

# PEACEFUL REMOVAL OF VIETNAMESE BOAT PEOPLE FROM THE PHILIPPINE FIRST ASYLUM CAMP, PALAWAN

OCTOBER 10, 1995

## EXECUTIVE SUMMARY

The Philippine Government, and particularly the Western Command (WESCOM), in charge of administering the population of Vietnamese asylum seekers, have expressed their desire to have the Palawan Philippine First Asylum Camp (PFAC) vacated by the end of this year. For the past twelve months, repatriation has contributed little to that goal.

Resettlement, long ruled out, increasingly appears to be the only viable option available to significantly and yet peacefully reduce the camp population at PFAC. It should make no difference to the Philippine Government where the asylum seekers will end up, as long as they are removed from the Philippines. Concerns that resettlement of screened-out asylum seekers as immigrants might violate the Comprehensive Plan of Action (CPA) are groundless. Hundreds of screened-out asylum seekers have been resettled from Hong Kong to the US, Canada and Australia since 1994.

The Philippine Government needs to seriously consider resettlement as a practical way to reduce the population of PFAC to a more manageable size. By officially declaring non-objection to the resettlement of screened-out asylum seekers, the Philippine Government can extricate itself from the present double jeopardy: it is both stuck with and blamed for a problem not of its own making.

## THE PROBLEM

The Philippine Government's objective of closing PFAC by the end of this year is evidently unachievable. Of the 2,500<sup>1</sup> Vietnamese asylum seekers at PFAC, only 125 have returned to Vietnam this year. At that repatriation rate, the camp will not be cleared in this century. Coercive measures to boost repatriation have all failed.

With the end of the CPA, the Philippine Government might have to shoulder the costs, estimated at 1, 465,000 pesos or US \$60,000 per month, of maintaining PFAC. This will leave WESCOM saddled with added administrative and budgetary responsibilities that would interfere with its military functions.

Meanwhile, a significant number of asylum seekers are eligible for resettlement elsewhere but not allowed to leave PFAC. The Philippines has been blamed for blocking their resettlement, and therefore perpetuating its own problem.

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<sup>1</sup> As at August 1, 1995, 2,003 Vietnamese asylum seekers are physically at PFAC and 554 reported as missing. These numbers do not include 345 longstayers (recognized refugees without a resettlement offer), and Amerasians in transit in the Philippines.

## **VOLUNTARY REPATRIATION**

For the first nine months of 1995, the average repatriation rate stands at 16 returnees per month. There is no reason to believe this will change any time soon. Those with a legitimate fear of persecution or eligible for resettlement in a third country will not sign up for voluntary repatriation. For all intents and purposes, voluntary repatriation has been all but dead.

## **ORDERLY RETURN PROGRAM**

Reacting to this reality, the Philippine Government earlier this year signed a tripartite Memorandum of Understanding on Orderly Return Program (ORP) with Vietnam and the United Nations High Commissioner for Refugees (UNHCR). To date, six months into the program, ORP has yet to repatriate a single person to Vietnam. The following factors have contributed to the program's failure.

1. Vietnam has been reluctant to support of ORP. Since March 1995, the UNHCR has forwarded over 2,000 names to Vietnam for clearance. After six months, Vietnam has cleared only 222 persons for ORP. Even for this small group, Vietnam insists that its clearance is intended for voluntary repatriation only<sup>2</sup>. Negative publicity and national security appear to be of critical concerns for the Vietnamese Government.

2. Both International Organization for Migration (IOM) and International Catholic Migration Commission (ICMC), the two non-governmental organizations with expertise in repatriation processing, have refused to participate in ORP. Both have closed their PFAC offices.

3. The UNHCR's role in ORP might be controversial and problematic. Vietnamese authorities have allegedly harassed and intimidated a number of families in Vietnam, using UNHCR-provided information. These allegations have prompted the US State Department to investigate the matter (Enclosure 1).

4. The asylum seekers do not cooperate with ORP any more than with voluntary repatriation.

ORP fares even worse than voluntary repatriation. It has not worked and, in all likelihood, never will.

## **FORCED REPATRIATION**

Some frustrated CPA officials have advocated the use of coercion or outright force. Since late 1991, the UNHCR has pushed for harsher camp conditions. Three consecutive deaths

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<sup>2</sup> Vietnam's Ministry of Interior, in its letter of 8 September 1995 to the UNHCR, specified the purpose of its clearance: "The bureau of immigration and emigration of the MOI looks forward to receiving the list of boat people applying for voluntary repatriation in order to issue entry visas."

related to the closure of the PFAC medical clinic in late 1992 prompted a mass demonstration. On September 12, 1995, WESCOM marines rampaged through the camp and destroyed some shops, merchandises and livestock of asylum seekers. These coercive measures invited public condemnation against the Philippines without having any impact on voluntary repatriation or ORP.

On the other hand, forced repatriation is impractical, due to its financial and political costs.

1. Forced repatriation is prohibitively expensive. The costs of ORP operations in Hong Kong are estimated at US \$500,000 for 100 returnees. Even at half that rate, the Philippines will need US \$6,000,000 to remove all 2,500 asylum seekers by force. Currently there is no budget allocated for that.

2. Forced repatriation is also costly in terms of negative publicity and political fallout. The ensuing violence and bloodshed will arouse outrage among the domestic and international public, and objection from the Catholic Church.

3. The use of force against Vietnamese asylum seekers will cause backlashes to the Philippines' appeal for decent treatment of its contract workers overseas. The perceived double standard will not help the Philippines' cause.

4. Credible allegations of procedural flaws and improprieties have been leveled against many screening officials. Forced repatriation will be interpreted as an attempt to get rid of evidences and witnesses (Enclosure 2).

5. A class action filed at the Philippine Court against unfair screening can block forced repatriation altogether. In 1992, several human rights lawyers had prepared the groundwork for such a class action, but then chose to seek a Presidential review instead. The asylum seekers at PFAC have the resources and the connections to initiate their own class action. This will create a judicial stalemate and political embarrassment for the Philippine Government.

6. The Philippines' use of force at this moment would be out of step with the US, which is exploring alternatives to forcible repatriation. Intense pressure from Congress and advocacy groups has caused a recent shift in US policy towards Vietnamese boat people. The US Government now agrees to the notion of an overall review of cases according to presumptive refugee categories. With this recent shift in policy, the US can no longer support forced repatriation as it did in the past (Enclosure 3). The UNHCR has publicly endorsed this new shift in US policy.

7. It is unlikely that Vietnam would cooperate with forced repatriation on a large scale, if at all. At a token of 100 forced returnees every six weeks as in Hong Kong, PFAC will not be cleared until 1998, if every thing runs smoothly. If not, early next century would be a more realistic estimate.

Forced repatriation is neither viable nor practical for implementation in the Philippines. Neither is it necessary.

## **RESETTLEMENT AS AN OPTION**

In the past, the Philippines has not considered the direct resettlement of screened-out asylum seekers as a possible alternative. There is a prevalent belief among some first asylum governments that such direct resettlement violates the CPA. This belief is without basis and in some cases has led to the perpetuation of injustices in screening.

1. Forced by a class action, the US since 1994 has resettled hundreds of screened-out asylum seekers from Hong Kong (Enclosure 4). The CPA is but a gentleman's agreement among nations to regulate the resettlement of refugees. It does not and cannot control the movement of immigrants between countries, a matter determined by immigration laws of each country and bilateral arrangements between concerned governments. Any attempt by the UNHCR at interference would mean its overstepping its role under the CPA.

2. The CPA calls for the preservation of the family unit<sup>3</sup>. For many refugee families broken apart during screening, direct resettlement is a remedy for violations of the above CPA provision. In 1994, the US State Department officially declared its willingness to resettle such family reunion cases (Enclosure 5). With Malaysia's cooperation, the US had reviewed a number of cases and the first group of eight families from Sungei Besi Camp arrived in the US on September 27.

Although the Office of President Ramos has obliquely indicated no objection to the processing of asylum seekers for resettlement by the US (Enclosure 6), the US Consulate in Manila continues to blame the Philippines for denying it access to the asylum seekers:

*"As stipulated in the CPA, the United States Government does not have access to asylees, such as Mr. Le, unless the country of first asylum grants him refugee status and the UNHCR refers his case to the U.S. Refugee Program (USRP) for possible resettlement. Our office cannot influence the screening procedures nor its status determinations."* (Cable of James D. Mullinax, Refugee Program Officer, US Embassy in the Philippines, to Congressman Thomas Davis III, Sep. 1995).

In the case of Le Ngoc Hanh, PS 160, referred to in the cable, the US Government has recognized him as a derivative refugee and is willing to resettle him as soon as the Philippines allows his departure from PFAC (Enclosure 7).

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<sup>3</sup> *"The criteria will be those recognized in the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, bearing in mind, to the extent appropriate, the 1948 Universal Declaration of Human Rights and other relevant international instruments concerning refugees, and will be applied in a humanitarian spirit taking into account the special situation of the asylum-seekers concerned and the need to respect the family unit."* (Text of the CPA; underline added.)

The UNHCR has also officially expressed its non-objection to the direct resettlement of screened-out asylum seekers:

*“UNHCR has no objection to the US proceeding with some sort of ‘second track’ processing, under which the US will make bilateral arrangements for the admission of groups of particular concern. It would be preferable if such arrangements were made from the country of origin rather than from the countries of asylum. UNHCR will continue its investigation of allegations of corruption in the screening process and seek to address any adverse impact this may have had on the refugee status determination of certain asylum seekers. We also note a willingness in the region to quietly entertain solutions other than repatriation for some of the Lao refugees as well as for some other cases, such as separated family members.”* (Letter of Rene van Rooyen, UNHCR Representative for the USA, to Rep. Benjamin Gilman, May 22, 1995.)

Therefore, the Philippines, by its intransigence, is the only one to blame for the stagnant situation at PFAC. At least, it appears that way.

#### **CASES ELIGIBLE FOR DIRECT RESETTLEMENT**

In total, some 800-1,000 asylum seekers at PFAC are eligible for direct resettlement to a third country as immigrants. The results of screening decisions under the CPA have no bearing on their resettlement eligibility. The approximate make-up of this sizable group is listed below.

Category	Number of cases (approximate)	Number of individuals (approximate)
Derivative Refugees	50	100-120
Holders of Current IV	50	100-120
Humanitarian cases	50	100-120
Rescued at sea	250	500-600
<b>TOTAL</b>	<b>400</b>	<b>800-960</b>

1. Derivative Refugees: According to international refugee laws, immediate relatives of a refugee automatically qualify as derivative refugees (Paragraph 181-188 of the UNHCR Handbook on Procedures and Criteria for Determining Refugee Status). Many governments, among them the US, Canada, and Australia, have adopted this principle in their immigration laws. The US has officially stated its commitment to resettle such cases directly from first asylum camps, including PFAC (Enclosure 7). While Canada and Australia have made no official statement, these two countries have reviewed their shares of derivative refugee cases from Malaysia.

2. Holders of Current IVs: Most of these are immediate relatives of US citizens or residents. In the Philippines there is also a small number of special cases with current religious workers

visa petitions. The US is bound by its own immigration laws to process these cases for resettlement, regardless of the CPA screening decisions. Since last year, the US has processed over one hundred such cases for resettlement directly from Hong Kong. Canada and Australia have done the same.

3. Humanitarian Cases: In a number of circumstances, the US has resettled particularly compelling cases as public interest parolees (PIP). These compelling cases include victims of traumatic violence, unaccompanied minors, the seriously ill, and some family reunion cases that do not fit the above two categories (Enclosure 8).

4. Rescue-at-Sea Cases: After the March 21, 1989 cutoff date, the Philippines has allowed 35 ships to disembark a total of 1921 boat people picked up at sea, on the condition that they be removed from the Philippines before December 31, 1992, regardless of their refugee status (US Diplomatic Notes Nos 412 & 413 of May 29, 1990 and Canadian Diplomatic Notes Nos 125-90 & 135-90).

Yet, more than 500 of these rescued-at-seas remain at PFAC. Many resettlement countries have reneged on their bilateral guarantees to the Philippines, arguing that the CPA only provides for the resettlement of screened-in refugees. Japan is the only exception. It has resettled all 151 boat rescued by Japanese vessels (the Madonna and the Bontentor).

By turning the issue as one of immigrants instead of refugees, the Philippines will deny the flag states their only pretext or excuse for not abiding by their own pledges.

In addition to the immigrant groups cited above, a number of asylum seekers in the Philippines might be eligible for resettlement as refugees. In its letter of September 26, 1995 to Rep. Benjamin Gilman, Chairman of the House Committee on International Relations, the UNHCR officially agreed to review refugee claims where corruption or other improprieties might have affected the screening results:

*"UNHCR will re-evaluate such cases whenever new or substantial evidence or compelling information relevant to the claim for refugee status is brought to our attention, including cases where it is alleged that a person who would otherwise qualify for refugee status has been screened out for failure to pay a bribe or accede to sexual favors."*

Those granted mandate refugee status by the UNHCR pursuant to this re-evaluation will of course be resettled as refugees, in full compliance with the CPA.

## **RECOMMENDED ACTIONS**

The current stagnant situation calls for a new initiative. By treating certain groups of Vietnamese asylum seekers as immigrant cases--which they indeed are, the Philippine Government can create favorable conditions for significantly reducing the camp population at PFAC without violence, bloodshed and political ramifications. The following actions are recommended to jump start the resettlement process.

1. An official statement of the Philippine Government expressing its non-objection to direct resettlement of asylum seekers will shift the responsibility back to resettlement governments. Such an official statement will deny these governments their only excuse for inaction.

2. The Philippine Government can help expedite the processing of immigrant cases by providing a list of such cases to related governments, with a request for expeditious processing.

3. To deal with the group of 550 asylum seekers reported as missing, a general amnesty is recommended for those who returned to the camp before a certain deadline. Many among them might be eligible for resettlement in a third country.

4. The Philippine Government may want to enlist the support of non-governmental organizations to raise the issue with resettlement governments.

The Philippine Government needs to act now, in order to take advantage of the present forthcoming US policy and UNHCR's accommodating attitude, before they change again. The resettlement of screened-out asylum seekers as immigrants serves the national interest of the Philippines and yet does not violate the CPA. Other CPA countries have done it.

Fear that direct resettlement would raise false hopes and therefore affect voluntary repatriation has long been moot. Voluntary repatriation from PFAC has practically been at a stand-still for the past twelve months. False hopes or not, it cannot get any worse.

Direct resettlement is a practical and peaceful way to remove a large number of asylum seekers from PFAC. It can be implemented immediately.



## United States Department of State

*Bureau of Population, Refugees, and Migration**Washington, D.C. 20520-5824*

September 20, 1995

Dr. Nguyen Dinh Thang  
Executive Director  
Boat People S.O.S.  
P.O. Box 2652  
Merrifield, Virginia 22116

Dear Dr. Thang:

Thank you for your letter of September 5, 1995, regarding allegations of harassment of Vietnamese asylum seekers in Palawan Camp, the Philippines, and their relatives in Vietnam.

We have had no similar reports of the kind of harassment which you describe in your letter. As we take seriously any such reports, we have instructed our Embassies in Manila and Hanoi to investigate these allegations with the Office of the United Nations High Commissioner for Refugees (UNHCR) in those countries.

Please be assured of our commitment to ensure that all Vietnamese asylum seekers are treated appropriately and in a humane manner. We will report to you any information we receive regarding your concerns. Please do not hesitate to contact this office again if we can be of further assistance.

Sincerely,

A handwritten signature in cursive script that reads "Phyllis E. Oakley".

Phyllis E. Oakley  
Assistant Secretary





Lyle  
MacWilliam, M.P.  
Okanagan - Shuswap



HER MAJESTY THE QUEEN  
PROVINCE OF BRITISH COLUMBIA

OTTAWA, K1A 0A6  
March 16, 1993.

Mr. Albert Peters,  
Director, UNHCR Liaison Office,  
Office of the United Nations High  
Commission for Refugees,  
1 United Nations Plaza,  
New York, New York

Dear Mr. Peters:

Re: Vietnamese Refugees Rescued by HMCS Provider

Thank you for agreeing to meet with me through the request of Mr. Jim Carmichael of the Canadian Consulate. I apologize for having to re-schedule the meeting but, due to the recent snow storm which ravaged most of the Eastern States and Canada, I was forced to delay my departure. I understand that our meeting has now been re-scheduled for Thursday, March 18th at 10:30 a.m. at your office.

This letter is to advise of the particular nature of my concern, should you wish to receive some briefing material prior to our meeting.

In June of 1990, a group of 88 Vietnamese refugees were plucked from the South China Sea by the Canadian supply ship, *HMCS Provider*. After receiving assurances from Canada that the refugees would be given a home, the Philippine Government allowed them to disembark. The refugees were housed at Palawan Camp and have since undergone screening for determination of refugee status.

Of the 88 asylum seekers who were rescued, 50 have, apparently, had their claims for refugee status accepted by the Philippine authorities. The claims of the remainder were found not to be credible and were rejected. This latter group has since appealed their initial rejection and is now awaiting for appeals to be heard.

I understand that, under the terms of the Comprehensive Plan of Action (CPA), the evaluation of an asylum seeker's claim falls exclusively within the jurisdiction of the host

March 16, 1993.

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country. I also understand that it is only when the host country has found the claimant to be a bona fide refugee can the claimant be referred to a third country for re-settlement through the UNHCR. However, evidence has surfaced which indicates that violations of the screening process may have occurred which may involve both Philippine officials and representatives from the UNHCR based in the Philippines. Such violations may well have jeopardized the judiciousness of the process for the determination of refugee status.

At the time of our meeting, I will be pleased to provide documents pertaining to:

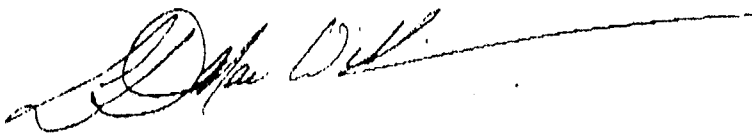
- requests for sexual favours and money by Philippine officials
- problems with UNHCR pre-screening process
- signing of blank determination forms
- incompetence with language during pre-screening process
- failure to have a UNHCR representative present during screening interviews
- lack of standards in the decision-making process
- procedural violations involving sections 7 and 8 of the Task Force on International Refugee Assistance and Administration
- recommendations by UNHCR representatives vis-à-vis conditions at Palawan.

The purpose of my visit will be to provide this evidence to you on behalf of the Trinity United Church Refugee Committee of Vernon, British Columbia. This organization has been instrumental in assuring the re-settlement of these individuals in Canada and in pursuing a fair appeal process for those claimants who have filed appeals.

It is my hope that such information will help ensure that a detailed review of the refugee determination process as practised at Palawan Camp is undertaken, and that the refugees now undergoing their appeals be given a full and fair hearing. Because the UNHCR is internationally acclaimed for the fine work done on behalf of refugees, I know that the organization would want to ensure that the problems experienced at Palawan are resolved.

I look forward to meeting with you on Thursday, March 18th, and thank you for so readily accommodating my request.

Yours sincerely,



Lyle MacWilliam, M.P.  
Okanagan - Shuswap

c.c. Mr. Steve Lauman, Chair, Trinity United Church Refugee Committee  
Mr. Andrew Kern, Barrister and Solicitor

# U.N. policy of deprivation harms refugees

Rosario B. Teano was one of the most active members in this racket. She routinely screened out refugees who could not afford to pay bribes. In one case, a victim of severe religious persecution in Vietnam and her family were demanded US \$2,700 for a positive screening result. After the payment, Ms. Teano demanded an additional \$1,000. As the asylum seeker could not afford the surcharge, Ms. Teano handed out a negative decision, on the ground that the Vietnamese government was justified in prohibiting religious activities "which run counter to its policies."

Ms. Teano also took a 50% share of all the corruption proceeds earned by other screening officials under her supervision.

Obi, then UNHCR Field Officer, filed a complaint against Renato O. Orlanda, one of the perpetrators denounced by their victims.

A few months later, Ms. Obi was transferred out of the Philippines. Mr. Orlanda retained his job and continued his activities with impunity.

Ms. Obi was reassigned to the UNHCR Bureau for Asia and Oceania, which oversees the implementation of the CPA, including refugees screening. In early 1994, when refugee advocates approached her bureau to seek remedy to the corrupt screening program, her bureau denied of having ever heard of the problem and refused to take action.

Having failed to ensure fair screening, the UNHCR now resorts to deprivation measures, in blatant violation of its humanitarian mandate, to clear the camps of refugees, and along with them incriminating evidences and witnesses. Recently intercepted documents reveal that the UNHCR has agreed to pay the Philippine Government to deport asylum seekers.

Since 1989, the US has contributed approximately 150 million dollars to this UNHCR refugee program, which not only victimizes asylum seekers but also affects thousands of U.S. citizens with immediate relatives in the camps.

Mrs. Truong's parents, residing in Houston, Texas have filed visa petitions for her and her three children, to no avail. The UNHCR insists that she and her children must return to a bleak future in Vietnam.

Her home and properties had been confiscated by the Communist government. And her family had been exiled to an uninhabited and malaria-infested area before their eventual escape to the Philippines.

Under the CPA, she has lost not only her refugee status due to a corrupt screening program but also her husband because of the UNHCR's policy of deprivation.

Like Mrs. Truong and her family, thousands of genuine refugees now face imminent forced repatriation to Vietnam in a scandalous refugee program sponsored by the UNHCR and paid with American tax dollars.

**Having failed to ensure fair screening, the UNHCR now resorts to deprivation measures, in blatant violation of their humanitarian mandate.**

The deals were often proposed and concluded during the screening interviews. In the Philippines, the tariff started at \$500 at the screening stage and reached \$3,000 at the appeal stage.

Several UNHCR lawyers overseeing the screening process also demanded cash or gifts (in the form of expensive jewelry) from asylum seekers in exchange for assistance at the appeal stage. Many interpreters hired by the UNHCR to help in the screening interviews acted as agents in the corruption racket, scouring the camp for potential "clients."

Corruption was not limited to monetary demands. A number of screening officials also demanded sexual favors from female asylum seekers. Many young women had to comply with these demands in order to gain refugee status for their families.

In 1991, a Catholic chaplain serving in Palawan Camp demanded that the UNHCR intervene and stop such crimes against asylum seekers. Naoko

Tran Kim Truong lost her husband—and her three young children their father—in early 1994 when the United Nations High Commissioner for Refugees (UNHCR) decided to close the only medical clinic in Palawan Camp in the Philippines. Her husband died of fever for lack of adequate medical care.

This and other similar deaths prompted a massive demonstration in Palawan Camp that lasted for several months until the Philippines sent in the marines to violently break it up.

The UNHCR claimed funding shortage as the reason to close the clinic. However, the agency has repeatedly spurned the offer of several US-based medical organizations to finance and staff a replacement clinic.

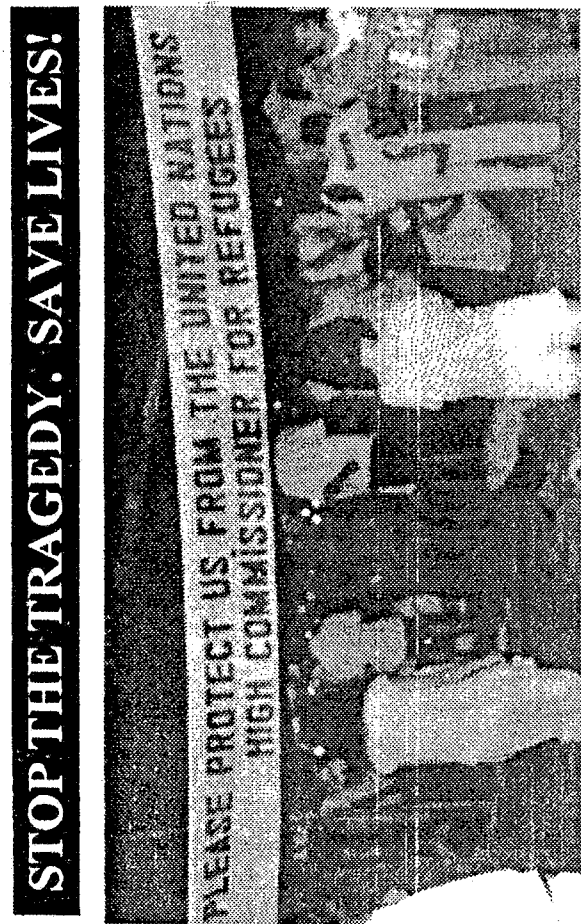
The UNHCR's real motive is to render camp conditions unbearable to the point that asylum seekers have to sign up for "voluntary" repatriation.

A roadmap of deprivation and coercion has been laid out by Christine Mougne, UNHCR Senior Social Services Officer, in a 1992 report leaked out by dissenting UNHCR officials. This document calls for the reduction in medical services, the termination of educational programs, the restriction of the freedom of movement, and the curbing of remittances from overseas relatives.

These harsh measures are designed to "encourage" repatriation—often euphemistically referred to as the "durable solution"—so as to expediently and conveniently get rid of evidences of catastrophic errors in the UNHCR-sponsored refugee program known as the Comprehensive Plan of Action (CPA).

The CPA, established in 1989, stipulates that refugees be resettled and non-refugees repatriated. The refugee screening program under the CPA, however, is fraught with mistakes and abuses. Many genuine refugees have been wrongly screened out by corrupt screening officials.

In the Philippines, for example, screening officials, their local agents and their overseas contacts, and some UNHCR lawyers and interpreters conducted a thriving corruption racket which has severely damaged the integrity of the UNHCR's screening program.



Vietnamese boat people holding a candle light vigil in Palawan Camp, the Philippines, to protest against the UNHCR's unfair screening and deprivation policy, December 1993.

The Office of the United Nations High Commissioner for Refugees (UNHCR) has failed to ensure fair screening of Vietnamese refugees. This failure has caused indescribable human sufferings and has led to mounting casualties. Among those wrongly denied refugee status, there are thousands of former U.S. allies who fought side by side with the American forces during the war and numerous victims of severe human rights abuses in Vietnam. The UNHCR now resorts to coercion and deprivation to accelerate the repatriation of refugees, conveniently getting rid of the problem along with incriminating evidences and witnesses.

**We urge our President and Congress:**

- to prohibit any use of U.S. tax dollars towards repatriating genuine refugees to Communist Vietnam, where political oppression is still prevalent;
- to review and investigate the screening process established by the UNHCR before earmarking any further contributions to this international agency; and
- to hold the UNHCR responsible for identifying and correcting egregious mistakes in screening.

*Association of Vietnamese Physicians of the Free World; Boat People S.O.S.; Committee for the Relief of Vietnamese Refugees; Concerned Professionals on Internet; Council for Human Rights in Vietnam; Counterparts; Employees at SGS-Thomson Microelectronics; Greater NY Vietnamese-American Community Association; National Congress of Vietnamese in America; RPN Air Force Association of N.E. Region; The Louisiana Vietnamese-American Youth Organization in Texas; Veterans of Vietnam War; Viet Forum; Vietnamese Buddhist Association; Vietnamese-American Association of Central Florida; Vietnamese Buddhist Council; Vietnamese Buddhist Association; Vietnamese Community in Oklahoma; Vietnamese Community in DC, VA and MD; Vietnamese Community of Minnesota; Vietnamese Federation of San Diego; Vietnamese Mutual Assistance Association in New York; Vietnamese Medical Association in the USA; Vietnamese Mutual Support Association CT; Vietnamese Medical Society of N.E. America; Vietnamese Professional Society DC; Vietnamese Refugee Relief Committee; Vietnamese Senior Citizens Association; Vietnamese Students Association/GA Tech; Vietnamese Voluntary Foundation; Vietnam Refugee Fund; Vietnam Restoration Party; VNACE.*

This is the fourth in a series of paid advertisements in a multi-national advocacy campaign for Vietnamese boat people. Next issue: The UNHCR's mismanagement of the Comprehensive Plan of Action.

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Chief of Staff

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MICHAEL H. VAN DUSEN  
Congress

August 31, 1995

Honorable William J. Clinton  
President of the United States  
The White House  
Washington, D.C.

Dear Mr. President:

We are greatly encouraged by reports that the United States is considering an offer of new refugee status interviews to asylum seekers who are scheduled for repatriation under the Comprehensive Plan of Action (CPA).

We offer our support and assistance as the Administration develops a detailed proposal for such interviews and discusses this proposal with other participants in the CPA. At the outset, we suggest that such a proposal will be successful if and only if it takes account of several important facts and principles.

First, United States tax dollars should not support any program that involves the forced repatriation of persons who fought on the side of the United States or were otherwise closely identified with the United States war effort, victims of religious persecution, or other persons who are refugees under United States law.

Second, it is no longer seriously disputed that a substantial but undetermined number of the Indochinese asylum seekers now detained in refugee camps throughout Asia have had their refugee claims rejected because of corruption, hostility to asylum seekers, or other defects in refugee screening processes. Nor has it ever been disputed that countless others --- who would clearly be entitled to refugee status under United States law --- have had their claims rejected because the standard under which they were judged did not recognize persecution on account of close association with the United States war effort as sufficient to establish refugee status.

Third, Viet Nam is still a dangerous place for people who left because of a genuine fear of political and/or religious persecution. The often-repeated assertion that UN monitors have never detected a single case of persecution of a returned asylum seeker is based on a monitoring process that has never reached more than a small minority of the returnees. Those who are lucky enough to meet a UN monitor, moreover, typically must make any complaints they have

in the presence of Vietnamese government officials. Even so, the assertion that returnees are not known to have been persecuted must rely on a razor-thin definition of "persecution" that distinguishes away numerous well-documented cases in which returnees have been subjected to harassment, severe discrimination, lengthy interrogation about their anti-Communist activities, and even imprisonment for political or religious "crimes".

Any doubt about whether those who have been victimized for their political or religious activities may be safely returned to Viet Nam has been resolved by recent events. Both before and after the establishment of full diplomatic relations between the United States and the Communist government of Viet Nam, high-ranking Communist officials publicly stated that trade and economic modernization should not be construed as harbingers of democracy or of political and religious freedom. They also made clear that they will take whatever steps are necessary to contain any movement for the restoration of freedom and democracy. Only a few days after the establishment of formal diplomatic relations --- and almost immediately after the departure of Secretary of State Christopher from his visit to Viet Nam --- the government tried, convicted, and imposed draconian punishments on nine leaders of a peaceful pro-democracy movement. These included two United States citizens of Vietnamese descent. On the same day, the government tried, convicted, and sentenced several leading prelates in the largest Buddhist denomination in Viet Nam. The government has now announced that it will try 77-year-old Venerable Thich Huyen Quang, who is the spiritual leader of Viet Nam's 54 million Buddhists. In light of these events it would be grossly inhumane and unjust to force victims of past political and religious persecution back to Viet Nam on the assumption that "Viet Nam has changed."

Recognition of these facts and principles suggests several practical guidelines for a program for re-interviewing Vietnamese asylum seekers:

- 1) It would be far better to conduct such interviews outside of Viet Nam. The asylum seekers who need the interviews the most --- those with the strongest legitimate claims of persecution --- will be most afraid to return. The process has failed these people before, and it is not unreasonable for them to suspect that it might fail them again. Setting up processing centers in Viet Nam and transporting many thousands of people there, only to transport a substantial number of them back to freedom, would also be far more expensive and time-consuming than one last round of interviews in the existing refugee camps.

- 2) Although some representatives of the governments of first-asylum countries have expressed deep reluctance to allow rescreening in the camps, it is hardly obvious that persuading the first-asylum countries would be any more difficult than persuading Viet Nam to allow the establishment on its soil of a novel, extensive, and secure facility for housing and interviewing refugees. The immigration law of at least one first-asylum jurisdiction, Hong Kong, explicitly provides that detained asylum seekers shall be afforded facilities to arrange for admission to other countries. The United States should make a serious effort to persuade these governments before it accepts as necessary the deeply problematic idea that return to Viet Nam should be a precondition for refugee status interviews.

- 3) If it were absolutely necessary to conduct interviews in Viet Nam, it would be essential to ensure the safety of the asylum seekers during the process of adjudicating their

refugee claims. This would require a facility to which asylum seekers could be taken directly upon arrival in the country, without first having been placed in the hands of the Vietnamese government, and from which those who were found to be refugees could leave the country safely and directly.

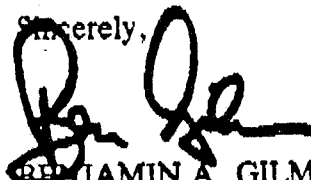
4) Even a safe and fair process for rescreening in Viet Nam would be greeted with great initial skepticism on the part of asylum seekers. Only after the process had resulted in the resettlement in free countries of a substantial number of genuine refugees --- and in few or no rejections of asylum seekers who were known to have been victims of persecution --- could such a process be expected to attract very many applicants. This process would take several months. The imposition of an earlier application deadline would virtually guarantee the failure of the program.

5) No matter where the rescreening process is conducted, the procedures and standard should ensure that the risk of return to persecution is no greater than in the process available under United States law. This means, for instance, establishing clearly at the outset that people who served on our side in the war, or were otherwise closely associated with the war effort, and who were later sent to "re-education camps" on account of this association or activity, are refugees. A process that denied protection to people who served less than a certain number of years in these death camps, and which then turned such people over to the same Communist government that had persecuted them before, would be a failure.

In conclusion, we would like to reiterate our offer of help in seeking a humane and just end to the CPA. The United States and our CPA partners --- and especially the first-asylum countries --- have much to be proud of in their twenty-year relationship with the Indochinese asylum seekers. To end the CPA at the cost of massive forced repatriation of people who genuinely and reasonably fear persecution would surrender much of the moral credit that has been earned over the years. A reinterview program is the way to avoid this, provided that it offers not only promise but also substance.

With best regards,

Sincerely,



BENJAMIN A. GILMAN

Chairman



CHRISTOPHER H. SMITH

Chairman

Subcommittee on International  
Operations and Human Rights

**Summary (Sec. 2104 of H.R. 1561):** Bars the use of migration and refugee assistance funds for salaries and administrative expenses of the Bureau of Migration and Refugee Assistance. Prohibits the use of such assistance for the repatriation of any person to Vietnam, Laos, or Cambodia unless the President makes a specified certification regarding the status of such persons as refugees and whether they have been offered resettlement outside their countries of nationality.

**H.R.1561. American Overseas Interests Act of 1995 (Passed by the House)**

**SEC. 2104. MIGRATION AND REFUGEE ASSISTANCE.**

**(a) AUTHORIZATION OF APPROPRIATIONS-**

**(1) MIGRATION AND REFUGEE ASSISTANCE-**

**(A) AUTHORIZATION OF APPROPRIATIONS-** There are authorized to be appropriated for 'Migration and Refugee Assistance' for authorized activities, \$590,000,000 for the fiscal year 1996 and \$590,000,000 for the fiscal year 1997.

**(B) LIMITATION-** None of the funds authorized to be appropriated by this section are authorized to be appropriated for salaries and administrative expenses of the Bureau of Migration and Refugee Assistance.

**(2) REFUGEES RESETTLING IN ISRAEL-** There are authorized to be appropriated \$80,000,000 for the fiscal year 1996 and \$80,000,000 for the fiscal year 1997 for assistance for refugees resettling in Israel from other countries.

**(3) HUMANITARIAN ASSISTANCE FOR DISPLACED BURMESE-** There are authorized to be appropriated \$1,500,000 for the fiscal year 1996 and \$1,500,000 for the fiscal year 1997 for humanitarian assistance, including but not limited to food, medicine, clothing, and medical and vocational training to persons displaced as a result of civil conflict in Burma, including persons still within Burma.

**(4) RESETTLEMENT OF VIETNAMESE, LAOTIANS, AND CAMBODIANS-** Of the amounts authorized to be appropriated for fiscal year 1996 under paragraph (1) there are authorized to be appropriated such amounts as are necessary for the admission and resettlement, within numerical limitations provided by law for refugee admissions, of persons who--

**(A)** are or were nationals and residents of Vietnam, Laos, or Cambodia;

**(B)** are within a category of aliens referred to in section 599D(b)(2)(C) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167); and

**(C)** are or were at any time after January 1, 1989, residents of refugee camps in Hong Kong, Thailand, Indonesia, Malaysia, or the Philippines.

**(b) GENERAL LIMITATIONS-** None of the funds authorized to be appropriated by subsection (a) are authorized to be available for any program or activity that provides for, promotes, or assists in the repatriation of any person to Vietnam, Laos, or Cambodia, unless the President has certified that--

**(1)** all persons described in subsection (a)(4) who were residents of refugee camps as of July 1, 1995, have been offered resettlement outside their countries of nationality;

**(2)** all nationals of Vietnam, Laos, or Cambodia who were residents of refugee camps as of July 1, 1995, who are not persons described in subsection (a)(4) have, at any time after such date, either had access to a process for the determination of whether they are refugees, or been offered resettlement outside their countries of nationality; and

**(3)** the process referred to in paragraph (2) is genuinely calculated to determine whether each applicant is a refugee, and that the procedures, standards, and personnel employed in such process ensure that the risk of return to persecution is no greater than in the process available under United States law to persons physically present in the United States.

**(c) AVAILABILITY OF FUNDS-** Funds appropriated pursuant to subsection (a) are authorized to be available until expended.

**(d) REFUGEE CAMP DEFINED-** For the purposes of this section, the term 'refugee camp' means any place in which people who left Vietnam, Cambodia, or Laos are housed or held by a government or international organization, regardless of the designation of such place by such government or organization.

**(e) STATUTORY CONSTRUCTION-** Nothing in this section may be construed to require or permit an increase in the number of refugee admissions for fiscal year 1996 from the numerical limitation for refugee admissions for fiscal year 1995.

# The Washington Post

## Weather

**Today:** Partly sunny, mild, late shower possible. High 60. Low 48.  
**Wind:** south-southwest 10-20 mph.  
**Tuesday:** Partly sunny, morning showers. High 58. Low 38.  
**Yesterday:** Temp. range: 32-52.  
**Wind:** chill: 27. Details on Page D2.

## Sections

A News/Editorials  
B Sports  
C Style/Television/Comics  
D Metro/Obituaries/Classified  
Inside: *Washington Business*  
Today's Contents: Page A2

117th Year

No. 92

MONDAY, MARCH 7, 1994

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Printed May Vary in Area Outside  
Metropolitan Washington Area (Box or A2)

25

## U.S. Court Orders Process for Vietnamese Refugees

By Joan Biskupic  
Washington Post Staff Writer

A federal appeals court, in an extraordinary weekend action, yesterday ordered the State Department to ensure that Vietnamese boat people who are in Hong Kong detention centers and seeking visas to the United States are not forced to return to their homeland.

The order by the U.S. Court of Appeals for the District of Columbia temporarily assures that the United States will resume screening Vietnamese nationals in Hong Kong. A U.S. policy that apparently began last fall effectively permitted the Hong Kong government to attempt to send the Vietnamese home and force them to apply for immigration to the United States from Vietnam.

The case before the court involved several Vietnamese seeking to reunite with family members who long ago made it to the United States and became citizens or permanent residents. The Hong Kong government was planning to fly

some of the Vietnamese back home this week, according to court documents.

In urging the court to intervene quickly, their lawyers said the Vietnamese already had endured "several years of detention under deplorable conditions" in the hopes of being reunited with families in the United States. "The emotional trauma that they will suffer if they are sent back to the communist country they risked their lives fleeing, the economic hardship they will suffer there, the impediments they will face to their right to emigrate to join their families, and the loss of their right to be processed in Hong Kong can never be remedied," their lawyers told the court.

U.S. Attorney Eric H. Holder Jr., arguing on behalf of the State Department, had said court action was unnecessary because U.S. processing in Hong Kong already had resumed and any court intervention "would adversely affect the State Department's ability to negotiate during future overseas develop-

ments relevant to the Vietnamese refugee situation."

Overall, the number of people leaving Vietnam in rickety boats, with the hopes of settling in Western countries, has dramatically slowed since the late 1970s and 1980s, largely because of improving conditions in Vietnam and because of hostility from countries in the region that once offered temporary asylum.

Daniel Wolf, a lawyer for the immigration applicants, said yesterday that the court's order puts an end to a "cruel farce" in which he alleges the U.S. consul's office promised to process visa applicants but set up new hurdles that would stop them from leaving Hong Kong for the United States. He estimated that about 250 Vietnamese are actively pursuing U.S. immigration petitions.

Yesterday's order requires the State Department "to take all necessary and proper action to ensure that [Vietnamese nationals] are not repatriated" until a lower court hearing on the merits of a challenge to

the department policy are completed.

The appeals court panel said that the State Department potentially could be violating federal statutes that say that "under ordinary circumstances an alien seeking an immigration visa shall have the case processed in the consular district in which the alien resides" and that "no person shall . . . be discriminated against in the issuance of an immigration visa because of the person's race, sex, nationality, place of birth, or place of residence."

The case of *Legal Assistance for Vietnamese Asylum Seekers v. Department of State* was heard by a three-judge panel. In the majority rejecting the department's position were Judges Harry T. Edwards and Douglas H. Ginsburg. Judge David B. Sentell said he would have dismissed the appeal.

State Department officials in charge of consular affairs and refugee programs had no immediate comment on the order last night.

ENCLOSURE 4





United States Department of State

Washington, D.C. 20520

January 20, 1995

Mr. ~~Nguyen~~  
6084 S Columbine Way  
Littleton, CO 80121

Dear Mr. Nguyen:

Thank you for your letter of December 14 regarding your concerns for your wife, ~~Nguyen~~.

During a November trip to all Vietnamese first-asylum camps in Southeast Asia and Hong Kong, Deputy Assistant Secretary of State Charles Sykes discussed how to deal with these kinds of family split cases with Erica Feller, the United Nations High Commissioner (UNHCR) representative in Kuala Lumpur, Malaysia. Ms. Feller is the regional coordinator for status determination under the Comprehensive Plan of Action (CPA). She noted that UNHCR was considering the possibility of granting mandated refugee status for some family split cases where appropriate. We explained that under U.S. law we would be willing to consider cases where the marriage is legally recognized in the country in which it took place and if there is clear evidence that the marriage is genuine.

If this marriage is recognized as legal by the Philippine government, then there is the possibility that Ms. ~~Nguyen~~ may be permitted to come to the United States directly from the Philippines. If, however, the marriage is not legally recognized in the Philippines, or if the U.S. interviewing officer believes there are other reasons not to approve the application, Ms. ~~Nguyen~~ would have to return to Vietnam where you could join her to legalize the marriage. You could then return to the U.S. and file an immigrant petition for her so that she might eventually come to the United States.

We hope this information is useful to you. Please do not hesitate to contact this office again if you require further assistance.

Sincerely,

William D. Fleming, Acting Director  
Office of International Assistance for  
Africa, the Americas, and Asia  
Bureau of Population, Refugees, and Migration



Office of the President of the Philippines  
Office of the Executive Secretary  
**PRESIDENTIAL ACTION CENTER**

August 17, 1994

Ms. ~~Mano-Ortiz~~  
851 Clyde Avenue  
Sta. Clara, CA 95954  
U.S.A.

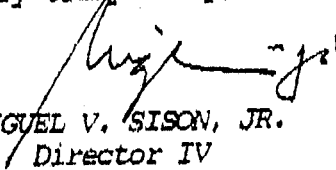
M a d a m :

We received your letter of July 22, 1994, addressed to His Excellency, President Fidel V. Ramos, regarding your request for assistance in securing a visa for your daughter, ~~Mano-Ortiz~~ from the government of the United States of America.

We wish to inform you that the issuance of entry visa to the United States, whether as immigrant or temporary visitor, is the prerogative of the U.S. government, you may advise your daughter to pursue her application for a visa with the U.S. Embassy in Manila.

We hope to be of help to you in some other ways.

Very truly truly,

  
MIGUEL V. SISON, JR.  
Director IV

L-9408-11-76  
CPA/mrm



## United States Department of State

Washington, D.C. 20520

FEB 14 1995

Dear Senator Boxer:

Thank you for your letter of December 27 regarding the concerns of Ngo Thi Kim Viet for her husband, Hanh Ngoc Le.

During a November trip to all Vietnamese first-asylum camps in Southeast Asia and Hong Kong, Deputy Assistant Secretary of State Charles Sykes discussed how to deal with these kinds of family split cases with Erica Feller, the United Nations High Commissioner for Refugees (UNHCR) representative in Kuala Lumpur, Malaysia. Ms. Feller is the regional coordinator for status determination under the Comprehensive Plan of Action (CPA). She noted that UNHCR was considering the possibility of granting mandated refugee status for some family split cases where appropriate. We explained that under U.S. law we would be willing to consider cases where the marriage is legally recognized in the country in which it took place and if there is clear evidence that the marriage is genuine.

Ms. Ngo Thi Kim Viet's marriage has been determined to be genuine and her husband has been recognized as a derivative refugee. In an attempt to clarify this couple's situation and facilitate their reunion, the office of Assistance to Africa, the Americas, and Asia, Bureau of Population, Refugees, and Migration of the United States State Department, will forward this request to the appropriate UNHCR office in the field.

We hope this information is helpful to you and your constituent. Please do not hesitate to contact this office again, if you require further assistance.

Sincerely,

A handwritten signature in cursive script that reads "Wendy R. Sherman".

Wendy R. Sherman  
Assistant Secretary  
Legislative Affairs

Enclosure: correspondence returned.

The Honorable  
Barbara Boxer,  
United States Senate.

# Joint Voluntary Agency

U.S. INDOCHINESE REFUGEE RESETTLEMENT PROGRAM (THAILAND)

June 2, 1994

MEMORANDUM

To: Hans Willman - Durable Solutions/Vietnamese - UNHCR

From: Dianne Dawkins - IV/HP Supervisor - JVA

Re: Screened-In, INS Denied Minors Now Eligible for PIP  
(specifically concerning Vu Thanh Ky (PST-5175)  
and Phan Anh Khoa (PST-4462))

As we discussed this morning, the two above mentioned cases were screened-in, then denied by the U.S. Immigration and Naturalization Service (INS). Subsequently, they were evidently referred back to the UNHCR Unaccompanied Minors' Committee for further consideration. Khun Suda at UNHCR advise my office today that the above two cases have been reconsidered and have now been screened-out. I assume this would make them ineligible for third country resettlement.

Beginning last week U.S. INS authorized a Public Interest Parole (PIP) program for all screened-in, INS denied Vietnamese with immediate relatives (sibling, parent, spouse, child) in the U.S. We have sent letters to the U.S. relatives for both of the above mentioned cases notifying them that if they provide the proper financial documents, these boys are eligible for PIP consideration. In both cases, the brothers in the U.S. did claim their brothers, so the relationship is not in doubt..

I am enclosing (page 2) a list of all minor Vietnamese cases which would fall into this PIP eligible category. I would also hope that your office will be able to work with the Unaccompanied Minors' Committee to allow the above two mentioned cases to continue with PIP processing.

If you have further questions, or if I can assist, please let me know.

Regards,

*J.K.A.* ; AMERICAN EMBASSY • REFUGEE AND MIGRATION AFFAIRS OFFICE • REFUGEE SECTION

95 WITTHAYU ROAD • BANGKOK 10330 THAILAND • TEL. 252-5040-9 EXT. 2245 FAX. 287-1391

INTERNATIONAL RESCUE COMMITTEE INC. • 386 PARK AVENUE SOUTH • NEW YORK, NEW YORK 10016 USA • TEL. (212) 679-0010