

TESTIMONY APRIL 26, 1994 HIRAM A. RUIZ POLICY ANALYST UNITED STATES COMMITTEE FOR REFUGEES HOUSE FOREIGN AFFAIRS/ASIAN AND PACIFIC AFFAIRS HMONG REPATRIATION TO LAOS

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Testimony of

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on the

Situation of **Hmong Refugees**

and Asylum Seekers in **Thailand**

before the

House Committee on Foreign Affairs

Subcommittee on Asia and the Pacific

April 26, 1994

Mr. Chairman, I am Hiram A. Ruiz, Asia policy analyst for the **U.S.** Committee for **Refugees** (USCR). Thank you for extending me the opportunity to present the views of USCR concerning the situation of **Hmong** Laotian **refugees**.

The **U.S.** Committee for **Refugees** is a nonprofit, nongovernmental organization that regularly monitors and assesses the situation of **refugees** and displaced people around the world. We have monitored developments affecting **Hmong refugees** in **Thailand** specifically for many years. I personally traveled to **Thailand** last year to document the situation of the **Hmong**, and, more recently, a USCR consultant conducted on-site documentation for USCR on the screening process being used to determine **refugee** status.

INTRODUCTION

Mr. Chairman, the **U.S.** Committee for **Refugees** is grateful that you have convened a hearing regarding **refugees** and asylum seekers in Southeast Asia at this critical juncture. The long saga of Vietnamese boat people appears to be drawing towards a close. The screening of most Vietnamese asylum seekers has been completed, and the UN High Commissioner for **Refugees** (UNHCR) and the governments concerned have agreed that those who have been screened out (determined not to be **refugees**) must return to Vietnam by the end of 1995.

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As recent events in Hong Kong indicate, however, if this "end- game" is not approached sensitively and responsibly, there is potential for violence and tragedy. Although USCR is not testifying regarding the Vietnamese today, I would like to add our voice to those who urge that the U.S. government work to ensure that the return home of screened-out Vietnamese asylum seekers takes place with dignity and respect for the basic human rights of all individuals.

The situation of the Hmong is often regarded as parallel to that of the Vietnamese, and there appears to be widespread belief that solutions decided upon for the Vietnamese can and should apply to the Hmong as well. But that is not the case.

There are significant differences between political, social, and economic conditions in Vietnam and Laos, and between the Vietnamese and Laotian governments. Also, the Hmong are an ethnic minority within Laos, which, combined with the fact that some Hmong continue to engage in an armed insurgency against the present Laotian government, results in their remaining a marginalized, suspect group upon returning to Laos.

The situation of the Hmong should be analyzed in its own right, and the U.S. government should formulate policy toward the Hmong based on that group's particular needs and situation. That policy should take into account the fact that the Hmong, including many of those currently living as refugees in Thailand, risked their lives to assist the United States. Indeed, it is because of that support for the United States that the Hmong are in this situation today. While we may now wish to put that period in our history behind us, it would be wrong to turn our backs on the Hmong in the process.

Having said that, we can not ignore political realities on the ground in Southeast Asia, particularly Thailand's unwillingness to continue hosting refugee populations. What is needed is a U.S. policy that is sensitive to the situation and needs of the Hmong, that honors our responsibility toward them, that maximizes safeguards for the Hmong, and that takes into account political realities. Achieving such a balance will not be an easy task.

BACKGROUND

For many years following the end of the United States' military involvement in Southeast Asia, the U.S. government responded admirably to the plight of the refugees who fled Vietnam, Laos, and Cambodia beginning in the mid- 1970s in the wake of communist takeovers in those countries. The United States opened its doors to more than a million such refugees.

The asylum countries of Southeast Asia, including Thailand, also did their part. Although there were serious problems, eventually, through the adoption in 1989 of the Comprehensive Plan of Action on Indochinese Refugees, the so-called CPA, an accommodation was found that guaranteed first asylum in the region for those who fled, and left the door open for overseas resettlement of those determined to meet the criteria for refugee status.

The CPA plan called for asylum countries to institute a screening process to determine if any given individual met the criteria for being granted refugee status. Most of the Hmong in Thailand either arrived before the screening process began and thus have automatic refugee status, or were "screened in," that is, determined to be refugees.

The United States extended the possibility of resettlement here to Hmong with refugee status who also met U.S. Immigration and Naturalization Service (INS) criteria for admission to the United States as refugees.

More than 64,000 Hmong have resettled in the United States. For many, lacking formal education, English language skills, or transferable work skills, life in the United States proved difficult. Consequently, many other Hmong refugees in Thailand decided against resettlement in the United States. Many of the Hmong in Thailand who did not opt for resettlement did so in part because of fears about life in the United States, in part because they hoped to be able to someday return to their homes, and in part because they believed they would be able to remain in Thailand until such time as they believed it to be safe to return home. In Thailand, they lived in fenced-in refugee camps that offered them little more than the possibility of survival.

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For years that situation remained static. It appeared to more or less suit all concerned. But that has changed. For the past several years, the government of Thailand, which once supported the Hmong resistance group that continues to fight the Laotian government, now shuns the Hmong resistance and cultivates economic ties with the Lao government. It no longer welcomes Hmong refugees, and in fact would like to see all the refugees on Thai soil (including those from Laos and Burma) leave Thailand. It has said that the Hmong must leave by the end of 1995 (a target date of end- 1994 had earlier been set, but this has been eased). The Thai authorities have already closed two of the three main camps that housed Hmong refugees.

The Thai Military's forcible repatriation of the 500 or so Cambodians who refused to join the UNHCR-organized voluntary repatriation last year, and its recent forcible repatriation of some 20,000 Cambodians, mostly women, children, and elderly people, who fled fighting between Cambodian government forces and the Khmer Rouge, underscore the Thai government's hardened line toward refugees.

Laotians, both Hmong and lowland Lao, have been repatriating since 1980. Between 1980 and late 1993, more than 8,600 lowland Lao and some 7,600 highland Lao (mostly Hmong) repatriated. A majority of these were people with refugee status, but more than 2,700 were persons who had been screened out. In 1993, the number of highland Lao, mostly Hmong, who repatriated was the highest of any year since 1980.

Thailand presses the Hmong to repatriate. Thousands of Hmong, afraid to do so and also reluctant to resettle to the United States or elsewhere overseas, have left the refugee camps and sought shelter at a Buddhist temple some 100 kilometers from Bangkok. Their future remains particularly uncertain.

SUMMARY OF MAIN ISSUES

Although for many years relatively little public or official attention has been focused on Hmong refugees, discussions that have taken place have been polarized and highly charged. Perceptions about the current situation of the Hmong, about their future, and about what U.S. policy towards the Hmong should be vary widely. No doubt that polarization will be reflected in the testimonies presented during this hearing.

In my statement, I will identify the specific concerns that the U.S. Committee for Refugees has regarding the current situation and future status of Hmong refugees in Thailand, and will make recommendations that could, if acted upon, ameliorate these concerns. I have appended to this testimony copies of two articles published by USCR in August 1992 and January 1994 that provide detailed background information on the situation of the Hmong and that supplement the information contained in this testimony.

The U.S. Committee for Refugees is concerned about several issues:

a sense that the U.S. government, and particularly U.S. Embassy officials in Thailand, have become impatient with the Hmong refugees and asylum seekers in Thailand and lack concern for them;

reports of ill-treatment of repatriated Hmong in Laos;

reports of involuntary repatriation of Hmong refugees and asylum seekers;

the disparity in the perceptions of concerned parties regarding the voluntariness of the repatriation program and the safety of returnees;

calls for an end to U.S. support for programs to assist Hmong who repatriate to Laos;

the fairness and competence of the screening (refugee determination) process in Thailand;

the limited access of screened-out Hmong to the appeals process and the fairness and thoroughness of that process;

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restrictions already in place or anticipated that limit the ability of Hmong with refugee status to apply for resettlement in the United States;

the Thai government's insistence that all Laotian Hmong must leave Thailand by the end of 1995;

the disappearance of repatriated Hmong leader Vue Mai and the implications of his disappearance for the repatriation process; and

the fears of members of the Hmong community in the United States for their friends and relatives in Thailand and Laos.

ANALYSIS AND RECOMMENDATIONS

Mr. Chairman, I would like to expand on these concerns and offer USCR's recommendations about what Congress could do to ameliorate them.

1. Regarding our sense that the U.S. government, and particularly U.S. Embassy officials in Thailand, have become impatient with the Hmong refugees and asylum seekers in

Thailand and lack concern for them:

I raise this issue first because it underlies many of the concerns USCR has regarding U.S. policy towards the Hmong and underscores why we believe that it is so important that Congress take a pro-active approach to the situation of the Hmong.

For many years, the U.S. government has kept its door open to Hmong refugees seeking resettlement in the United States. Through contributions to the UN High Commissioner for Refugees (UNHCR), the United States has also helped fund the stay in Thailand of Hmong refugees who did not wish to resettle and who continued to fear repatriation, and it has helped provide assistance to those Hmong who have repatriated.

More recently, however, there appears to be an attitude at the U.S. Embassy in Bangkok and the U.S. Department of State that the Hmong have had long enough to make up their minds about resettling in the United States, that those who can't or don't want to resettle can and should return to Laos, and that those who don't are simply being obstinate or opportunistic. In an excellent, in-depth report on the situation of the Hmong in the February 27, 1994 Philadelphia Inquirer, a U.S. Embassy official in Bangkok was quoted as saying that the Hmong who remain in the camps do so in order to enjoy "the good life."

That attitude is unfair and illogical. Many Hmong genuinely fear repatriation to Laos. The extent to which their fears are warranted is subject to debate, but the reality is that the fear is there. Based on the experience of Hmong who have resettled in the United States, many Hmong refugees in Thailand are also, sensibly, wary of the difficulties of adjusting to life in the United States. It is therefore not surprising that many Hmong would prefer to remain in Thailand.

Yet, rather than pressing the Thai government to allow the Hmong to remain while working to convince the Hmong that they truly can safely repatriate (if that is the case), some U.S. government officials dismiss the concerns of the Hmong about repatriation. There also appears to be little U.S. government concern over continuing reports that at least some of the Hmong who have been denied refugee status do, in fact, have genuine claims to such status. In the past, independent observers have criticized the refugee determination process as unfair and corrupt. Yet State Department and Bangkok embassy officials do not press the Thai government and UNHCR to remedy this by further review of such cases.

The State Department is also said to be considering a cut-off date for the Hmong to apply for resettlement. This adds pressure and limitations to those already exerted by the Thai government, which has told Hmong in Ban Na Pho camp, the so-called "repatriation camp," that since they did not apply for resettlement before, they cannot do so now.

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RECOMMENDATION: We urge Congress to ask senior level State Department officials to review U.S. policy toward the Hmong, and to urge U.S. refugee officials in both Washington and Bangkok to pursue policies that do not further limit Hmong refugees' options.

2. Regarding reports of ill-treatment of repatriated Hmong, reports of involuntary repatriation of Hmong refugees and asylum seekers, and the disparity in the perceptions of concerned parties regarding the voluntariness of the repatriation program and the safety of returnees:

Some Hmong organizations and leaders argue that Hmong refugees who return to Laos are persecuted and abused, if not outright killed. These groups' claims are alarming, and understandably cause fear and consternation among Hmong in die United States and Thailand. But the organizations making these assertions do not provide specific details or concrete evidence.

UNHCR, Lao, Thai, and U.S government officials argue that the Hmong are safe upon return. But the Thai and Lao governments are not the most reliable sources on this issue, and the monitoring capacities of the United States and UNHCR in Laos are limited. Nevertheless, we understand from UNHCR that they have received several specific complaints of returnees experiencing security problems and that the agency has established that all but one, the disappearance of Vue Mai, were unfounded.

Some Hmong leaders also say that the Thai authorities routinely force Hmong refugees back to Laos, while UNHCR, Thai, and U.S government officials say that the Hmong who have repatriated have done so voluntarily.

While we do not have evidence that the Thai authorities use actual force to repatriate the Hmong, we can say with certainty that they subject the Hmong to considerable pressure to repatriate. The Thai authorities tell the Hmong that if they do not repatriate they might wind up in a prison camp, or that their families' food rations will be cut off. That may not be what UNHCR classifies as refoulement (forcible return of refugees), but it is also a far cry from the fully informed, unpressured decision carried out in safety and dignity that the UN and most governments say are the essentials of a truly voluntary repatriation.

RECOMMENDATION: One of the most pressing needs regarding Hmong repatriation is an unbiased, independent investigation of the safety of Hmong who return to Laos and of whether Thailand is using force or coercion to repatriate the Hmong. Such an investigation could be carried out by a special rapporteur appointed by the UN Human Rights Commission, or by an international delegation. We urge Congress to press for such an investigation, and the Laotian government to permit it.

3. Regarding calls for an end to U.S. support for programs to assist Hmong who repatriate to Laos:

There has been criticism from some quarters of Congress's financial support for programs aimed at protecting and aiding the reintegration of Hmong who repatriate to Laos. Such criticism is misguided.

Like the repatriation of Vietnamese who have been determined not to be refugees, the repatriation of screened-out Hmong, and of Hmong refugees who do not wish to, or are ineligible to resettle abroad, is a reality. Upon return, they urgently need international assistance in order to make a new start. U.S. funds not only help make that new start possible, but, by channeling U.S. aid through UNHCR and international nongovernmental organizations, the United States helps ensure that international staff will be present alongside the returnees in Laos, which helps enhance their security.

RECOMMENDATION: Congress should continue to support programs that help Hmong who return to Laos to reintegrate and that enhance their safety.

4. Regarding the fairness and competence of the screening (refugee determination) process, the limited access of screened-out Hmong to the appeals process, and the fairness and thoroughness of that process:

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The system that Thailand devised to differentiate between Hmong with valid claims to refugee status and those whose claims are less valid has been criticized for years. In 1989, the Lawyers Committee for Human Rights detailed concerns about the system, including charges of corruption.

In 1993, an official involved in refugee assistance programs in Thailand made a careful study of 31 screened-out Hmong cases and concluded that 8 of the cases appeared to be potentially eligible for recognition as refugees and for admission to the United States as refugees based on U.S. Immigration and Naturalization Service (INS) criteria. Another six cases appeared to have a "50-50 chance" to qualify for such recognition and U.S. admission.

An appeal and review system exists, but it is difficult to access, and the appeals are often rejected. For example, of the above 14 cases that an independent reviewer found to have a reasonable-to-strong claim for refugee status, UNHCR officials in Thailand only supported the appeal of one case, and the Thai authorities rejected that appeal.

Although obvious flaws exist in both the screening and appeals processes, the U.S. Embassy in Bangkok and the State Department in Washington have shown little interest in supporting a review of screened-out cases. Recently, for example, 300 Hmong, most of whom were screened out, paid thousands of dollars to Thai officials who promised to include them on the list of screened-in Hmong eligible to apply for resettlement. Rather than view the 300 individuals involved as people fearful of being returned to Laos and willing to take desperate measures to avoid that fate, a State Department official, in a letter to various members of Congress who expressed concern about the group, described the group as having "attempted to bribe their way into the resettlement process."

Given that there are only about 1,600 screened-out Hmong, reviewing the cases of those who claim that they were unfairly denied refugee status should not be an impossibly cumbersome task.

RECOMMENDATION: Congress should urge the State Department to press UNHCR and the Thai government to undertake a review of the cases of screened out Hmong who dispute the decision in their refugee status determination hearing. The State Department could facilitate this process by accepting information regarding these cases that may be available from relatives in the United States.

5. Regarding restrictions already in place or anticipated that limit the ability of Hmong with refugee status to apply for resettlement in the United States:

For many years, the Hmong have been under the impression that they could remain in Thailand. For that reason, some decided not to apply for resettlement. Now that it is becoming clear to them that their only alternatives may be repatriation or resettlement, some of those who did not choose resettlement earlier may now wish to do so. The Thai government has said that those who previously signed voluntary repatriation forms or who agreed to move to Ban Na Pho camp can no longer choose resettlement. The United States is reportedly considering setting a date by which eligible Hmong refugees who wish to apply for resettlement must apply.

All of these restrictions and roadblocks are unnecessary. They limit options and accomplish nothing.

RECOMMENDATION: Both the Thai and U.S. government should allow Hmong who did not previously opt for resettlement but who now wish to pursue it to apply for it without unnecessary hindrances. Imposing a cut-off date at this time is unnecessary, and a decision on this matter should be postponed.

6. Regarding the Thai government's insistence that all Laotian Hmong must leave Thailand by the end of 1995:

Thailand has allowed the Hmong to remain on Thai soil for 19 years. Although it has confined them to closed refugee camps, it has allowed the international community to assist them. For its own reasons, Thailand has decided to pull up the welcome mat. Given the severity of refugee emergencies in other areas of the world, the international community, the U.S. government included, is reluctant to continue funding the Hmong's continued stay in Thailand, or to resist Thailand's decision.

But the fact that Hmong who cannot or do not wish to resettle abroad may have little choice but to repatriate does not mean that repatriation is right for them. The State Department's own 1993 report on human rights in Laos,

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while noting improvements in some spheres, noted, "Restrictions on basic freedoms in Laos have eased only a little in recent years."

That the Laotian government limits the areas in which repatriating Hmong may settle, and the number who can settle together, is an indication of its continued suspicion of Hmong returnees. The government is also slow to approve the applications for repatriation of those Hmong who do volunteer to repatriate. Some informed observers have told USCR that they believe that Vientiane does not want the Hmong back, and that the government only cooperates with the repatriation program to ease its relations with the outside world.

RECOMMENDATION: The United States should urge the Thai government to allow Hmong refugees and asylum seekers to remain in Thailand, at least while the safety of returnees is investigated and while cases that may have been wrongly denied refugee status are reviewed, and to remove any roadblocks to Hmong with refugee status applying for resettlement.

7. Regarding the disappearance of repatriated Hmong leader Vue Mai, the implications of his disappearance for the repatriation process, and the fears of members of the Hmong community in the United States for their friends and relatives in Thailand and Laos:

Vue Mai, a prominent Hmong refugee leader who repatriated to Laos in November 1992, disappeared in September 1993, an incident that fueled concern about Hmong repatriation to Laos.

The U.S. and Thai governments and UNHCR encouraged Vue Mai, who had formerly been active in the Hmong resistance, to repatriate in order to be a role model for screened-out Hmong who would have to accept repatriation to Laos. Vue Mai was assured that he would be safe in Laos.

Nearly seven months after Vue Mai's disappearance, nothing concrete is known about who was responsible for his disappearance or what their motives were. There is much speculation, however, and two explanations are most often heard. One is that Vue Mai was abducted by Lao government security forces for unknown reasons (though some speculate that it may have been an attempt by Vientiane to undermine the repatriation process, which the Lao government is said not really to want). The other is that he was abducted by members of the Hmong resistance, which opposes repatriation because it undermines the resistance politically, financially, and logistically. (The resistance is said to receive its support primarily from Hmong refugees in Thailand and the United States.)

If putting a damper on the repatriation was the intent of those responsible, they certainly had some effect. The disappearance confirmed the fears of many in the U.S. Hmong community that repatriation is not safe, and some Hmong leaders and organizations have used the disappearance to argue that repatriation should be halted.

RECOMMENDATION: The disappearance of Vue Mai should be investigated as part of any assessment of the safety of returned refugees in Laos.

Mr. Chairman, it will be difficult to find solutions for the Hmong that all will welcome.

The wishes and attitudes of many of the concerned parties are deeply at odds. Many Hmong still fear returning home. 'Me Thai government wants the Hmong to leave. Some Hmong leaders in the United States claim that repatriation is unsafe. The international community tires of financing the Hmong's continued exile. The United States appears anxious to wind down Hmong resettlement.

It seems clear that many Hmong, particularly those denied refugee status, are going to repatriate, whether voluntarily or not so voluntarily. What the United States government can do to ease the concern of Hmong both here and in Thailand is to ensure that all those with valid claims to refugee status have a full and fair hearing, to make it possible for those with refugee status who are eligible and wish to apply for resettlement in the United States to do so, and to provide as many safeguards for those who return as possible. That is the objective of the recommendations I have made today. The State Department does not appear, at present, to see a need for these

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actions. I strongly urge you to impress upon the Department that acting upon these recommendations could make a positive difference.

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