

Strengthening US–Vietnam Relations in the Context of Human Rights

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Abstract

The article examines the prospects of America renewing its human rights legacy in Southeast Asia. Despite the restoration of US diplomatic ties with Vietnam in 1995, the two countries continue to have a tense relationship in the context of human rights. While progress has been made regarding Vietnam’s ratification of the UN Convention against Torture and the release of some prisoners, significant challenges remain. The US State Department’s annual human rights reports are seen as excessively critical, while state-run media in Vietnam have condemned US criticism of the country’s human rights record. The article suggests that Washington needs to engage in multiple strategies to improve human rights dialogue with Vietnam, including fostering trust among members of Vietnamese civil society, addressing war legacies, and scaling up related development projects. The article also notes the difficulties of consistency in foreign policy due to political polarization, as well as the challenges of making amends through public apologies for past human rights violations.

Can the United States revive its human rights legacy in Southeast Asia? Human rights atrocities have long been a divisive and substantive topic ingrained in the intergenerational collective memories of millions, even before US military involvement in Vietnam. In 1966, antiwar activist Bertrand Russell initiated the Russell Tribunal to hold the Johnson administration accountable for war crimes and to incite opposition in “the smug streets of Europe and the complacent cities of North America.”¹ Over the course of the war, the US

¹ Tor Krever, “Remembering the Russell Tribunal.” *London Review of International Law* 5, no. 3 (2017): 483–92, <https://doi.org/>.

military sprayed more than 19 million gallons of Agent Orange,² a chemical herbicide and defoliant containing dioxin, which exposed between 2.1 and 4.8 million Vietnamese villagers³ and resulted in birth defects and health problems in more than 100,000 children born after the war.⁴ The March 1968 massacre of My Lai village was another example of the United States' troublesome legacy in Vietnam. Journalists and scholars have extensively documented how Charlie Company, a unit of the 11th Brigade, 20th Infantry, slaughtered nearly 500 Vietnamese, including women and children, with some being raped, tortured, and mutilated before being executed.⁵ With the passage of time, however, US relations with Vietnam have transformed. In July 1995, diplomatic ties were formally resumed, culminating in the opening of a US embassy in Ho Chi Minh City, formerly Saigon, where the US retreat in 1975 marked the end of the Vietnam War.

However, despite the resumption of diplomatic ties between the Washington and Hanoi, their relationship remained strained, especially in the area of human rights. While the lifting of the US trade embargo in 1994 led to some progress in trade liberalization, there was little to no progress in human rights. In 2002, the George W. Bush administration suspended the Bilateral Human Rights Dialogue due to the lack of progress made by Vietnam.⁶ Hanoi's interest in joining the World Trade Organization (WTO) jumpstarted compliance on certain aspects of freedom of religion and granting a US request to release several prisoners of concern.

While relations have improved in the context of security and China's rise, many aspects of bilateral relations with respect to human rights have not. The Vietnam News Agency (VNA), a state-run agency, has published editorials condemning US criticism of Hanoi's human rights record, with a recent January 2023 suggest-

² Jeanne Mager Stellman, et al., "A Geographic Information System for Characterizing Exposure to Agent Orange and Other Herbicides in Vietnam." *Environmental Health Perspectives* 111, no. 3 (2003): 321–28.

³ Charles Schmidt, "Is Agent Orange Still Causing Birth Defects?," *Scientific American*, 16 March 2016, <https://doi.org/>.

⁴ Ash Anand, "Agent Orange Deformities: The Children of Vietnam's Horrific Legacy," *news.com.au*, 25 May 2015, <https://www.news.com.au/>.

⁵ Seymour M. Hersh, "The My Lai Massacre," *New Yorker*, 14 January 1972, <https://www.newyorker.com/>.

⁶ *The Human Rights Dialogue with Vietnam: Is Vietnam Making Significant Progress? : Joint Hearing Before the Subcommittee on Africa, Global Human Rights, and International Operations and the Subcommittee on Asia and the Pacific of the Committee on International Relations, House of Representatives*, 109th Cong., 2nd sess., 29 March 2006, vol. 4 (Washington, DC: U.S. Government Printing Office, 2006).

ing that the US Commission on International Religious Freedom (USCIRF) has issued “wrongful, one-side and ungrounded comments” about the limitation of religious freedom in Vietnam.⁷ Likewise, Hanoi views the US Department of State’s annual human rights reports as excessively critical.⁸ The *2022 Country Report on Vietnam* details significant human rights challenges, including arbitrary killings at the hands of the government; torture and cruel, inhumane, or degrading treatment, arbitrary detention and arrest, the politicization of the judiciary, excessive curbs on free expression and media, and more. In tandem however, in Vietnam’s *Third Cycle Universal Periodic Review* (UPR) in 2019, the United Nations Country Team in Vietnam (UNCT) also reported that as many as 150 human rights defenders were languishing in prison. The environment for human rights activists in Vietnam was bleak, as many were “harassed, attacked, arrested, detained and ill-treated in custody for criticizing the Government or its policies.” According to the UN, between 2014 and 2017, more than 70 defenders were arrested and detained under Vietnam’s vaguely worded penal code.⁹

Improving human rights dialogue with Vietnam requires the United States to employ multiple strategies, some of which are short-term, while others have no clearly visible time horizon. Overcoming trust deficits, in general, is difficult, and some in closed circles view the promotion of democratization and Western human rights standards as hostile to the Communist Party, as evidenced by its 1996 Political Report, where the Party rejected attempts to use “democracy” or “human rights” to cause “political disturbances, oppose the regime or interfere in the internal affairs of our country.”¹⁰ Despite the lack of progress among segments of the population living memories of the conflict, the United States must continue to engage in activities that foster trust among members of Vietnamese civil society, particularly among younger generations. Addressing issues of the past—such as war legacies—is key to an honest and transparent bilateral dialogue.

⁷ Vietnam News Agency, “OP-ED: Ensuring and Protecting Human Rights a Focal Point in Vietnam,” *VietnamPlus*, 2 January 2023, <https://en.vietnamplus.vn/>.

⁸ Thinh Duc and Phan Ngoc Phuc, “The Absurdity of the U.S Annual Human Rights Reports,” *National Defence Journal*, 10 October 2022, <http://tapchiquptd.vn/>.

⁹ “Compilation on Viet Nam: Report of the Office of the United Nations High Commissioner for Human Rights,” United Nations General Assembly, 15 November 2018, <https://documents-dds-ny.un.org/>.

¹⁰ “Báo Cáo Chính Trị Của Ban Chấp Hành Trung Ương Đảng Khóa VII Tại Đại Hội Đại Biểu Toàn Quốc Lần Thứ VIII Của Đảng, [The Political Report of the Central Executive Committee of the 7th tenure presented at the 8th National Congress of the Party]” *Báo điện tử Đảng Cộng sản Việt Nam*, 1996. <https://tulieuvankien.dangcongsan.vn/>.

Past work on human rights, public health, and environmental issues created by Agent Orange are a welcoming start. Between 2007 and 2021, the United States dedicated nearly USD 400 million to this effort, including USD 60 million managed by the US Agency for International Development (USAID) for clean-up near the Bien Hoa airbase.¹¹ However, due to political difficulties, Washington has struggled to make amends through public apologies to Vietnamese citizens and US war veterans affected by the toxic chemicals.¹² Unfortunately, shifts in language and strategy among different US administrations over the past two decades have also affected consistency in foreign policy, as seen with Vietnam's enthusiasm for the Trans-Pacific Partnership Agreement (TPP) and US lawmakers' reservations about labor conditions and opposition to union rights.¹³ Under the Trump administration, a speech by then-Secretary of State Mike Pompeo, condemning communists as liars in reference to China, also offended the Vietnamese, undermining built-up trust and prior investments in dialogue and mutual cooperation.¹⁴

The nexus of human development and human rights presents the United States with additional opportunities for partnership with Vietnam. Scaling up related development projects, such as addressing Vietnam's high rates of maternal mortality and infant mortality through bilateral cooperation, could significantly contribute to making amends for the harmful human rights legacy of the Vietnam War. USAID's training programs for healthcare professionals have helped address the critical shortage of healthcare services to persons with disabilities. The Vietnam Federation on Disability reported that approximately 6.2 million people are disabled in Vietnam, including more than 700,000 children.¹⁵ Through the Leahy War Victims Fund (LWVF), the United States has increased access to several programs that benefit people with disabilities in conflict-affected countries in Southeast Asia,¹⁶ but such aid is clearly insufficient. Disability and poverty are

¹¹ Michael F. Martin, *U.S. Agent Orange/Dioxin Assistance to Vietnam* (Washington, DC: Congressional Research Service, 15 January 2021), <https://sgp.fas.org/>.

¹² Joseph Clark, "Lawmakers Introduce Resolution to Give Formal Apology for Treatment of Vietnam Vets," *Washington Times*, 17 February 2023, <https://www.washingtontimes.com/>.

¹³ Chris Smith and Zoe Lofgren, "Human Rights Abuses in Vietnam Make TPP Unacceptable," *The Hill*, 13 May 2015, <https://thehill.com/>.

¹⁴ Mike Pompeo, "Communist China and the Free World's Future" (speech, United States Department of State, 23 July, 2020), <https://2017-2021.state.gov/>.

¹⁵ Vietnam News Agency, "More Data Needed on People with Disabilities in Vietnam," *VietnamPlus*, 7 October 2022, <https://en.vietnamplus.vn/>.

¹⁶ US Agency for International Development, "Persons with Disabilities | Vietnam," 28 December 2022, <https://www.usaid.gov/>.

interrelated, which increases the likelihood of malnutrition and limits access to safe drinking water basic health services.¹⁷ Moreover, basic health services across Vietnam are inadequate, with many hospitals lacking services for people with disabilities. Bilateral development cooperation could fill these gaps and improve the situation.

Unexploded ordnance (UXO) presents further opportunities for cooperation. Ambassador Bonnie Jenkins, Under Secretary for Arms Control and International Security, stated that the United States has provided more than USD 665 million to remove UXO across the Indo-Pacific, with a particular focus on Vietnam, Cambodia, and Laos.¹⁸ The UN Protocol on Explosive Remnants of War (Protocol V) holds parties involved in armed conflicts responsible for removing explosive remnants of war in their own territory and cooperating with other states to remove or destroy such remnants.¹⁹ By increasing funding and cooperation in related areas, such as disabilities, the United States can enhance the impact and value of its relationship with Vietnam.

However, Washington cannot ignore its normative obligations regarding human rights, despite its own poor record in Southeast Asia. The Bilateral Human Rights Dialogue took place after Vietnam was elected to a three-year term on the UN Human Rights Council (UNHRC) in October 2022.²⁰ The UNHRC has received heavy criticism since its inception (replacing the old UN Human Rights Commission), with many questioning how UN member states with dubious human rights records have managed to secure a seat on the body. Consequently, Vietnam finds itself in a vulnerable yet influential position, underscoring the need for transparency and accountability. For example, Hanoi received criticism when it voted against suspending Russia from the Council, while state-run media downplayed the decision.²¹ The United States should aim to engage Vietnam through institutional bodies such as the UN, as well as through bilateral means,

¹⁷ Michael Palmer, et al., “The Economic Lives of People with Disabilities in Vietnam,” *PLoS ONE* 10, no. 7 (2015): e0133623. <https://doi.org/>.

¹⁸ Bonnie Jenkins, “Under Secretary Jenkins’ Remarks at the USIP Dialogue on War Legacies and Peace” (speech, United States Department of State, 12 October 2022), <https://www.state.gov/>.

¹⁹ United Nations Office for Disarmament Affairs, “CCW Protocol V on Explosive Remnants of War – UNODA,” n.d., <https://www.un.org/>.

²⁰ Sebastian Strangio, “Vietnam Wins Seat on UN Human Rights Council,” *The Diplomat*, 12 October 2022, <https://thediplomat.com/>.

²¹ “Vietnam Briefing: Vietnam Votes Against The Suspension Of Russia’s Membership In The UN Human Rights Council,” *Vietnamese Magazine*, 11 April 2022, <https://www.thevietnamese.org/>.

rather than limiting engagement to pre-selected topics during the annual Dialogue. In a potential negotiation for a Strategic Partnership, which would benefit both nations, human rights should be part of the negotiation process, similar to earlier discussions regarding Vietnam's entry into the now-defunct TPP trade agreement.²²

In more than four decades since the fall of Saigon and the beginning of the end of a painful human rights legacy, US–Vietnam relations have undergone a significant transformation through economic, political, and some security cooperation. However, discussions on critical human rights issues have yet to be adequately addressed. Key to achieving progress is consistent constructive engagement, supported by foreign policy coherence and results-oriented development. Despite the United States' legitimate criticism of Vietnam's human rights record, some progress has been made. For example, Vietnam ratified the United Nations Convention against Torture (UNCAT) in February 2015. Additionally, progress has been made in providing clean water and sanitation services, and the country's surge in economic development and potential graduation to upper-middle income country status by 2030 have the potential to create a broader middle class while lifting many from poverty.²³ Where there is rightful critique, there must also be an abundance of support. ✪

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²² Zoe Lofgren, "Vietnam and the Trans-Pacific Partnership," 9 May 2018, <https://lofgren.house.gov/>.

²³ "Vietnam's Human Rights Record Is Poor but Improving, HRMI Says," *Radio Free Asia*, 24 June 2022, <https://www.rfa.org/>.

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