

They're refugees, not terrorists

As Sudanese Dominic Kur shows, the United States' post-9/11 asylum policies can be unjust.

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Sherkole refugee camp, Ethiopia — DOMINIC KUR is, in many ways, a typical Dinka. Like almost all the men in his ethnic group, he has had his forehead marked with ornamental scarification, and by custom, his bottom front four teeth have been knocked out, which makes him lisp a bit.

As was expected of young Dinka men from southern Sudan in the mid-1980s, he joined the armed resistance, known as the Sudan People's Liberation Army, in its civil war against the ruling government in Khartoum.

Kur fought with the group for nine years. "I felt I had to defend my country against the Arabs," he explained. But he grew disenchanted with his unit's treatment of its troops, and with no mechanism in place for officially resigning from the guerrilla organization, he simply left and moved to Khartoum, where he worked on a construction site and married his childhood sweetheart from the village of Madol. In 2002, he crossed the border and came to the Sherkole camp.

The war dragged on, taking the lives of 2 million Sudanese over 20 years. But ultimately the international community legitimized the SPLA by recognizing its participation in the peace process. This culminated in the signing of a comprehensive peace accord on Jan. 9, 2005, a resolution that was hailed by Washington.

Now, with the war over, the refugees — 4 1/2 million people who were either displaced within the country or who fled to neighboring countries — are going home to southern Sudan. In the Sherkole camp, bulletin-board posters explain schematically the peace agreement's military and political arrangements for return and resettlement. The Uduk ethnic group went back last December. And there is already anticipation and joy in Zone F of the camp, where 2,000 Dinkas live.

But there is no joy for Kur and his family. They would like to go home too, but Kur fears that some people in the SPLA consider him a deserter. In view of the still-volatile situation in his country, he worries that if he were to return to the south, he would get into trouble. Considering the difficulties the country has had creating a police force in southern Sudan and ensuring public safety, his fears are not unreasonable. (In the Sherkole camp, there are other former Sudanese fighters who have similar apprehensions.)

So Kur has been proposed by the U.N. High Commissioner for Refugees for resettlement to a third country. His application — for himself, his wife Angelina and their six children — was submitted to the United States by the commissioner's office.

After telling me this, Kur led me through a typically low doorway into the dark but nicely decorated interior of their round, thatched mud hut, or *tukul*, and fished out the letters received from the U.S. Department of Homeland Security: Angelina and the kids are welcome to come to the United States, the letters said. Kur, however, has been denied entry.

His letter says: "You were found to be inadmissible to the United States pursuant to INA ? 212(a)(8) USC ? 1182(a) pertaining to 212 (a)(3)(B)." The letter notes, "A waiver is not available for the inadmissibility cited above," and the words "is not available" are circled by hand. In the U.S. Immigration and Nationality Act — I know it; Kur doesn't — provision 212 (a)(3)(B) means "involvement in terrorist activities." Ironically, Kur's letter from the Homeland Security Department labeling him a terrorist arrived on July 20, the same day that Salva Kiir, the leader of the SPLA who is now president of southern Sudan, was welcomed to the White House by President Bush.

Kur's case is not isolated. In the last six months, I have met many refugees around the world — Burmese Karen in Thailand, Burmese Chin in Malaysia, Lao Hmong in Thailand, Eritreans in Ethiopia — whose cases were put "on hold" by U.S. authorities because the organizations to which the refugees had belonged were later designated as terrorist. But I never saw a blunt refusal until I saw Kur's letter.

What's particularly upsetting is that those "on hold" are, in many cases, heroic freedom fighters who struggled for democracy against brutal dictatorships (like the Burmese junta or the Laotian communists) or even, sometimes, people who had been recruited to fight by the United States (like the Lao Hmong or the Vietnamese Montagnards).

The reason for this bizarre treatment is that in the aftermath of the 9/11 attacks, the U.S. adopted a very broad definition of "terrorist activity" in American law. This overzealous legislative approach means that thousands of genuine refugees who participated in armed insurgencies — even those friendly to (and in some cases supported by) the United States — are now treated as a threat to American security.

It's not just those who participated in the insurgencies. Those who provided "material support" to these combatants can be barred too. The global effect of this draconian law has been devastating: Of the 70,000 slots allotted in 2006 for new refugees by the traditionally hospitable U.S. resettlement program, only 41,000 were filled. According to estimates from the International Rescue Committee and other refugee organizations, about half of the 29,000 excluded were due to the "terrorist" and "material support" provisions.

IT IS POSSIBLE to overcome these provisions through a waiver process, but it is so limited and cumbersome that only three waivers have been granted so far, to specific Burmese freedom-fighter groups.

On Thursday, the Bush administration acknowledged the "unintended consequences" of the post-9/11 laws. Officials from the departments of Justice, State and Homeland Security announced plans to expand the waiver program, some of which will require a vote in Congress. The officials named in particular Cuban, Tibetan and additional Burmese freedom-fighter groups whose supporters and members could get special consideration for admission to the United States.

This is a step in the right direction, but the waiver program remains a partial solution to the problem. It will continue to require case-by-case decisions at high levels in Washington, and it will undoubtedly leave behind, or on indefinite hold, many thousands who pose no threat to the United States.

And for now that includes Dominic and Angelina Kur. They are faced with an excruciating dilemma: Should they split up, which is almost unthinkable, especially because Angelina is again pregnant? Should Angelina give up a chance of a normal life outside the refugee camp for herself and the children? Or should they go back to Madol and hope that the southern Sudanese government will not take revenge on him?

Not much news from abroad comes to their *tukul*, so the Dinka couple does not even imagine that there could be a solution to their problem. But there is. Congress must act to broadly amend the immigration law so that all bona fide refugees can be easily and fairly considered for refugee or asylum status, not punished for the courage and commitment they demonstrated fighting for peace and democracy in their homelands.