



Southeast Asia Resource Action Center

2007 Policy Priorities

1. **REFUGEE AND IMMIGRANT RIGHTS**

Immigration laws play an integral role in the resettlement of refugees to the United States. Southeast Asian refugees, like all other refugees and immigrants, continue to be impacted by ever-changing policies but are often left out of the immigration debate.

A. Amend the Material Support Bar – The unintended consequences of the USA Patriot Act and the Real ID Act pose a real threat to refugees and asylum seekers. Both laws contain broad anti-terrorism definitions that deny refugee status to individuals who have provided “material support” to a “terrorist organization.” These definitions include populations that have fought and died for the U.S. during the Vietnam War, such as the Hmong and Montagnards. Even those who provided “material support” under duress are currently denied refugee status. Additionally, refugees who are already in this country who are in the process of adjusting their immigration status to gain permanent residency may be affected and their immigration case may be put on hold by USCIS because of “material support.”

Recommendations

- The administration should immediately issue material support waivers for the Hmong and Montagnards to exclude them from the material support bar.
- Legislation must be pursued to ensure that refugees and asylum seekers who do not pose a threat to the U.S. are not denied safety and the opportunity to fully integrate into American society. A comprehensive legislative solution should ensure:
 - That the administration be provided the discretion to extend the waiver authority to avoid unintended consequences for all asylum seekers and refugees.
 - That a duress exception be made explicit to protect victims of terrorism from being defined as material supporters.

B. Uphold Due Process and Stop Deportation of Southeast Asian Refugees – In 1996, Congress passed the Antiterrorism and Effective Death Penalty Act (AEDPA) and the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) which broadened the number of offenses considered as an aggravated felony to include minor crimes. As a result, non-citizens who are convicted of “aggravated felonies” are deportable without due process. Additionally, the law was made retroactive, meaning a non-citizen such as a legal permanent resident who was convicted of an aggravated felony prior to the passage of the law could still face deportation, with no defense, back to their country of origin even if they have already served time for it. This is especially disturbing for refugees who fled their homelands in fear of persecution and for those who came to the U.S. as children and who, as adults, identify themselves as Americans and will face significant barriers if deported.

Recommendations

- Restore discretion to immigration judges, allowing them to consider granting a second chance to stay for individuals who have obtained permanent residency. Additionally,

those with current orders of removal should be provided an opportunity to reopen their cases for this same discretionary review.

- Narrow the definition of “aggravated felony” under immigration law to reflect common sense, proportionality, and the American system of justice and not mandate exile for an overly broad range of offenses nor target minor violations of the law.
- Create a legal avenue back to the U.S. for those who have already been deported so that deportees can maintain relationships with their families who are still in the U.S.

2. ANTI-POVERTY PROGRAMS

Southeast Asian Americans and refugees are some of the most economically disadvantaged populations in the U.S. According to the U.S. 2000 census, over 29% of Cambodians, 37% of Hmong, 19% of Laotians and 16% of Vietnamese Americans lived below the poverty level compared to 12% of the total U.S. population.

A. Restoration of SSI Benefits –As part of the 1996 “Welfare Reform,” Supplemental Security Income (SSI) was restricted to a 7 year time limit for refugees and asylees. This meant that within seven years of entry into the U.S., refugees and asylees were expected to have obtained their citizenship in order to remain eligible for SSI benefits. Many refugees and asylees, however, have not been able to make it all the way through the citizenship process in 7 years due to delays caused by a variety of factors. Backlogs at federal immigration offices, new procedures implemented after September 11th, processing delays, security clearances, and language barriers commonly prolong the path to citizenship. This seven year time limit has been restrictive on the most disadvantaged people—the elderly, disabled and refugees and asylees. SSI provides a modest stipend to help them from falling too deep into poverty. Due to the seven year limit, approximately 6,000 elderly and/or disabled refugees have been terminated from SSI. It is expected that over 40,000 individuals will be cut off this basic means of support in the coming years.

Recommendations

- A long term legislative solution should eliminate the seven year time limit by de-linking citizenship from SSI eligibility for refugees and other humanitarian immigrants. Additionally, benefits should be restored for elderly and disabled refugees who have already been terminated from SSI.
- At the very least, a stop gap measure of extending the seven year time limit, with reach back provisions for those who have already lost their SSI benefits, should be passed.

3. K-12 AND HIGHER EDUCATION

Asian Pacific Islander Americans (APIAs) are stereotyped to excel in school and professional life when compared with members of other racial and ethnic minority groups. The “model minority” myth about APIAs is misleading, which results in policymakers focusing less attention on their needs and disparities in education. Although a relatively high percentage of APIAs who are 25 or older hold a bachelor’s degree, when the data is disaggregated it shows that while some APIA ethnicities are doing well as a whole, many ethnicities face significant educational challenges related to historical and economic circumstances such as refugee status or poverty. For example, only a small percentage of Pacific Islanders and Southeast Asians have college degrees compared to the national average of 24.4%. According to the 2000 Census only 7.4% of Hmong, 9.1% of Cambodians, 19.5% of Vietnamese, and 16.5% of Native Hawaiians and other Pacific Islander Americans hold bachelor degrees. Two critical pieces of legislation expected to be addressed by Congress that will greatly affect APIA students are No Child Left Behind (NCLB) and the Higher Education Act (HEA).

Recommendations for the Reauthorization of NCLB:

- Overall, ensure that there is adequate funding for the implementation of the No Child Left Behind Act.
- Amend and fund the NCLB Act in ways that will significantly increase the capacity of public schools to serve APIA students, especially English Language Learners, and their parents.
- Increase the availability of and access to funding for programs that can increase the capacity of schools and school districts to serve APIA students. Ensure that Title I, II, III funds reach APIA students and under Title IV, give guidance and encourage states to outreach to nontraditional partners. APIA community based organizations, many of whom have a long history of providing community-based cultural, linguistic and educational services are being overlooked for partnerships and therefore students are underserved.

Recommendations for the Reauthorization of the HEA :

- Create an Asian American and Pacific Islander Serving Institutions (AAPISI) designation under the Higher Education Act in order to expand the ability of higher education institutions to assist underserved AAPI students.
- Support greater affirmative action for AAPI teachers under the HEA and increased funding for programs like TRIO and GEAR UP which provide disadvantaged students with support services to help them complete high school, and enter and persist in college.

4. SAFE REFUGEE COMMUNITIES

Like all other American communities, Southeast Asian American and refugee communities in the U.S. and all around the world have a right to live in safe communities—free from fear and persecution.

A. Prevent Hate Crimes – Recent tragedies in the Midwest have emphasized the enormous need to address hate-motivated incidents in our communities. SEARAC is committed to working with local organizations, governments and individuals to advocate for and develop long term solutions and policies for addressing issues of hate crimes and hate-motivated incidents.

Recommendations:

- Support stronger federal hate crime legislation.
- Create and support local hate crime prevention initiatives.

B. Promotion of Human Rights – The majority of Southeast Asian Americans arrived in the U.S. as refugees between 1975 and 2000 after the Vietnam War. Having been directly affected by the atrocities of war and persecution, issues of human rights violations are particularly important to Southeast Asian American communities as many continue to have ties to family and friends in their homeland who may be affected by such injustices. Additionally, human rights violations in any part of the world have far reaching consequences that deeply impact communities for years to come.

I. Montagnards

Thousands of Montagnards from the Central Highlands of Vietnam came to this country following the end of the Vietnam War. There is concern that the Montagnards who remain in Vietnam continue to face persecution based on their former support of American troops in Vietnam, as well as their desire to freely practice their Christian faith. Hundreds of Montagnards have made the dangerous journey from Vietnam to Cambodia, hoping to obtain refugee status and be resettled in a third country. While some have been resettled, many others have not been determined to be refugees and have been repatriated to Vietnam.

Recommendations:

- International monitoring of the returned Montagnards should continue in order to ensure their continued safety in Vietnam.
- An in-country processing program in Vietnam should be established so that Montagnards who want to file for refugee status do not have to go to Cambodia in order to do so.
- The United States does not necessarily need to be the resettlement country for those who are granted refugee status. However, all material support measures that are currently in place and now preclude the possibility of additional Montagnard resettlement in this country should be removed as soon as possible.

II. Hmong Refugees in Thailand

A durable solution is urgently needed to resolve the ongoing humanitarian crisis of approximately 8,000 Hmong individuals who are currently living in the White Water Settlement in Petchabun Province of Northern Thailand. Individuals of this population have settled in this area for diverse reasons: 1) Within the last several years, groups of Hmong fled the jungles of Laos after years of persecution at the hands of their government; 2) In 2004, the U.S. resettled approximately 15,000 Hmong from Wat Tham Krabok, a temple complex located outside of Bangkok. Those who left the Wat for work or other reasons were not eligible to register for resettlement. Some at the Wat did not register for resettlement because they did not understand the process. Many of the Hmong who were not resettled from the Wat migrated to White Water after the Wat closed its doors to them; and 3) A smaller number of Hmong in White Water fled Laos and Vietnam as a result of religious persecution.

In addition to concerns about the Hmong who have made it to White Water, SEARAC is also gravely concerned about the new Hmong arriving in Thailand who have been intercepted by Thai police and put into Thai prisons on the border of Laos and Thailand. The physical conditions of the jails are inhumane, and this population has been isolated from all international monitors.

Recommendations:

- UNHCR should be granted immediate access to this group in order to assess their protection and humanitarian assistance needs as well as determine those with refugee status to be resettled in a third country.
- A long term solution should be sought to wholistically address this situation. Multi-lateral talks and strategizing between UNHCR, the U.S., and other countries who have been active in advocating for this population should be convened.
- If a deportation agreement is agreed upon with Laos, an international monitoring entity should have access to assure the safe return of this population.
- Immediate access to the Lao Hmong in the detention centers along the Thai-Lao border should be granted in order to register and assess the protection and assistance needs of this population. In addition, the refugee status of those in the prisons should also be determined.