relations should not be construed as a United States "stamp of approval" of Hanoi's human rights record. This nuanced message is particularly important in light of recent government crackdowns on Buddhist and Christian religious believers and on members of the Montagnard ethnic minority groups.

HEARINGS

The Committee and its subcommittees have held a number of hearings on the issues addressed by H.R. 2368. Most recently, on May 24, 2001, the Committee held a hearing on the Annual Report of the United States Commission on International Religious Freedom, at which testimony was taken on recent actions by the government of Viet Nam against believers and clergy of the Catholic, Protestant, Unified Buddhist, and Hoa Hao Buddhist churches. The Committee's Subcommittee on East Asian and Pacific Affairs held a hearing on September 19, 2000, on the U.S.-Viet Nam bilateral trade agreement, at which the testimony also assessed the government's human rights record and mechanisms to seek improvements in this record. The Subcommittee on International Operations and Human Rights has held a number of hearings on human rights in Viet Nam and on United States programs for the resettlement of Vietnamese refugees, most recently a hearing on March 3, 1999, in which several witnesses addressed deficiencies in the operation of these programs that were described as resulting in the systematic wrongful exclusion of persons who had been persecuted for their wartime associations with the United States.

COMMITTEE CONSIDERATION

On August 1, 2001, the Committee met in open session and ordered favorably reported the bill H.R. 2368 with an amendment by unanimous consent, a quorum being present.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of House Rule XIII is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

COMMITTEE COST ESTIMATE

In compliance with clause 3(d)(2) of rule XIII of the Rules of the House of Representatives, the Committee believes that the bill will have no significant net cost either for the current fiscal year or for the next 5 fiscal years. The bill authorizes expenditures in the total amount of $16.2 million over the next 3 fiscal years for democracy promotion and for enhanced transmission facilities to overcome the jamming of Radio Free Asia, but the bill also restricts expenditures for nonhumanitarian foreign assistance to the government of Viet Nam which, in the absence of such restrictions, could substantially exceed the expenditures authorized by the bill.

PERFORMANCE GOALS AND OBJECTIVES

The bill will promote democracy and human rights in Viet Nam, including the release of political and religious prisoners, respect for the right to freedom of religion and for the rights of members of ethnic minority groups, and an end to government complicity in severe forms of trafficking in human beings. The bill will also promote efforts by the United States to end the jamming of Radio Free Asia, to ensure wider and more diverse access to educational and cultural exchange programs with Viet Nam, and to resettle refugees who have been wrongly excluded from United States programs for which they are eligible.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article I, section 8, clauses 1, 3, and 18 of the Constitution.

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title; Table of Contents. The Act may be cited as the "Viet Nam Human Rights Act."

TITLE I—GENERAL PROVISIONS

Section 101. Findings. This section describes violations by the Government of Viet Nam of the rights to freedom of expression, association, and religion, and the rights of workers, as well as persecution of Montagnards, other ethnic minorities, and persons associated with the U.S. prior to 1975. The section also summarizes the history of U.S. policy toward Vietnamese refugees and of "normalization" of U.S.-Viet Nam diplomatic and trade relations. Finally, the section concludes that Congress and the American people are united in their determination that expansion of trade relations should not be construed as approval or complacency about human rights violations, and that the promotion of freedom and democracy must be central to U.S. foreign policy.

Section 102. Purpose. This section provides that the purpose of this Act is to promote the development of freedom and democracy in Viet Nam.

TITLE II—PROMOTION OF FREEDOM AND DEMOCRACY IN VIET NAM

SUBTITLE A—PROHIBITION ON NONHUMANITARIAN ASSISTANCE TO THE GOVERNMENT OF VIET NAM

Section 201. Bilateral Nonhumanitarian Assistance. This provision denies any increase in bilateral nonhumanitarian foreign assistance to the government of Viet Nam in any fiscal year, above the amount of such assistance received by such government in fiscal year 2001, unless the President certifies that during such year the Government of Viet Nam has made substantial progress toward compliance with certain human rights benchmarks, including: release of all political and religious prisoners from all forms of detention including imprisonment, house arrest, etc; respect for the right to freedom of religion, including the right to participate in religious organizations not connected to the government of Viet Nam; respect for the rights of members of ethnic minority groups in the Central Highlands and elsewhere; and an end to the complicity of entities and officials of the Government of Viet Nam in severe forms of trafficking in persons, as defined by the Trafficking Victims Protection Act of 2000.

Section 202. Multilateral Nonhumanitarian Assistance. This section requires that the United States use its voice and vote to oppose nonhumanitarian loans and other extensions of funds from international financial institutions until the President certifies that these human rights benchmarks have been met. This section is in the jurisdiction of the Committee on Financial Services, which may report an amendment prior to House consideration of the Act.

SUBTITLE B—ASSISTANCE TO SUPPORT DEMOCRACY IN VIET NAM

Section 211. Assistance. This section authorizes foreign assistance (up to $2 million in each of fiscal years 2001, 2002, and 2003) to organizations committed to promoting human rights and nonviolent democratic change in Viet Nam.

SUBTITLE C—UNITED STATES PUBLIC DIPLOMACY

Section 221. Radio Free Asia Transmissions to Viet Nam. This section declares it to be the policy of the United States to take such measures as are necessary to overcome the jamming of Radio Free Asia by the government of Viet Nam. It authorizes a one-time expenditure of $9.1 million for fiscal year 2002 for enhanced transmission facilities and other measures to overcome the jamming, as well as $1.1 million for fiscal year 2003 for the ongoing expenses of operating and maintaining these facilities and other measures to overcome the jamming.

Section 222. United States Educational and Cultural Exchange Programs with Viet Nam. This section requires the State Department to take steps to promote participation in U.S. cultural and exchange programs with Viet Nam by people from a wide range of occupations and perspectives, including those who share our commitment to freedom and democracy, rather than just to Vietnamese government and Communist Party officials and persons close to such officials.

SUBTITLE D—UNITED STATES REFUGEE POLICY.

Section 232. This section declares it to be the policy of the United States to offer refugee resettlement to residents of Viet Nam who met the statutory criteria for the Orderly Departure Program and other U.S. refugee programs, but who were incorrectly deemed ineligible for such programs or who, for reasons beyond their own control including but not limited to inability to pay bribes demanded by Vietnamese government officials, were unable to gain access to U.S. programs in time for deadlines imposed by State Department officials. The section authorizes such sums as are necessary out of funds authorized to be appropriated to the Department of State for Migration and Refugee Assistance for the protection (including resettlement in appropriate cases) of Vietnamese refugees and asylum seekers, including the Montagnard refugees currently in Cambodia. This section does not create new eligibility for refugee programs or mandate that any particular person or group be admitted to the United States. Rather, it reiterates the principles upon which our in-country refugee programs in Viet Nam were founded, and reaffirms the policy of the United States to administer the programs in conformity with these principles.

SUBTITLE E—ANNUAL REPORT ON PROGRESS TOWARD FREEDOM AND DEMOCRACY IN VIET NAM

Section 241. Annual Report. This section requires that not later than May 31 of each year, the Secretary of State shall submit a report to Congress on the extent of compliance by the Government of Viet Nam with the human rights benchmarks provided by the Act, as well as efforts by the Department of State and other United States Government agencies to discharge their responsibilities under the Act. The report provided by this section shall include: (1) the determinations and certifications of the President under section 201 with respect to whether the Government of Viet Nam has made substantial progress during the previous 12 months toward compliance with the four human rights benchmarks set forth in that section; (2) the status of efforts by the United States Government to secure transmission sites for Radio Free Asia in countries near Viet Nam; steps taken by the United States Government to promote participation in United States programs of educational and cultural exchange with Viet Nam by persons from a wide range of occupations and perspectives, as provided in section 222 of this Act and in section 102 of the Human Rights, Refugee, and Other Foreign Policy Provisions Act of 1996; and steps taken to provide persons wrongly excluded from United States refugee programs in Viet Nam with access to U.S. refugee resettlement, as provided in section 232 of this Act.

NEW ADVISORY COMMITTEES

H.R. 2368 does not establish or authorize any new advisory committees.

CONGRESSIONAL ACCOUNTABILITY ACT

H.R. 2368 does not apply to the legislative branch.

FEDERAL MANDATES

H.R. 2368 provides no Federal mandates.