



# Legal Problems Faced by Laotian Immigrants And An Attempt to Understand Them

by  
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ຂ້າພະເຈົ້າໄດ້ຂຽນບົດຄວາມຕໍ່ໄປນີ້ ເພື່ອໃຫ້ຄົນຕ່າງຊາດໄດ້ອ່ານ ເພື່ອໃຫ້ເຂົາເຈົ້າເຂົ້າໃຈບັນຫາຄົນເຊື້ອສາຍລາວ ທີ່ສະຫະຣັຖອະເມຣິກາ ເພື່ອຈະມີການຊ່ອຍເຫລືອເພີ່ມເຕີມ ເພາະສະນັ້ນຂ້າພະເຈົ້າຈະບໍ່ໄດ້ຂຽນເປັນພາສາລາວ. ຂ້າພະເຈົ້າໄດ້ກ່າວຄຳປາສັຍ ໃນບົດຄວາມຮູບດຽວກັນນີ້ຢູ່ທີ່ມະຫາວິທະຍາລັຍຣັຖອາຣີໂຊນາວັນທີ 4 ພຶສພາ 2007.

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## I. INTRODUCTION

This article will try to identify the legal problems faced by Laotian<sup>1</sup> immigrants in the United States and will attempt to understand them.

## II. LAOTIAN REFUGEE AND IMMIGRANT GROUPS

Like other immigrants before them, each wave of Laotian immigrants had unique characteristics of legal problems. Identifying immigration periods and groups would help in the understanding of the legal problems.

### a. Immigration Periods and Groups

#### 1) Before the 1975 Communist Takeover

Before the communist takeover of Laos in 1975, there were only a handful of Laotian immigrants in the United States. Most of them were exchange students who either chose to overstay their visas or decided not to return to Laos after they started a family here.

#### 2) 1975-1980 Period: The First Wave and The ".5 Generation"

Shortly before the communist takeover, a large number of Laotians who were associated with the former regime, started to leave the country. Although many of them went to France, a large number of them came to the United States. These early arrivals tend to be more well-off and educated.

Unlike other earlier immigrant groups who left their home *voluntarily* after a lengthy plan, the first wave of these first groups of Laotian immigrants fled their home *involuntarily and/or spontaneously* shortly before the actual communist takeover. They still have good memories and "pictures" of their home country during good times. When they arrived in the United States, they continued to consider themselves as living in a foreign land<sup>2</sup> and hope to return to their "liberated" country. Although they are physically present in the U.S., they are emotionally only half present here. Their hearts (their other half) are still in Laos. These are the "*Half Generation*" or "*.5 Generation*"<sup>3</sup>.

Although the later waves of these first groups left Laos about the same time, many of them did not arrive in the United States immediately as they had to go through the refugee camps in Thailand, the Philippines, and some other neighboring countries.

#### 3) 1981-1985 Period

The Laotian immigrants who left Laos during the late 1975-1985 period left the country under the most difficult and traumatic conditions. Their traumatic conditions were exacerbated by the bad experiences they had to go through in the refugee camps. Like many Asians, Laotians tend to ignore the psychological effects, causing these traumatic conditions to continue to affect them to the present.

#### 4) 1986-1990 Period

Following the path of the Union of Soviet Socialist Republics (USSR) and the People's Republic of China, the Lao People's Democratic Republic ("Laos")<sup>4</sup> started to open up its economy and allowed a select group of its citizens to leave the country in 1986. In the beginning of this period, only one member of the family could leave the country with a guaranty by the remaining members of the family that he/she would return.

5) 1991-2000 Period: Derivative Family Members<sup>5</sup>

Following the opening of its economy, Laos started to allow visitors from the United States and issue tourist and immigrant visas to the United States possibly in part to generate hard-earned foreign currencies. Practically all Laotian immigrants during this period were derivative family members of earlier Laotian immigrants.

6) 2001-Present: Derivative Family Members; Rich and Influentials

Although a large percentage of Laotian immigrants are derivatives, a growing number of Laotian immigrants are from rich and influential families in Laos as the country's economy grows at a high rate. Some of them may eventually return to Laos.

b. Legal Problem Periods

As the characteristics of the Laotian immigrant groups overlapped each other, the periods for legal problems do not neatly fit into separate and distinct categories. However, they may be generalized as follows:

1) Pre-1975: The "Adopted" Family Years

Before the communist takeover of Laos, legal problems in the handful Laotian community in the United States were practically non-existent and were usually addressed through their "adopted" family.

2) 1975-1980: The Survival Years

After the communist takeover, there were no meaningful legal service in the Laotian refugee community in the United States. As every Laotian refugee merely struggled to survive, law was the last thing on their mind. Practically no one was talking about suing anyone else. If someone was arrested, he or she would simply accept the first offer made by the prosecutor. If he or she was injured by someone else, he or she generally would not make any claim or simply accept the first offer made by the tortfeasor's insurance company.

3) 1981-1990: The Years of the "Runners"

During the earlier part of this decade, some Laotian immigrants who spoke English, started to act as intermediaries between lawyers and the other Laotian immigrants who spoke little or no English. Although many of them would do so to genuinely help other fellow Laotians, some of these intermediaries would hold themselves as lawyers and started to illegally give legal advices and so advertised as "advisor", "administrator", "office manager", "head of law office", "manager of lawyers", "legal assistant", and "legal advisor". A few of them would be so audacious as to advertise as "lawyers" or "attorneys". Some of these people would forge the signature of other Laotian immigrants and steal their money. As most of the Laotian immigrant victims were the ".5 Generation" immigrants, they viewed lawyers as they did in Laos: generally unethical and untrustworthy. Occasional thieveries were expected. Thus, only a few cases were actually reported to authorities.

4) 1991-1995: The "Show Me" Years

During this period, a few Laotians started practicing laws. The first Laotian lawyer who practiced in the Laotian community, had to make a lot of efforts just to convince some of the .5 Generation Laotian immigrants that Laotians may be lawyers in the US, too, and they are different than those intermediaries.

After the Laotian immigrants accepted the distinction, they would ask for the results. A typical statement would be: "Don't tell me your credentials or diplomas! Show me the results!" During these years, a false distinction between "lawyers" and "attorneys" was created by the intermediaries, e.g., a "lawyer" is someone who represents clients but may not appear in court and an "attorney" may. These false definitions are still occasionally heard in the Laotian community in the US.

5) 1996-2000: The "I Learned My Lessons" and "I Can Yell At You" Years

As more and more Laotians graduated from colleges, the community became more sophisticated and started to understand the frauds committed by the fake lawyers. However, some of the .5 Generation Laotian immigrants did not give the Laotian lawyers any easier time.

The following statement by a .5 Generation Laotian immigrant to a Laotian-American lawyer probably best captured the relationship: “*I would not have been mean, yelled, or talked to an American [White] lawyer like I would do to you because he would not have understood me. I retained you because when I shouted at you, you understood me!*”<sup>6</sup>

6) 2001-Present: *The Typical Years*

Since 2001, there were two distinct groups of Laotian immigrants and essentially two different types of legal problems: i) Laotian-Americans with typical American legal problems, and ii) Newcomers with typical voluntary immigrant problems. Like other immigrants before them, some Laotian-Americans see newer immigrants as being the “villains”<sup>7</sup>, e.g., looking down on them, ...

### III. LEGAL PROBLEMS FACED BY LAOTIAN IMMIGRANTS

The extent of the legal problems faced by Laotian immigrants tended to be related to their immigration period. Some Laotians may adapt and learn to avoid the problems faster than others. The following legal problems should therefore be read in conjunction with the problems which occurred during the different immigration periods.

a. Immigration-Related Problems

The most commonly known problems were immigration-related. Some of the major problems were as follows:

- 1) Meritless Asylum Claims: Some recent Laotian immigrants filed canned meritless asylum petitions to obtain work permits. In practically all cases, they were assisted by unlicensed “lawyers”. If these immigrants were represented and were ordered deported, they may be barred from adjustment even if they later marry to a U.S. citizen.
- 2) Criminal Convictions: Some Laotian immigrants who did not bother to apply for a citizenship even though they might have qualified to do so for many years, were surprised when the government tried to deport them after they committed a crime with immigration consequences. As they would not be entitled to free legal counsel in an immigration court, some of them would be deported even though they should not have been.
- 3) K1 Visa: Some K1 visa holders who arrived in the US as fiancées of US citizens, even contemplated suicide because they could not remain in the US legally either: a) after said US citizens refused to marry them OR b) they refused to marry these US citizens even if they marry another US citizen. The sad effects of this visa was discussed in details in the article “*When Love Is No Longer Forever: The Unintended Effects of Laotian Law On US Immigration*” (Laonet Magazine, April 2006, p 13-16).
- 4) “Green Card”: Like most voluntary newcomers, recent Laotian immigrants value their permanent resident card or “green card” more than anything else they have. Last year, a bright Laotian student who was just granted a permanent resident status, was killed in an attempt to keep his “green card” during a robbery at his work in Oakland, California. He needed the green card to continue his education and apparently did not know that he could obtain a replacement.

b. Criminal Law Violations and Their Causes

The more common and less understood legal problems resulted from criminal law violations.

Contrary to their history and out of characters<sup>8</sup>, Laotian immigrants are among the groups with the largest percentage in prison in the US.<sup>9</sup> Some of the main causes may be as follows:

1) Incompetent Interpreters

Although some criminal convictions might have resulted from incorrect translation, there may never be a competent interpreter for many Laotian children who had to wait in refugee camps for many years without any education, had to start earning a living performing manual labor upon arriving in the US, or shortly thereafter, with little or no opportunity to learn English, and can neither understand Laotian nor English well enough to comprehend the intricacies of the American legal system.

Unlike immigration “courts where hearings are recorded on tape(s), practically all other courts rely on antiquate court reporting system which made it more difficult to identify the mistakes.

2) Interpreters Acting As Counsels

Many interpreters frequently give legal advice. Sometimes at the request or insistence of the immigrants.

3) “The O.J. Simpson Syndrome”

Like many other groups, Laotian-Americans incorrectly learned the U.S. criminal system of justice from the televised O.J. Simpson case. This “O.J. Simpson Syndrome” would often prompt Laotian-Americans who were arrested after being very arrogant to the arresting officers, to tell their lawyer to the effect: “If O.J. was not found guilty, I should not be found guilty.”

Although the burden of proof in a criminal case is “beyond a reasonable doubt”, it is not always in practice as many Laotian-Americans frequently and sadly find a way to avoid serving on the jury, leaving little or no Laotian-American or other Asian-American perspective.<sup>10</sup>

4) “The Guilty-Until-Proven-Innocent” Mentality

Whenever a Laotian was arrested, the Laotian community would immediately jump to the conclusion that he or she was guilty. This “guilty-until-proven-innocent” mentality made it more difficult to find witnesses to testify on behalf of the defendant. It is the opposite of the basic legal principle in the US that a person is innocent until proven guilty.

5) Lack of Education

In Laos, students attended classes based on their educational ability. Those students who had to repeat the same grade many years, started school late, or had to wait in refugee camps for many years, were placed in grades based on their age upon their arrivals in the US and could not catch up when they were placed in their new higher grade. Consequently, some of them could neither speak Lao nor English well.

6) The Environment

In the U.S., many Laotian immigrants grew up in high crime areas. Like other people in such areas, Laotian refugees and immigrants learned to survive by joining gangs or were used by gang members. An upcoming documentary/movie “Betrayal” about a Laotian immigrant family highlighted this problem.

Many of these Laotians were arrested and convicted on conspiracy criminal count(s). For instances, they were asked by a friend to give them a ride to a store. While waiting in their car, the friend entered and robbed the store. They were then charged with the same crime.

7) Cultural Differences

In court, the demeanors of Laotian refugees and immigrants during testimony were often misinterpreted by the judge and jury. Although *looking someone in the eyes* shows truthfulness in the American culture, it shows disrespect in most situations in the Laotian culture. Similarly, police officers often misunderstood the demeanors during questioning.

8) Lack of Family Support

Unlike Chinese immigrants who tend to be *family-centered* and tend to be more disciplined, Laotian immigrants tend to be *individualistic*<sup>11</sup>. Although many Chinese parents would work to support their children through college, Laotian parents frequently urged their children to work right after high school. Sometimes, the Laotian-American teenagers themselves would work to “earn their way” immediately after high school to buy a car or a house. If they committed a crime, they would be cut-off from the family.

c. Criminal Case v. Civil Case

The lack of understanding of the difference between a civil case and a criminal case in the US legal system often led to distrust and resentment against the government.

A large number of these cases involved domestic violence. After hearing heated arguments and noises, a neighbor called the police. To gain sympathy from the police officer, a spouse would make an accusatory statement against the other spouse to the officer. The officer would make the arrest. After realizing the seriousness of the matter, the spouse-victim did not want to pursue the case. However, the government chose to prosecute the case any way as the criminal case is between the government and the wrongdoer if it had at least another witness or evidence of injury. As most courts would take a very strong stance against domestic violence, stiff penalties and restitution would be imposed. The immigrant would mistakenly think that the government was out to get them.

A more detailed discussion of the problem was published in “*The Difference Between Criminal And Civil Cases: A Costly Lesson For Recent Immigrants*”, Laonet Magazine, April 2006, p 75-78.

d. Civil Cases

1) Funeral Expense Sharing

As they did in Laos, Laotian refugees and immigrants formed funeral expense sharing groups. When a member of the group dies, all surviving members pay an agreed amount to the surviving family members of the deceased member for their “funeral” expenses.

Although most members would abide by the agreement, some members occasionally did not. This refusal to abide by the agreement occasionally created enforcement problems as no formal agreement was made and the agreement itself may violate many federal and state statutes. However, no major problem arose as the participation amount was generally small. The community generally polices itself by shunning and blackmailing those who did not pay.

2) Community Loan Group (“Houia”)

As early Laotian immigrants had no history of credit and transacted a lot of business “underground”, they had difficulty obtaining loans through main-stream banks or other financial institutions. Many of them would form community loan groups. Each member of the Community Loan Group or “Houia” agrees to pay a fixed sum each period (usually, monthly) to the member who successfully bid the highest interest for the period. The successful-bid member will pay the fixed sum plus his bid interest until all members who paid him/her receive the fixed sum plus his bid interest. The member who never bid or did not win the bid, would earn interest. Each Houia is administered by the fiduciary leader or “Mother” who would collect the money from the remaining members and give them to the successful bidder.

Although many businesses in Laotian and other Asian communities were started successfully using Houis, problems arose when the “Mother” disappeared with all the money or a member refused to pay after receiving the money following an earlier successful bid.

In most instances, the interest rate which was paid by the successful bidder, was substantially higher than the usury rate thus violated the state’s usury law. In California, the law prohibits enforcement of the usury interest but would allow recovery of the principal.

3) Title to Real Property In Another Person’s Name

For various reasons including lack of credit or bad credit history, many Laotian immigrants used the name of a friend or a family member to buy real property(ies) with an oral agreement to quitclaim the property back after the perceived problem(s) was/were resolved. Problems arose when the title holder passed away or reneged on the oral agreement and sold the property to a bona fide purchaser. The Statute of Frauds<sup>12</sup> would prohibit enforcements of the oral contract against the bona fide purchasers.

Title to many Lao temples was held in individual names and had created numerous problems. A more detailed discussion was published in “*Time Bombs At Lao And Thai Temples*”, Laonet Magazine, July 2006, p13-18.

4) Title to Personal Property In Another Person’s Name; Co-Signer Problem

Like other recent immigrants, many Laotian immigrants did not have credit history. To obtain credit, many Laotian immigrants would ask their extended family and friends to co-sign for their loan(s).

Most automobile loan lenders frequently insisted on naming ONLY the co-signer as the borrower and the owner. Typical problems occurred as follows: a) when the value of collateral (usually, automobile) went down faster than the principal paydown of the loan and no one wanted the collateral, b) after the loan is paid off, the co-signer and the real owner no longer get along or the co-signer can not be found, and c) when the collateral is destroyed and the insurer sent the settlement check to the borrower who chose to keep and spend it.

5) Life Insurance

Some life insurance companies would send their agents or sub-agents to the Laotian communities to sell life insurance. As the agents did not speak English well, they would have to rely on intermediaries who often received compensation based on the number of policies sold. This incentive led to many intermediaries and agents being “economical with the truth” on the application form(s) to qualify anyone for a life insurance policy. The false statements would not be discovered until the claim was denied after death.

In many cases, the true policy holder who did not have any bank account, would give cash to a friend or family member or intermediary to write checks to make monthly payments OR allow automatic withdrawal from his/her bank account to pay the premiums. Consequential mistakes were then made to incorrectly list the friend/family member/intermediary as the beneficiary. Occasionally, the change of beneficiaries was not submitted timely by the intermediaries or agents, resulting in unintended beneficiaries following unexpected death.

6) Real Estate Loan Scam

Laotian immigrants were not immune from the sub-prime loan scams. Many loans were funded without Annual Percentage Rate (APR) disclosure. Unlicensed agents asked the borrowers to sign blank forms and filled them out so that the loans would be funded.

7) Injury Cases

As discussed in the Legal Problem Period section above, unlicensed lawyers who stole the settlement money, were frequent problems in the Laotian immigrant community especial in the early years of the immigration. Until recently, California state bar had no jurisdiction over unlicensed runners and most police departments would not accept these types of cases.

In cases where law firm personnel stole the settlement money, state bar security funds would pay for the losses.

8) Other Legal Problems

Other legal problems included operating a business without a proper license and without abiding by the conflict of interests rule.

#### IV. CONCLUSION

The legal problems faced by Laotian immigrants in the United States varied with their immigration periods. Although some of the original problems persisted in the .5 Generation immigrant groups, most of the original problems start to evolve into the same type of problems faced by the main stream community as the Laotian community became more sophisticated.

As most newer Laotian immigrants are voluntary, their legal problems tend to be typical immigrant problems. American-born Laotians face the same legal problems as other Americans.

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<sup>1</sup> When this author was in an elementary school in Laos, one of this author's teachers told this author that the word "Lao" referred to the people, the word "Laos" referred to the country and the word "Laotian" should never be used as it was coined by the French colonial power and it connoted the word "Chien" which means "dog" in French. This author could not find any authority to support such statement. The late Laotian thinker Khamchong Luangpraseuth suggested to this author that the word "Laotian" should refer to all the ethnic groups of Laos and the word "Lao" should refer to only the low-land Laotian. For the purpose of this article, this author will use the word "Laotians" to refer to all the ethnic groups of Laos.

<sup>2</sup> This mentality of being in a foreign land is still prevalent in the .5 Generation Laotian community as reflected in the announcement by a speaker at the 2006 new year celebration organized by the Lao Community Center in San Diego. When Laotian-American teenagers painted graffiti on a wall, the organizer announced that no one should do so "*as this is not our home*" and that "*[w]e are merely their guests*" even though most of the teenagers were born in the United States and are as American as any other Americans. This .5 generation mentality might have resulted in part from the fact that unlike most Americans, most Laotians in Laos tended to live in the same home for generations and knew practically everyone in the same village or town. Leaving the only home they had known in their life without saying "good bye" to most of their friends, was very traumatic.

<sup>3</sup> The "Half Generation" or ".5 Generation" does not fit the definition of either the "First Generation" Americans who left their homes *voluntarily* after a lengthy plan, or the "1.5 Generation" Americans who are their children and did not have any input in the decision to immigrate to the United States.

<sup>4</sup> For the purposes of this article, this author will use the word "Laos" to refer to the country regardless of its regime.

<sup>5</sup> The words "derivative" family members under the U.S. immigration law refer to certain family members accompanying or following to join U.S. immigrant or citizen i.e., children, parents, and siblings.

<sup>6</sup> In response to a question asked by this author why a Laotian immigrant client was so mean and shouted at this author and that he would not have done so to other lawyers, the Laotian client said: "*I retained you because when I shouted at you, you understood me*".

<sup>7</sup> A Laotian-American's recent statement to this author about a recent immigrant from Somalia in San Diego, California, reminded this author of a similar statement made by his neighbors to him when his mother cooked "Pa Daek", a Laotian delicacy that does not have "the best smell".

<sup>8</sup> Laotians generally would avoid confrontations. They were so peaceful that French colonists used to call them the “Bor Pen Yaang” (“It doesn’t matter”) people.

<sup>9</sup> 1.65% for 18-39 Males as compared to .89% for Vietnamese, .38 for Koreans, and .28% for Chinesees-Taiwaneses. 2000 U.S. Census, 5% PUMS. Data are estimates for adult males, ages 18-39, institutionalized at the time of the census.

<sup>10</sup> Although Americans are not racists, they are human beings who tend to base their judgment on their life experience. Perhaps for this reason, President Abraham Lincoln was quoted as saying to the effect that jury service is the most important duty of a citizen-perhaps more important than voting because it determines the conscience of the community.

<sup>11</sup> Being individualistic is not always bad as it fosters creativity.

<sup>12</sup> Professor Claude D. Rohwer who taught this author contract law, once said in class to the effect that the Statute of Frauds helps promote frauds.



## ທ່ອງການທະນາຍຄວາມອິນໂຕຈຳພັນ

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