

# VIETNAMESE BOAT PEOPLE

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This document depicts the plight of Vietnamese Boat People presently in Southeast Asia and Hong Kong. These people, fleeing persecution in their homeland, now face coerced repatriation and persecution in temporary asylum camps. A humanitarian rescue effort that started 19 years ago will probably end in tragedy.

## THE BOAT PEOPLE'S SAGA

The fall of Saigon in 1975 started a mass exodus of Vietnamese people escaping the communist regime. The first International Conference on Indochinese Refugees in 1979 recognized over a million Boat People as bona fide refugees. They were described as heroic "freedom seekers" and resettled in the United States, Australia, Belgium, Canada, France, Switzerland, etc. Unfortunately, for every two refugees reaching safe land, one drowned at sea or was killed by pirates.

The flow of Boat People subsided in the early 1980's but surged in 1988, causing fear of a "refugee tidal wave". Flimsy refugee boats were pushed back to sea by Malaysia and Thailand. Some of these boats reached other shores; some simply disappeared in the high sea. In 1989, the second International Conference on Indochinese Refugees was convened, and the Comprehensive Plan of Action (CPA) adopted. Refugee camps were then converted into detention centers to hold Boat People now treated as illegal aliens.

Presently, about 40,000 Vietnamese boat people are stranded in Southeast Asia and face deportation back to Vietnam. Some of them have spent 4 to 6 years in asylum camps. Many of them have been unfairly denied refugee status under a screening program established by the U.N. High Commissioner for Refugees (UNHCR). Among those who are denied refugee status and facing deportation are people who have been approved by the U.S. Immigration and Naturalization Service and also thousands of Hmongs already recognized as refugees.

## THE COMPREHENSIVE PLAN OF ACTION - CPA

Under the Comprehensive Plan of Action (CPA), Boat People undergo "screening" by first asylum countries such as Hong Kong, Thailand, Malaysia, Indonesia, and the Philippines. People who are recognized as refugees are allowed to resettle in a third country while non-refugees face repatriation. The international community has mandated the United Nations High Commissioner for Refugees (UNHCR) to monitor this screening process and protect the Boat People in first asylum camps. Since 1989 some 250 million dollars have been contributed to the UNHCR, primarily by the United States, the European Community, Canada, and Australia. However, the cracks in the system soon became apparent, the screening process has proven defective and the UNHCR protection is often absent.

**The untold truth - the making of a tragedy:** The CPA has achieved its goal in returning about seventy thousand Boat People to Vietnam. It has thus been praised as a model in dealing with refugee crises. Unreported in the media as well as in official documents is the cost in lives and the tremendous human suffering associated with the implementation of the CPA.

Mass demonstrations and hunger strikes broke out in all camps. Hundreds of suicide attempts have resulted in several senseless deaths. Others have died because of physical abuse and lack of medical care. The policy, once conceived as the humane resolution of a humanitarian problem, turns out to be the problem itself. An effort to save lives has pushed Boat People to the edge of an abyss. Funding intended for the protection of asylum seekers has been turned into means to victimize them. Genuine refugees have been denied refugee status. They include former political prisoners, religious leaders who were persecuted because of their faith, human rights activists on Hanoi's wanted list, former resistance fighters, and communists defectors. Denied refugee status under the CPA, these people cannot be resettled in third countries, and yet dare not return to Vietnam.

**Lack of Legal Assistance:** Boat People come to screening interviews totally ignorant of how to present their case. They receive only cursory pre-screening counseling from the UNHCR, if at all. In the Philippines, they are not aware that counseling sessions are being used to investigate and "screen" them. In other camps, they are counseled by their peers, many of whom have been unable to even properly present their own claim. A so-called "counselor" in Sungei Besi Camp in Malaysia remarked that, "We were like the blind leading the blind." Statements made by these refugees were then interpreted stringently to deny their application for asylum.

**Arbitrary Rulings:** Reasons of denied application for asylum are not given. Appeals are thus based on pure guesswork. Explanations provided in a few cases are incomprehensible, for instance: "The facts of the case don't show any single criterion for refugee status. All that the applicant experienced, like the confiscation of properties, going to the New Economic Zone and the forced labour are inherent in communism. I deny applicant's application for refugee status."

Inconsistent decisions on cases with almost identical circumstance are rampant. Siblings, spouses, parents and children experiencing similar persecution in Vietnam have been screened differently. In one typical case, a Vietnamese woman and her new-born child were "screened out" although her husband had been "screened in" and resettled in the US. Later, through congressional intervention, the Indonesian authorities reversed their decision and allowed her to join her husband in the United States. The UNHCR, however, maintains that she and her child must return to Vietnam on the grounds that "if the relationship between [her and her husband] is strong enough... it will withstand the period of separation."

**Bureaucratic Intransigence:** Errors in screening remain largely uncorrected in spite of recommendations by UNHCR lawyers and field officers. A memo, signed by several UNHCR lawyers on January 20, 1993, called for a review of cases where "the UNHCR has made a serious mistake.. and meritorious cases which the UNHCR failed to support on appeal." A follow-up memo urged: "We should not stall on the release of mandate cases." However, no action has been taken because the UNHCR believes any gesture towards redressing these injustices would raise false hope. Take for example the case of Buddhist monk Thich Tri-Lang who escaped to Thailand to avoid arrest by the Vietnamese government. In 1993, he was denied refugee status and singled out for deportation to a Hmong camp. Intervened by international organizations, the camp authorities admitted it was a case of "mistaken identity". To this day, the monk has not been released from the detention center nor has his case been reviewed.



**Corruption:** In many locations, screening is rigged by corruption and demands of sexual service. Refugees who qualify for asylum under international laws and/or are approved by the U.S. Immigration and Naturalization Service are summarily denied resettlement. Cases with strong refugee eligibility are routinely "screened out" because demands for monetary bribe or sexual favor have not been satisfied. UNHCR lawyer Simon Jeans reported: "Several refugees whose status had been accepted by UNHCR officials were turned down by Indonesian officials after failing to come up with the cash." (AFP, 9/11/93)

**Deprivation Policy:** Camp authorities have implemented a deprivation policy by drastically cutting down basic necessities for refugees. These measures are encouraged by the UNHCR to render living conditions at camps even more miserable in order to persuade Boat People to leave the camps as early and as many as possible. Food rations have been reduced, secondary education abolished, cooking banned, medical care cut back, gifts from relatives restricted, movement curtailed... Living conditions at the camps have been designed deliberately to deteriorate in order to constructively expel refugees back to the country from which they escaped.

Evidence of such UNHCR's condonation may be found in their following memoranda:

"In line with the CPA policy and the UNHCR'S regional approach to educational programmes, it is recommended that in 1993 the [Holy Trinity College] programme be cut to include only primary level courses (grades 1-5)..."

"It is recommended that the issue of remittances be raised with appropriate authorities to look into the possibility of imposing limits on the amount each individual may receive per month, as is the current practice in Thailand..."

"It is strongly recommended that the IOM (medical) programme be cut in its entirety." (Social Services Mission to the Philippines, Dec. 3, 1992, by Christine Mougne, UNHCR Senior Regional Social Services Officer.)"

**Brutality:** Physical abuse by security guards has been common. In Thailand and Indonesia, camp residents who are caught passing information to the outside world face beating, imprisonment in isolation cells, and other forms of corporal punishment. Excessive force has been used to oppose peaceful demonstration. On April 7, 1994, in Whitehead Detention Center, 1,300 Hong Kong police fired 550 rounds of tear gas and assaulted 1,500 peaceful demonstrators, including 400 children. Two months earlier, the Philippines government sent in the marines to violently break up a demonstration in Palawan Camp. Some refugees have been shot dead in Philippines and Thailand.

### MANDATE SURRENDERED

The UNHCR's principal charge is to help and protect refugees; that being its raison d'être. Therefore, for the UNHCR to try to push Boat People into a blanket reclassification as non-refugee and then declare mission completed is overly simplistic and irresponsible. The UNHCR has surrendered its role. It has kept a blind eye on the flawed screening and condoned deprivation measures, in violation of its own humanitarian design. Threatened with repatriation, Boat People in Hong Kong have asked the UNHCR Mission Chief, "If you failed to protect us here, how could you protect us in Vietnam?" In despair, many Boat People have committed suicide. Families are split apart. Children live in fear and confusion.

## **A FAIR AND HUMANE SOLUTION TO THE INDOCHINESE REFUGEE PROBLEM**

It is time for the United States to take an active and leading role in the resettlement of about 40,000 unfortunate Boat People who have escaped their homeland in search of freedom and democracy. A humane alternative is within our reach. The current crisis may be resolved by us asserting the following:

- 1.- The high U.S. standard of morality and human rights must be observed. Refugee's dignity and personal safety must be guaranteed. All harassment and deprivation measures must end immediately. Medical care and basic necessities must be adequately provided.
- 2.- U.S. funds must not be used for coerced repatriation programs. Forcibly repatriating refugees is a violation of human rights and the principle of "non-refoulement". Under international refugee law, no refugees should be returned to their country of origin. Therefore, no U.S. contribution to the UNHCR should be used to finance such "refoulement" of refugees.
- 3.- The CPA screening process must be broadly reviewed in order to remedy unfair and otherwise defective status determination. The use of U.S. money must be conditioned on a thorough review of this screening.
- 4.- Foreign Operations Appropriation Act, 1990 (Public Law 101-67) establishing refugee categories for nationals and residents of Vietnam, Laos and Cambodia should be implemented as basis to review the status of Vietnamese boat people.
- 5.- Those recognized as refugees pursuant to the revised screening shall be resettled within the current immigration quota for East Asia as requested by the Department of State.

The above steps will bring about a solution to the Indochinese refugee problem without increase in immigration quota and budget requirement.

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