

Prepared Testimony of

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The Future of U.S.-Vietnamese Relations

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Mr. Chairman and Members of the Subcommittee:

Thank you very much for this opportunity to comment on Vietnam's ongoing effort to rejoin the global community. The progress of that effort is defined by two dynamics that are often in tension: Vietnam's desire to reap the benefits of the global economy, most notably through accession to the World Trade Organization, and its reticence in adopting minimal protections of civil liberties for its citizens, most notably its denial of basic religious freedoms.

As a proponent of free trade, I understand the arguments of those who would advocate for the decoupling of these two issues. However, I believe that our nation's interest is best served by concurrent efforts to help Vietnam enhance its trade relations and also to persuade and, where necessary, to pressure Vietnam to improve its record on the protection of basic human rights. We should seek all opportunities and exhaust all avenues to coax, cajole and coerce Vietnam to improve its human rights record and to end its campaign of religious persecution. At this time, the best opportunity is presented by Vietnam's desire to join the global economy.

Although, by many measures, the human rights situation in Vietnam has deteriorated in recent years, there is also some cause for optimism: Continued economic and diplomatic pressure may lead Vietnam to recognize that it cannot join the global economy and live in political isolation at the same time.

Since the introduction of *doi moi*,¹ Vietnam has been struggling with the tension between its desire to reap the benefits of an open, market-oriented economy and to maintain a closed, repressive political system. Even as its self-imposed goal of entering

¹ The Sixth Communist Party Congress instituted *doi moi* (renovation) in December 1986 as a program to reform and revitalize Vietnam's then-stagnant economy. See Viet D. Dinh, *Financial Reform and Economic Development in Vietnam*, 28 LAW & POL'Y INT'L BUS. 857, 866 (1997).

the WTO by January 2005 looms closer, the Communist Party refuses to relinquish its grasp on numerous state-owned industries, and continuing discriminatory policies and tariffs have stifled the excitement of many foreign investors. In May 2003, these policies and practices led Seung Ho, chairman of the WTO-Vietnam working party, to proclaim that it would take a “quantum jump” for Vietnam to obtain WTO membership by 2005.²

Any delay in joining the WTO would have serious economic consequences for Vietnam. On January 1, 2005, the United States and the European Union are scheduled to drop textile quotas for WTO members. Textiles are Vietnam’s top export, with 2003 earnings estimated at \$3.6 billion.³ Largely because of the U.S.-Vietnam Bilateral Trade Agreement,⁴ textiles make up more than half of the \$4.2 billion of exports Vietnam sends to the United States.⁵ If Vietnam does not accede to the WTO by January 1, 2005, when the WTO drops textile quotas, most of this trade would shift to WTO members such as China and the Philippines.

Vietnam has taken significant steps to remedy many of the deficiencies that pose barriers to its accession to the WTO.⁶ And market pressures will continue to nudge Hanoi to loosen its grasp on the country’s economy. For example, China’s entry into the WTO helped persuade Hanoi ultimately to sign and ratify the US-Vietnam Bilateral Trade Agreement. Although implementation has been sporadic, the Agreement remains the best roadmap toward improvement of the trade and investment regime in Vietnam. The United States Government, both in this and the preceding Administration, should be applauded for its steadfast insistence on the key terms of the Agreement. We should continue efforts to encourage and assist Vietnam to implement the Agreement fully and thereafter to accede to the WTO.

However, given Vietnam’s insistence that trade be decoupled from politics,⁷ it is unrealistic to expect that improvements in the country’s human rights situation would follow inexorably from enhanced economic relations and open access to the world trade regime. Open markets have challenged the Communist Party’s ideological commitment to a command and control economy, but the road towards market oriented capitalism has not led the Party to relinquish control over the Vietnamese people.

² *Vietnam Starts Its “Quantum Jump” But Still Some Way to Go*, WTO NEWS (Dec. 12, 2003), available at http://www.wto.org/english/news_e/news03_e/acc_vietnam_12dec_e.htm (last viewed Feb. 8, 2004).

³ Frederik Balfour, *Time Is Running Out*, BUS. WEEK 24 (Dec. 1, 2003).

⁴ Bilateral Trade Agreement to Normalize Trade Relations with Vietnam, Oct. 16-Nov. 29, 2001, U.S.-Vietnam, 115 Stat. 268, available at <http://www.ustr.gov/regions/asia-pacific/text.pdf> (last viewed Feb. 8, 2004).

⁵ Import totals for January through November 2003. See U.S. INT’L TRADE COMM., U.S. IMPORTS FOR CONSUMPTION AT CUSTOMS VALUE FROM VIETNAM (2003), available at http://dataweb.usitc.gov/scripts/cy_m3_run.asp?Fl=m&Phase=HTS2&cc=5520&cn=Vietnam (last viewed Feb. 8, 2004).

⁶ *Vietnam Starts Its “Quantum Jump” But Still Some Way to Go*, WTO NEWS (Dec. 12, 2003), available at http://www.wto.org/english/news_e/news03_e/acc_vietnam_12dec_e.htm (last viewed Feb. 8, 2004).

⁷ Upon signing the Bilateral Trade Agreement, the Vietnamese Government emphasized “‘nonintervention in each other’s internal affairs,’ a phrase that responds in particular to American criticism of human rights standards in Vietnam.” Seth Mydans, *Relations at Last Normal, Vietnam Signs U.S. Trade Pact*, N.Y. TIMES at A8 (Nov. 29, 2001).

This control often manifests itself through sheer oppression. The Vietnamese are denied even the most basic freedoms—freedoms of speech, the press, religion, expression and assembly. And the courts mete arbitrary sanctions under opaque laws and ignored constitutional protections.⁸

The human rights situation in Vietnam is well-documented. The Department of State⁹ and organizations like Amnesty International¹⁰ and Human Rights Watch¹¹ have carefully chronicled the behavior of the Vietnamese Government toward its citizens. Of particular concern is the government's record of repressing religious activity and persecution of religious leaders and clergy, brave men and women of faith like Father Thadeus Nguyen Van Ly.

Father Ly was ordained in 1974. In 1982, he drew the ire of the Communist Party after attempting to lead a religious pilgrimage.¹² Placed under arrest, and confined to his birth village, Father Ly defied the authorities to return to his church. The police made nine successive attempts to arrest Father Ly, thwarted each time by his parishioners. On the tenth attempt, Hanoi sent roughly 200 police officers to overcome the opposition, and Father Ly was arrested in May 1983. For his defiance, Father Ly was sentenced to 10 years' imprisonment. He served 9 of those years before the authorities released him in 1992.

In 2000, Father Ly again spoke out about the government's religious intolerance. In March of 2001, at the invitation of the U.S. Commission on International Religious Freedom, Father Ly submitted written testimony to highlight religious persecution in Vietnam. His testimony to the Commission was prophetic of his own fate:

There is no freedom of speech in my country. Churches, of course, have none. This kind of statement I am presenting to you cannot be circulated in Vietnam because no photocopying store or printing shop would dare to reproduce it. Nobody dares to keep it fearing for his own life and the safety of his family. Those who dare must be prepared for martyrdom.

⁸ These ignored constitutional provisions include Article 69, which specifically provides: "The citizen shall enjoy freedom of opinion and speech, freedom of the press, the right to be informed, and the right to assemble, form associations and hold demonstrations in accordance with the provisions of the law." VIETNAM CONST. (Constitution of 1992) art. XXXXXXIX, *available at* <http://www.vietnamembassy-usa.org/learn/gov-constitution5.php3> (last viewed Feb. 8, 2004).

⁹ See U.S. STATE DEPT., SUPPORTING HUMAN RIGHTS AND DEMOCRACY: THE U.S. RECORD 2002-2003 (2003) [hereinafter SUPPORTING HUMAN RIGHTS AND DEMOCRACY], *available at* <http://www.state.gov/g/drl/rls/shrd/2002/> (last viewed Feb. 8, 2004); U.S. STATE DEPT., THE INTERNATIONAL RELIGIOUS FREEDOM REPORT OF 2003 (2003), *available at* <http://www.state.gov/g/drl/rls/irf/2003/24327.htm> (last viewed Feb. 8, 2004).

¹⁰ See, e.g., Amnesty International, Library, Vietnam, *available at* <http://web.amnesty.org/library/eng-vnm/news> (last viewed Feb. 8, 2004).

¹¹ See, e.g., Human Rights Watch, Asia, Vietnam, *available at* <http://www.hrw.org/doc?t=asia&c=vietna> (last viewed Feb. 8, 2004).

¹² Henry Kamm, *Anti-Vatican Plan Reported In Hanoi*, N.Y. TIMES at 15 (Mar. 4, 1984).

In response to this and other statements, the official Vietnamese news media denounced Father Ly as a traitor.

On October 20, 2001, Father Ly was sentenced to 15 years' imprisonment—2 years for violating his probation and 13 years for “undermining the great unity.”¹³ In September of 2003, the Government also jailed three of Father Ly's relatives, accusing them of providing information about religious conditions in Vietnam to “reactionary” organizations in the United States.¹⁴ Their crime was simply to call attention to Father Ly's plight and to advocate for his release.

I think the U.S. State Department in its annual Human Rights Report summarizes well the current situation in Vietnam, “The Government of Vietnam (GVN) continued to repress basic political freedoms including freedoms of speech, the press, assembly, and association; arbitrarily detain its citizens, including detention for peaceful expression of political and religious views; restrict activities of registered and non-registered religious groups; and reportedly committed numerous egregious abuses in the Central Highlands.”¹⁵

The State Department report also suggests a silver lining among the dark clouds, that United States efforts to pressure Vietnam to improve its record on religious persecution has led to some, albeit limited, success:

The USG consulted with GVN authorities at all levels throughout the year on human rights issues, including hosting a U.S.-Vietnam Dialogue on Human Rights. As a result of our effort, the GVN allowed numerous people to depart Vietnam, including over two dozen Montagnard families, a Chinese national who had entered Vietnam illegally, and a prominent actor who had been harassed and detained. Other intervention resulted in improved GVN treatment of some other persons of concern, such as a controversial Hoa Hao monk.¹⁶

Although the U.S. efforts have been met with measured resistance, their limited success demarcates a path for improvement in the human rights situation in Vietnam: The United States should seek all opportunities and exhaust all avenues to persuade and, where necessary, to pressure Vietnam to improve its human rights record and to end its campaign of religious persecution. Right now, the best opportunity is presented by Vietnam's demonstrated need and express desire to accede to the World Trade Organization and join the global economy.

The promise of a two-pronged approach, a concurrent focus on both enhanced trade and improved human rights, is underscored by the Vietnamese Government itself. Father Ly was denounced and jailed as a traitor not simply for highlighting Vietnam's human rights abuses, but also because he urged the United States to link religious

¹³ *Vietnam Imprisons An Outspoken Priest*, N.Y. TIMES at 1A19 (Oct. 21 2001).

¹⁴ Amy Kazmin, *Relatives of Priest Jailed in Vietnam*, FINANCIAL TIMES 13 (Sept. 11, 2003).

¹⁵ SUPPORTING HUMAN RIGHTS AND DEMOCRACY, *supra* note 9.

¹⁶ SUPPORTING HUMAN RIGHTS AND DEMOCRACY, *supra* note 9.

freedom to the ratification of the Bilateral Trade Agreement.¹⁷ And, Mr. Chairman, I understand that your recent trip to Vietnam included a visit with Father Ly. Although it may seem a small thing to us, official permission for that meeting, in and of itself, is a significant development—one that I believe would not have been possible absent your persistent efforts to highlight religious persecution in Vietnam.

To be sure, the WTO accession process does not explicitly accommodate non-trade interests,¹⁸ and I am not suggesting that the United States invoke its non-application right under Article XIII of the WTO agreement.¹⁹ However, I believe that we should send a clear and consistent message to Vietnam that United States support for its expeditious accession to the WTO depends on concrete improvements in its human rights record and an end to religious persecution.

I want to close by recounting the stakes in the future of US-Vietnam relations. The Twentieth Century may have brought the United States military defeat in Vietnam, but it also marked the conclusive triumph around the world of democratic capitalism over totalitarian communism.²⁰ Engaging with post-war Vietnam diplomatically and economically serves the same purpose as military intervention during the conflict. That purpose, now as then, is to promote U.S. strategic interests, respect for the rights of man, and the betterment of life for people everywhere.

This is no longer a war of bullets and bombs, but a battle of ideas and institutions. The United States has negotiated and ratified an effective bilateral trade and investment treaty. We need to continue to encourage and assist Vietnam to implement the Agreement fully and according to its strict timetable. Completion of this process would provide stable, transparent, and accountable economic infrastructure necessary for Vietnam's accession to the WTO and its continued progression toward a market-oriented economy.

But free markets are only half of the democratic capitalism ideal; free peoples are the other half. The typical Vietnamese response to foreign pressure, that insistence on human rights intrudes on its domestic sovereignty, rings hollow. The Vietnamese leadership out of necessity has abandoned its Marxist-Leninist ideal of command and control collectivism. It now simply clings to political control. The same vigilance and pressure that dragged Vietnam onto the path toward a market economy need to be applied to weaken its grip on totalitarian authority.

To keep in sight that we are continuing a larger effort for democracy and capitalism is to protect against erosion of core American ideals through the process of

¹⁷ *Vietnam Imprisons An Outspoken Priest*, N.Y. TIMES at 1A19 (Oct. 21 2001).

¹⁸ See Viet D. Dinh, *Joining the Club: The Dynamics of Accession to the World Trade Organization* 12-14 (draft manuscript on file with the author).

¹⁹ WTO Agreement art. XIII, para. 1, provides that the WTO Agreement and related commitments "shall not apply as between any Member and any other Member if either of the Members, at the time the other becomes a Member, does not consent to such application."

²⁰ See Viet D. Dinh, *How We Won in Vietnam*, 104 POL'Y REV. 51 (Dec. 2000 & Jan. 2001).

engagement. It is to work so that the Vietnamese people see the promise of freedom and democratic political expression in an economy and society protected by the rule of law.

Equally important for America, continuing to push for the same ideals for which we fought the war puts the Vietnam conflict into the proper broader historical perspective. It helps to heal the lingering wounds of that sad era and leads Americans to appreciate that our soldiers did not die in vain, that our veterans are deserving of honor and gratitude, and that our triumphant ideals and institutions are worth fighting for.