

Indochina Migration and Refugee Assistance Act of 1975 (Sources)

Source 1

This article originates from my concern that twenty-five years after the fall of Sài Gòn, a “determined incomprehension” remained the dominant US public stance on the history of the Vietnam War. Instead of using the occasion of the twenty-fifth anniversary to critically analyze and assess the political reasons for and ongoing consequences of the war, US print media have opted to present a personalist, ahistorical, and ultimately “we-win-even-when-we-lose” account of the war and its aftermath. Privileging personal stories of suffering, tragedy, and success, this approach naturalizes Vietnam’s neediness and America’s riches and produces a powerful narrative of America(ns) rescuing and caring for Vietnam’s “runaways” that erases the role that US interventionist foreign policy and war played in inducing this forced migration in the first place. As adoptees of the “world’s sole superpower,” Vietnamese refugees reportedly gained much more than they ever lost from the war, suggesting that the United States had to take everything away from the Vietnamese in order to “give them everything.”

- Lê Espiritu, Y. (2006). The “We-Win-Even-When-We-Lose” Syndrome: US Press Coverage of the Twenty-Fifth Anniversary of the “Fall of Sài Gòn.” *American Quarterly*, 58(2), 329–352. <http://www.jstor.org/stable/40068366>

Source 2

The nationwide poll asked 1,491 adults in 300 scientifically selected locations whether evacuated South Vietnamese should be permitted to live in the United States. Of those interviewed, only 36 per cent said that they should, and 54 per cent said they should not. Ten percent had no opinion. - New York Times, 1975

Times, D. E. K. S. to T. N. Y. (1975, May 2). Wide Hostility Found To Vietnamese Influx. *The New York Times*. <https://www.nytimes.com/1975/05/02/archives/wide-hostility-found-to-vietnamese-influx-hostility-found-across.html>

Source 3

The Indochina Migration and Refugee Assistance Act, while reclassifying the Indochinese as “refugees” only to the extent that money could be allocated to temporary holding camps in the US, it did not remove their “parole” status nor did it make any provisions for giving these refugees a path to permanent residence. Instead, it made specific provisions for resettlement in *other countries*, in accordance with the UNHCR, as well as provisions to repatriate refugees back to their homeland if they so desired. The focus of the law seemed not to integrate refugees into American society, but to provide these refugees with enough humanitarian assistance until they could be resettled or repatriated to other countries.

Both US and UNHCR reports attest to a broader strategy of containing the influx of refugees within Southeast Asia. In a report by the General Accounting Office (GAO) to Congress on June 1st, 1976, the need for meeting the costs of “refugee evacuation” and

“temporary care” were most emphasized, with the goal of resettling them in other countries or repatriating them (Comptroller General, O. T. U. S.) Yet, after a year of refugee processing and an increasing awareness that these refugees had nowhere else to go, they shifted tactics. The GAO report a year later would emphasize the barrier imposed on Indochinese refugees through the 1975 law and parole status provisions, recommending that legislation be passed to give these refugees some pathway to permanent status (“Domestic Resettlement of Indochinese Refugees: Struggle for Self-Reliance,” 1977). Yet, at the same time, it highlighted that options for repatriation and resettlement outside the US should be prioritized first. This stands in line with the UNHCR strategy on Indochinese refugees outlined in 1979, which outlined a specific plan to first promote “voluntary repatriation and local resettlement, and in absence of these alternatives, resettlement outside the country of first asylum” (Secretary-General, 1979).

Written by Joseph Loreto Phúc Nguyễn

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Source 4

While Congress had widely lauded that the US was the highest recipient of Indochinese refugees in the world, it responded by lowering their refugee quotas every year to mitigate the “economic burden” posed by refugees on US society (The Comptroller General). In 1977, Congress announced to the public it would limit the amount of Indochinese refugees to 15,000 (Woollacott, 1977). However, due to the dramatic spike in boat people crossing and the ad-hoc basis of parole before 1978, Congress ended up admitting 53,875 refugees in that year (Woollacott, 1977). It again promised to limit the amount of refugees to 25,000 a year, eventually cutting down the quota even further to 7,000 in 1979 (N.Y. Times, 1979). Yet, on the opposite end, these tightened restrictions on Indochinese refugees caused backlash from the U.N., which urged the US to double its refugee numbers. President Carter eventually acceded to the pressure, changing the quota to 14,000 in 1980, but only after assurances that there would be a systematic process that would prevent parole proceedings from exceeding that number (Walsh, 2023). That process would allow Indochinese refugees, who at this point would be processed in refugee camps in Southeast Asia rather than being taken directly to the US, to have their backgrounds scrutinized by local and US officials in order to determine whether they would be eligible for parole. In keeping with the narrative of the US “saving” Indochinese refugees from

communism, the legal language of “refugee” and the procedure of parole itself would become tools to serve that narrative.

Written by Joseph Loreto Phúc Nguyễn

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1980: The US Refugee Act

The US Refugee Act of 1980 retroactively granted permanent residence status to all refugees whose admission was not terminated by the Attorney General and who had been physically present in the US for at least one year (Library of Congress). In essence, it ended the geographical and temporal restrictions listed in the 1962 Migration and Refugee Assistance Act and gave a majority of Vietnamese refugees permanent resident status. With the passage of the Ordinary Departure Program and UN commitment to refugee rights, the issue of balancing repatriation, resettlement into other countries, and resettlement into the US was resolved to the point that qualifying refugees in the US could be given permanent residence.

On the other hand, the Refugee Act had the practical effect of ending US responsibility over the massive boat people influx that was harrowing US society between 1975-1979. The law held an important provision that would prohibit the Attorney General from paroling an alien who is a refugee into the US unless there are compelling public interest reasons for doing so" (Library of Congress). By providing a permanent process to screen and admit refugees systematically, the law prohibited the ability for refugees to be paroled on an *ad hoc* basis that was used for hundreds of thousands of Vietnamese refugees during the evacuation of the Fall of Sài Gòn and those rescued in the middle of the sea. Those who did not meet the "conditions" of the law and could not go through the "process" were automatically rejected.

Thus, the Refugee Act of 1980 allowed the US to limit aid to a large number of Vietnamese refugees by treating them as "immigrants" rather than "refugees." The legal status here is important. Following the repeal of the 1975 Indochina Migration and Refugee Assistance Act by the 1980 law, neither "refugee" nor "immigrant" was given special benefits or financial assistance as provided to Vietnamese refugees before the law was passed. In addition, Congress was able to maintain the high numbers of admitting refugees fleeing communism while not going over its refugee quota by shunting many refugees into "immigrant" status, which had its own quota. Thus, the inclusion of "communist" refugees, including persons from Indochina, Cuba, Romania, and the Soviet Union into immigrant categories as well came at the exclusion of all others. In 1980, These "communist" refugees accounted for 93% of all persons given "refugee" status, not accounting for the portion of this percentage that were able to enter the US as "special immigrant" relatives. Keeping official quota numbers low satisfied concerns about refugee admissions from the American public while simultaneously fulfilling requirements set by the United Nations to take its fair share of refugees. To top that, the narrative of saving refugees from communism was maintained as most of these refugees that were admitted under ODP were South Vietnamese nationals and ethnic Chinese who were persecuted by the communist regime, not including other marginalized groups affected by the wars and persecution around the world.

Written by Joseph Loreto Phúc Nguyễn

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1979: The Orderly Departure Program and Humanitarian Operation

Despite the US' supposed commitment to Indochinese refugees, the government had essentially ignored reports since 1976 that recommended a legislative path be created for permanent residency and eventually citizenship (The Indochinese Exodus: A Humanitarian Dilemma - Government Accountability Office (GAO) report, 1979). With the systematizing of parole in 1978, it seemed that the US was deliberately attempting to limit refugee numbers first, while not providing these refugees legal status. Circumstances had changed in 1979, when reports of Southeast Asian countries rejecting refugees as “illegal immigrants” and pushing them back out to sea to die would cause shock all over the world (Ahmad, 1979). The same year, the UN Geneva Convention on Refugees was opened in response to two main concerns: (1) that the rise of boat people deaths had increasingly become an international humanitarian issue, and (2) that neighboring Southeast Asian countries were no longer welcoming of these refugees, exacerbating the crisis by either repatriating them back to Vietnam or expelling them from their borders (Secretary-General, 1979). With increasing resentment over Indochinese refugees from both Southeast Asian countries and the broader international community, the UNHCR made broad attempts to come to an international agreement that would lessen the load for everyone (N.Y. Times, 1979).

On May 23rd, 1979, the UNHCR and the Socialist Republic of Vietnam signed a Memorandum of Understanding that would establish the Orderly Departure Program (ODP) for Indochinese refugees. In the memorandum, both sides agreed to assist in the creation of a program that would allow refugees who would otherwise flee Vietnam by boat to have a legal, orderly process by which they could resettle in another country. Persons eligible for emigration were determined by an exchange of lists by the Vietnamese government and each respective foreign government (Robinson, 1998). Persons that matched both lists would be allowed to resettle to a number of foreign countries that they were accepted to, pending refugee quotas that each country had set for itself. However, the US rejected many applicants and forced them back to Vietnam from the refugee camps, conveniently labeling such applicants as “economic migrants” rather than “refugees” because they did not have the paperwork to prove they were persecuted under “communism.”

The Humanitarian Operation (HO) was a subprogram under ODP which resettled Vietnamese refugees who were forced into reeducation camps by the communist government. In order to qualify, the applicants must show that they spent at least one year in a reeducation camp due to an association with the South Vietnamese military, government, or US government during the war. This program extended until 1994, was ended when the US and Vietnam reestablished diplomatic relations, and reopened from 2005-2009 due to the McCain Amendment, which helped family members of reeducation camp prisoners resettle or reeducation camp prisoners who fell through the cracks to have one more chance to settle in the US. One issue with the HO program was the one-year limit. Many ordinary South Vietnamese soldiers were forced into reeducation camps for less than a year, but their families were still discriminated against in higher education and employment for many years after. Many families were separated because only those who had been put through reeducation for more than a year could go to the US, while other family members would continue to face discrimination in their home country.

Written by Joseph Loreto Phúc Nguyễn

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Thesis Statement Worksheet

Central Unit Questions:

1. How have immigration, labor, and deportation law shaped the experiences of Vietnamese American refugees?
2. Is the law color-blind? How does the language of the law disadvantage certain ethnic and racial groups in American society?

Source Activity:

Read the sources in the document provided. After, write **two** thematic questions that relate to the central historical questions. The questions you create should be more *narrow* and *specific* than the main historical questions.

A **good question** should have the following characteristics:

1. It can be answered as a **claim** - it is not a repetition of facts.
2. It can be answered by **evidence** from at least two primary sources.
3. The question should be **meaningful** and **significant** to the central historical questions (Why does it matter?).

BAD QUESTION: *What was the Indochina Migration and Refugee Assistance Act?*

1. Can only be answered as a fact.
2. Can only be answered Source 2, cannot provide evidence without a claim.
3. Question not deep enough to be considered significant to historical questions.

GOOD QUESTION: *How did the language and content of the Indochina Migration and Refugee Assistance Act reflect a balance between anti-Vietnamese/anti-refugee sentiment and the need for the US empire to save face after its loss in the Vietnam War?*

1. Can be answered as a claim: (ex: I argue that amidst national shame following the US's failure in Vietnam and anti-Vietnamese refugee sentiment, the US specifically attempted to limit Vietnamese refugees and select only those that would reinforce the narrative of the US defending freedom and democracy in Southeast Asia against communism.)
2. Can be answered using evidence from multiple sources (ex: For example, Source 3 notes that the US attempted to limit refugee admissions and prioritized temporary assistance so that Vietnamese refugees could later be repatriated or sent to live in other Southeast Asian countries. Source 4 notes that the US only loosened refugee quotas amid international pressure, and source 1 explains how these admissions were part of a larger "we-win-even-when-we-lose" narrative to

reframe America as the savior of Vietnamese refugees from communism, rather than the loser of the war.

3. Question is significant to the historical questions. (ex: This interplay of language found in the Indochina Migration and Refugee Act demonstrates how the language of the law can be inherently racial and reflective of the widespread anti-Vietnamese sentiment by Americans following the war.

Two Thematic Questions:

- Question #1
- Question #2

After writing the questions, get into pairs. Switch worksheets with your partner. Read your partner's questions, follow the checklist based on the characteristics of a good question, and write a *revised* question below based on the checklist. Note: The questions must be revised. There is no such thing as a "perfect" question.

Question #1:

1. It can be answered as a claim/argument - it is not a repetition of facts
2. It can be answered by evidence from at least two primary sources.
3. The question should be meaningful and significant to the central historical questions (Why does it matter?).

- Comments:
- Revised Question:

Question #2:

1. It can be answered as a claim/argument - it is not a repetition of facts
2. It can be answered by evidence from at least two primary sources.
3. The question should be meaningful and significant to the central historical questions (Why does it matter?).

- Comments:
- Revised Question:

Building a Thesis:

Using the revised question you wrote for your partner, write an thesis (3-5 sentences) in response to your partner's question. A good thesis has many of the same characteristics of a good question:

1. It contains a claim - it is not a repetition of facts. (What are you trying to argue?)
2. It contains evidence to support its claim from at least two primary sources.
3. It explains why the claim is meaningful and significant. (Why does it matter to us?)

How did the language and content of the Indochina Migration and Refugee Assistance Act reflect a balance between anti-Vietnamese/anti-refugee sentiment and the need for the US empire to save face after its loss in the Vietnam War?

GOOD THESIS:

I argue that amidst national shame following the US's failure in Vietnam and anti-Vietnamese refugee sentiment, the US specifically attempted to limit Vietnamese refugees and select only those that would reinforce the narrative of the US defending freedom and democracy in Southeast Asia against communism. (claim)

For example, Source 3 notes that the US attempted to limit refugee admissions and prioritized temporary assistance so that Vietnamese refugees could later be repatriated or sent to live in other Southeast Asian countries. Source 4 notes that the US only loosened refugee quotas amid international pressure, and source 1 explains how these admissions were part of a larger "we-win-even-when-we-lose" narrative to reframe America as the savior of Vietnamese refugees from communism, rather than the loser of the war. (evidence)

This interplay of language found in the Indochina Migration and Refugee Act demonstrates how the language of the law can be inherently racial and reflective of the widespread anti-Vietnamese sentiment by Americans following the war. (significance)

Question from partner:

- Question
- Argument
 - Claim
 - Evidence
 - Significance

When you finish writing your argument, present your argument to your partner. Discuss whether you believe the question you posed was answered fully, and if you would like to add any input to their answers. You may be called upon to present your argument to the class.

Vietnamese Refugee Laws Presentation

Suggested Content for Powerpoint Slides:

Slide 1:

Vietnamese Refugee Laws
Anti-Vietnamese sentiment

Slide 2:

Content Learning Objectives

Central Questions:

How have immigration, labor, and deportation law shaped the experiences of Vietnamese American refugees?

Is the law color-blind? How does the language of the law disadvantage certain ethnic and racial groups in American society?

Slide 3:

Anti-Vietnamese Sentiment

Ku Klux Klan terrorizes Vietnamese refugees on Gulf coast of Texas:

<http://www.youtube.com/watch?v=6tS7mR8iDL0>

Slide 4:

Last winter, a young Air Force sergeant entered the office of a local fuel company, paid his bill, returned to his car and drove away with his Vietnamese-born wife.

“What gets into boys over there,” the manager muttered as he watched the couple drive away, “marrying one of those—those gooks?”

When President Nixon's ordering of troops into Cambodia stirred nationwide protests in 1970, Fort Walton Beach residents organized a march in support of the invasion. But at Fort Walton Beach High School yesterday, many of the students were talking about organizing a “gook klux klan.” And the members of a 12th grade psychology class said they were frightened that the refugees would attempt to convert them to Communism.

“But they're not Communists,” one student argued. “They're coming here because they're running from Communists.”

‘Vietnamese Aren't They?’

“It doesn't matter,” came the response. “They're Vietnamese aren't they?”

A senior girl said that she had not heard a single goad word about the arrival of the Vietnamese “except from my sister.”

Robert E. Carr, a 40-year-old realtor in Valparaiso, said that he had the same fears as the children. “How do you know we're not getting the had guys?” he asked. “You can't say for sure. Nobody can, and Lord knows we got enough Communist infiltration now.”

Nevertheless, despite the rumors of epidemics and the economic fears and the racial epithets, the Vietnamese are coming. But in a town where the local hank once distributed John Birch Society literature with monthly statements, it does not seem that they could possibly be happy here.

Gov. Jerry Brown of California, 1975-1983, 2011-2019

“Our biggest problem came from California,” Julia Taft, director of President Ford’s Interagency Task Force on Indochina Refugees, told National Public Radio in 2007. “They were very difficult,” she said, referring to Mr. Brown and Obledo. “They didn’t want any of these refugees because they had also unemployment. They had already a large number of foreign-born people there. They said they had too many Hispanics, too many people on welfare. They didn’t want these people.”

Mr. Brown finally relented, Taft said, when she told him she would “go on TV and to the media and to the voluntary agencies and announce that the governor did not want any church, synagogue, family [or] former military family in California to be able to help these people.”

Similar feelings have been reported in communities around Camp Pendleton in Orange County, Calif., and Fort Chaffee, Ark., where other refugees are being sent.

In Phoenix, a Classics Professor Goes on a Home-Buying Odyssey. Which One Did She Choose?

Here in California, official resentment over the influx has perhaps been the strongest of all. Ever since the plan to evacuate South Vietnamese was announced, Gov. Edmund G. Brown Jr. has protested loudly that he did not want them taking jobs from Americans in his state, which has nearly million unemployed.

Yesterday, the Brown administration proposed that Congress amend the Vietnamese refugee aid bill that it is considering to provide “jobs for Americans first.”

Slide 5:

Indochina Migration and Refugee Assistance Act

To enable the United States to render assistance to, or on behalf of, certain migrants and refugees.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as "The Indochina Migration and Refugee Assistance Act of 1975."

SEC. 2. (a) Subject to the provisions of subsection (b), there are hereby authorized to be appropriated, in addition to amounts otherwise available for such purposes, \$155,000,000 for the performance of functions set forth in the Migration and Refugee Assistance Act of 1962 (76 Stat. 121), as amended, with respect to aliens who have fled from Cambodia or Vietnam, such sums to remain available in accordance with the provisions of subsection (b) of this section.

(b) None of the funds authorized to be appropriated by this Act shall be available for the performance of functions after June 30, 1976, other than for carrying out the provisions of clauses (3), (4), (5), and (6) of section 2(b) of the Migration and Refugee Assistance Act of 1962, as amended. None of such funds shall be available for obligation for any purpose after September 30, 1977.

SEC. 3. In carrying out functions utilizing the funds made available under this Act, the term "refugee," as defined in section 2(b)(3) of the Migration and Refugee Assistance Act of 1962, as amended, shall be deemed to include aliens who:

- (A) Fled from Cambodia or Vietnam because of persecution or fear of persecution on account of race, religion, or political opinion,
- (B) Cannot return there because of fear of persecution on account of race, religion, or political opinion, and
- (C) Are in urgent need of assistance for the essentials of life.

Slide 6:

Indochina Migration and Refugee Assistance Act

Allocated money for temporary holding facilities in the United States (Camp Pendleton, Fort Chaffee, etc.)

Made specific provisions for resettlement in other countries (not US)

Gave Vietnamese refugees "non-resident alien status" over "lawful permanent resident" status from their refugee status

About 150,000 Vietnamese refugees evacuated before passage of bill (May 23, 1975)

1977: Congress announces refugee admissions would be reduced to only 15,000

How do these specific provisions differ from the source put forth by immigration.com? Why does the narrative differ so greatly?

Slide 7:

Refugee Act of 1980

Act created first legal definition of "refugee" based on UN Convention as separate from "immigrant"

Refugees from 1975-1980 were treated as "illegal migrants" on "parole" due to Indochinese Refugee Act in 1975

Initial goal of repatriating all 125,000 refugees after spending time in camps

56% of Americans did not support admission of any Indochinese refugees (anti-Vietnamese sentiment)

Refugee Act of 1980 only admitted those who could prove that they had a "well-founded fear of persecution"

In reality, only those who could justify fleeing Vietnamese communism were admitted

Those displaced by US bombing in Vietnam, Laos, and Cambodia, including ethnic minorities who fought in a US-backed "Secret War" in Laos, were not admitted

Teacher note: **after sentiment: from 1975-1980, the US basically ignored requests to take in Vietnamese refugees, showing a discontinuity from their narrative later that they saved Vietnamese boat people due to humanitarian concerns. Only after the UN-backed Ordinary Departure Program was passed in 1979 to which the US could be assured that not too many "Vietnamese" would come in did they pass the 1980 act.

After he admitted: "Only Vietnamese fleeing the new communist government or Cambodian fleeing the Khmer Rouge communist government who fit the narrative of US imperialism as saviors of communism were admitted. Meanwhile, the "Secret War" in Laos was not recognized

by the US until 1994, therefore they could not be “refugees” unless the US’s role in their displacement was acknowledged, and therefore they were not admitted. In addition, Cambodia, not Vietnam, was the most bombed country in history, and those displaced by US bombing would not be admitted because the US had created the narrative that bombing in Cambodia was needed to destroy “communist headquarters.”

What the law shows is a willing narrative to tie refugee resettlement to justification to US involvement in the war and imperialism in the region. After 1980, “human rights” became an essential political rhetoric with Soviet Jews as refugees and Cuban refugees to justify continued involvement in the Cold War even after the Vietnam War. Imperialism in law go hand in hand in this specific instance and in future involvements.**

Slide 8:

Orderly Departure Program (ODP)

Massive boat departures from Vietnam in 1978 and 1979 gave urgency to the need to establish a safer means of exodus for those wishing to leave. In 1979, a Memorandum of Understanding was negotiated between the Socialist Republic of Vietnam (SRV) and the United Nations High Commission for Refugees (UNHCR), establishing the Orderly Departure Program (ODP), an international effort involving more than 40 receiving countries.

The objective of the ODP is to establish an alternative to clandestine and often hazardous boat departures by providing a legal emigration program for those seeking family reunification, or those of special interest to the various resettlement countries. The ODP also seeks to minimize the strain large numbers of refugee arrivals have placed on the region's countries of first asylum. This paper outlines the procedures currently followed by the US Orderly Departure Program.

Slide 9:

Humanitarian Operation (HO)

Who gets to be a refugee? What conditions may exclude you from being resettled in the US?
Joint US - Vietnamese Announcement of Humanitarian Resettlement Program

Following is the text of the joint US-Vietnam Humanitarian Resettlement Program announcement:

The Government of the United States and the Government of the Socialist Republic of Vietnam) jointly announce that, taking into consideration the request from the United States Government, the Government of Vietnam expresses its willingness to cooperate with the United States to resolve humanitarian resettlement issues.

This is a limited process to receive new applications from Vietnamese citizens who might have been eligible under three categories of the former Orderly Departure Program for consideration for resettlement to the United States. This process is limited only to those who were unable to apply or who were unable to complete the application process before the Orderly Departure Program closed on September 30, 1994.

The three Orderly Departure Program categories are the HO, U-11 and V-11 subprograms. Persons whose previous Orderly Departure Program applications were denied in the past are not eligible to re-apply for Humanitarian Resettlement. Persons who were previously notified of their ineligibility for former Orderly Departure Program categories are ineligible to re-apply.

For free, accurate information about this process, please contact the Refugee Resettlement Section at the Consulate General in Ho Chi Minh City. Contact information is listed below.

Access Criteria for Humanitarian Resettlement

HO category – Former Re-Education Center Detainees:

a) Vietnamese applicants who spent three or more years in a re-education center as a result of their close association with US agencies or organizations to implement United States Government programs and/or policies prior to April 30, 1975; OR

b) Vietnamese applicants:

- who spent at least one year in a re-education center as a result of their close association with the US Government prior to April 30, 1975 and

- who were also trained for any length of time in the United States or its territories under the auspices of the United States Government prior to April 30, 1975; OR

c) Vietnamese applicants:

- who spent at least one year in a re-education center as a result of their close association with the United States Government prior to April 30, 1975 and

- who had been directly employed by the United States Government, a US company or a US organization for at least one year prior to April 30, 1975; OR

d) Widow/widower applicants whose spouse was sent to a re-education center as a result of his/her close association with the United States Government prior to April 30, 1975 and who died while in a re-education center or died within one year after release.