



UNITED STATES COMMISSION ON
INTERNATIONAL RELIGIOUS FREEDOM

REPORT ON
VIETNAM

MAY 2003

U.S. Commission on International Religious Freedom
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* Effective March 24, 2003, Ambassador Shirin Tahir-Kheli was appointed Special Assistant to the President and Senior Director for Democracy, Human Rights and International Operations by National Security Advisor Condoleezza Rice. This appointment necessitated Amb. Tahir-Kheli's resignation from the Commission.

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May 2003

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LETTER OF TRANSMITTAL

UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

Washington, DC, May 1, 2003

The PRESIDENT

The White House

DEAR MR. PRESIDENT: On behalf of the United States Commission on International Religious Freedom, I am transmitting to you the Commission's Report on Vietnam, prepared in compliance with section 202(a)(2) of the International Religious Freedom Act of 1998, 22 U.S.C. 6401 *et seq.*, P.L. 105-292, as amended by P.L. 106-55 and P.L. 107-228.

We would welcome the opportunity to discuss with you this Report, and the policy recommendations that it contains.

Sincerely,

FELICE D. GAER
Chair

Enclosure

LETTER OF TRANSMITTAL

UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

Washington, DC, May 1, 2003

Hon. COLIN POWELL

Secretary of State

Department of State

DEAR MR. SECRETARY: On behalf of the United States Commission on International Religious Freedom, I am transmitting to you the Commission's Report on Vietnam, prepared in compliance with section 202(a)(2) of the International Religious Freedom Act of 1998, 22 U.S.C. 6401 *et seq.*, P.L. 105-292, as amended by P.L. 106-55 and P.L. 107-228.

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LETTER OF TRANSMITTAL

UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

Washington, DC, May 1, 2003

Hon. DENNIS HASTERT
Speaker of the House
U.S. House of Representatives

DEAR MR. SPEAKER: On behalf of the United States Commission on International Religious Freedom, I am transmitting to you the Commission's Report on Vietnam, prepared in compliance with section 202(a)(2) of the International Religious Freedom Act of 1998, 22 U.S.C. 6401 *et seq.*, P.L. 105-292, as amended by P.L. 106-55 and P.L. 107-228.

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LETTER OF TRANSMITTAL

UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

Washington, DC, May 1, 2003

Hon. TED STEVENS
President Pro Tempore
U.S. Senate

DEAR MR. STEVENS: On behalf of the United States Commission on International Religious Freedom, I am transmitting to you the Commission's Report on Vietnam, prepared in compliance with section 202(a)(2) of the International Religious Freedom Act of 1998, 22 U.S.C. 6401 *et seq.*, P.L. 105-292, as amended by P.L. 106-55 and P.L. 107-228.

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Sincerely,

FELICE D. GAER
Chair

Enclosure

VIETNAM

A. Introduction

Since Congress passed the U.S.-Vietnam Bilateral Trade Agreement (BTA) in September 2001, the already poor religious freedom conditions in Vietnam have deteriorated. Key religious dissidents have been imprisoned; others remain in detention or under house arrest. In addition, the government has intensified its crackdown on religious minorities in the northwestern provinces and the Central Highlands. Violations associated with this crackdown include church closings, detention of religious leaders, and efforts to force the renunciation of faith, as well as a recent alleged noxious gas attack on a religious service.¹ The increased repression of religious freedom has been reportedly sanctioned at the highest levels of the Vietnamese government, according to documents obtained by individuals and human rights organizations.²

The Commission issued its last report on Vietnam in May 2001. Since the BTA was approved in September 2001, the Commission has continued to speak out on the deteriorating status of religious freedom in Vietnam. A Commission delegation visited Vietnam in February 2002. On the basis of the findings of the delegation, as well as other information, in September 2002, the Commission recommended that Vietnam be designated by the Secretary of State as a “country of particular concern” (CPC) for religious freedom violations under the International Religious Freedom Act of 1998.

Despite the fact that the Secretary did not include Vietnam in the Administration’s 2003 CPC designations, the State Department has begun to voice publicly its concern about Vietnam’s human rights conditions in key areas, including religious freedom, and the failure of the Vietnamese government to respond to U.S. concerns.³ Clearly, the current approach of the U.S. government to advance religious freedom in Vietnam has failed to yield concrete results. The United States is not alone in this respect, as the government of Vietnam has also failed to respond to concerns raised by the European Parliament and other Western governments.⁴ Therefore, in this report, the Commission recommends that the U.S. government intensify its leverage to hold the government of Vietnam to its international obligations to protect human rights, including religious freedom.

Since the Commission issued its first report on Vietnam in May 2001, it has continued to engage in activities to focus attention on advancing religious freedom in Vietnam. In February 2002, then-Commission Chair Michael Young testified on Vietnam before the House International Relations Committee’s Subcommittee on International Operations and Human Rights. Later that month, the Commission sent a delegation, led by Commissioner Firuz Kazemzadeh, to visit Vietnam.⁵

During the visit, the delegation met with government officials, leaders of government-sanctioned religious organizations, and representatives of unofficial religious groups to discuss official policies on religious affairs and the conditions of religious freedom. The delegation observed that public religious activity took place in Hanoi, Hué, and Ho Chi Minh City, and that individuals in those cities seemed able to worship without government obstruction. However, it was also clear that the government continued to exercise strict control over all religious groups,

restricting their freedom to train and select their leaders, to distribute religious literature, and to engage in educational, social, and charitable activities.

The delegation was limited in its ability to speak freely with individuals and to travel outside the large cities, particularly to ethnic minority areas. Central and provincial government officials were evasive and unresponsive. The government took extraordinary measures, including the apparent contrivance of two traffic incidents, to hinder the delegation's ability to meet with detained or imprisoned religious persons, their associates, and representatives of unofficial religious groups.

Since its visit to Vietnam, the Commission has continued to meet with representatives of the Vietnamese government and Vietnamese religious communities in and outside Vietnam, as well as experts on Vietnam and its relations with the United States. The Commission met with visiting Vietnamese government religious affairs officials and religious leaders in May 2002 and with Vietnam's delegation to the U.S.-Vietnam bilateral human rights dialogue in November 2002.

B. Demographic Information

Vietnam, though mainly Buddhist, is a religiously pluralistic society. Vietnam has a population of approximately 80 million, with ethnic Vietnamese, or *Kinh*, accounting for some 90 percent of the total population.⁶ Ethnic minorities are concentrated in Vietnam's Central Highlands, where they are collectively known as "Montagnards," and the northwestern provinces, where members of the Hmong ethnic group reside. Officially, the government only recognizes Buddhism, Roman Catholicism, Cao Daim, Hoa Hao Buddhism, Islam, and Protestant Christianity.⁷ Buddhism is the dominant religion, the adherents of which make up approximately 50 percent of the population. It is followed by Roman Catholicism, which has between 6 and 7 million adherents. The number of Cao Dai followers is estimated at 3 million. Expatriate Hoa Hao Buddhist groups claim that there are also 3 million Hoa Haos in Vietnam. The State Department indicates that there are at least 1 million Protestants in Vietnam. Others, however, suggest that the total Protestant population in Vietnam is no more than 400,000.⁸ Members of ethnic minorities constitute approximately two-thirds of the Protestant population. There are approximately 65,000 Muslims in southern Vietnam.

In addition to these officially-recognized groups, Vietnam is also home to a number of smaller religious communities. These include the Hindus, with approximately 50,000 members.⁹ The State Department estimates that there are between several hundred and 2,000 Baha'is in Vietnam, who are largely concentrated in the southern part of the country.¹⁰ However, U.S. Baha'i representatives believe that, notwithstanding the Communist government's ban on the religion after 1975, there are tens of thousands of Vietnamese Baha'is.¹¹ There are also several hundred members of the Church of Jesus Christ of Latter-day Saints who live primarily in Ho Chi Minh City and Hanoi.¹²

C. Religious Freedom

1. Law and State Policy

The Constitution of Vietnam specifies that the “Communist Party of Vietnam...is the force leading the State and society.”¹³ It states that the party’s Fatherland Front “constitute[s] the political base of people’s power,” and “strengthens the people’s unity of mind in political and spiritual matters....”¹⁴ The Vietnamese Communist Party (VCP), through the Vietnam Fatherland Front, determines state policy on religious affairs.¹⁵ The Prime Minister of Vietnam, as one of the three most senior VCP leaders, appears to be the chief architect of the official policy on religion, as well as the final arbiter on this issue. The Prime Minister has issued decrees on religious activity and has the power to decide whether to extend government recognition to religious groups. The Religious Affairs Committee, which is a sub-ministerial agency, does not appear to be directly involved in the formulation of policies on religious affairs. The Chairman of the Committee told the Commission delegation in February 2002 that the Committee’s major responsibilities include investigating complaints about religious freedom violations and reporting them to the office of the Prime Minister.

In mid-January 2003, the VCP Central Committee held its seventh plenum, at the end of which it issued a communiqué that directed the government to increase its management of religious affairs. The communiqué noted:

The religious situation and the religion-related work, however, still develop in a complicated manner imbued with factors of instability. Complaints and disputes over land and property establishments are increasing and severe in some areas, particularly in ethnic communities. Some clergymen have abused religious belief to carry out anti-government activities.¹⁶

The communiqué stated that the government must “[i]ncrease the state management of religious affairs,” “[g]uide all religions in carrying out external relations in line with the party and government’s foreign policy,” and “continu[e] to raise public awareness about our government’s religious policy.”¹⁷

Notwithstanding Vietnam’s constitutional guarantee of the freedom of religion and belief for its citizens, the government uses various laws and decrees to maintain tight control over all religious communities, and detain or imprison religious leaders. In April 1999, the Vietnamese government issued a “Decree Concerning Religious Activities,” which defines the extent of the Vietnamese government’s control of religious communities and activities. In particular, article 5 of the decree states:

All activities which threaten freedom of religious belief, all activities using religious belief in order to oppose the State of the Socialist Republic of Vietnam, to prevent the believers from carrying out their civic responsibilities, to sabotage the union of all the people, to go against the healthy culture of our nation, as well as superstitious activities, will be punished in conformity with the law.”¹⁸

The decree also stipulates that religious organizations must be registered with the state and religious activities must be approved by the relevant levels of government, including, in

some cases, the Prime Minister.¹⁹ The government must also approve the nomination, ordination, and the transfer of clergy and lay “specialists.”²⁰ Furthermore, religious organizations and officials must report to the Bureau of Religious Affairs about their activities abroad, and when necessary, obtain the government’s authorization to interact with foreign organizations and individuals.²¹ Finally, the decree essentially ensures that the Vietnamese government need not return confiscated religious properties to their original owners.²²

The National Assembly of Vietnam has been considering a new ordinance on religious affairs that may be ratified in late 2003. According to Vietnamese officials with whom the Commission delegation met, the new ordinance would supercede prior government decrees on religious affairs such as the 1999 decree but nevertheless codify in law policies and procedures already employed by the state to manage religious affairs.²³

A government decree on administrative detention is another instrument used to detain and harass religious leaders and believers for activity related to freedom of religion.²⁴ Both the UN Special Rapporteur on Freedom of Religion or Belief and the UN Human Rights Committee have expressed concerns about the use of this decree, which allows for detention without trial for up to two years for alleged national security offenses.²⁵ Such offenses are further defined in the Vietnamese Criminal Code to include attempts to undermine national unity, such as promoting division between religious believers and nonbelievers.²⁶

Vietnam’s policies on religious affairs clearly emanate from the political center in Hanoi. However, the Commission delegation found that considerable power to implement those policies has been delegated to provincial-level officials. For example, the provincial governments have the power to determine who will be accepted into Catholic seminaries, ordained upon graduation, and where priests will be assigned or transferred. Provincial governors can decide to arrest or to place an individual within their jurisdiction in administrative detention under the aforementioned administrative detention decree.²⁷ Given the highly centralized nature of the political system in Vietnam, the party and the central government are ultimately responsible for the violations of religious freedom that continue to take place. Thus far, as the State Department has indicated, the central authorities have not taken effective measures to address these violations.²⁸

2. Violations of Religious Freedom

a. Religious prisoners

Religious groups and others outside Vietnam have identified approximately 100 religious adherents who remain in prison or under some form of detention, including house arrest, in connection with the exercise of their right to freedom of religion. As of January 2003, as many as 70 Montagnards were serving lengthy prison sentences in connection with the February 2001 protests over land rights and restrictions on religious freedom in the Central Highlands.²⁹ Eighteen Hoa Hao Buddhists are reportedly either in prison or under house arrest.³⁰ The overseas spokesperson for the Unified Buddhist Church of Vietnam (UBCV) has stated that there are at least 20 UBCV-affiliated monks and lay leaders who are either under house arrest or in re-education camps or prisons.³¹ As many as 20 Hmong Protestants reportedly remain in detention. Finally, there are at least 10 Catholic priests and lay adherents who are still imprisoned.³²

The most prominent prisoners or detainees include Most Venerable Thich Huyen Quang, the UBCV Supreme Patriarch who has been under house arrest without charge for over 20 years; Venerable Thich Quang Do of the UBCV; Mr. Le Quang Liem, a Hoa Hao Buddhist leader; and Father Thaddeus Nguyen Van Ly, a Catholic priest who was detained and sentenced to 15 years in prison in October 2001, after he submitted written testimony to the Commission in February 2001. The State Department has been calling for the release of these individuals, to no avail. In January 2003, Fr. Ly's niece and two nephews were sentenced to lengthy prison sentences for forwarding information about his imprisonment and Vietnam's religious freedom conditions to Vietnamese-American journalists in California.³³

Individuals who have been arrested or detained on account of their religious activities are often charged with crimes that are unrelated to religion, including, for example, "slandering the government," "disrupting the unity of the people," and "causing public disorder." In the Commission's meetings with Vietnamese officials, the latter asserted that these individuals are not being punished for their religious beliefs, but rather for breaking the law.³⁴ In response, the Commission has consistently pointed out that there are aspects of Vietnamese law, such as the vague offenses mentioned above, that Vietnamese officials have used to punish individuals for the exercise of internationally protected human rights, including the rights to freedom of expression and freedom of religion or belief.

b. Central Highlands and northwestern provinces

The government intensified its crackdown against Montagnard Christians in the Central Highlands in 2002. Since putting down the Central Highlanders' peaceful protests for land rights and religious freedom in February 2001, the government has demonstrated a resolve to ensure that similar protests would not be repeated. In the crackdown targeting the Central Highlanders, the government has apparently equated the ethnic, cultural, and religious identities of all Montagnards with the independence aspirations of a segment of that community, including a small faction that advocates violence.³⁵ In fact, the government's suppression of religious freedom is a major factor in the tense relationship between the state and the Montagnards and other ethnic minorities.

According to a credible source, local district officials have entered Montagnard churches to openly denounce the congregations for engaging in "illegal foreign activities," and have confiscated church property, including tithes.³⁶ Human Rights Watch reported that local authorities have arrested or detained individuals and banned Christmas church services.³⁷ The same report also noted that the government has renewed its efforts to force the renunciation of Christianity among Central Highlanders, while engaging in a public campaign to denigrate Protestant Christianity.³⁸ Finally, the government has refused to recognize a great majority of the over 400 Protestant churches in the Central Highlands. Three hundred of these were forced to close by the government in the first nine months of 2002, despite written protests from the leaders of the Evangelical Church of Vietnam in the south.³⁹

The government continues its crackdown against Hmong Protestants in the northwestern provinces.⁴⁰ In August 2002, Mr. Mua Bua Senh, a Hmong Protestant in Lai Chau province, reportedly died as a result of severe and continuous beatings by officials sustained since April 2001, when 30 officials – public security officials, border police, and political leaders – went to

the man's village trying to force five Christian families to renounce their faith.⁴¹ According to the Center for Religious Freedom of Freedom House, four of the families refused and were driven out of their homes, and the heads of the families, including Mr. Senh, were beaten.⁴² In December 2002, local authorities in the province of Lai Chau reportedly used noxious gas to attack Hmong Christians during a house church worship service.⁴³

c. Government restrictions on religious communities

These particularly severe violations of religious freedom have taken place as the government continues to place restrictions on all religious communities and practitioners, registered or otherwise. State and Communist Party officials also interfere in the internal affairs of organized religious communities.

The indigenous Hoa Hao Buddhist and Cao Dai communities are administered by government-appointed "management committees" that prevent these communities from maintaining their respective observances and practices, and from selecting their leaders according to their own requirements, including the celebration of the Hoa Hao founder's death and the use of traditional ceremonies to select Cao Dai leaders. Moreover, the government has refused to return confiscated religious properties. A Hoa Hao Buddhist told the Commission delegation that the government has refused to permit the publication of all of the founder's writings.⁴⁴

The activities of the banned UBCV and monks who are affiliated with the group are restricted. Many UBCV leaders are in prison or under house arrest, while others are subject to constant police surveillance, harassment, intimidation, and other restrictions.⁴⁵ The Commission delegation was informed that monks who are able to function as religious leaders, but who have either supported or been identified with the UBCV, also face government harassment, including interference with their assignments to Buddhist temples and the denial of their requests for the construction of new buildings or the repair of old ones.⁴⁶ These monks are also limited in their ability to travel and conduct charitable works. In late 2001, the government arrested several lay leaders of the UBCV-affiliated Buddhist Youth Movement after Mr. Ho Tan Anh, one of the movement's leaders, engaged in self-immolation to protest religious repression.⁴⁷

A potentially significant development took place in April 2003 with respect to the UBCV. In March 2003, the Supreme Patriarch of the UBCV was permitted to receive urgent medical treatment in Hanoi.⁴⁸ While he was recuperating from the surgery, he met with the U.S. Ambassador to Vietnam and officials from the European Union. In April 2003, he met the Prime Minister of Vietnam, who suggested that his detention and that of Thich Quang Do, the second-ranking UBCV leader, were mistakes made by local officials.⁴⁹ The Prime Minister, however, did not indicate that the government would release the two Buddhist monks.⁵⁰ In addition, the Prime Minister reportedly remained adamant that the government of Vietnam would not recognize the UBCV.

With regard to the Catholic Church, the government restricts the number of applicants to the six Catholic seminaries operating in Vietnam.⁵¹ Government officials, through regular "consultation" between the provincial governments and the Catholic dioceses, interfere in the ordination and assignment of priests. The government also plays an active role in the selection

of bishops, vetoing papal appointments of which it disapproves. The Church is unable to communicate in writing with its parishioners and permission is required to print and distribute a newsletter for priests. The government has yet to return many confiscated church buildings.

Although the government has recognized the respective Evangelical Churches of Vietnam in the north and the south (ECVNN and ECVNS), it restricts the activities of the two organizations. The leaders of both organizations informed the Commission delegation in February 2002 that the government has not permitted them to establish seminaries.⁵² Since then, the government of Vietnam granted final approval for the ECVNS to establish a seminary, which was reportedly opened in February 2003.⁵³ The government, however, has denied the ECVNN's request to recognize Hmong Christian churches as members of the ECVNN.⁵⁴ According to one of the Commission delegation's Vietnamese interlocutors, the government has meted out punishments, including fines and detention, to those among the ECVNN who secretly provide religious training to Hmong Christians.⁵⁵

Notwithstanding official harassment, Protestant "house churches" in the south have experienced tremendous growth in recent years. Many house church leaders have been fined for engaging in religious activities. Some have been beaten and jailed. The government has opposed the training of new pastors and lay workers, and the police have raided house church services and confiscated Bibles and hymnals. The police have also threatened to destroy the residences of house church leaders.⁵⁶

According to Baha'i representatives in the United States, before 1975 there was an estimated 200,000 adherents to the Baha'i faith in Vietnam. After 1975, the government banned the Baha'i faith, and some of its leaders were imprisoned while community properties were confiscated.⁵⁷ The government does not recognize the Baha'i faith and the Chairman of the Religious Affairs Committee informed the Commission delegation that the government had no plans to grant the Baha'is' request for recognition because, in the government's view, the community does not meet the relevant administrative criteria. However, it is unclear what those criteria are or in what aspects the community fails to meet them.⁵⁸

D. U.S.-Vietnam Relations

U.S.-Vietnam relations have continued to expand since they were normalized in 1995. As a reflection of the growing ties, since 2000, several high-level visits have taken place. In November 2000, then-President Bill Clinton became the first U.S. President to visit Vietnam since 1969. In July 2001, Secretary of State Colin Powell visited Vietnam to attend the Association of Southeast Asian Nations (ASEAN) Regional Forum, during which he met privately with Vietnamese officials. In December of that year, Vietnamese Deputy Prime Minister Nguyen Tan Dung visited the United States. In 2002, both Vietnamese Deputy Prime Minister Nguyen Manh Cam and Foreign Minister Nguyen Dy Nien visited the United States.⁵⁹

Bilateral economic ties have also deepened. According to the Department of Commerce, bilateral trade has grown steadily between 1994 and 2002, when total trade reached almost \$3 billion, nearly twice the amount in 2001.⁶⁰ At the same time, the U.S. trade deficit with Vietnam has reached nearly \$2 billion.⁶¹ The United States has pledged \$33.6 million in bilateral assistance for Fiscal Year (FY) 2003.⁶² In FY2002, total bilateral aid for Vietnam exceeded \$30

million, including programs on food assistance (\$11 million), HIV/AIDS prevention (\$8.5 million), Fulbright exchanges (\$5 million annually), land mine victims and orphans (\$3 million), technical cooperation with the U.S. Department of Labor (\$1.5 million), and technical assistance to help Vietnam implement trade reforms (\$4.6 million). In 2000, Congress authorized an annual budget of \$5 million for a new educational exchange program, the “Vietnam Education Foundation,” which will begin in 2003 and continue until 2016.⁶³

The Vietnamese government’s record on human rights, including religious freedom, has been an issue in the bilateral relationship.⁶⁴ Senior U.S. officials, in meetings with their Vietnamese counterparts, have raised concerns about the lack of religious freedom and other human rights in Vietnam. Secretary Powell, in his private meetings with senior Vietnamese officials during the 2001 ASEAN Regional Forum, reportedly raised such concerns, particularly with respect to the imprisonment of Fr. Ly. Deputy Secretary of State Richard Armitage also raised religious freedom concerns during meetings with Deputy Prime Minister Nguyen Tan Dung, Deputy Prime Minister Nguyen Manh Cam, and Foreign Minister Nguyen Dy Nien in 2001 and 2002.⁶⁵ In August 2002, Ambassador-at-Large for International Religious Freedom John V. Hanford III visited Vietnam and met with Vietnamese officials to discuss religious freedom concerns. In November 2002, U.S. officials also raised religious freedom issues during the 10th round of the U.S.-Vietnam bilateral human rights dialogue that took place in Hanoi, Vietnam.

Despite the concerns expressed about the conditions of human rights in Vietnam by high-level U.S. officials, the government of Vietnam has shown little, if any, progress on this issue. In January 2003, following the 10th round of the bilateral human rights dialogue, the State Department, in a report to Congress, stated that it was “dissatisfied with the lack of progress from these dialogues,”⁶⁶ and that it “made clear” to the Vietnamese government that the continuation of these dialogues would be contingent on “concrete results.”⁶⁷ In addition, the State Department’s report indicated that the Vietnamese government had not made any progress on releasing political and religious activists, ending official restrictions on religious activity, and respecting the rights, including religious freedom, of ethnic minorities. It also noted an apparent deterioration of the religious freedom situation in the Central Highlands.⁶⁸

Reflecting the concerns of a number of Members of the U.S. Congress, in April 2003, Congressman Christopher Smith introduced the Vietnam Human Rights Act of 2003. Virtually the same bill was passed by the House of Representatives just before Congress approved the BTA in September 2001. Like the previous bill, the 2003 Act cites the Commission’s findings and, among its other provisions, would prohibit increases in U.S. non-humanitarian assistance to Vietnam unless the Vietnamese government “has made substantial progress” in its respect for human rights, including religious freedom.⁶⁹

E. Commission Recommendations

I. Advocate Specific Steps to Advance Religious Freedom and Reform the Legal Framework

1. The U.S. government should make clear to the government of Vietnam that ending violations of religious freedom is essential to the continued expansion of U.S.-

Vietnam relations. In this context, the U.S. government should urge the Vietnamese government to:

1.a. halt the arrest, detention, imprisonment, and intimidating surveillance of persons on account of their manifestation of religion or belief, including members of ethnic minorities in the Central Highlands and the northwestern provinces; release individuals who are currently so restricted;

1.b. cease practices that coerce individuals to renounce any religion or belief, such as detention, imprisonment, ill treatment, or destruction of residential and religious buildings;

1.c. cease bans on religious gatherings in ethnic minority areas, and permit religious groups to gather for observances of significant religious holidays as determined by those groups, subject only to such limitations as provided in international law;

1.d. guarantee the freedom to engage in religious activities (including the freedom for religious groups to govern themselves and select their leaders, worship publicly, express and advocate religious beliefs, distribute religious literature, and conduct educational, charitable, and humanitarian activities) outside the government and state-controlled religious organizations, and eliminate controls on the activities of officially registered organizations;

1.e. return confiscated religious properties and cease undue interference with the construction of new religious buildings and the repair of existing ones;

1.f. permit domestic Vietnamese religious organizations and individuals to interact freely with foreign organizations and individuals;

1.g. cease the arbitrary detention of members of ethnic minorities who have returned to Vietnam from Cambodia;

1.h. repeal the administrative detention decree that allows for detention of up to two years without charge for engaging in “anti-state activity”; and

1.i. repeal the 1999 Administrative Decree on Religion and ensure that any new law on religion meets international standards.

2. The U.S. government should urge the Vietnamese government to establish a mechanism for reviewing cases of persons detained under suspicion of, or charged with, offenses relating to state security, “anti-state activities,” “slandering the government,” “disrupting the unity of the people,” and “causing public disorder.” This mechanism should also review cases of detained or imprisoned religious leaders, many of whom have been charged with specious criminal offenses.

As indicated in this report, Vietnamese government officials continue to commit egregious violations of religious freedom, particularly against religious minorities who reside in the Central Highlands and the northwestern provinces. Indeed, the government's intensified control of religious affairs is a major factor in the ongoing tension between the state and the members of religious minorities. Alleged government documents released by the Center for Religious Freedom of Freedom House since November 2000 indicate that the state has a central role in the violations of religious freedom in the Central Highlands and the northwestern provinces.⁷⁰

Under international human rights standards, a government can restrict the freedom to manifest religion or belief, but only in ways that are directly proportionate to the actual need to promote specific interests, such as the protection of public order, safety, health, and the rights and freedoms of others.⁷¹ Vietnamese restrictions on religious freedom go well beyond these permissible limitations. The U.S. government should urge the Vietnamese government to bring its laws and practices into conformity with international standards on the freedom of religion and belief, and in particular to eliminate facets of state control of and undue government interference with religious groups and the conduct of religious activities.

Furthermore, a large number of individuals in Vietnam have been detained, imprisoned, or otherwise limited in their movements or subjected to surveillance because they manifest their religion or belief. These individuals include those who have been charged with, or detained under suspicion of, offenses that penalize the manifestation of religion or belief, as well as individuals that have been charged with criminal offenses for the purpose of harassing those individuals. In order to take meaningful steps to protect the right to freedom of religion and belief, the U.S. government should urge the Vietnamese government to review these individual cases, and individuals who have been either improperly charged or unjustly confined should be released or have such charges dropped, as appropriate.

II. Use U.S. Leverage to Encourage Vietnam to End Religious Freedom Violations

3. The President should designate Vietnam as a “country of particular concern” in accordance with the provisions of the International Religious Freedom Act of 1998 (IRFA).

Under IRFA, the President or his designee, the Secretary of State, is required to designate as “countries of particular concern” (CPCs) those countries the government of which has engaged in or tolerated “systematic, ongoing, egregious violations of religious freedom,” as defined in the law.⁷²

As discussed above, since 2001, the already poor conditions of religious freedom in Vietnam have deteriorated and the government has increasingly engaged in particularly severe violations of religious freedom against members of several religious communities, particularly with respect to the religious minorities who reside in the Central Highlands and the northwestern provinces. These violations, which include prolonged detention and imprisonment of religious leaders and forced renunciation of faith, result from policies on religious affairs reportedly sanctioned at the highest levels of the Vietnamese government. In October 2002, the Commission recommended that Vietnam be designated a CPC.

In January 2003, the State Department, in a report to the Congress, expressed its dissatisfaction with the lack of progress by the government of Vietnam on the release of religious prisoners, the cessation of government surveillance and harassment of religious groups, and the halting of official restrictions on religious activity, noting an apparent deterioration of religious freedom conditions in the Central Highlands.⁷³ The same report stated that Ambassador-at-Large for International Religious Freedom John V. Hanford III, in his meeting with Vietnamese officials during the November 2002 bilateral human rights dialogue, outlined specific actions that the government of Vietnam needs to undertake to avoid future CPC designations.⁷⁴ That list of specific actions has not been made public. Nonetheless, by the State Department's own admission, the conditions of human rights, including religious freedom, have not improved since November. Yet, the Secretary of State has not designated Vietnam as a CPC. The Commission believes that a CPC designation for Vietnam is warranted at this time. The State Department does not need to wait until next year's CPCs are named; Vietnam can be designated at any time of the year.

By all accounts, the U.S.-Vietnam economic relationship continues to grow, particularly since the Congress ratified the BTA. A CPC designation for Vietnam would send a strong message to the Vietnamese government that a continued crackdown on religious freedom will not be ignored or glossed over. Under IRFA, CPC designations must be accompanied by appropriate policy responses. IRFA does not, however, dictate what the precise response must be in every case. There are many options, since the statute provides an extensive list of policy tools of varying intensity from which to choose.

4. The U.S. Congress should pass and the President should sign the Vietnam Human Rights Act of 2003.

In its May 2001 report, the Commission noted that the approval of the BTA without any U.S. action with respect to religious freedom risked worsening the religious freedom situation in Vietnam because the government of Vietnam might interpret such an act as a signal of U.S. indifference to human rights and religious freedom. In September 2001, immediately preceding its ratification of the BTA, the House of Representatives passed the Vietnam Human Rights Act of 2001 by a vote of 410 – 1. However, despite an attempt to bring the bill to a vote, the Senate did not take any further action during the 107th Congress.

As mentioned above, in April 2003, Congressman Christopher Smith introduced an updated Vietnam Human Rights Act of 2003. Like the previous bill, the Act would condition future increases in non-humanitarian bilateral assistance to Vietnam on a Presidential certification of demonstrated improvements in the Vietnamese government's protection of religious freedom and other human rights. In the light of the current conditions in Vietnam, the passage of this legislation at this time would signal that the U.S. government is not indifferent to the Vietnamese government's deteriorating respect for human rights, including religious freedom, and would demonstrate U.S. commitment to advance human rights in Vietnam.

5. The United States should withhold its support for loans to Vietnam from international financial institutions such as the International Monetary Fund (IMF), the World Bank, and the Asian Development Bank (ADB), except those providing for basic human needs, until the government of Vietnam agrees to make substantial

improvements in the protection of religious freedom, as measured by the standards itemized in 1.a through 1.i above.

According to the IMF, the World Bank, and the ADB, between 2001 and 2005, the Vietnamese government will receive approximately \$1 billion in loans from these international financial institutions to further Vietnam's economic development.⁷⁵

In May 2001, the Commission recommended that the U.S. government instruct its respective representatives at the IMF and the World Bank to withhold their support for loans to the government of Vietnam until that government agrees to make substantial improvements in the protection of religious freedom.⁷⁶ If the United States withholds support for economic aid through international financial institutions that primarily benefits the Vietnamese government, the United States would demonstrate that it is not indifferent to violations of religious freedom and other human rights.

Congress has set down policy guidelines for the withholding of U.S. support for IMF, World Bank, or ADB loans on human rights grounds in both the International Financial Institutions Act of 1977 and IRFA.⁷⁷ The severity of the Vietnamese government's violation of religious freedom and its unwillingness to make sustained improvements in the protection of religious freedom warrant this action. The United States, as a member of the IMF, World Bank, and ADB Executive Boards, should withhold its support for loans to the government of Vietnam until that government agrees to make substantial improvements in the protection of religious freedom, as measured by the standards set out in recommendation 1. The United States should not withhold its support for loans made for the purpose of providing for the basic human needs of the Vietnamese people.

6. The U.S. government should take steps to ensure that the annual U.S.-Vietnam human rights dialogue involves high-level officials and, along with consideration of other human rights, serves as a forum to: (a) communicate U.S. concerns about the protection of freedom of religion and belief in Vietnam; (b) review the requirements of international human rights standards regarding the right to freedom of religion and belief; and (c) establish measurable goals, practical steps for improvement, and specific timetables for implementing these steps. To facilitate these goals:

- **the Congress should continue to require the State Department to report to it on any progress achieved through the dialogue; and**
- **the U.S. government should include the Commission as a formal participant in the dialogue.**

The usefulness of any bilateral dialogue as a mechanism for promoting human rights, including religious freedom, should be measured by concrete results. To this end, the conditions outlined in recommendation 1 could be used to measure the progress of the Vietnamese government's efforts to protect religious freedom. As indicated in this report, the Congress requires the State Department to report on the status of the dialogue.⁷⁸ In an effort to maintain transparency of the dialogue and other U.S. efforts to advance human rights in Vietnam, the Congress should continue to require the State Department to do so.

Since its establishment, the Commission has met privately with the Vietnamese delegations to the bilateral human rights dialogue whenever the dialogue took place in Washington, D.C. Meanwhile, the Commission continues to advise the Congress and the State Department regarding the conditions of religious freedom in Vietnam. Based on the Commission's various exchanges with Vietnamese government officials, it is clear that the government of Vietnam recognizes the Commission as an important U.S. government interlocutor on the issue of human rights, particularly with respect to religious freedom. The State Department should invite the Commission to become a formal member of the U.S. delegation to future sessions of the bilateral human rights dialogue.

7. In its public interventions, discussions, and other activities in multilateral institutions, the United States should raise prominently violations of religious freedom in Vietnam, particularly in the Central Highlands and northwestern areas of the country.

The United States should intensify its efforts to use appropriate international fora to bring attention to the Vietnamese government's violations of human rights. Moreover, the U.S. government, in keeping with its stated policy goal in Asia to support the Association for Southeast Asian Nations (ASEAN), should explore further cooperation with the ASEAN Human Rights Working Group.⁷⁹ The United States should encourage the Vietnamese government to join the working group by establishing a national human rights organization as a demonstration of Vietnam's commitment to protect human rights, including religious freedom.⁸⁰

8. The U.S. government should urge the Cambodian government to abide by its international commitments and recognize as refugees members of ethnic minorities in the Central Highlands and the northwestern provinces, as well as other Vietnamese, who have fled that country and who meet international criteria.

In January 2002, the governments of Vietnam and Cambodia and the UN High Commissioner for Refugees (UNHCR) reached an agreement regarding the repatriation of thousands of Montagnards who had fled to Cambodia in the aftermath of the Vietnamese government's 2001 crackdown in the Central Highlands. That agreement broke down in March 2002 because the Vietnamese government refused to honor its commitment to provide UNHCR personnel regular access to the Central Highlands to monitor the repatriation process.⁸¹ Although the agreement stipulated that repatriated refugees would not experience government harassment, international human rights organizations such as Human Rights Watch and Amnesty International have called into question the treatment of the Montagnards upon their return to Vietnam, alleging that many have been interrogated, detained, and beaten.⁸² Many repatriated Montagnards were reportedly given lengthy prison sentences for "organizing illegal migrations."⁸³ The aforementioned human rights organizations also stated that Cambodian officials were complicit in the forced repatriation of Montagnard refugees.⁸⁴ Since March 2002, the Cambodian government has closed two refugee camps that sheltered Montagnard refugees. In April 2003, the government of Cambodia announced that it would close the UNHCR refugee transit center in Phnom Penh as soon as the few remaining Montagnard refugees are resettled.⁸⁵ In addition, there continue to be allegations that the government of Cambodia has permitted Vietnamese military or police to enter Cambodia for the purpose of capturing Montagnards hiding in Cambodia.⁸⁶

Montagnards are not the only refugees to experience difficulties in Cambodia. In July 2002, Thich Tri Luc, a Vietnamese Buddhist monk affiliated with the banned UBCV and who was granted refugee status by the UNHCR, disappeared in Cambodia. The International Buddhist Information Bureau has expressed the fear that he was abducted by Vietnamese officials who were permitted by the Cambodian government to operate in Cambodia.⁸⁷ In August 2002, two Chinese Falun Gong practitioners granted refugee status by the UNHCR were deported to China by the Cambodian authorities.⁸⁸

Cambodia is a party to both the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol to that convention. Under these treaties, Cambodia is committed not to expel or return refugees to a country where their life or freedom would be threatened on account of their religion or other protected status.

The U.S. government should urge the government of Cambodia, in accordance with its international commitments, to recognize as refugees members of ethnic minorities in the Central Highlands and the northwestern provinces, as well as other Vietnamese, who have fled that country and who meet international criteria.

III. Strengthen Monitoring and Reporting of Vietnam's Human Rights Violations

9. As a part of the annual Congressional review of the Jackson-Vanik waiver for Vietnam, the Congress, in conjunction with the Commission, should review Vietnam's human rights practices, including particularly severe violations of religious freedom.

In September 2001, the Congress ratified the BTA, granting Vietnam conditional normal trade relations status. However, Vietnam is still subject to the requirements of the Jackson-Vanik Amendment to the Trade Act of 1974, which denies certain trade benefits to countries with non-market economies that also have restrictive emigration policies. Under the amendment, the President can choose to waive these requirements, which has been done for each of the last five years. If the President issues a waiver, the waiver is subject to congressional review.

As discussed in detail in this report, the conditions of religious freedom in Vietnam have deteriorated since Congress ratified the BTA. Specifically with regard to freedom of movement, in the last year, numerous reports have provided detailed accounts of the forced repatriation of Montagnard refugees who fled to Cambodia, which allegedly involves Vietnamese officials operating in Cambodia, as well as the detention and imprisonment of Montagnards who have returned to Vietnam.⁸⁹

Immediately prior to the ratification of the BTA, the House of Representatives unanimously passed the Vietnam Human Rights Act of 2001, which expressed serious concerns about the conditions of human rights, including religious freedom in Vietnam. Given the recent deterioration in respect to human rights, as well as the failure of the Vietnamese government to address U.S. concerns, the Congress should intensify its review of any Presidential Jackson-Vanik waiver and conduct a thorough, public investigation of the conditions of human rights, including religious freedom, in Vietnam. Such efforts would demonstrate that the Congress

remains committed to advancing U.S. policy to promote human rights in Vietnam alongside the great expansion of bilateral trade that was unleashed by the approval of the BTA.

10. The U.S. government should urge the Vietnamese government to provide U.S. and other foreign government officials, human rights and humanitarian groups, international organizations, and journalists regular and unhindered access to members of all religious communities in Vietnam, particularly those in the Central Highlands and the northwestern provinces. The international affairs and trade committees of the Congress should send delegations to visit the Central Highlands and the northwestern provinces.

The government of Vietnam has provided U.S. government officials, international organizations, journalists, and international human rights and humanitarian organizations very limited access to the Central Highlands and the northwestern provinces to assess the nature and extent of human rights violations there. The Commission's request to visit these areas was denied. According to the State Department, since then-U.S. Ambassador to Vietnam Pete Peterson's visit to three Central Highland provinces in July 2001, which took place in the aftermath of the February 2001 protests, U.S. diplomats have visited the region on at least eight occasions. Yet, each time, U.S. officials encountered resistance from and were restricted by local officials. In March 2003, a senior Department of State official stated that the U.S. government has been "frustrated at the Vietnamese government's refusal to allow [it] reasonable access to the region for further investigation."⁹⁰ This lack of access is a significant obstacle to gaining a more complete picture of the situation in the Central Highlands and the northwestern provinces. Human Rights Watch, Amnesty International, Freedom House, and other human rights organizations have provided extensive accounts, based on interviews conducted outside these regions, detailing numerous allegations of serious government violations of human rights, including egregious violations of religious freedom. Yet the full scope of those violations is not known.

Representatives of foreign governments and international organizations who visited Vietnam to assess its human rights conditions have regularly cited the government's interference with their work, including the members of the UN Working Group on Arbitrary Detention and the UN Special Rapporteur on Freedom of Religion or Belief, who visited Vietnam in 1994 and 1998, respectively. The Commission delegation that visited Vietnam in February 2002 had similar experiences.

The U.S. government should press the government of Vietnam to provide unfettered access to all parts of Vietnam. The United States should also urge the government of Vietnam to invite the Working Group on Arbitrary Detention and the Special Rapporteur on Freedom of Religion or Belief for return visits that will be conducted with full and unhindered access. Other UN rapporteurs, including those concerning the right to freedom of expression and internally displaced persons, should also be invited. Furthermore, the Vietnamese government should ensure that individuals who cooperate with human rights investigators do not suffer any harassment or punishment as a result of that cooperation.

IV. Support Programs to Advance Freedom of Religion in Vietnam

11. The U.S. government should take the steps necessary to overcome the jamming of Radio Free Asia (RFA) broadcasts and the blocking of the RFA Internet site in Vietnam. The U.S. government should also urge the Vietnamese government to allow RFA personnel into the country.

Currently, Radio Free Asia (RFA) has daily programs in the Vietnamese language that are transmitted to the people of Vietnam. RFA programs focus on news about Vietnam, including issues pertaining to religious freedom and other human rights. As the RFA President has stated, the goal of the service is “to bring news and information about their own country to populations denied the benefits of freedom of information by their governments.”⁹¹

The government of Vietnam has continuously interfered with RFA broadcasts into Vietnam, and has begun to block access to the RFA Internet site. In addition, the government of Vietnam continues to deny RFA personnel access to the country. While RFA broadcasts face active interference from the Vietnamese government, Vietnam’s state television and radio programs are transmitted unhindered on a daily basis, via Cuba and Canada, to the United States.⁹² In February 2003, Representatives Ed Royce and Zoe Lofgren introduced the Freedom of Information in Vietnam Act, which calls for the United States to increase its funding to RFA in order to take the necessary steps to overcome the Vietnamese government’s jamming of RFA’s broadcasts and interference with access to the RFA Internet site.⁹³ These problems are also addressed in the Vietnam Human Rights Act of 2003.

Given that RFA is an important vehicle to deliver objective news and information about religious freedom and other human rights in Vietnam,⁹⁴ the U.S. government should take steps to overcome the Vietnamese government’s interference with RFA broadcasts, its Internet site and access to the country by its personnel, and continue to support RFA human rights programming.

12. The U.S. government should, through its foreign assistance and exchange programs, support individuals in Vietnam who advocate human rights, including religious freedom, the rule of law, and legal reform. It should also support exchanges between Vietnamese religious communities and U.S. religious and other non-governmental organizations concerned with religious freedom in Vietnam.

The Vietnamese government generally prohibits the establishment of indigenous, independent human rights, humanitarian, and other such organizations, although there are individuals in Vietnam who advocate legal reform and greater protections of human rights, including religious freedom. These persons come from several areas of Vietnamese society, including academia, the legal profession, the ranks of journalists, and religious communities. Many of the most prominent advocates are former senior Communist Party officials, the government, and the military. Together, these individuals have called for the state to respect the human rights of Vietnamese citizens, as well as greater democracy in Vietnam.

The U.S. government maintains an extensive network of exchange programs vis-à-vis Vietnam. For example, according to Ambassador Burghardt, the Fulbright Exchange Program in Vietnam is the largest Fulbright program in the Asia-Pacific region.⁹⁵ The U.S. government

should ensure that its foreign assistance and exchange programs support those Vietnamese who are working to advance human rights, including religious freedom.

¹ Center for Religious Freedom, “Vietnamese Gas Church Service,” Freedom House, March 28, 2003 (<http://www.freedomhouse.org/religion/news/bn2003/bn-2003-03-28.htm>, accessed April 1, 2003).

² A credible source provided the Commission with a copy of central government instructions, dated October 2002, regarding the government’s crackdown against Montagnards who advocate independence, known as “Dega.” See also Center for Religious Freedom, *Directions for Stopping Religion*, Freedom House, November 2000 (http://www.freedomhouse.org/religion/country/vietnam/vietnam_index.htm, accessed April 1, 2003).

³ U.S. House of Representatives, *U.S. Department of State Report to Congress on the Government of Vietnam’s Progress Toward Improved Human Rights For the Period August 2001 – December 2002*, January 8, 2003.

⁴ The Australian government held its first bilateral human rights dialogue with the government of Vietnam in May 2002, and the European Union’s latest human rights dialogue with Vietnam took place in December 2002. European Parliament (EP) members have been particularly outspoken on the issue of human rights in Vietnam. Mr. Olivier Dupuis, an EP member, visited Vietnam in June 2001, when he staged a sit-in in the pagoda to which Thich Quang Do has been confined to protest the government’s arbitrary detention of the UBCV leader. He was subsequently arrested and expelled from the country. See International Buddhist Information Bureau, “European MP stages sit-in inside Thanh Minh Zen Monastery,” June 6, 2001. David Brunnstrom, “Euro MP Said Arrested in Protest Over Vietnam Monk,” *Reuters*, June 6, 2001.

⁵ The Commission extends its appreciation to the U.S. diplomatic mission in Vietnam for its assistance in connection with this visit.

⁶ U.S. Department of State, *Background Notes*, “Vietnam,” July 2001 (<http://www.state.gov/r/pa/ei/bgn/4130.htm>, accessed February 28, 2003).

⁷ U.S. Department of State, *Annual Report on International Religious Freedom 2002*, “Vietnam,” October 2002 (<http://www.state.gov/g/drl/rls/irf/2002/13916pf.htm>, accessed February 28, 2003).

⁸ Interview with former missionary in Vietnam, Washington, D.C., March 6, 2003. Vietnamese house church leaders in HCMC told the Commission delegation that there were between 400,000 and 500,000 Protestant Christians in southern Vietnam who practice their faith in over 1,000 house churches. Interview with house church leaders, HCMC, February 26, 2002.

⁹ 2002 *International Religious Freedom Reports*, “Vietnam,” (Internet).

¹⁰ 2002 *International Religious Freedom Reports*, “Vietnam,” (Internet).

¹¹ National Spiritual Assembly of the Baha’is in the United States, “Situation of Baha’is in Laos and Vietnam,” November 21, 2001.

¹² 2002 *International Religious Freedom Reports*, “Vietnam,” (Internet).

¹³ Socialist Republic of Vietnam, *Constitution of Vietnam (1992)*, art. 4.

¹⁴ *Ibid.*, art. 9.

¹⁵ Freedom House, *Directions for Stopping Religion*, (Internet). The Fatherland Front serves as the Communist Party’s “link” with Vietnamese citizens, including non-Communist Party members. In that role, it controls several hundred center-level, and provincial- and municipal-level mass organizations throughout Vietnam. It plays an important role in determining the state’s policies with respect to different social-political issues, including religious affairs. See Zachary Abuza, *Renovating Politics in Contemporary Vietnam*, 2001, 20.

¹⁶ Voice of Vietnam, “Communist Party of Vietnam issues communiqué on seventh plenum,” *BBC*, January 23, 2003.

¹⁷ *Ibid.*

¹⁸ Socialist Republic of Vietnam, *Decree of the Government Concerning Religious Activities (April 19, 1999)*, trans. Stephen Denney. [Translated from Vietnamese to French by Eglise D’Asie.]

¹⁹ *Ibid.*, arts. 14.

²⁰ *Ibid.*, arts. 20, 21.

²¹ *Ibid.*, arts. 22, 23, 24, 25, 26.

²² *Ibid.*, art. 11, sec. 3 states, “The buildings, land and other items transmitted by these organizations or by religious officials to the organs of the State for it to manage and use, in application of the political line of the Democratic Republic of Vietnam, of the Provisional Revolutionary Government of South Vietnam, or of the Socialist Republic of Vietnam, or given or offered to the State, are now the property of the Socialist Republic of Vietnam.”

²³ Interview with Chairman of the Religious Affairs Committee, February 22, 2002.

²⁴ During the Commission delegation’s meeting with Vietnamese Justice Ministry officials, Vietnamese officials asserted that individuals placed on administrative detention are permitted to leave home for work, as long as they report regularly to provincial officials. Interview with Justice Ministry officials, February 22, 2002.

²⁵ Government of Socialist Republic of Vietnam, *Administrative Detainment Policy*, art. 1 and 2.

UN Special Rapporteur on Religious Intolerance, *Civil and Political Rights, Including the Question of Religious Intolerance*, E/CN.4/1999/58/Add.2, December 29, 1998, ¶¶ 17, 18, 19. Regarding Government Decree 31, the Human Rights Committee has recommended that Vietnam “ensure that no persons are subjected to arbitrary restriction of their liberty and that all persons deprived of their liberty are promptly brought before a judge or other officer authorized to exercise judicial power by law, and that they can only be deprived of their liberty on the basis of a judgment based on law, as required by article 9, paragraphs 3 and 4, of the Covenant (ICCPR).” UN Human Rights Committee, *Concluding Observations of the Human Rights Committee*, CCPR/CO/75/VNM, July 26, 2002, ¶ 8.

²⁶ UN Special Rapporteur on Religious Intolerance, *Civil and Political Rights, Including the Question of Religious Intolerance*, E/CN.4/1999/58/Add.2, December 1998.

²⁷ Government of Socialist Republic of Vietnam, *Administrative Detainment Policy* (Attached to Directive No. 31/CP), provided by Human Rights Watch.

²⁸ U.S. House of Representatives, *U.S. Department of State Report to Congress on the Government of Vietnam’s Progress Toward Improved Human Rights For the Period August 2001 – December 2002*.

²⁹ Human Rights Watch, “New Assault on Rights in Vietnam’s Central Highlands: Crackdown on Indigenous Montagnards Intensifies,” January 2003. The Human Rights Watch report provided a list of Montagnard political and religious prisoners. The three most common charges were “undermining national unity,” “destabilizing public security,” and “organizing ‘illegal migrations.’” In April 2002, Human Rights Watch also published a report that provided an in-depth analysis of the causes of the tension between the Vietnamese government and the Central Highlanders. Human Rights Watch, “Repression of Montagnards,” April 23, 2002. Amnesty International has also reported on the plight of the Montagnards. See Amnesty International, “No sanctuary: The plight of the Montagnard minority,” December 18, 2002. This report includes a section of religious repression in the Central Highlands as well as a list of Montagnard prisoners. The International Christian Concern also reported on the ongoing repression of Montagnard Christians in the Central Highlands. See International Christian Concern, “ICC Fact-Finding Mission to Vietnam: Persecution and Harassment Continues,” April 29, 2003.

³⁰ Central Council of Administrators of Hoa Hao Buddhist Church, “New List of Hoa Hao Buddhists in Prison and Under House Arrest,” September 2002.

³¹ International Buddhist Information Bureau, “Partial list of Buddhists in prison and under house arrest,” July 2002.

³² This information was provided to the Commission staff by various U.S.-based Vietnamese religious organizations that wish to remain unnamed.

³³ *Associated Press*, “Three relatives of jailed dissident priest charged with espionage,” January 24, 2003. Amnesty International, “Socialist Republic of Viet Nam: The espionage case against the nephews and niece of Father Thaddeus Nguyen Van Ly,” April 10, 2003. Amnesty

International, "Viet Nam: Crackdown on dissent continues," April 10, 2003.

³⁴ Similar statements have been repeated in meetings with the Commission delegation in Vietnam and in the Commission's meeting with the Vietnamese delegation to the November 2002 U.S.-Vietnam human rights dialogue.

³⁵ Human Rights Watch, "New Assault on Rights in Vietnam's Central Highlands: Crackdown on Indigenous Montagnards Intensifies." Human Rights Watch, "Repression of Montagnards." The ethnic minorities in the Central Highlands and the northwestern provinces of Vietnam have a long history of strained relationship with the ethnic Vietnamese and successive governments, including during French rule and during the Vietnam War. After 1975, the relationship between the Communist regime and the Montagnards in the Central Highlands was further strained by the mass migration of ethnic Vietnamese into the region, at times encouraged and approved by the government. These migrants came to occupy lands traditionally held by ethnic minorities. Furthermore, the fact that ethnic minorities constitute approximately two-thirds of the Protestant population in Vietnam introduced another volatile element into the already tense relationship.

³⁶ Interview with a former missionary in Vietnam, Washington, D.C., March 6, 2003.

³⁷ Ibid.

³⁸ Ibid.

³⁹ Ibid. The International Christian Concern claimed that as of March 2003, only two Montagnard churches in the province of Dak Lak remained open out of the original 417. See International Christian Concern, "Vietnamese Church Under Severe Persecution, Only Two House Churches Remain Open in the Central Highlands," March 18, 2003.

⁴⁰ Center for Religious Freedom, "Vietnam Police Rape, Beat, and Imprison Hmong Christians," Freedom House, April 28, 2003 (<http://www.freedomhouse.org/religion/news/bn2003/bn-2003-04-28.htm>, accessed April 29, 2003).

⁴¹ Center for Religious Freedom, "Hmong Christian killed for faith in Vietnam last summer; U.S. should hold Vietnam accountable at upcoming bilateral human rights meeting," Freedom House, November 7, 2002 (<http://www.freedomhouse.org/religion/news/bn2002/bn-2002-11-07.htm>, accessed March 6, 2003).

⁴² Ibid. The authorities reportedly forced their way into their houses and threw all of their personal property out of the house. Mr. Senh was reportedly beaten several more times in November 2001. He was taken to several clinics and hospitals, including Military Hospital No. 103 in Hanoi, but to no avail. His condition continued to deteriorate and he died on August 7, 2002.

⁴³ Freedom House, "Vietnamese Gas Church Service," (Internet).

⁴⁴ Telephone interview with detained Hoa Hao leader in Ho Chi Minh City, February 2002.

⁴⁵ Vietnam Committee on Human Rights, *Violations of Civil and Political Rights in the Socialist Republic of Vietnam: Alternative Report on the Implementation of the International Covenant on Civil and Political Rights*, July 2002.

⁴⁶ Interviews with Buddhist leaders, February 2002. *2002 International Religious Freedom Reports*, “Vietnam,” (Internet).

⁴⁷ *Violations of Civil and Political Rights in the Socialist Republic of Vietnam*, July 2002. *2002 International Religious Freedom Reports*, “Vietnam,” (Internet).

⁴⁸ In March 2003, European Union representatives and U.S. diplomats met the Supreme Patriarch in Hanoi, where he underwent medical treatment. There was some initial concern on the part of the UBCV’s overseas spokesperson that the government intended to confine him either to Hanoi or to a village outside from his current place of confinement after he sent a letter to the government leadership questioning the reason for his detention and that of Thich Quang Do, and calling for the government to recognize the UBCV’s “legitimate status” and to re-establish the organization’s “freedom of religious activities.” See International Buddhist Information Bureau, “Buddhist leader Thich Huyen Quang faces hardships in Hanoi after issuing a statement calling for the re-establishment of the banned UBCV,” March 28, 2003. Meanwhile, the government continues to claim that the Supreme Patriarch is not under house arrest. On March 21, 2003, the Vietnamese Embassy in the United States provided a statement about the Supreme Patriarch’s medical procedure and noted that a “delegation from the European Union” and “[a] diplomat from the U.S. Embassy in Hanoi” visited him during his recuperation. According to the State Department, the President of the Vietnam Fatherland Front and the representatives of the government-sanctioned Buddhist Church of Vietnam also visited the Supreme Patriarch.

⁴⁹ International Buddhist Information Bureau, “Vietnam Prime Minister Phan Van Khai holds talks with Patriarch Thich Huyen Quang in Hanoi on the situation of the banned Unified Buddhist Church of Vietnam,” April 2, 2003.

⁵⁰ *Ibid.* See also Vietnam Committee on Human Rights, “Despite landmark meeting between Prime Minister Phan Van Khai and dissident Buddhist leader Thich Huyen Quang, Vietnam Committee on Human Rights condemns on-going assault on freedom of expression and religion in Vietnam,” April 22, 2003.

⁵¹ Interviews with Vietnamese Catholic bishops, Vietnam, February 2002.

⁵² Interviews with Vietnamese Protestant leaders, Vietnam, February 2002.

⁵³ Vietnamese Embassy in the United States, “The facts about human rights and religious freedom in Vietnam,” April 8, 2003.

⁵⁴ Interview with Vietnamese Protestant leader, Vietnam, February 2002.

⁵⁵ Interview with Vietnamese Protestant leader, Vietnam, February 2002.

⁵⁶ Interviews with Vietnamese Protestant leaders, Vietnam, February 2002. Interview with Vietnamese Protestant leader, Washington, D.C., October 2002.

⁵⁷ Baha'i Assembly in the United States, "Situation of Baha'is in Laos and Vietnam," November 21, 2001.

⁵⁸ *2002 International Religious Freedom Reports*, "Vietnam," (Internet).

⁵⁹ Ambassador Burghardt, "Remarks at the Asia Society," January 21, 2003 (<http://hanoi.usembassy.gov/wwwhamb030121.html>, accessed April 23, 2003).

⁶⁰ U.S. Census Bureau, "U.S. Trade Balance with Vietnam," February 20, 2003 (<http://www.census.gov/foreign-trade/balance/c5520.html>, accessed February 25, 2003).

⁶¹ Ibid.

⁶² Mark E. Manyin, "The Vietnam-U.S. Normalization Process," *Issue Brief for Congress*, March 19, 2003, 8.

⁶³ Ambassador Raymond Burghardt, "Remarks at the Asia Society," (Internet). This initiative provides fellowships for Vietnamese students to pursue graduate and post-graduate studies in the United States in the physical, natural, and environmental sciences, mathematics, technology, and medicine. It also assists U.S. citizens in obtaining teaching opportunities in Vietnam. See U.S. Department of Education, "Vietnam Education Foundation Appoints Executive Director," March 17, 2003 (<http://www.ed.gov/PressReleases/03-2003/03172003.html>, accessed April 15, 2003).

⁶⁴ Ambassador Raymond Burghardt, "Remarks at the Asia Society," (Internet). In his speech, Ambassador Burghardt said:

"Human rights is an issue...that deeply and genuinely concerns the American people as a whole....Our values, our views on this subject, will probably always be different from those of the Vietnamese Communist Party. Nor do we even see the freedoms spelled out in Vietnam's own Constitution applied across the board within the country. [The various freedoms, including the] freedom of belief and of religion are guaranteed in the Constitution, but "in accordance with the provisions of the law." The kicker is that anything that "undermines national solidarity" – such as criticism of the Party or its leaders, or suggestions of the desirability for a multi-party system-is not covered by freedom of speech....

"So we have some differences on human rights, and [they] impede the development of an even better bilateral relationship. But we also recognize that Vietnam has largely abandoned its previous approach of uniformly insisting that these are "internal affairs" in which the U.S. and other countries have no right to intervene. We now have an annual official dialogue during which we discuss our differences and offer candid assessments. We held this year's dialogue in November in Washington. We for the first time were able to include representatives from the Ministries of Public Security and Justice as well as Foreign Affairs folks. On the religious front,

last year Vietnam welcomed a delegation from the U.S. Commission for International Religious Freedom in February and the U.S. Ambassador-at-Large for Religious Freedom in August. Vietnam also joined the UN Commission on Human Rights in 2001 and is already canvassing for support for re-election to another three-year term.”

⁶⁵ Assistant Foreign Minister Le Vang Bang informed Commissioner Shea and the Commission staff about the meeting between Deputy Secretary Armitage and Deputy Prime Minister Dzung during Assistant Foreign Minister Bang’s December 2001 meeting with the Commission. Information regarding Deputy Secretary Armitage’s meetings with Deputy Prime Minister Cam and Foreign Minister Nien was confirmed by the State Department’s Vietnam Desk Officer.

⁶⁶ House International Relations Committee, *U.S. Department of State Report to Congress on the Government of Vietnam’s Progress Toward Improved Human Rights For the Period August 2001 – December 2002*.

⁶⁷ Ibid.

⁶⁸ Ibid.

⁶⁹ H.R. 1587, “Vietnam Human Rights Act of 2003,” April 3, 2003.

⁷⁰ Freedom House, *Directions for Stopping Religion*, (Internet).

⁷¹ See Universal Declaration of Human Rights, 1948, Art. 29; International Covenant on Civil and Political Rights, Art. 18 (3); UN Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief, Art. 1 (3).

⁷² See International Religious Freedom Act of 1998 (IRFA), § 402 (b)(1)(A), 22 U.S.C. § 6442 (b)(1)(A). “Particularly severe violations of religious freedom” are defined in IRFA § 3 (11), 22 U.S.C. § 6402 (11) as:

“systematic, ongoing, egregious violations of religious freedom, including violations such as – (A) torture or cruel, inhuman or degrading treatment or punishment; (B) prolonged detention without charges; (C) causing the disappearance of persons by the abduction or clandestine detention of those persons; or (D) other flagrant denial of the right to life, liberty, or the security of persons” (emphasis added).

⁷³ U.S. House of Representatives, *U.S. Department of State Report to Congress on the Government of Vietnam’s Progress Toward Improved Human Rights For the Period August 2001 – December 2002*.

⁷⁴ Ibid.

⁷⁵ International Monetary Fund, “IMF Approves US\$368 Million PRGF Arrangement for Vietnam,” April 6, 2001. Asian Development Bank, “ADB Lending Program to Vietnam Will Average US\$280 million Annually,” August 22, 2002. Report of the United States Commission

on International Religious Freedom, May 1, 2001, 147.

⁷⁶ *Annual Report of the U.S. Commission on International Religious Freedom*, May 2001, 147.

⁷⁷ Sec. 701, International Financial Institutions Act of 1977 (IFIA), 22 U.S.C. § 262d; IRFA § 405(a)(12), 22 U.S.C. § 6445. The IFIA stipulates that the U.S. government shall take actions to “advance the cause of human rights,” such as withholding support for non-humanitarian loans to countries “whose governments engage in a pattern of gross violations of internationally recognized human rights,” including “particularly severe violations of religious freedom,” as defined by IRFA. In addition, the Gramm Amendment to the Bretton Woods Agreements Act mandates U.S. opposition to IMF credits to communist regimes, such as Vietnam. See 22 U.S.C. § 286aa.

⁷⁸ Section 702 of the Foreign Relations Authorization Act for Fiscal Year 2003 requires the State Department to

“Not later than December 31 of each year or 60 days after the second United States-Vietnam human rights dialogue meeting held in a calendar year, whichever is earlier, the Secretary shall submit to the appropriate congressional committees a report covering the issues discussed at the previous two meetings and describing to what extent the Government of Vietnam has made progress during the calendar year toward achieving the following objectives:

- (1) Improving the Government of Vietnam’s commercial and criminal codes to bring them into conformity with international standards, including the repeal of the Government of Vietnam’s administrative detention decree (Directive 31/CP).
- (2) Releasing political and religious activists who have been imprisoned or otherwise detained by the Government of Vietnam, and ceasing surveillance and harassment of those who have been released.
- (3) Ending official restrictions on religious activity, including implementing the recommendations of the United Nations Special Rapporteur on Religious Intolerance.
- (4) Promoting freedom for the press, including freedom of movement of members of the Vietnamese and foreign press.
- (5) Improving prison conditions and providing transparency in the penal system of Vietnam, including implementing the recommendations of the United Nations Working Group on Arbitrary Detention.
- (6) Respecting the basic rights of indigenous minority groups, especially in the central and northern highlands of Vietnam.
- (7) Respecting the basic rights of workers, including working with the International Labor Organization to improve mechanisms for promoting such rights.

(8) Cooperating with requests by the United States to obtain full and free access to persons who may be eligible for admission to the United States as refugees or immigrants, and allowing such persons to leave Vietnam without being subjected to extortion or other corrupt practices.”

⁷⁹ Assistant Secretary of State James Kelly, “Remarks at the Woodrow Wilson Center,” December 11, 2002. In his speech, Assistant Secretary Kelly stated that the United States “want[s] to work with ASEAN in the areas of good governance, rule of law, investment and development policies, democratization, and civil society, on the belief that these values are the foundation of a modern, pluralistic society.” Since the Human Rights Working group was established in 1996, it has made some progress with respect to the creation of a permanent human rights mechanism in Southeast Asia. Indonesia, Malaysia, the Philippines, Thailand, and Singapore have established national working groups to participate in the Working Group. Burma is reportedly considering the establishment of a national working group. Correspondence with Professor Carlos Medina, Secretary General of the ASEAN Human Rights Working Group, March 31, 2003.

⁸⁰ *Ibid.* Professor Medina stated that Vietnam has established a “focal point” within the government liaison with the Working Group.

⁸¹ Amnesty International, “No sanctuary: The plight of the Montagnard minority.”

⁸² Human Rights Watch, “New Assault on Rights in Vietnam’s Central Highlands: Crackdown on Indigenous Montagnards Intensifies.”

⁸³ *Ibid.*

⁸⁴ *Ibid.*

⁸⁵ Human Rights Watch, “Vietnam: New Documents Reveal Escalating Repression,” April 21, 2003.

⁸⁶ Amnesty International, “No sanctuary: The plight of the Montagnard minority.”

⁸⁷ *Agence France Presse*, “Human Rights Watch appeals to Cambodia PM over missing monk,” August 6, 2002.

⁸⁸ *Reuters*, “UN objects to Cambodia Falun Gong deportations,” August 20, 2002. After the UNHCR lodged its protest, the Cambodian national police chief reportedly stated that the government was unaware that the two Chinese refugees were under UNHCR protection. He said that the two individuals were deported as “illegal immigrants” and at the “request of the Chinese Embassy” in Phnom Penh. See *Associated Press*, “Cambodia police admit deporting Falun Gong members, but say they were unaware of U.N. protection,” August 29, 2002.

⁸⁹ Amnesty International, “No sanctuary: The plight of the Montagnard minority.” Human Rights Watch, “New Assault on Rights in Vietnam’s Central Highlands: Crackdown on

Indigenous Montagnards Intensifies.”

⁹⁰ Deputy Assistant Secretary of State Matthew P. Daley, “U.S. Interests and Policy Priorities in Southeast Asia,” Statement before the House International Relations Committee, March 26, 2003.

⁹¹ Radio Free Asia, “A Message from the RFA President” (<http://www.rfa.org/front/about/>, accessed April 7, 2003).

⁹² Commission staff correspondence with RFA personnel, April 8, 2003.

⁹³ H.R. 1019, “Freedom of Information in Vietnam Act of 2003,” February 27, 2003.

⁹⁴ The International Broadcasting Bureau estimates that, despite government jamming, approximately 4 percent of Vietnamese adults listen regularly to RFA broadcasts. Also according to RFA officials, the RFA Internet site registers thousands of hits from Vietnam on a daily basis despite the government’s efforts to block the site. Correspondence with Radio Free Asia’s Director of Vietnam Services, April 8, 2003.

⁹⁵ Ambassador Raymond Burghardt, “Remarks at the Asia Society,” (Internet).