

PUBLIC

AI Index: ASA 39/004/2009

03 April 2009

UA 94/09 Fear of forcible return/torture/ill-treatment/fear for safety

THAILAND Joua Va Yang (m) and five family members, Lao Hmong asylum-seekers

Joua Va Yang, a Lao Hmong asylum-seeker, his wife and four children, are currently held at Khao Kho district prison in Phetchabun province, northern Thailand. They are at risk of forcible return from Thailand to Laos, where they could face serious human rights violations, including torture and ill-treatment, and arbitrary and indefinite detention.

Thai authorities arrested Joua Va Yang in the evening of 28 March at his home in Huay Nam Khao camp, Phetchabun province in northern Thailand. Thai military personnel allegedly beat him, and moved him to the camp detention centre. Thai authorities later took him to the district hospital for treatment for his injuries, then returned him to the detention centre. On 31 March, the Thai authorities moved Joua Va Yang with his family to Khao Kho district jail.

Joua Va Yang acted as a guide for two journalists from the British Broadcasting Corporation (BBC) who were secretly filming a documentary on members of the Hmong ethnic group hiding in the jungle in Laos in 2004. The documentary, broadcast in May that year, depicted traumatized families hiding from the Lao military and struggling to survive.

Joua Va Yang's family left Laos some time afterwards, fearing persecution by the Lao authorities. They have been living at Huay Nam Khai camp along with thousands of other Lao Hmong.

Under customary international law, all countries are bound by the principle of *non-refoulement*, which says that no one may be returned to a country where they would be at risk of serious human rights violations.

BACKGROUND INFORMATION

Around 5,000 Lao Hmong people, including an unknown number of asylum-seekers, have been living in a camp in Phetchabun since 2004. The vast majority have not had the opportunity to seek asylum through full and fair procedures. The Thai authorities have returned more than 2,000 since 2008, under a bilateral agreement between the Thai and Lao governments. Many of those returned are sent to designated Hmong villages after so-called "re-education". The Lao authorities have arranged several visits to resettlement sites for diplomats and local journalists, but refused to allow UN agencies, human rights organizations or third party monitoring of returnees.

Thailand claims that the returns are voluntary are contradicted by reports of asylum-seekers having been forcibly returned, in contravention of international human rights law and standards. More than 370 asylum-seekers are known to have been forcibly returned since 2005. At least four people who the Thai authorities claimed returned to Laos "voluntarily" in June 2008, were held in arbitrary detention for around three months in a remote province. At least one of them was returned without one of her children, who remained in the Huay Nam Khao camp. Another child, a boy with a mental disability, was reported to have returned with her and also arbitrarily detained. In June 2008 Thai authorities returned more than 800 people following a mass protest at the Huay Nam Khao camp. The lack of transparency around the circumstances of the return, with hundreds of families forced on to buses from the side of the road, raises serious concerns that in this case also, people were returned forcibly and in violation of international human rights law and standards.

Most Hmong refugees and asylum-seekers in Thailand claim to have some connection to groups living in isolated pockets in the Lao jungles since the Viet Nam war ended in 1975. An unknown number face attacks by the Lao army, which still regards them as members of a decades-old armed resistance force.

In 2003 two other foreign journalists and their three Hmong guides were arrested in Laos after secretly meeting with Hmong groups in the jungle. They were charged with politically motivated offenses, tried and sentenced to long prison terms; the foreign journalists were deported but the Hmong guides remain in prison in Laos. One of the Hmong guides managed to escape from pre-trial detention and has since been resettled to another country.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English, Thai or your own language:

- urging the Thai authorities not to forcibly return Joua Va Yang, his wife and four children to Laos, where they could be arbitrarily and indefinitely detained, and may face torture or other ill-treatment;
- calling on the authorities to allow the family to have their asylum claim heard and processed in a full and fair asylum procedure;
- calling for an effective and impartial investigation into allegations that Joua Va Yang was beaten by military personnel in Huay Nam Khao camp, and required medical treatment for his injuries;
- urging the authorities to make the results of this investigation public, and bring those responsible to justice;
- calling on them to allow other Lao Hmong individuals in Huay Nam Khao camp, and elsewhere, to exercise the right to seek asylum through full and fair procedures;
- calling for an end to the practice of returning individuals to countries where they would be at risk of serious human rights violations.

APPEALS TO:

Kasit Piromya
Minister of Foreign Affairs
Ministry of Foreign Affairs
Sri Ayudhya Road
Bangkok 10400
Thailand

Fax: + 66 2 643 5320/5314
Email: minister@mfa.go.th, permsec@mfa.go.th
Salutation: Dear Minister

Chavarat Charnvirakul
Minister of Interior
Ministry of Interior
Office of the Secretary to the Minister
Assadang Road, Pra Nakorn
Bangkok 10200
Thailand

Fax: + 66 2 226 4371
Email: ommoi@moi.go.th, om@moi.go.th
Salutation: Dear Minister

COPIES TO: diplomatic representatives of Thailand accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 15 May 2009.