Kafkaesque rebranding of pro-US fighters as terrorists

by Benjamin Zawacki

During the Indochina war the US recruited fighters from the Hmong people of Laos to disrupt North Vietnamese supply and troops movements along the Ho Chi Minh trail. While an estimated 170,000 ex-combatant Hmong and their relatives now live in the US, others seeking asylum have bizarrely fallen foul of the post-9.11 PATRIOT Act.

"Please help us, the communists are coming." *Time Magazine's* account of the Lao government's persecution of the Hmong rebel army is no less harrowing today than when it was published. The only catch is that 'Welcome to the Jungle'[1] is not dated decades ago but 28 April 2003, exactly 28 years to the day after the North Vietnamese captured Saigon. When I first read that story I was the Legal Officer with the Jesuit Refugee Service in Bangkok, Thailand. Despite having studied the Vietnam War at an American college, I had never heard of the Hmong army.

Originating from southern China, the Hmong are an ethnic minority in Vietnam, Laos, Thailand and Burma. They are the third largest ethnic group in Laos. Laotian Hmong were identified by the CIA in 1961 as a source of assistance to America's war effort. The CIA recruited, funded and trained an army of approximately 40,000, half of whom were killed

before the US pulled its troops out of Laos and abandoned the Hmong Army. The Hmong became targets of retaliation and persecution and thousands were sent to 're-education' camps by the victorious Pathet Lao. Some Hmong returned to their villages and attempted to resume life under the new regime but others fled across the Mekong River to Thailand. During the 1990s thousands of Hmong refugees living in Thailand were forcibly repatriated to Laos by the Thai government.

Unknown numbers of internally displaced Hmong continue to seek refuge in inaccessible parts of Laos. While access by human rights organisations is restricted, Amnesty International reports that thousands of ethnic Hmong women, men and children live in scattered groups in the Lao jungles, hiding from the authorities who regularly attack their temporary encampments, killing and injuring them, perpetuating their life on the run.[2] Human Rights Watch confirms that arbitrary detention, torture and ill-treatment remain features of 're-education' camps.[3]

Little was known of the fate of the displaced Hmong until *Time* broke the story by evading Laotian government patrols to report on the underground network of people in Laos who smuggle food and supplies to the remnants of the Hmong army and their descendants. A further *Time* piece in 2004 ('A Blackbird's Song'[4]) formed the basis of successful claims for political asylum I filed with UNHCR in Bangkok. Within months, six persons and their families were recognised as refugees by the UN and resettled to join Hmong communities in the US. In 2000, in recognition of their assistance, Congress passed the Hmong Veterans Naturalisation Act, which waived some requirements for them to resettle and become US citizens.

As an American national, I felt a certain pride in having argued their case to UNHCR, and I looked forward to assisting the growing number of Hmong in Thailand. *Time's* articles and the pressure they placed on the Laotian government had induced many to cross the border. Most of the 6,000 Laotian Hmong currently living in Thailand arrived during 2004 and 2005.

Yet these six families were among the last to leave for the US; America's erstwhile allies against communism – as well as those who continue to support their remnants in the mountainous jungles of northern Laos – have been rebranded 'terrorists'. Immediately following the 11 September 2001 attacks, the US Congress passed the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act. The PATRIOT Act[5] broadened the grounds upon which a person can be refused admission to or deported from the country. If a person is part of a terrorist organisation or has provided 'material support' to a terrorist organisation – even if such was no more than giving a glass of water to a soldier pointing a gun at his/her head – s/he is not to be admitted to the US and can be deported if already present. This law had no effect on the Hmong until 2005 when the REAL ID Act expanded the definition of a terrorist organisation and included the remnants of the Hmong rebel army – and its underground network of 'material supporters', the Blackbirds.

An estimated 10,000 persons have since been denied entry to the US. They include not only Laotian Hmong but also refugees from Burma, Colombia, Cuba, Vietnam and elsewhere. The inclusion of the Hmong rebel army is bizarre for it was the US which created and sustained the army, membership of which makes their ex-combatants and their descendants in need of protection. And in contrast to eight other groups of refugees for whom Congress has waived the laws' application – including three from Burma on whose behalf I am presently working – the Hmong were not among them, as announced by the Bush Administration in January 2007. Such waivers in any case only apply to those providing 'material support', such as the Blackbirds, and not to the organisations themselves. Carried to their logical conclusion, these facts lead dangerously close to implying that the CIA itself is a terrorist organisation. This is not an inference the US seems intent on clarifying or correcting.

These effects are felt not only by those seeking refuge in the US but also by those already there. While the six families I assisted in Bangkok were fortunate enough to be admitted to the US in 2004, three years later they are closer to being deported than they are to becoming American citizens. The Hmong Veterans Naturalisation Act of 2000, designed to proactively reward the Hmong for their assistance to the US, was superceded by the retroactively punitive REAL ID Act which threatens to make persona non grata of thousands of Hmong in the US.

I was expressly told by US Embassy officials in Bangkok in mid-2004 that without the assistance of the Hmong, many remains of downed US pilots in Laos – like those brought by the families I was assisting at the time – would never be found. The fact that the US Embassy joined UNHCR in January 2007 in pressuring the Thai government against deporting 153 Hmong refugees, indicates that America continues to acknowledge the persecution suffered by the Laotian Hmong. What the US has been unwilling to acknowledge since 2005 is the causal relationship between the two statements of its Embassy: it is because of the Hmong's assistance to the US and its pilots in Laos during the Vietnam War that the Laotian government continues to persecute them. In 2003 *Time's* article closed with an admonition from an ex-fighter: "We shed blood with the US. They should remember this. They should find us a land where we're safe." I felt confident in telling several of their number in 2004 that America – my country of origin – would do just that. What would I tell them now?

From 2002 to 2004 Benjamin Zawacki (BZawacki@alumni.holycross.edu) worked with the Jesuit Refugee Service in Bangkok and since January 2006 has worked with UNHCR, Thailand. This article is written in a personal capacity and is not intended to represent the views of either JRS or UNHCR.

1. www.time.com/time/magazine/article/0,9171,501030505-447253,00.html
2. http://web.amnesty.org/library/Index/ENGASA260032007
3. http://hrw.org/english/docs/2006/12/12/thaila14822.htm
4. www.time.com/time/magazine/article/0,9171,695913,00.html
5. http://thomas.loc.gov/cgi-bin/query/z?c107:H.R.3162.ENR: