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# Lao People's Democratic Republic

## Hiding in the jungle: Hmong under threat



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INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 0DW, UNITED KINGDOM

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### **Hiding in the jungle:**

### **Hmong under threat**

**March 2007**

**Summary**

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Thousands of ethnic Hmong women, men and children live in scattered groups in the Lao jungles, hiding from the authorities, particularly the military. The armed forces regularly attack their temporary encampments, killing and injuring them, and perpetuating their life on the run and in destitution. Amnesty International is calling for an immediate end to armed attacks on these women, men, and children.

These predominantly Hmong groups are a remnant of the so called "Secret Army" who from the early 1960s onwards fought against Communist Pathet Lao forces and alongside the USA in the Viet Nam war, which spilled over into Laos and Cambodia. After Pathet Lao's victory in 1975, small numbers of "Secret Army" soldiers launched armed resistance against the new government basing themselves in the jungles. Three decades on, they no longer appear able to pose a military threat against the Lao government. Instead they live with their families and communities in small groups struggling to survive, unable to realise their basic human right to a standard of living adequate for their health and well-being; they lack food, clothing, housing and medical care.

Living in hiding for fear of attack, these groups of women, men and children have limited contact with the outside world. A few journalists have managed to pay clandestine visits to the jungle, smuggling out film footage and accounts of malnourishment, disease, bullet and shrapnel injuries, and lack of medical services.

Most commonly, attacks by the military appear to take place while groups venture outside of their encampments to forage for food. These attacks further prevent them from taking their own steps to realize their right to adequate food.

Also, in several instances, groups who have decided to give up their life in hiding in an attempt to join mainstream society have reportedly been harassed, arbitrarily detained and subjected to ill-treatment. Uncertainty prevails around the whereabouts and well-being of several such groups.

Similarly, there is a lack of clarity around whereabouts, reception and integration of other Lao Hmong who are perceived by the authorities as having links to the former rebels, including people who have been forcibly returned from Thailand, where they had sought international protection.

In connection with military attacks there is a discernible pattern of separation of families. Reports provided to Amnesty International describe how men have been arrested, while women have been taken to camp-like settlements in isolated villages. Some women have been subject to slavery-like treatment and torture and ill-treatment, including repeated rapes by law enforcement officers.

Amnesty International calls on the Lao authorities to launch prompt and impartial investigations of all allegations of attacks or other unlawful use of force by the security forces on Hmong living in jungle encampments and to bring the perpetrators to justice.

In order to enable those living in jungle encampments to realise their basic economic, social and cultural rights, the organisation also recommends that the authorities permit access by international humanitarian organisations to the areas of concern.

To support those who want to reintegrate into mainstream society and have not committed any internationally recognizably criminal offence, Amnesty International also calls on the Lao authorities to permit access for United Nation bodies and other international, independent monitors in order to monitor their well-being.

Over the years thousands of Lao Hmong have fled to Thailand, from where the majority have been resettled as refugees in third countries, notably the USA. Others have been repatriated to Laos, including in forcible returns before they had had access to a process to determine their international protection needs. Amnesty International has repeatedly called on the Thai authorities not to forcibly return any Lao Hmong who would be at risk of serious human rights violations, in keeping with Thailand's obligations under international law.

<b>KEYWORDS:</b>
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# Lao People's Democratic Republic

## Hiding in the jungle - Hmong under threat

### Introduction

Thousands of ethnic Hmong women, men and children live in scattered groups in the Lao jungles, hiding from the authorities, particularly the military. The armed forces regularly attack their temporary encampments, killing and injuring them, perpetuating their life on the run.

These predominantly Hmong groups are a remnant of a faction who in the early 1960s fought against Communist Pathet Lao forces and alongside the USA in its war against the North Vietnamese, which spilled over into Laos and Cambodia. After the Pathet Lao won the war in Laos in 1975, small numbers of soldiers from the losing side launched armed resistance against the new government basing themselves in the jungles. Some of these remain in the jungle to this day, remnants of a former armed rebel force, which no longer appears able to pose a military threat against the Lao government. They live with their families and communities in small groups struggling to survive, unable to realise their basic human right to a standard of living adequate for their health and well-being; they lack food, clothing, housing and medical care.

Amnesty International calls on the Lao government to fulfil its obligation under international law to respect the human rights of these groups, in particular their right to life and to an adequate standard of living.

Over the years thousands have fled to Thailand, where some have been resettled as refugees in third countries; some have been forcibly returned to Laos. Amnesty International has repeatedly called on Thai authorities not to forcibly return any Lao Hmong who would be at risk of serious human rights violations, in keeping with Thailand's obligations under international law.

Living on the run and in hiding, these groups have limited contact with the outside world. A few journalists have managed to pay clandestine visits, smuggling out film footage and stories. Others have tried, but been imprisoned when attempting to access the groups.

This report is based, in part, on information obtained from asylum-seekers and refugees in Thailand interviewed by Amnesty International in March 2006 and early 2007. It is also based on interviews and other information from a variety of actors who have connections to those in the jungle, including relatives, human rights advocates and journalists.

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## Background

One of Asia's poorest nations, Laos has an ethnically diverse population of 5.6 million, over three quarters of whom live in rural areas.<sup>1</sup> Laos is home to some 50 ethnic groups,<sup>2</sup> until recently officially divided into three broad categories: lowlanders or Lao *loum*, Lao *theung*, which refers to the people who live on the slopes, and Lao *soung*, those who live on the mountain tops.<sup>3</sup> The Hmong belong to the latter.

Land-locked Laos is largely covered by rugged mountains and borders Cambodia, China, Myanmar, Thailand and Viet Nam. Laos has one of the lowest densities of roads in the world,<sup>4</sup> although the road network is gradually expanding, large parts of the country are almost inaccessible.

The Lao People's Democratic Republic (LPDR) is a one-party state, which was established on 2 December 1975 when the Communist Pathet Lao forces entered the capital Vientiane and a protracted war ended. The abdication of the king at the same time also marked the end of the constitutional monarchy, which had lasted for just under 30 years.

Laos is a state party to some of the core international human rights treaties: the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC). In 2000 Laos signed, but to date has not ratified, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Laos is also a party to the main international humanitarian law treaties (the Geneva Conventions of 1949 and their Additional Protocols of 1977).

Since the collapse of the Soviet Union in 1991 Laos has gradually opened up towards the outside world following a long period of isolation. In July 1997 the country became a member of the Association of Southeast Asian Nations (ASEAN) and the country has also expressed interest in joining the World Trade Organisation (WTO). But despite opening up towards investors and tourism, the rights to freedom of expression, association, peaceful assembly and political participation remain systematically violated for the Lao population. Political opposition is not allowed, the media are state-controlled and mass organisations, such as the Lao Front for National Construction, the Lao Federation of Trade Unions, the Lao People's Revolutionary Youth Union and the Lao Women's Union, are closely controlled by the state. There are no domestic independent non-governmental organisations (NGOs), but

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<sup>1</sup> *Results from the Population and Housing Census 2005*, Lao Government Steering Committee for Census of Population and Housing, March 2006

<sup>2</sup> Lao official sources place the number of ethnic groups at 49, as reflected in *Results from the Population and Housing Census 2005*, Lao Government Steering Committee for Census of Population and Housing, March 2006

<sup>3</sup> Martin Stuart-Fox, *Politics and Reform in the Lao People's Democratic Republic* (Working Paper No. 126), Murdoch University, 2005

<sup>4</sup> Joachim Schliesinger, *Ethnic groups of Laos. Volume 1. Introduction and Overview*, 2003, p. 131

service-delivering international development NGOs are allowed to operate if under foreign management. Access for independent human rights monitors from abroad is prohibited.

In 1991 Laos adopted a Constitution which provides for the rule of law,<sup>5</sup> but the legal framework is not yet in place. The judiciary is poorly resourced and under-developed; the court system is under executive and party influence. The government itself admits to many shortcomings, including “the absence of uniformity and consistency in the application of the law”, a scarcity of qualified personnel, and ineffective dissemination of information on laws – which are printed only in a limited number of copies – across the country.<sup>6</sup> Amnesty International has for years voiced concern over unfair trials and the absence of fair trial guarantees, political bias of courts and impunity for those who commit human rights violations. Individuals perceived as political opposition have been given long sentences of imprisonment simply for having exercised their right to freedom of expression or peaceful assembly; torture and ill-treatment in custody continues, though reports have gradually reduced over the years.

## The Hmong in Laos

Ethnic Hmong people are a highland tribe that lives in southern China, Laos, Viet Nam, Cambodia and Thailand. They arrived in Laos from south-eastern China in the late eighteenth to early nineteenth century and settled as farmers in the mountainous north. Today, the Hmong in Laos number over 450,000 people, constituting eight per cent of the population, making them the third largest ethnic group in the country after the Lao and the Khmou.<sup>7</sup> The ethnic Lao are the largest and politically, economically and culturally dominant group, with 55 percent of the population according to a national census carried out in 2005.<sup>8</sup>

The Hmong’s social organisation is clan-centred<sup>9</sup> and they live – for the most part – in small villages in the northern and central parts of the country, many of them only accessible by footpath or small tracks. But the Hmong have also integrated into business and political life across Laos; they are represented, though in limited numbers, at all levels of the administration, including in the newly elected National Assembly, and in the government that took office in June 2006. For the first time ever, 2006 also saw a Hmong enter the 11 member strong and highly influential politburo.

## The Hmong, “The Secret Army” and its immediate aftermath

The war that ended in 1975 was partly an internal armed conflict between the left-wing Pathet Lao and the right-wing royalists and nationalists. But it was partly also a war that spilled over

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<sup>5</sup> Constitution of the Lao People’s Democratic Republic, 1991, Amended 6 May 2003

<sup>6</sup> *Draft Strategic Plan on Governance (2006 – 2010)*, Policy paper by the Lao government, November 2006

<sup>7</sup> *Results from the Population and Housing Census 2005*, Lao Government Steering Committee for Census of Population and Housing, March 2006

<sup>8</sup> See above; the census results were published in March 2006

<sup>9</sup> Joachim Schliesinger, *Ethnic Groups of Laos, Volume 3*, 2003, p. 260

from Viet Nam and related to access to the so-called Ho Chi Minh trail, a network of supply lines that crossed into Laos and Cambodia and which was used by the North Vietnamese fighting the USA and the South Vietnamese forces.<sup>10</sup> The USA supported the right-wing faction, while the North Vietnamese backed the Pathet Lao.

On the side of the right-wing faction and alongside the USA, fought the so-called “Secret Army,” a CIA-funded irregular armed force established in 1961 and led by Royal Lao Army Lieutenant Vang Pao,<sup>11</sup> an ethnic Hmong. “The Secret Army” reached some 30,000 troops in the early 1970s, and comprised of several ethnic groups, including ethnic Lao, but the majority were ethnic Hmong. Not all ethnic Hmong, however, supported the royalists and nationalists. In fact, many Hmong and other minority groups supported Pathet Lao.<sup>12</sup>

Following the end of the war in 1975, the Hmong came to be perceived with suspicion by the new Communist government because of the involvement by Hmong in the “Secret Army”. After the victory of the Pathet Lao, tens of thousands of its former adversaries were jailed. Officials of the former government and its army, members of the “Secret Army” and Hmong who were perceived by the new government as having collaborated with the enemy side were sent to “re-education” camps, euphemistically called seminars,<sup>13</sup> or prisons. They were held in harsh conditions, without ever facing charge or trial, some for over a decade. It is not known how many people died in such detention, but many never returned.

Ostracism of the Hmong, mass arrests, violence and harassment were some factors pushing thousands of Hmong to flee the country in 1975 and afterwards. All in all around 300,000 people, including many Hmong, fled Laos during the first ten years,<sup>14</sup> mostly to Thailand where they sought refugee status. The majority resettled in third countries, particularly in the USA, which received some 250,000 Lao people between 1975 and 1996.<sup>15</sup> Over half of those 250,000 were ethnic Hmong, and Vang Pao was one of them.

Fearful of retribution and in turmoil after the escape of Vang Pao, thousands of irregular Hmong soldiers from the “Secret Army” retreated to inaccessible forest areas with their families from where they mounted armed resistance to the new government. The resistance was largely crushed within the first years by the Lao People’s Army with the help of some 30,000 Vietnamese troops,<sup>16</sup> though the defeat of the rebel groups was not total. A

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<sup>10</sup> The Second Indochina war, or the Viet Nam war (1954-1975) spread into Laos (and Cambodia), where the USA secretly embarked on intense aerial bombardment.

<sup>11</sup> In the mid-1960s he was promoted to the rank of general.

<sup>12</sup> Martin Stuart-Fox, *Politics and Reform in the Lao People’s Democratic Republic* (Working Paper No. 126), Murdoch University, 2005

<sup>13</sup> Grant Evans, *Laos: Situation Analysis and Trend Assessment*, Writenet, 2004 for UNHCR

<sup>14</sup> The State of the World’s Refugees, UNHCR, 2000, p. 98

<sup>15</sup> US Department of State, Country brief, 2006

<sup>16</sup> Martin Stuart-Fox, *Historical Dictionary of Laos*, Second Edition, 2001



small rebel force held out, supported by Hmong groups in exile, particularly in the USA, including by Vang Pao.

From inaccessible encampments, particularly in the remote areas around Laos' highest mountain, Phu Bia, the armed rebels launched occasional attacks against the Lao People's Army into the 1990s.<sup>17</sup> Since then, dwindling Hmong groups of rebels have made sporadic attacks on army positions, and were accused by some representatives of the authorities of responsibility for two attacks on public buses in 2003 which caused multiple casualties. From then on very few reports have come out of Laos about other sporadic attacks allegedly involving groups that live in hiding in the jungle. By contrast, Amnesty International has frequently received reports and accounts about attacks against such groups by the Lao People's Army.

### **The ongoing legacy of the "Secret Army"**

No comprehensive data is available about how many people continue to eke out a living in the Lao jungles, on the run from frequent attack by the Lao People's Army. A precise figure is impossible to calculate: independent observers are not allowed access and the groups are moving around in the jungle. There is also a movement between the jungles and mainstream Laos as people leave their hiding places to try to assimilate into regular society. Current estimates by observers and lobby groups range from several hundred to 3,000<sup>18</sup> up to as many as 17,000,<sup>19</sup> although the latter figure is probably a significant overestimate.

Very few people from the outside world have been able to visit any of these groups, and no one has been able to visit all groups in this remote hinterland. This is not to say there is a total absence of accounts from the jungle. At least six visits by journalists – with the first in January 2003 and the latest in June 2006 – have sporadically placed the Lao jungles in the headlines.

More recently, sympathisers, family members or political groupings abroad have provided satellite or mobile phones to people in the jungle, through which they have been able to relay information to the outside world. In addition, journalists and others have managed to smuggle out film footage from hide-outs, providing images and descriptions about what they encountered during clandestine visits. Refugees and asylum-seekers in Thailand have also been able to tell of life in hiding.

So far lobby groups, media and human rights organisations have predominantly described those in hiding as rebels. Without unfettered access to the regions in question it is hard to assess whether such a description remains accurate or whether it merely reflects a historical position. Up until 2004, Amnesty International received information indicating that

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<sup>17</sup> Martin Stuart-Fox, *Historical Dictionary of Laos*, Second Edition, 2001

<sup>18</sup> See e.g. *Assessment for Hmong in Laos*, 2004, Minorities at Risk Project, Center for International Development and Conflict Management, University of Maryland

<sup>19</sup> See e.g. Lao Human Rights Council, ([laohumanrightscouncil.org](http://laohumanrightscouncil.org))

anti-government groups of Hmong ethnicity were involved in attacks, including against government positions in Houa Phan in 2004. In 2003, there were also ambushes against public buses, including two along the road that links Vientiane with Luang Phrabang, which killed 25 people and wounded many more. In both instances witnesses reported that the perpetrators had been ethnic Hmong, and consequently most observers attributed the attacks to armed rebels. To the knowledge of Amnesty International, however, no group ever took responsibility for the attacks against the buses, and although some initial arrests were made,<sup>20</sup> no one has been held to account for these serious crimes.

The journalists who visited the jungle have pointed out that the people they met were extremely vulnerable because they were hiding from the authorities, coming under violent attack, and lacked food, medicine and shelter. They described **former** armed rebels and people in hiding with very limited means for survival and in isolation from other groups in the same circumstance. For example, in a testimony to the European Parliament's sub-committee on Human Rights, BBC journalist Ruhi Hamid, who paid a clandestine visit to an encampment in 2004, noted that:

*“in our observation this particular group has no significant military capability and so pose no real threat to the government forces but will defend themselves if attacked. To protect our journey out of the jungle, the fighters gathered the collective bullets in the group and handed them to the six men walking us out. They were left with six bullets to defend their village.”<sup>21</sup>*

While the Hmong groups living in the jungle originated as an armed opposition to the LPDR government which came to power in 1975, the remnants over thirty years later are not in a position to carry out anything more than sporadic acts of violent opposition to the government. The Lao government have themselves implicitly acknowledged this, by describing the perpetrators of the 2003 bus attacks as “bandits”, rather than seeking to characterise those attacks as part of any armed conflict. The military, however, continues to pursue and attack those who formerly belonged to the rebels and their descendants, compelling them to keep on the move, and denying them the opportunity to exercise their human rights.

Amnesty International is not in a position at this time to determine conclusively that the situation no longer amounts to an armed conflict, although this appears to be the case. It is clear that the Lao military continues to pursue those who belong, or belonged to rebel groups and their relatives. At any rate, international human rights law is applicable at all times, and should, in the circumstances, form the primary international legal framework governing the authorities' conduct towards and treatment of the Hmong people.

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<sup>20</sup> Laos: Country Report on Human Rights Practices – 2003, US Department of State, 2004

<sup>21</sup> “The Human Rights Situation in Laos with Particular Emphasis on the Situation of the Hmong People” Ruhi Hamid, requested by the European Parliament's subcommittee on Human Rights, September 2005

## **International human rights framework**

The right to life is enshrined in the Universal Declaration of Human Rights (UDHR) which proclaims that “Everyone has the right to life, liberty and security of person” (Article 3). This right is set out also in the International Covenant on Civil and Political Rights (ICCPR), which provides that no one should be arbitrarily deprived of their life. The UDHR and the ICCPR also provide that no one should be subjected to arbitrary arrest or detention or subjected to torture or cruel, inhuman or degrading treatment. These provisions reflect rules of customary international law which are binding on all states. While Laos has not to date ratified the ICCPR, it signed it in December 2000 with a view to ratification, and so is under an obligation in international law to refrain in good faith from acts that would defeat the object and purpose of the treaty.

Laos is a state party to the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), under which it is obliged to prohibit and eliminate all forms of racial discrimination and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law in the enjoyment of human rights, including the right to security of person and economic, social and cultural rights (Article 5).

The right to an adequate standard of living, including adequate food, housing and access to health care is enshrined in Article 25 of the UDHR. The rights to adequate food, to adequate housing, and to the highest attainable standard of health, among others have been further elaborated in binding international conventions, including the International Covenant on Economic, Social and Cultural Rights (ICESCR), which, like the ICCPR, Laos signed in December 2000.

States parties to the ICESCR have immediate obligations, including the obligation to refrain from interfering arbitrarily with people’s efforts to realise their own rights, including those to housing, health and food. This includes respecting efforts that people themselves make to realize their rights.

These human rights are also set out in numerous other human rights instruments including treaties which Laos has ratified. Of particular relevance, in view of the fact that the Hmong living in the jungle include families with children, is the Convention on the Rights of the Child (CRC). Under this treaty, Laos has explicitly undertaken an obligation to recognize every child’s “inherent right to life” and “to ensure to the maximum extent possible the survival and development of the child” (Article 6); “to recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development” (Article 27); and to “recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health [and to] strive to ensure that no child is deprived of his or her right of access to such health care services” (Article 24). Article 2 of the CRC provides that these

rights must be ensured to each child without discrimination, including on the basis of the perceived political opinions of their parents:

*“1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.*

*2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.”*

The Committee on the Rights of the Child, the body of independent experts which monitors states' compliance with their obligations under that treaty, in its General Comment No 5,<sup>22</sup> has stated that the non-discrimination obligation on state parties requires them actively to take measures in order to identify individual children and groups of children who may be particularly vulnerable in this regard.<sup>23</sup> Furthermore, General Comment 5 underlines the primacy of the principle of the best interest of the child in all decisions and actions taken by government authorities.<sup>24</sup>

## Life in the jungle

There are Hmong groups living in the jungle in the provinces of Bolikhamxay, Xieng Khouang, Vientiane, and Luang Phrabang, including Xaysomboune Special Zone, which was under military administration until 2006 and stretched over parts of the three former provinces.

The groups that have had the means to contact the outside world or have had clandestine visits by journalists consist of men and women, including elderly people, and children. According to their accounts, they have not engaged in any attacks on the military, but are constantly pursued and attacked by the military.

Regular violent attacks by the military around and on encampments and their inhabitants have led to numerous deaths, injuries and continual displacement. This displacement in turn deprives the women, men and children of their right to an adequate

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<sup>22</sup> General Comments issued by treaty monitoring bodies are authoritative interpretations of the content of particular provisions of the relevant treaties

<sup>23</sup> General Comment No. 5 (2003) *General measures of implementation of the Convention on the Rights of the Child* (arts. 4, 42 and 44, para. 6) Committee on the Rights of the Child, UN Doc. CRC/GC/2003/5, 27 November 2003

<sup>24</sup> General Comment No. 5 (2003) (para. 12)

standard of living, including shelter, drinking water, and food. Their destitution further perpetuates ill-health and disease; without any access to health services, many of them die.

During periods of heightened international attention after the first few visits by journalists to the jungle, the international donor community was reportedly ready to offer humanitarian assistance to the Lao government in order to address the needs of those in the jungle. No such assistance was requested by the authorities.

### **Killings and attacks by the authorities**

Amnesty International has received numerous reports about armed attacks by the military on people in the jungle. Accounts of such attacks are often difficult to corroborate because they take place in isolated locations, far from populated areas and independent observers. Nevertheless, Amnesty International has received multiple credible accounts over the past four years from a range of sources sufficient to conclude that there is a pattern of such attacks.

Most frequently, attacks take place while people forage for food. Foraging is a vital but time-consuming and dangerous task which can take between 12 and 18 hours a day. The further the people venture from their encampments, the more vulnerable they are to attacks by the military.

Numerous individuals have reported how their relatives have been shot dead while searching for food. The family patterns of the groups in the jungle reflect this; family members outside the nuclear family, such as uncles, aunts and grandparents, are often referred to as being custodians of children whose parents have been killed.

Bullet and shrapnel wounds are also widespread in the jungle groups. In one of the largest encampments with a population of over 800, the leader, who kept a tally of the number of injuries, told a journalist that 30 percent had shrapnel wounds.<sup>25</sup> Reports, including photographs, from the six visits by journalists have provided evidence of the large numbers of injured and scarred people, including children. Invariably victims attributed



© Roger Arnold/WpN, 2006

*Tong Her, 24, was wounded in a military ambush in June 2003. Late 2006 he fled from the jungle and is now a refugee in Thailand.*

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<sup>25</sup> *Welcome to the Jungle*, Andrew Perrin, Time Asia 5 May 2003 [available at <http://www.time.com/time/magazine/article/0,9171,501030505-447253,00.html>]

scars and injuries to attacks by the military.

Those who have been injured have had no access to medical services inside Laos.

On 6 April 2006 Lao government troops reportedly launched an attack in northern Vientiane province which killed 26 Hmong belonging to a jungle group. Of the 26 dead, reports state that 17 were children and several women. Five people were wounded, while a group of around a dozen survived without injury. The incident took place around 20 kilometres northeast of the tourist town of Vang Vieng. Two men in the group carried guns, but they did not use their weapons.

The ambush took place in the morning hours while the victims were searching for food around two kilometres from a hiding place in the jungle where they had been living for five days.

Reportedly armed with AK-47s and rocket propelled grenades, an estimated 15-20 soldiers from the Lao People's Army based in Vang Vieng ambushed the foraging group from two directions.

*"I heard the gun shots", Tong Her, 24, told Amnesty International.*

*"I was in a different location foraging for food with another four people, about a kilometre from the scene, so I never saw the soldiers myself. But the survivors saw them."*

Tong Her only saw the dead, whose shallow graves he helped dig at the scene. He told Amnesty International that most of the dead were women and children, all from his make-shift village – at that time consisting of over 400 people.

Pressure from the US Embassy on the government to conduct an inquiry into the killing led the Lao authorities to summon the US Ambassador to protest against the accusations. Lao officials categorically denied the incident and publicly accused the US Embassy of having fabricated accusations. To date, so far as Amnesty International is aware, no adequate investigation has been carried out into the killings.

Tong Her was born in the area near Vang Vieng in 1982, to a former CIA trained soldier. Tong Her lived in these jungles for all his life until 10 October 2006, when he escaped. An attack against his group on 1 October 2006, in which one person was killed and another injured, prompted him and his nearest family to decide finally to leave. Constant lack of food was another decisive factor.

Tong Her, his father Bliia Shoua Her, the leader of the group, and their family were the only ones to flee to Thailand. The rest of the village decided to emerge from the jungle in

an attempt to join mainstream Lao society, according to Tong Her. He and his family do not know what has happened to those who stayed in Laos.

As a state party to the Convention on the Rights of the Child, the Lao government is obliged to recognize every child's "inherent right to life" and "to ensure to the maximum extent possible the survival and development of the child."<sup>26</sup> More generally, the right to life is enshrined in Article 3 of the Universal Declaration of Human Rights and the core provision in Article 6 of the ICCPR, namely that no one shall be arbitrarily deprived of life, reflects a rule of customary international law, applicable in all circumstances.

The UN has developed more detailed and specific standards which, while not legally binding *per se*, nevertheless represent global agreement by states on how to best implement international human rights treaties and other standards, through legislation, regulation and during actual law enforcement operations. These include the *United Nations Code of Conduct for Law Enforcement Officials* (1979);<sup>27</sup> the *United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials* (1990);<sup>28</sup> and the *United Nations Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions* (1989).<sup>29</sup>

The Lao authorities have not sought to justify their use of lethal force against members of Hmong jungle groups in terms of a framework of armed conflict, but have generally referred to them as "bandits", which implies recognition of a law enforcement framework. Article 3(c) of the UN Code of Conduct states that "every effort should be made to exclude the use of firearms, especially against children. In general, firearms should not be used except when a suspected offender offers armed resistance or otherwise jeopardizes the lives of others and less extreme measures are not sufficient to restrain or apprehend the suspected offender."<sup>30</sup> The UN Basic Principles state that firearms should not be used against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these

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<sup>26</sup> UN Convention on the Rights of the Child, Article 6

<sup>27</sup> United Nations General Assembly, *Code of Conduct for Law Enforcement Officials*, adopted by Resolution 34/169 of 17 December 1979

<sup>28</sup> United Nations Economic and Social Council, *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August – 7 September 1990

<sup>29</sup> United Nations Economic and Social Council, *Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions*, recommended in Resolution 1989/65 of 24 May 1989

<sup>30</sup> Article 3 (c), *Code of Conduct for Law Enforcement Officials*; Adopted by General Assembly resolution 34/169 of 17 December 1979

objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.”<sup>31</sup>

International law requires that every death in suspicious circumstances must be investigated promptly, thoroughly and independently. Principle 9 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions states that “There shall be thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances.” Lao law provides for such investigation, as do the laws of virtually every country in the world. Except in two instances, no known investigations into incidents of military violence against Hmong groups have taken place.

The two exceptions concern the most publicised attacks: the killing of 26 people on 6 April 2006 described above, and a reported killing and brutalization of a group of five Hmong children on 19 May 2004, the aftermath of which was caught on video camera. After the UN Committee on the Elimination of Racial Discrimination (CERD) in its concluding observations expressed concerns over reports about the May 2004 attack and others,<sup>32</sup> the Lao government commented in a submission to CERD that it had undertaken an investigation at the area of the reported incident and noted that there had been no complaint lodged with any authorities. It stated:

*"This has led the Lao authorities concerned to the conclusion that the alleged incident is unreal, groundless and non-existent, and is proved to be merely a fabrication intended to harm the reputation of the Lao People's Army."*<sup>33</sup>

The authorities also claimed to have carried out an investigation after the incident on 6 April 2006. Amnesty International has been informed that the investigation had consisted of a phone call to a military commander, asking whether he had received any reports about the attack. After a negative response from the commander, the authorities reportedly concluded that no killing had taken place. During a visit to the area of the incident by a Bangkok-based photographer Roger Arnold in June 2006, survivors from the attack took him to the site and told him that no one had investigated the killings at the site. In footage taken out by Arnold, the leader of the group, Bliia Shoua Her, appealed to the international community to carry out an investigation at the site, and Arnold confirmed that he had visited 23 of 26 graves, where,

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<sup>31</sup> *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials* Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990

<sup>32</sup> *Concluding observations of the Committee on the Elimination of Racial Discrimination : Lao People's Democratic Republic*, UN Doc. CERD/C/LAO/CO/15, 18 April 2005

<sup>33</sup> *Comments by the Government of the Lao People's Democratic Republic on the concluding observations of the Committee on the Elimination of Racial Discrimination*, UN Doc. CERD/C/LAO/CO/15/Add.1, 19 May 2006



according to the survivors, those killed in the incident were buried. The graves were adorned with personal belongings from the dead, including clothing and ornaments.

### Lack of access to food and medical care

Life on the run has driven the Hmong living in the jungle to destitution and hunger. They cannot cultivate crops because it would make them too easily detectable, particularly from the air. Accounts provided to Amnesty International describe how they avoid picking any visible quantities of wild fruit in certain areas in order to evade being found or do not hunt animals with their old guns.

They stay for short periods of time in very basic temporary shelters and have no access whatsoever to basic services including education, health care or sanitation. Sometimes they leave an encampment behind because they come under direct attack; at other times they leave because they feel insecure due to military movements in the vicinity.



© Roger Arnold/WpN, 2006

*A family outside their temporary shelter in the jungle northeast of Vang Vieng. The father and two daughters had been killed while foraging for food.*

*“We never stayed longer than 15 days in the same place”,* one young man who recently fled from the jungle in Vientiane province to Thailand told Amnesty International.

Living in hiding from the authorities and in almost complete isolation, the meagre diet of these groups consists by and large of what they can gather from the forest without leaving conspicuous traces. The most important foods are cassava roots, leaves, wild yams and the husk of an Asian palm tree known as ‘Tong-La’, which is slightly poisonous and so requires a laborious process to make it edible.<sup>34</sup>

Recently arrived asylum-seekers and refugees in Thailand, as well as video footage and reports from the jungle, indicate signs of malnutrition, particularly among children, many of whom have distended bellies, bleached hair or slight frames. This suggests that the

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<sup>34</sup> *“The Human Rights Situation in Laos with Particular Emphasis on the Situation of the Hmong People”* Ruhi Hamid, requested by the European Parliament’s subcommittee on Human Rights, September 2005

authorities in Laos have taken insufficient measures to give effect to the right of every child to a standard of living adequate for the child's development, in particular with regard to the right to adequate food, as they are required to do as a state party to the CRC. In fact, Amnesty International has obtained credible evidence that the military regularly attacks those who forage for food, preventing them from taking their own steps to realize their right to adequate food.

© Roger Arnold/WpN, 2006



Roots, leaves and husks form part of the meagre diet. Malnutrition and food shortages are widespread.

After the attack outside Vang Vieng in April 2006, at least five breast-feeding infants whose mothers had been killed died as a consequence of losing their mothers, according to reports to Amnesty International. The same month, in the jungle of Xieng Khouang a boy of around ten years old received a serious injury to the stomach in an attack while searching for food. His belly had been slit wide open by shrapnel; he survived two days without any professional medical attention before he died.

Although the groups in the jungle rely on traditional medicine that they can find in their vicinity, there is a serious shortage of healthcare to control or tackle disease, which is reportedly widespread amidst food shortages and malnourishment. Moreover, those living in the jungle, including those wounded in direct attacks, cannot seek medical attention outside of their hiding places as they would risk being detected and attacked. This undermines their ability to realise the right to the health, set out in the ICESCR and, with respect to children in the CRC, which states that “*States Parties shall recognize the right of the child to the enjoyment of the highest attainable standard of health*” and “*to ensure that no child is deprived of his or her right of access to such health care services.*”

## Forced labour and sexual abuse

In connection with attacks by the military or when groups from the jungle have tried to leave their life in hiding, there is a discernible pattern of separation of families. Reports provided to Amnesty International describe how men have been arrested and taken away, while the women have been taken to isolated villages, most often along the Vietnamese border in the province of Houa Phan. In other instances families have been placed in small camp-like settlements in the same area, while young women have been separated and taken away. Some have been subject to slavery-like treatment and torture and ill-treatment, including repeated rapes by law enforcement officers.

Amnesty International takes the view that the rape of a prisoner by a law enforcement, security or military official always constitutes torture, which is a crime under international law.

Around August 2005, Pakou<sup>35</sup> and her family were captured in the jungle. Within a week of her capture, she was separated from her parents and siblings and taken to a police post outside a village south-east of Sam Neua. For approximately one year she was locked up with two other young Hmong women in a room at the police post. All three women were used for house chores, did laundry for the policemen, and they were also forced into sexual servitude. Several times Pakou was gang raped by the police. After about one year she finally saw an opportunity to escape as she acquired a sum of money with which she bribed some of the police officers to set her free. Pakou is now around 20 years old, distressed and traumatized. She is a refugee in Thailand, at risk of deportation back to Laos.

There is not enough information at this stage to conclude whether there is a pattern of sexual abuse by military and police of Hmong women from the jungle. It remains an area that urgently needs further research. What is clear, however, is that there are allegations that serious crimes have been committed by police in Houa Phan province. So far, Amnesty International has received no information to suggest that there has been any investigation into such crimes by Lao authorities.

## Arbitrary detention

In several instances, groups who have decided to give up their life in hiding have been harassed, detained and subjected to ill-treatment, according to reports provided to Amnesty International.

On 4 June 2005, a group of 173 people emerged from the jungle after a long jungle trek to the village of Chong Thuang in a planned “surrender”.

The US-based Hmong lobby group The Fact Finding Commission (FFC) had advised authorities and international organisations that a group of 30 families would emerge from the jungle, and also attempted to arrange a presence of international organisations with the aim of monitoring their arrival and ensure their well-being. International presence was not secured. In the absence of such monitoring, three members of the FFC were themselves at hand.<sup>36</sup>

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<sup>35</sup> Pakou's real name is withheld for her protection

<sup>36</sup> FFC's Experience at Chong Thuang, Press release, 27 June 2005 [Available at [http://www.factfinding.org/Past\\_News\\_Releases/page83.html](http://www.factfinding.org/Past_News_Releases/page83.html)]

*“We received help by these Americans who came to meet us when we came out of the forest to take us to Laos where we would become Lao citizens”, Chong Vang Lor,<sup>37</sup> a 56-year old member of this group told Amnesty International when the organisation met him later in Thailand.*

The 30 families had left behind a life in hiding inside Xaisomboune Special Zone, four days trek from Phoukout district in Xieng Khouang province. They were first provided assistance coordinated by a local police chief.

*“Then came the soldiers. They took us to a prison inside an army camp outside Phoukout town. For two months we were kept inside the cells at all times, around 10 families in each cell. If we needed to go to the toilet, we had to ask the guards to be let out,”* according to Chong Vang Lor.

The prison building was in the middle of the camp, and the doors were sealed by chains and locks. Food was very limited – two meals a day of a handful of rice.

*“The guards were very intimidating, particularly in the beginning: at night they would fire shots over the roof of the building, shout at or harass the detainees from outside. Many of the guards, both military and police, were ethnic Hmong.”*

*“No one was killed, but two children died of malnourishment,”* said Chong Vang Lor.

After two months the families were allowed outside the cell in the daytime, though confined to the army camp area; at night they would be locked up again. Food remained very limited through this period, which lasted around four months. The international provisions of food that authorities reportedly received did not alter the limited supplies. Altogether, they were held for around six months, before being told to leave. They were instructed not to leave in groups, but only as individual families. Fearful, they all left at the same time, at night, but in different directions as they had been told.

For six months the 173, including small children, were reportedly held without charge or trial, in appalling conditions which violate human rights which have been recognised as being rules of customary international law binding on all states:

- The right to liberty and the prohibition on arbitrary deprivation of liberty;
- The right to access to legal counsel, to be brought before a judge and to challenge the lawfulness of detention;

<sup>37</sup> Chong Vang Lor's real name is withheld for his protection

- The right to humane conditions of detention;
- Freedom from torture and other cruel, inhuman or degrading treatment or punishment.

In the case of children, deprivation of liberty must be a last resort and for the shortest time possible – clearly not justified here.<sup>38</sup> This and the rights above are also provided for in the UN Convention on the Rights of the Child (CRC), to which Laos is a state party.<sup>39</sup>

Several of the 173 are now refugees or asylum seekers in Thailand. The Lao government has publicly denied all reports that have emerged about their background.

There are also unconfirmed reports that some of the 173 have successfully reintegrated into the Lao Hmong mainstream, just as the group had wanted. In view of the fact that there is no access to them by independent monitors, it has not been possible to confirm these reports.

In violation of their obligations under customary international law and the CRC as outlined above, the Lao authorities have also reportedly been holding a group of returnees from Thailand, mostly minors, in arbitrary detention.

On 5 December 2005, following their forcible return from Thailand, a group of 27 Lao Hmong, 22 of them children, were detained in Laos.<sup>40</sup> According to eyewitnesses, Thai officials in Ban Pak Khat in the province of Nong Khai had transported the group across the Mekong in two small boats, making two journeys each, to the Lao village of Ban Phabat. As the deportation was completed, Lao officials had joined Thai immigration officials for a drink on the Thai side of the river. The 27 spent the first night on Lao soil in a temple in the village. On the following day they were arrested.

Since then the group has been held in deplorable conditions and there have been consistent reports about ill-treatment. There are reports that the boys and men have been tortured.

The 22 children and 5 adults are believed to have been held in two separate prisons: the girls and women were reportedly detained at a prison attached to an army base outside Paksen, 200 km east of Vientiane. The two boys and three men were first held in Vientiane, but around May 2006 they were reportedly transferred to a detention facility in Phongsaly, in the far north.

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<sup>38</sup> See UN Convention on the Rights of the Child, Article 37(b)

<sup>39</sup> See Article 37(b) (prohibition on arbitrary deprivation of liberty); 37(d) (right to legal assistance and to challenge detention); 37(a) (prohibition on torture and other ill-treatment)

<sup>40</sup> The group had been staying at a refugee settlement in Thailand and had not had their asylum claims assessed prior to deportation

Lao authorities have never confirmed the whereabouts of the group. In responses to Urgent Action appeals from Amnesty International members across the world, officials have repeatedly denied any responsibility for them, while at the same time claiming to be looking for them out of humanitarian concern. On 8 March 2007 information emerged that Lao authorities had found 21 girls and young women from the group, while the six still unaccounted for are being sought. At the time of writing this report, Lao and Thai authorities were drafting a plan to reunite the 21 with their families. Information about the children's and girls' whereabouts during the 15 months since their forcible return to Laos was unclear.

The children's parents, who are asylum-seekers in Thailand, live at an informal refugee camp in the northern Thai province of Phetchabun.

In this case, where the detention of the children appears politically motivated, Lao authorities have failed in their obligation under the CRC to ensure that children are protected against discrimination or punishment on the basis of the activities or opinions of their parents or family members.

### **“Surrenders” and forcible returns – to an uncertain fate**

Uncertainty prevails around the whereabouts and well-being of several other groups of Lao Hmong who are perceived by the authorities as having links to the former rebels. Beyond the group of 173 there is no or limited information about many groups that have attempted to come out from the jungle to join the mainstream. There is also little information about groups that have been deported to Laos from Thailand where they had sought international protection.

### **“Surrenders”**

In different periods over the years, scattered groups have emerged from the jungle, either in more formal “surrenders” in which they have reported themselves to the local authorities and carried white flags, or simply by trying to informally integrate into the mainstream.

According to reports, in many instances in the 1990s and early 2000s, authorities assisted such groups, offering amnesties and enabling them to join planned resettlement schemes of highland communities, while providing some assistance such as land and farming tools.

After more recent “surrenders”, Lao authorities have rebutted information that those concerned had any links to former rebels. Instead they referred to them as mainstream Hmong

villagers in the process of resettling from isolated areas in the highlands to the plains or along main roads, in accordance with an ongoing government resettlement policy.<sup>41</sup>

To Amnesty International's knowledge there has been no systematic assessment as to how such Hmong groups from the jungle have been able to reintegrate into mainstream Hmong communities. Nor is it known to what extent resettlement was negotiated with them in a manner that ensured them their rights to freedom of movement and to choose their own residence in accordance with international human rights standards.<sup>42</sup> This absence of information is partly the result of a lack of clarity on the part of the Lao authorities as to the background of those resettled, partly the result of a lack of access for independent monitors.

In October and November 2006, at least two large groups of mostly women and children "surrendered", after which reports about their whereabouts came to an end. Some 370 people emerged in the area of Vang Vieng around 10 October 2006, while 420 left the jungle and came out in Xieng Khouang's Phoukout district on 14 December. Amnesty International remains concerned about their well-being.

### **Forcible returns**

Another group about whom limited information is available are Lao Hmong individuals, who have been forcibly returned to Laos from Thailand before their refugee claims had been assessed, in breach of international refugee and human rights law. The most recent instance concerned a group of 16 asylum seekers in Thailand who were deported to Laos on 26 January 2007.<sup>43</sup>

In a welcome development, in March 2007 Lao authorities arranged for a visit by UN officials, diplomats and journalists to the three heads of families of the 16 deportees. The visit

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<sup>41</sup> Although not within the scope of this report, it should be noted that this government policy of resettlement, ongoing since the mid-1970's, includes the resettlement of small remote highland villages to areas with improved access to basic facilities, while also aiming to reduce slash and burn agriculture, and eradicate opium cultivation. In discussions with Amnesty International, Lao officials have described the policy of resettlement as a way of securing basic needs for rural inhabitants. However, studies by bilateral and multilateral organisations, including the United Nations Development Programme and The European Community Humanitarian Aid department (ECHO), as well as NGOs have pointed to negative consequences in the short- to medium term, including food insecurity, increased poverty, drastically climbing mortality rates, and landlessness among those resettled.

<sup>42</sup> See e.g. Article 12 of the ICCPR, which states that everyone lawfully within the territory of a state has the right to liberty of movement within that state and freedom to choose their residence. Principles 5-9 of the Guiding Principles on Internal Displacement a set of principles adopted in 1998 by the UN General Assembly, reflecting international human rights standards, provide for protection against displacement, and in particular that all feasible alternatives should be explored in order to avoid displacement altogether and that, where no alternatives exist, all measures shall be taken to minimize displacement and its adverse effects. The free and informed consent of those affected shall be sought; they should be involved in the planning and management of their relocation; and should have the right to an effective remedy, including the review of such decisions by appropriate judicial authorities.

<sup>43</sup> See e.g. *Urgent Action Thailand: Fear of forcible return/arbitrary arrest*, Amnesty International, AI Index: ASA 39/017/2006, 29 November 2006

did not take place in the village where the 16 currently reside, but in a different village to which the three had travelled to meet the visitors.

This was the second time in recent weeks that such a visit had been arranged by the Lao authorities. The first time some 40 diplomats, journalists and UN officials were taken to a family belonging to a group of 53 people who had been deported in November 2006.

These visits have provided some, albeit limited and not independent, information about a few of the returnees, who appeared to have been well-received according to accounts and media reports.<sup>44</sup> When the 53 were first deported, Lao authorities stated in the official media that the group would undergo “re-education” without providing any further details.<sup>45</sup> It remains unclear if this had happened. The 16 had been “re-educated” on three occasions since their return late January 2007.

## Human rights violations on the periphery of the jungle

### Couriers

The groups in the jungle have some direct contact with the outside world through couriers, who have provided them with essential supplies and also with the technical equipment donated by family members and political groupings abroad. These couriers, who reside outside the jungle, have also helped coordinate the visits by journalists.

In June 2003, two Bangkok-based journalists, Vincent Reynault and Thierry Falise, and their translator US citizen Naw Karl Moua and their local ethnic Hmong guides and driver, Thao Moua, Pa Fue Kang and Char Yang were arrested as they emerged from the jungle in Xieng Khouang province, after having researched a news story from an encampment.

They were charged with, among other things, collaboration in the commission of an offence, possession of firearms and explosives, possession of drugs and destruction of evidence. In an unfair trial that appeared to have been politically motivated, they were convicted and sentenced to prison terms ranging between 10 and 20 years. The closed-door two-hour trial received worldwide condemnation by press freedom advocates and human rights organisations, including Amnesty International, for not upholding international human rights standards of fairness, such as respect for the presumption of innocence and the right to legal counsel, the latter of which was denied the Lao men. The foreigners had embassy-appointed legal counsel. There were reports that the Lao men were shackled in leg irons and beaten with sticks and bicycle chains while in pre-trial detention; one of them was repeatedly knocked unconscious.<sup>46</sup>

<sup>44</sup> Returnee: “I am happy to come back to my homeland”, Vientiane Times, 9 February 2007

<sup>45</sup> Thailand sends Lao Hmongs back to their homeland, KPL, 17 November 2006

<sup>46</sup> *Laos: Three foreigners released but Lao nationals are tortured and remain in detention*, Amnesty International, AI Index: ASA 26/010/2003, 9 July 2003



After over a month of international pressure, the journalists and their translator were released and deported on 9 July 2003, but the Lao nationals remained in prison. One of the guides escaped and subsequently fled to Thailand. Thao Moua and Pa Fue Kang are still held in Samkhe prison in Vientiane serving sentences of 12 and 15 years respectively.

### Neighbouring villages

There are other people on the periphery that have been subjected to human rights violations by the Lao authorities. In some areas, those hiding in the jungle have approached Hmong villages bordering the jungle, asking for essential food items such as salt and sugar from fellow clan members or relatives. These provisions normally change hands during the night.

There may be cases where such assistance is provided as an expression of political support, but in cases involving individuals that have been interviewed by Amnesty International, humanitarian motives appear to have been at play. The clan centred culture of the Hmong also obliges members of the same clan to support one another when in need. Regardless of the motive, such support is not tolerated by the Lao People's Army.

*“The military held guns in their hands when they walked up to me where I was sitting in front of the house. They asked where my husband was so I told them he was inside. I didn't know why they had come, but heard commotion taking place inside, a struggle. I then understood they were taking my husband and children away, so I fled into the forest. I thought they might kill all of us. A villager later told that they had taken [my husband and sons] to prison. There is no jail in the village, so I don't know where they took them.”*

Mai,<sup>47</sup> 35, escaped her small, rural Hmong village in Xieng Khouang province's Phunsovann district on the 20 February 2006 after the arrest of her husband, her 12 and 15 year-old sons and two other relatives. The arrests followed two months of military presence in the village, a presence that had never been seen before and that had made the villagers apprehensive. Mai's family had been providing secret assistance to the groups in the jungle for about a year.

*“The Chao Fa<sup>48</sup> would sometimes come to the house as they are so hungry, and at times we would go to the jungle and give them rice there.*

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<sup>47</sup> Mai's real name is withheld for the protection of her and her family.

<sup>48</sup> Chao Fa was the word this woman, like many Hmong in rural areas, used when describing the jungle groups. Chao Fa translates to something like the Soldiers of God and was originally a term used for soldiers tied to a millenarian movement that emerged in the early 1960's. The movement awaited the arrival of a Hmong king. The Chao Fa gained power within the armed resistance, which was initially

*They need help: they are famished because they can't go anywhere, but only stay in the jungle. We would give them rice and sometimes sell meat to them,"* Mai told Amnesty International.

*"There are only two houses in our village that have farmland near the forest. And we have huts by this farmland where we sometimes stay overnight – and that is why my family help them. Mostly the Chao Fa come at night."*

Together with a young relative, whose parents were rounded up in the same raid, Mai, then seven months pregnant, fled into the forest and wandered for days with only some financial support they had received from a villager elder, a relative of theirs. Mai and her relative are currently asylum-seekers in northern Thailand.

Authorities did not attempt to inform Mai about any crimes her family members were suspected of having committed; nor did they show any court orders, such as arrest warrants, authorizing the arrest.

## Refugee protection – Thailand's role

Over the years Thailand has been providing temporary protection to hundreds of thousands of people who have fled persecution and conflict in neighbouring Cambodia, Laos and Myanmar.

For decades, Thailand has served as the main hosting country in the region for Lao Hmong asylum-seekers. The total number of Lao Hmong seeking international protection in Thailand is not clear, but some 7,000 people claiming to have fled Laos due to a well-founded fear of being persecuted currently reside in an informal refugee settlement in Huay Nam Khao, in northern Phetchabun province. Much smaller numbers live in other places across the country, notably in the border areas and the greater Bangkok region.

The vast majority of Lao Hmong in Thailand have not had access to a determination process to assess their refugee claims, as so far, UNHCR has not had access to the refugee camp in Huay Nam Khao. In consequence, it is not known how many of these are in need of international protection. As long as the status of these people is unknown, any attempts to return them to Laos places the Thai government at risk of breaching its obligations under international law.

In the past 15 months at least around 100 individuals have been unlawfully deported back to Laos. On three occasions Lao Hmong asylum-seekers were rounded up and held either

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made up of two factions, the Chao Fa and the Vang Pao loyalists. (See e.g. Grant Evans, Laos – The land in between, 2002). The two factions appear to have merged over the years.

at police stations or in Immigration Detention Centres for some time inside Thailand before being handed over to authorities in Laos.

Amnesty International has repeatedly called on the Thai authorities not to forcibly return people who would be at risk of severe human rights violations, including torture, in

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On 30 January 2007 153 recognised refugees were to be unlawfully deported from Thailand to Laos. Amidst international pressure, the deportation attempt was halted.

keeping with Thailand's obligations under international law, including under the ICCPR, to which Thailand is a state party.<sup>49</sup> The Human Rights Committee, the body entrusted under the Covenant with monitoring its application by states parties, has maintained that Article 7 of the Covenant provides an absolute prohibition on return to torture or other ill-treatment. In its General Comment on Article 7, the HRC stated the following:

*In the view of the Committee, States parties must not expose individuals to the danger of torture or cruel, inhuman or degrading treatment or punishment upon return to another country by way of their extradition, expulsion or refoulement.*<sup>50</sup>

*Non-refoulement* is a principle of customary international law which is binding on all states regardless of whether or not they have ratified a relevant treaty, such as 1951 Refugee Convention and its 1967 Protocol.

At the time of writing, around 350 Lao Hmong men, women and children are held in Thai detention and face the risk of imminent deportation. At least 153 of them are recognized refugees under UNHCR's mandate, but the majority of them have not had access to a screening process to have their protection needs ascertained.

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<sup>49</sup> See e.g. Thailand: Fear of forcible return/arbitrary arrest, Urgent Action, Public AI Index: ASA 39/017/2006, 29 November 2006, and ASA 39/018/2006, 8 December 2006

<sup>50</sup> Human Rights Committee, General Comment on Article 7, CCPR General Comment 20 (1992), UN Doc. HRI/GEN/1/Rev.1 at 30 (1994). para. 9

One attempt has already been made at deporting the recognised refugees, in clear breach of international law:

In the morning of 30 January 2007 following a bilateral agreement between Thailand and Laos reached some six weeks earlier, authorities attempted to deport 153 refugees. Immigration officials dragged women and girls crying and screaming out of their cell in the Immigration Detention Centre in the north-eastern town of Nong Khai where they had been held since 17 November. They were then loaded onto buses that drove them to the Lao border. Two of the women were eight months pregnant and one had a baby who had been born weeks earlier in the detention centre.

Two seriously sick men were also put into vehicles, after having been taken from their hospital beds where one had been receiving care for a serious liver condition and another for a bullet wound to the face.

The women and sick men were kept in the buses at the border awaiting the men, who had barricaded themselves in the male cell in an attempt to evade deportation. Police tried to saw through the bars to gain access to the cell. Witnesses also reported that police released a gas-like substance, possibly tear gas, three times, despite the fact that 20 children, all boys, were in the cell.

By afternoon, the deportation attempt was halted, a decision that Amnesty International welcomed. The women, girls and sick men were later taken back to the immigration detention centre at Nong Khai. Thai authorities said they would not deport the refugees against their will, but instead pledged to agree to them being resettled in third countries.

Meanwhile, Lao government spokesman Yong Chanthalangsy blamed the Thai government for having been ill-prepared ahead of the deportation and urged for the deportation to go ahead:

*"The Lao side requests Thailand continue to ready the group for repatriation and ensure the security of Lao officials who will accompany the group."<sup>51</sup>*

Thai authorities have yet to confirm that the deportation of these refugees, which with a new-born now number 154, has been permanently halted. Amnesty International remains concerned about their safety. The organisation is also concerned about the possible risk of

<sup>51</sup> Lao statement on Lao Hmong illegal migrants, Vientiane Times, 2 February 2007

forcible return of many other Lao Hmong people who may also be in need of international protection.

## Recommendations

**Amnesty International makes the following recommendations:**

### To the Lao authorities

- Immediately stop all armed attacks against Hmong people living in the jungle;
- Ensure that the security forces immediately end the use of arbitrary detention, rape and torture or other cruel, inhuman or degrading treatment or punishment of detainees, and in particular the unlawful detention and ill-treatment of children;
- Ensure prompt, independent and impartial investigation of all allegations of attacks by the security forces on Hmong living in jungle encampments or other unlawful use of force against them, including killings, torture or other ill-treatment, rape and other sexual abuse, and bring the perpetrators to justice in proceedings which meet international standards of fairness and without the imposition of the death penalty;
- Enable the people living in jungle encampments to realise their basic economic, social and cultural rights, in particular their right to an adequate standard of living, including access to food, water, shelter, and essential health care, including through permitting access by international humanitarian organisations to the areas of concern;
- Allow and assist those Hmong who want to reintegrate into mainstream society and have not committed any internationally recognizably criminal offence to do so, while ensuring respect for their human rights during this process, including the right to life, liberty and security of person, an adequate standard of living, and liberty of movement and freedom to choose their place of residence. Any resettlement should be with the free and informed consent of those affected who should be involved in the planning and management of their relocation;
- Allow international monitoring, including by UN human rights bodies and experts, of such reintegration.

### To the Thai authorities

- Ensure that under no circumstances persons are returned to Laos if they face a risk of serious human rights violations, including violations of the right to life, torture or other ill-treatment;

- Ensure that Lao Hmong asylum seekers inside Thailand, including approximately 7,000 Lao Hmong at the camp in Huay Nam Khao, are provided access to a fair determination process in order for their protection claims to be assessed either by UNHCR or national bodies, in keeping with international human rights law and international refugee law;
- Ensure that those who are in need of international protection inside Thailand are provided with such protection and that all attempts at finding durable solutions, including local integration and resettlement are explored.

### **To UN agencies and the international community**

- Whenever possible open up dialogue with the Lao authorities about human rights and exert pressure on the Lao government to end human rights violations committed against Hmong living in the jungle;
- Call on the Lao government to accept independent monitoring of the concerned areas inside the Lao jungles and areas where groups from the jungle have resettled so as to ascertain their needs and assure their well-being;
- Those states in a position to do so make clear to the Lao government their willingness to provide international assistance to support the authorities in meeting its minimum core obligations with regard to ensuring the economic, social and cultural rights of the groups in the jungle as well as of those who reintegrate in to the mainstream.