

COURTING DISASTER:

**HOW A BIASED, INACCURATE RAND
CORPORATION REPORT IMPERILS LIVES,
FLOUTS INTERNATIONAL LAW AND
BETRAYS ITS OWN STANDARDS**

*A RESPONSE TO THE REPORT:
THE MUJAHEDINE-KHALQ: A POLICY CONUNDRUM*
RAND NATIONAL DEFENSE RESEARCH INSTITUTE

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Following the distribution of *The Mujahedin-e Khalq: A Policy Conundrum*, a report produced by the Rand Corporation, ExecutiveAction LLC was retained by an American citizen to conduct an assessment of the document, including the authors' objectivity, thoroughness, and recommendations. This monograph – *Courting Disaster: How a Biased, Inaccurate RAND Corporate Report Imperils Lives, Flouts International Law, and Betrays Its Own Standards* – presents its findings and analysis of the RAND report.

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Executive Summary

The RAND National Defense Research Institute published in July 2009 the report *The Mujahedin-e Khalq: A Policy Conundrum*¹ for the Multi-National Force-Iraq, Task Force 134 (Detainee Operations). The report focuses on the circumstances surrounding the detention of the Mujahedin-e Khalq (MeK) at Camp Ashraf and “whether MeK members were taken into custody and detained under the appropriate terms”²

The Mujahedin-e Khalq (People’s Mujahedin Organization of Iran) is a major Iranian opposition group, whose members primarily reside in Camp Ashraf, Iraq. The Camp is situated northeast of the Iraqi town of al-Khalis, approximately 60 miles northeast of Baghdad, and 50 miles west of the Iran-Iraq border. It has been in existence since 1986 and covers a 15.5 square mile area. There are about 3,400 residents at Camp Ashraf, of whom 1,000 are women. Most of the residents of Ashraf City are Iranian citizens – and a large number are political refugees.

The RAND report presents a highly flawed assessment of issues and policies related to the MeK. The authors of the report appear to lack the necessary experience and core knowledge to properly evaluate policies. The report fails to

¹ *The Mujahedin-e Khalq: A Policy Conundrum*, by Jeremiah Goulka, Lydia Hansell, Elizabeth Wilke, and Judith Larson, RAND National Defense Research Institute, July 2009.

² *Id.*

include material evidence, misrepresents critical issues, contains biased and pejorative characterizations, and utilizes sources of dubious credibility.

The authors of the report conclude that the United States should encourage the government of Iraq to involuntarily deport (*refoule*) the entire population of Ashraf to Iran, in violation of international law and without making reference to the fact that membership in the organization is a longstanding capital crime in Iran and is likely a death warrant for those forced to return.

Following are the main conclusions from the analysis of the RAND report:

- **QUESTIONABLE EXPERIENCE** – The government-funded report on the MeK was assigned by RAND to authors with virtually no experience researching and writing about Iran. This decision is unconscionable given that the lives of 3,400 people at Camp Ashraf are at stake. Subject matter of this importance requires the very highest scholarship and objectivity by individuals having a deep historical background and a thorough, unbiased understanding of complex political issues.
- **PROPAGANDISTIC ATTACK** – More than half of the monograph focuses on delegitimizing the MeK by repeating long-discredited claims about its leadership and history. The report makes no effort to present a comprehensive understanding of the MeK or offer a balanced view on critical issues. The section on the MeK is essentially a political “hit piece” that could have been produced by the government of Iran.
- **CRITICAL MATERIALS ABSENT** – In presenting facts, analysis, and conclusions, the RAND authors omit material information, fail to present conflicting viewpoints, and exclude relevant and credible information readily available from two former U.S.

military commanders of Camp Ashraf that directly contradicts the main recommendations of the report.

- **DUBIOUS CITATIONS** – Numerous citations referred to in the report are highly biased and cite individuals known to be supporters of the Iranian government. Assertions are advanced without citations and many of the report’s findings are contradicted by publicly available mainstream news sources that the authors failed to present.
- **VIOLATES INTERNATIONAL LAW** – Recommendations presented in the monograph are in clear violation of international law.

SUMMARY – The RAND monograph is based on a deeply flawed “factual” foundation that undermines the credibility of its recommendations. The document is highly polemical and one-sided, violating RAND’s standard of “objective analysis.” The report urges the U.S. to engage in the breach of international law norms that the U.S. has vowed to uphold as a matter of its fundamental policy. In doing so, it posits conclusions that clearly endanger the lives of Camp Ashraf residents.

RECOMMENDATIONS – ExecutiveAction recommends RAND conduct an independent investigation to determine how the report on the MeK, which violates basic scholarship standards, could have been produced and distributed by the Corporation. RAND, which employs about 950 researchers, publishes hundreds of books, reports and articles that are distributed to senior executive branch officials, U.S. legislators, state and local decisionmakers, and private executives. RAND, in its preface to the MeK report, states, “All RAND monographs undergo rigorous peer review to ensure high standards for research quality and objectivity.” If RAND views its report on the MeK as legitimate scholarship by the Corporation, it calls into question the veracity of all its publications.

The U.S. Congress, in its oversight duties, has a fiduciary responsibility to ensure public funds are properly expended and not used to produce propagandistic reports. RAND's annual budget totals about \$225 million, of which about 78 percent derives from the U.S. government.³ ExecutiveAction recommends Members of Congress task the General Accountability Office to conduct an investigation of the report and to examine the processes in place at RAND Corporation to ensure its publications attain "high standards for research quality and objectivity."

Finally, ExecutiveAction urges the Secretary of Defense, which commissioned the report, to discount the misguided recommendations in the monograph and commission a new impartial study that includes authors with respected and appropriate expertise to properly address the issues in question regarding the MeK.

³ *Setting Politics Aside*, Annual Report, RAND Corporation, 2008.

I

The Authors

The RAND Corporation prides itself on producing high-quality research. It describes itself as a “research organization providing objective analysis and effective solutions that address the challenges facing the public and private sectors around the world.”⁴ Presumably, a prerequisite for producing respected research and authoritative recommendations is having knowledgeable experts who have substantial familiarity with the subject matter. But this does not appear to have been the case in the preparation of *The Mujahedin-e Khalq: A Policy Conundrum*.

The leading co-author, Jeremiah Goulka, is an attorney who joined RAND in June 2007 and is listed as an “Associate Behavioral/Social Scientist” and faculty member of the Frederick S. Pardee RAND Graduate School.⁵ Mr. Goulka graduated from the University of Chicago Law School in 2001. His prior work focuses on domestic policy concerns and there appears to be nothing in his background to suggest he has a comprehensive familiarity with Iran, the MeK, detainee affairs, or the Geneva Conventions. Other RAND publications co-authored by Mr. Goulka include *Transparency and the 9/11 Victims Compensation Fund*, *DVD Piracy and Organized Crime*, and *New Orleans Economic Development*.

⁴ RAND cover sheet, *The Mujahedin-e Khalq in Iraq: A Policy Conundrum*, by Jeremiah Goulka, Lydia Hansell, Elizabeth Wilke, and Judith Larson, RAND National Defense Research Institute, July 2009.

⁵ Mr. Goulka’s full biography can be found here: http://www.rand.org/about/people/g/goulka_jeremiah.html#civil_justice

The three other co-authors – Lydia Hansell, Elizabeth Wilke, and Judith Larson – are not listed on RAND’s website of professional staff researchers. Ms. Hansell was a graduate research assistant at the Center for Nonproliferation Studies in March 2005.⁶ She is listed as a co-author of three prior RAND publications: *Saudi-Iranian Relations Since the Fall of Saddam: Rivalry, Cooperation, and Implications for U.S. Policy*, *Recommended Infrastructure Standards for Mass Antibiotic Dispensing*, and *A Step Forward in Accountability for Public Health Emergency Preparedness: Developing Standards for Mass Antibiotic Dispensing*.

Elizabeth Wilke, according to RAND’s website, is a graduate student at the Frederick S. Pardee RAND Graduate School.⁷ She previously was a legal assistant at Skadden, Arps, Slate, Meagher & Flom LLP. She earned a B.A. in government and economics from the University of Texas at Austin.

Judith Larson has two publication credits at RAND: *Project AIR FORCE 1999 Annual Report* (2000) and *Future Career Management Systems for U.S. Military Officers* (1994). In the latter publication, Ms. Larson, who appears to be a generalist report editor, is one of 21 co-authors.

The information on the authors of the MeK report is presented not to impugn the reputations of these individuals, but merely to demonstrate that none of them have sufficient expertise and experience to authoritatively research and write a report on detainee affairs, let alone on the MeK and the complicated interplay between Iran, Iraq, and the United States on these issues.

The person who served as the key individual guiding the development of the report and its conclusions appears to have been James Dobbins, who serves as the Director of RAND’s International Security and Defense Policy Center, and who is listed as the point of contact for inquiries about the contents of

⁶ http://www.nti.org/e_research/e3_60c.html

⁷ <http://www.prgs.edu/students/dissertation.html#wilke>

the MeK report. He also is listed in the report contributing or commenting on the research that formed the basis of the monograph.

A review of Mr. Dobbins' biography on RAND's website suggests that while he has had a distinguished career in foreign policy – serving as Assistant Secretary of State for Europe, Special Advisor for the Balkans, and Ambassador to the European Community – he has limited experience in relation to Iran, except through his professional work during the past several years in Afghanistan and Iraq.⁸ Since 2001, when he served as a representative to the Afghan opposition forces before the fall of the Taliban, he has been supportive of Iran's role in the region and a vigorous advocate for direct engagement with Tehran.⁹

Of major concern is Mr. Dobbins' failure to disclose in the report his close association as a leading expert with the Campaign for a New U.S. Policy on Iran (CNAPI)¹⁰, an organization that advocates the repeal of U.S. government sanctions on Iran and engagement by Congress and the Administration with the government of Iran.¹¹

Why does this have any relevance to Mr. Dobbins' work on *The Mujahedin-e Khalq: A Policy Conundrum*? In sum, a central tenet of those who advocate for a policy of engagement with

⁸ Mr. Dobbins' full biography can be found here: http://www.rand.org/about/people/d/dobbins_james.html#expert_profile

⁹ See, e.g., "Testimony before House Committee on Oversight and Government Reform," Subcommittee on National Security and Foreign Affairs, November 7, 2007, available at: <http://oversight.house.gov/documents/20071107174706.pdf>, at 8 (stating Iran had made a "positive contribution" towards stability in Iran and suggesting its offer to help train Afghan troops was "promising in its overall implications").

¹⁰ Mr. Dobbins is listed as a CNAPI Expert here: <http://www.newiranpolicy.org/452/9801.html>.

¹¹ CNAPI's role as part of the "Iran lobby" in the United States is detailed in Clare Lopez, Center for Security Policy, *Rise of the Iran Lobby*, February 25, 2009, at 21.

Iran has been the destruction of the MeK and elimination of its members, who remain, as is detailed substantially in this paper, a top political concern of the government of Iran. In fact, a central reason for placing the MeK on the terrorism list in 1997 was to curry favor with the government of Iran in hopes of enhancing its engagement with the United States.¹²

Trita Parsi, President of the National Iranian American Council (NIAC), led efforts to create CNAPI. According to *The Spectator*, NIAC is the “de facto lobby” for the government of Iran in Washington:

It opposes sanctions on Iran, soft-pedals any controversial events in Iran, and counsels ‘patience’ regarding Iran’s stance towards its nuclear program. The NIAC has been at the forefront of lobbying against continued congressional funding of the Voice of America Persian Service, Radio Farda, and grants for Iranian civil society.¹³

Mr. Parsi has also been a leading and outspoken opponent of

¹² “US Designates 30 Groups as Terrorists,” LOS ANGELES TIMES, Oct. 9, 1997, citing an unnamed senior Clinton administration official, later identified to be the Assistant Secretary of State for Near East Affairs Martin Indyk.

¹³ “A Fifth Columnist by Presidential Appointment,” November 10, 2009, available at: <http://www.spectator.co.uk/melaniephillips/5526371/a-fifth-columnist-by-presidential-appointment.shtml>. Indeed, former FBI associate deputy director Oliver “Buck” Revell and former FBI special agent in counterterrorism Kenneth Piernick recently reviewed some of NIAC’s private documents that have come to light through discovery in a recent lawsuit and they say “e-mails between Mr. Parsi and Iran’s ambassador to the United Nations at the time, Javad Zarif – and an internal review of the Lobbying Disclosure Act – offer evidence that the group has operated as an undeclared lobby and may be guilty of violating tax laws, the Foreign Agents Registration Act and lobbying disclosure laws.” *Iran Advocacy Group Said to Skirt Lobby Rules*, WASHINGTON TIMES, November 13, 2009.

the MeK and has written more than 20 anti-MeK articles.¹⁴

Mr. Dobbins co-chaired a “Joint Experts’ Statement on Iran” released by NIAC on November 18, 2009.¹⁵ The introduction to the statement states “In this Joint Experts’ Statement on Iran, a group of top scholars, experts and diplomats – with years of experience studying and dealing with Iran – have come together to clear away some of the myths that have driven the failed policies of the past and to outline a factually-grounded . . . strategy.”¹⁶ Most of this Experts’ Statement, co-chaired by Mr. Dobbins, was taken from a document published one year earlier by Trita Parsi under his own name.¹⁷ Clare Lopez, who spent 20 years working for the CIA and authored *Rise of the Iran Lobby* for the Center for Security Policy said of the Experts’ Statement:

The entire publication might have been written in Tehran, so closely does it hew to the regime’s own propaganda. Its authors call into question the quality of their expertise by claiming that Iran is really not such a threat to U.S. interests, does not really want to “wipe Israel off the map,” does not actually mean [to acquire] nuclear weapons and is not ideologically motivated.¹⁸

While there is nothing inappropriate about holding views that promote engagement, the potential for bias must be put to the side, or otherwise declared, to ensure that a publication will be consistent with the RAND Corporation’s *Standards for High-Quality Research*. The *Standards* state unequivocally that “research should be objective, independent, and balanced.”¹⁹

¹⁴ See, e.g., “Deciding the Fate of the Mujahedin,” WASHINGTON TIMES, October 5, 2008.

¹⁵ See <http://www.expertsoniran.com/statement.pdf>

¹⁶ *Id.*

¹⁷ See http://www.niacouncil.org/images/PDF_files/seven%20myths%20about%20iran.pdf. A comparison between the two documents can be found here: <http://www.americanchronicle.com/articles/view/81956>

¹⁸ *Supra* note 11, at 22.

¹⁹ Available at: <http://www.rand.org/standards/>

The RAND Corporation's decision to use inexperienced authors and to fail to reveal the previous work and associations of the person who oversaw the production of this monograph would appear to constitute a major violation of its own *Standards*.

II

Scope of Study and Research Questions

Any assessment of *The Mujahedin-e Khalq: A Policy Conundrum* must begin with a clear understanding of the focus of the study, the research questions to be answered and how consistent the report is in responding to its articulated approach. According to the monograph:

Focus of This Study

The research reported here explores the circumstances surrounding the MeK's detention. It focuses in particular on whether MeK members were taken into custody and detained under the appropriate terms, the effects of their designation as 'protected persons' under the Fourth Geneva Convention, and options for relocating the MeK either within Iraq or in other countries. It discusses lessons that can be extracted from the MeK experience and used to prevent similar situations from occurring in the future. It also suggests actions that might be taken to solve the immediate problem of relocating MeK members now that the government of Iraq (GOI) has taken responsibility for the MeK pursuant to the status of forces agreement between the United States

and Iraq that took effect on January 1, 2009.²⁰

...

Research Questions . . .

[W]e developed six research questions that subsequently guided the study:

- Was the MeK taken into custody under the appropriate terms?
- What are the requirements of international humanitarian law, and particularly the Geneva Conventions, with respect to detainees? Have those requirements been observed in this case?
- What have been the effects of the protected-persons designation?
- Was the decision to consolidate the MeK at a single site a good one? Has the coalition's supervision of Camp Ashraf been effective?
- What are the options for releasing or relocating members of the MeK? What complications, if any, may affect the release/relocation process?
- What overarching lessons have been learned from the MeK experience that will be useful to future commanders of detainee operations, to combatant commanders, and to military planners?²¹

Based on this formulation of the focus of the study and the research questions posed, one might have expected the monograph to address these questions in substantial detail. Yet for purported reasons of “context,” a majority of the report – 50 of 92 pages of text – focuses on issues that appear substantially unrelated to the questions at hand.²²

²⁰ *Supra* note 1, at xii.

²¹ *Id.* at 7.

²² Specifically, for example, 35 pages of the 90-page report focus on a brief history of the MeK going back to 1965, alleged “cultic” characteristics of the organization, and a timeline of alleged MeK activities. And an

There appears to be no connection whatsoever between the monograph's lengthy exposition on the history and characteristics of the MeK and the six research questions that were supposed to be the focus of the policy conundrum.

Of particular concern is the demonizing description the authors present on the characterization of the group. From the very preface of the monograph, for example, the MeK is described as "an exiled Iranian cult dissident group," and this moniker is repeated over and over again. Indeed, the word "cult" appears 88 times in the report, averaging close to once per page. Such an approach in a supposedly objective study is reminiscent of how the government of China relates to the Falun Gong, where it never refers to the group without prefacing the name with the term "evil cult."²³ And it is certainly inconsistent with the RAND Corporation's admonition that its reports should be "temperate in tone," meaning "[i]t should sound neither so flat as to appear unengaged nor so emotional as to appear partisan."²⁴

More importantly, however, these various myths have been debunked in a series of exceptionally well-researched policy papers published by reputable think tanks, non-governmental organizations, and private sector companies that all worked independently from the MeK itself. Such reports include:

- *Iran: Foreign Policy Challenges and Choices: Empowering the Democratic Opposition*, DLA Piper & GlobalOptions Inc., November 2006 (226 pages).

additional 15 pages related to allegations of the MeK as a cult, skilled manipulators of public opinion, and not being treated by coalition forces as a terrorist organization.

²³ See, e.g., *Falun Gong: An Evil Cult*, Letter to the Editor, WASHINGTON POST, Jan. 10, 2000 (Minister-Counselor of the Chinese Embassy states "Facts have shown that Falun Gong is nothing but an evil cult that has all the inherent characteristics of a cult: worship of its leader, systematic mind control, spreading heretic ideas, amassing wealth, secret organization and endangering the society.")

²⁴ *Supra* note 19.

- *People's Mojahedin of Iran Mission Report*, Friends of a Free Iran Parliamentary Inter-Group, the European Parliament, September 25, 2005 (131 pages).
- *U.S. Policy Options for Iran and Iranian Political Opposition*, Iran Policy Committee, September 13, 2005 (50 pages).
- *Appeasing the Ayatollahs and Suppressing Democracy: U.S. Policy and the Iranian Opposition*, Iran Policy Committee, July 1, 2006 (100 pages).
- *Iran's Democratic Opposition, A Report on Ashraf City*, Friends of A Free Iran Parliamentary Inter-Group, the European Parliament, January 2009 (94 pages).

Despite having listed the first two sources in the bibliography of the report, the authors never cite to either report and fail to cite any of the strong primary evidence put forward in those publications that contradicts their own assertions and conclusions. These contradictions are extensive and the works cite to independent mainstream media publications, U.S. government officials, and even former commanders of the U.S. military personnel who worked in Camp Ashraf and commented publicly about their positive experiences with the MeK.

A cursory review of the five aforementioned publications will reveal that despite the purported certainty of the conclusions presented by the authors on the history and characteristics of the MeK, the foundation of evidence on which they are built crumbled long ago. Surfacing the strongest counterarguments to one's own conclusions and seriously addressing them is a prerequisite to the conduct of any credible research. While as noted previously, none of this information is remotely material to the focus of the study or research questions, this analysis provides substantial reason to delve into the core assumptions that are at the heart of the monograph's recommendations.

III

Flawed Foundational Evidence

Disregarding the non-objective evaluation of the MeK, it is appropriate to turn to the foundational arguments that provide the basis for the authors' conclusions and recommendations. The core claim at the heart of the authors' conclusion, which turns out to be wrong, is that the MeK engaged coalition forces during Operation Iraqi Freedom and, therefore, should have been classified as combatants under the Third Geneva Convention. The authors present the following information to support their conclusion.

In April 2003, after a brief period of conflict, the MeK requested a cease-fire (emphasis added).²

² The MeK leadership denies any allegations that MeK members attacked or defended themselves against coalition forces. The official histories of the U.S. Army and U.S. Army Special Forces both report that combat did occur between the MeK and coalition forces (D. Wright and Reese, 2008; Briscoe et al., 2006) (emphasis added).²⁵

[T]he MeK asserted it had not engaged coalition forces in combat, and many officers responsible

²⁵ *Id.* at xii.

for detaining the MeK accepted this claim, even though at least one special forces casualty had resulted from combat with the MeK (emphasis added).²⁶

...

Despite the MeK's statements to the contrary, both the official U.S. Army Special Forces history and the official U.S. Army history of OIF indicate that the MeK engaged coalition forces in battle, presenting a "formidable threat" and demonstrating "excellent fighting qualities." Nevertheless, on April 13, 2003, in the face of collapsing Iraqi forces, the MeK requested peace (emphasis added).²⁷

⁶ Briscoe et al., 2006, p. 234; D. Wright and Reese, 2008. It is worth noting that the belief of most coalition officers and officials whom we interviewed in Iraq and in the United States was that the MeK had not engaged coalition forces in battle. For instance, DOS (2006, p. 213) reported that the "MeK leadership ordered its members not to resist Coalition forces at the outset of [OIF]." If the official Army histories are correct, this prevailing belief is most likely due to the MeK leaders' messaging (emphasis added).²⁸

Based on these assertions the authors conclude that Secretary of Defense Donald Rumsfeld incorrectly designated members of the MeK as "protected persons" under the Fourth Geneva Convention rather than as "prisoners of war" under the Third Geneva Convention. The authors state the decision has "proven to be extremely controversial because it appeared that the United States chose to apply the Geneva Conventions to a

²⁶ *Id.* at xiii.

²⁷ *Id.* at xii.

²⁸ *Id.* at 10.

designated terrorist organization and, further, to grant it a special status.”²⁹

Given the critical nature of this allegation to their core argument that MeK members should be treated as prisoners of war and can be *refouled* to Iran, one would have expected the authors would have interviewed anyone who could be identified as having personal knowledge of what happened during the early days of the coalition invasion, examine relevant contemporaneous news reports, and request and review all relevant U.S. government documents. Whether the MeK did or did not engage coalition forces is a factual question that could be resolved in conversations with all identified individuals with knowledge of the situation, relevant documents, and the group itself.

Yet the RAND authors failed to conduct their own research and analysis and instead relied on brief passages in two lengthy books. Additionally, the authors contradict themselves in their own writing, which raises doubts about the certainty of their conclusion.

At the beginning of the RAND report, the authors assert “[i]n April 2003, after a brief period of conflict, the MeK requested a cease-fire.” This is a definitive and unequivocal statement. Yet later in a footnote the authors acknowledge that “most” coalition officers and soldiers they interviewed believed the MeK had not engaged coalition forces. And then the authors state “If the official Army histories are correct, this prevailing belief is most likely due to the MeK leaders’ messaging” (emphasis added). The authors later reaffirm this ambiguity by stating “[l]egally, if it is indeed true that the MeK engaged coalition forces in combat [then they would be appropriately classified as prisoners of war]” (emphasis added).³⁰ And in a still later footnote, they point out that one of these official histories actually gets some facts wrong about the MeK’s consolidation at Camp Ashraf, calling into question the

²⁹ *Id.* at xiv.

³⁰ *Id.* at 19.

veracity of claims regarding actions by the MeK.³¹

The collective phraseology by the authors is confusing and raises the prospect that it is possible that the official histories not only could be wrong, but were actually wrong in some respects. To try to bring clarity to the issue, it is necessary to examine the two sources cited by the authors.

Dr. Donald Wright's book makes a single reference to coalition forces fighting the MeK:

Supported by the Saddam regime because of its hostility to the Iranian Government, by 2003 the MeK had become an elite element in the Iraqi Army and had fought against Coalition forces in March and April of that year.³²

Dr. Wright does not provide a footnote to support this assertion. In his 700-page history, the MeK is mentioned only on three pages. While the statement is not dispositive of the actual events, the way it is referenced without sourcing suggests that it was included on the basis of second-hand information. When so much else in the book is, in fact, sourced, further investigation is required before accepting the assertion as fact.

The second source is a 500-page history of Army Special Operations Forces in Iraq. It provides substantially more detail about the MeK, though still only five pages of the entire book. In its account of MeK actions is the testimony of a number of U.S. soldiers, including Lt. Colonel Kenneth Tovo.

³¹ *Id.* at 12, fn. 13 (stating “The official Army history incorrectly states that consolidation at Camp Ashraf was a result of capitulation to special operations soldiers (D. Wright and Reese, 2008). The MeK never capitulated, and consolidation at Camp Ashraf was a result of this second agreement.”)

³² Wright, Donald P., and Timothy R. Reese, with the Contemporary Operations Study Team, *On Point II: The United States Army in Operation Iraqi Freedom, May 2003–January 2005: Transition to the New Campaign* (Combined Studies Institute Press, 2008), at 244.

None of the interviews are cited for the proposition that the MeK actually engaged in combat with coalition forces. Instead, without citation, the authors assert:

The formation pushed nearly a hundred kilometers south to liberate the town of Mandali from the last enemy unit to stand and fight – the Mujahedin-e Khalq . . . Its [MeK] excellent fighting qualities were clearly evident when members of AOB 090 first encountered the MeK's defenses in fighting around Jalula. FOB 103's only U.S. casualty in Operation Iraqi Freedom sustained his wounds from MeK artillery fire.³³

Given a number of citations in and around these paragraphs, it stands out as remarkable that there are no citations to these important propositions. At a minimum, it means the authors of the RAND monograph should have taken appropriate steps to review the record by: (1) contacting the authors of the book and asking them to point to actual sources that could be confirmed; (2) contacting the soldiers referenced in this section to interview them; or (3) otherwise listening to their recorded interviews to see if this question is addressed. They took none of these steps.

An actual look at the record suggests that not only was further investigation warranted, but it would have revealed information provided in these two books was, in fact, incorrect. Specifically:

- The MeK has never, in its 24-year presence in Iraq, had any bases, camps or forces in the town of Mandali. To assert that it was responsible for defending the town

³³ Briscoe, Charles H., Kenneth Finlayson, Robert W. Jones, Jr., Cheryl A. Walley, A. Dwayne Aaron, Michael R. Mullins, and James A. Schroder, *All Roads Lead to Baghdad: Army Special Operations in Iraq* (U.S. Army Special Operations Command History Office, 2006). This statement was not included in the RAND report.

during Operation Iraqi Freedom is inconsistent with its history.³⁴

- Camp Alavi was the nearest Camp to the town of Mandali, about 30 miles away. At the start of OIF, coalition forces began bombing the MeK camps, which continued until April 9, killing and wounding dozens of MeK members.³⁵ MeK forces were under strict orders not to retaliate and fled the Camps to protect themselves from the attacks. They dispersed in small units, taking positions in remote areas of the desert terrain. The closest unit to the town of Mandali was about 10 miles away. As with the other forces, its primary objective was to avoid being bombed and it did not engage coalition forces. To assert the MeK was responsible for defending Mandali during OIF is unsubstantiated by any evidence and is inconsistent with its history.³⁶
- The MeK forces at Jalula left Camp Anzali after coalition forces bombed the compound. Following the fall of Baghdad on April 9, and before U.S. military personnel from the north reached Jalula, the Camp was overrun by Kurdish forces. By the time the U.S. military reached the town, the MeK had already entered into negotiations with the Special Forces. As a testament to their non-belligerency, the MeK later accompanied the U.S. armored columns that traveled to

³⁴ It is difficult, if not impossible, to prove a negative (e.g., the MeK was not there). But the burden should be on the authors of this monograph or the book they cited to prove their assertions with citations to U.S. military personnel who allegedly witnessed these events. Presumably, intelligence collected from satellites or other sources would indicate the location and movement of MeK forces.

³⁵ Contemporaneous news reports confirm the bombing of the MeK camps. See, e.g., "U.S. Bombs Iranian Fighters on Iraqi Side of the Border," *WALL STREET JOURNAL*, April 17, 2003.

³⁶ Interview with Mohammad Mohaddessin, Chair, Foreign Affairs Committee, National Council of Resistance of Iran, September 2009.

Camp Anzali to collect the MeK's military equipment and property, most of which had been looted.³⁷

- At the start of OIF, public officials communicated with top government ministries to reaffirm the fact that MeK forces were not belligerents and urged they not be targeted. Lord Corbett of Castle Vale, Chairman of the British Parliamentary Committee for Iran Freedom, sent an urgent letter to Rt. Hon. Geoff Hoon at the British Ministry of Defense stating the MeK "is not involved in Iraqi internal affairs and that it is entirely independent of, and separate from, the Iraqi regime."³⁸ Tony Clarke, also a member of the House of Lords, sent a letter to Foreign Secretary Jack Straw on the same day, stating it was "of vital importance that the position of neutrality of the Iranian opposition movement based in Iraq is clearly recognized . . ."³⁹
- Lord Corbett provided a list of the MeK camps in Iraq and their location to the Ministry of Defense, seeking to exclude them from consideration of attack.⁴⁰ It is inconceivable the MeK would have freely disclosed the location of its forces in Iraq to top government officials in the UK had it actually been a belligerent and an ally of Saddam Hussein, preparing to engage coalition forces.
- Prior to the start of OIF, the MeK consolidated its forces into three camps: Ashraf, Alavi (in Mansouriya) and Anzali (in Jalula) in order to avoid any confrontation with coalition forces and Iranian military units amassed on its border. Mohammad Mohaddessin, Chairman of the Foreign Affairs Committee of the National Council

³⁷ *Id.*

³⁸ Letter from Lord Corbett to the Rt. Hon. Geoff Hoon MP, March 20, 2003. See Appendix A.

³⁹ Letter from Lord Clarke to Foreign Secretary Jack Straw, March 20, 2003. See Appendix A.

⁴⁰ *Supra* note 38.

of Resistance of Iran (NCRI), a coalition that includes the MeK, described events on the ground in Iraq prior to OIF: “From the summer of 2002 . . . the PMOI’s concentration became avoiding getting drawn into the forthcoming war. This included an intensive political and diplomatic campaign to communicate PMOI’s policy of neutrality to the Coalition, as well as the evacuation of four of its bases. . . .PMOI personnel were moved from these bases in the south to the north of the county, as the south was expected to be the frontline of the assault by the Coalition forces.”⁴¹

- The authors of the monograph (and of cited military histories) present no evidence to demonstrate that the shell causing the U.S. casualty actually came from the MeK. And it is indeed a forensic question worth examining whether a shell can be easily tied to an identifiable piece of artillery. Regardless, no evidence is presented from a casualty report or any witness about the origin of the attack. Given the consequences for the MeK members were this assertion to be accurate, it was incumbent upon the authors of the RAND report to investigate and prove its accuracy, particularly since they noted that the MeK insisted repeatedly it would not fire on coalition forces, even in self-defense.⁴²
- During the period when the MeK began handing over its weapons to U.S. forces, Captain Josh Felker, an Army spokesman said, “This is not a surrender, it’s a disarmament. The MeK was never fighting coalition forces” (emphasis added).⁴³
- The MeK assertion that it ordered its forces to not

⁴¹ Third Witness Statement to the Proscribed Organisations Appeal Commission (POAC), by Mohammad Mohaddessin, Chair, Foreign Affairs Committee, National Council of Resistance of Iran, July 27, 2007.

⁴² *Supra* note 1, at 10.

⁴³ Iranian Fighters Based in Iraq Begin to Disarm, LOS ANGELES TIMES, May 12, 2003.

engage coalition forces is supported by the U.S. State Department, which declared “The [MeK] leadership ordered its members not to resist Coalition forces at the outset of Operation Iraqi Freedom” and offered nothing to suggest the MeK had engaged coalition forces.⁴⁴

- U.S. State Department Deputy Spokesman Adam Ereli stated in a press briefing in 2004, “[W]e have determined that they [MeK] were not belligerents in this [OIF] conflict”⁴⁵
- Beyond the basic obligation of researchers to prove their key assertions that serve as the foundation of their argument, there is actually contemporaneous and critical evidence that casts serious doubt on the entire accusation of the MeK firing on coalition forces. Specifically, the *Local Ceasefire Agreement of Mutual Understanding and Coordination*, signed on April 15, 2003, by Lt. Colonel Kenneth Tovo, states in its preamble “NLA/PMOI [National Liberation Army/MeK] state that they have not fired even a single bullet against US/Coalition forces in this war because their only enemy is the religious dictatorship ruling Iran. NLA/PMOI also state they have never been involved in the war or any act of hostility with U.S./Coalition forces.”⁴⁶ The RAND authors of the monograph acknowledge in reference to the negotiation of the ceasefire that “[t]he MeK again insisted that it had not fired on coalition forces (despite at least one documented special forces casualty from MeK fire)”⁴⁷ But they fail to mention the key fact that this statement was actually written in as part of the ceasefire agreement. Why does this matter? If even one soldier had been hit

⁴⁴ *Country Reports on Terrorism*, U.S. Department of State (2005), at 213.

⁴⁵ U.S. State Department Daily Press Briefing, July 26, 2004, <http://2001-2009.state.gov/r/pa/prs/dpb/2004/34680.htm>.

⁴⁶ *Local Ceasefire Agreement of Mutual Understanding and Coordination*, April 15, 2003. See Appendix A.

⁴⁷ *Supra* note 1, at 11.

by MeK fire, surely Lt. Colonel Tovo would have been aware of it. This is especially true since the alleged casualty was the only injured person in the “fighting around Jalula” in Operation Iraqi Freedom.⁴⁸ If a soldier was wounded by the MeK, how could Lt. Colonel Tovo, as commander of the unit, fail to refer to this important incident in the ceasefire agreement or agree to include the MeK statement when he knew it to be false? Wouldn't there have been additional language stating that coalition forces disagreed about what had happened? Given the importance of this issue, the authors of the monograph had an obligation to conduct a primary investigation by speaking to Lt. Colonel Tovo himself. Lastly, the authors' comment stating there was “at least” one documented Special Forces casualty implies that there may have been additional casualties caused by the MeK, but without even a shred of evidence to support this assertion.

- There is also further and detailed evidence in the *Ceasefire Agreement* that directly contradicts the assertions in the two books. The agreement contains precise coordinates and locations of all MeK formations in the region at the time as well as attached maps showing where they were based. These two maps demonstrate that the MeK units were at least 10 miles away from the town of Mandali.⁴⁹
- Contemporaneous news reports also quote Mohammad Mohaddessin, as stating the United States had attacked the MeK even though it “had not fired a bullet at the coalition forces . . . These bombs were dropped as a result of the request of the Iranian regime.”⁵⁰ This statement in the *Wall Street Journal* was never disputed by the U.S. government.

⁴⁸ *Supra* note 33.

⁴⁹ *Supra* note 46.

⁵⁰ *Supra* note 35.

Given the substantial and contradictory evidence that undermines the assertion that the MeK fired on coalition forces and caused one U.S. casualty, it was incumbent upon the authors of the monograph to surface this information, investigate further, and explain why they did not find it persuasive if they sought to rely upon it as the foundation for their core conclusion. Their failure to do so was either a significant lapse in their research methodology or an attempt to give their conclusion an air of certainty.

Ultimately and predictably, given the countervailing evidence that they never surfaced or examined, the authors' conclusion is definitively discounted in a brief filed with the D.C. Circuit by Assistant Attorney General Tony West:

The designation in June 2004 confirmed that those individuals were deemed civilians, not enemy combatants, under the laws of war . . . the protected persons status simply means that the Commander of [c]oalition [f]orces in Iraq found that the [MeK] members in Camp Ashraf were not 'enemy combatants,' *i.e.*, 'they had not fought with the Iraqi army against [c]oalition [f]orces and had not subsequently engaged in any military operations against the occupying force' (emphasis added).⁵¹

Considering that Mr. West's brief was filed in the D.C. Circuit and that his statement is unhelpful to the U.S. position and more generally that the MeK should be maintained on the FTO list, it is reasonable to conclude the U.S. government's position is that the MeK did not engage coalition forces.

⁵¹ *On a Petition for Review of a Final Order of the Secretary of State*, Brief for Respondents, United States Court of Appeals, District of Columbia Circuit, Case No. 09-1059, October 23, 2009, at 31.

IV

Flawed Research and Analysis

The Mujahedin-e Khalq: A Policy Conundrum is riddled with dozens of material errors, references to long-discredited sources, and pejorative characterizations. Each of these types of errors will be addressed in turn.

To be relevant and efficient, the focus of this section and of this report more generally is to respond to allegations associated with the MeK since Operation Iraqi Freedom in 2003. Failure to address an allegation made in the monograph is not an acknowledgement that it is accurate, but rather reflects an editorial judgment that either it had been already definitely addressed in another credible publication or was of a lower priority than other issues addressed in this report.

Many of the excluded and material errors are myths that have been repeatedly and authoritatively refuted throughout the history of the MeK. Clear and fact-based rebuttals of these allegations, grounded in independent evidence, can be found in the five publications cited in Section II, but are not addressed in the RAND report.

A. Material Errors

1. Characteristics of MeK

*JIATF military members soon discovered that they were dealing with a cult.*⁵²

⁵² *Supra* note 1, at xviii.

As discussed previously, the authors of the monograph repeatedly mislabel the MeK as a “cult” and claim it is the position of the Joint Inter Agency Task Force (JIATF) as an institution in its experience protecting the MeK members at Camp Ashraf. The authors, for reasons unknown, fail to acknowledge in the report any of the highly contradictory evidence that includes publicly released statements of two former JIATF commanders and a detailed report published by the independent group Friends of a Free Iran (a group of European parliamentarians). These statements and reports are included in documents listed in the monograph’s bibliography.

The failure to present the evidence creates the uncomfortable impression that the authors chose to omit the material because it contradicted their predetermined conclusion. The exclusion of material evidence is a clear breach of RAND’s *Standards for High-Quality Research*, which states that “research should be objective, independent, and balanced.”⁵³

The mislabeling of the MeK as a cult was addressed by Brigadier General David Phillips, then a Colonel and the 89th MP Commander who served in Ashraf from January through December 2004. In response to a report issued by Human Rights Watch reasserting the longstanding cult accusations, he wrote a detailed reply:

Over the year-long period I was apprised of numerous reports of torture, concealed weapons, and people being held against their will by the leadership of the [MeK]. I directed my subordinate units to investigate each allegation. In many cases I personally led inspection teams on unannounced visits . . . where the alleged abuses were reported to occur. At no time over the 12 month period did we ever discover any credible evidence supporting the allegations raised in your recent report. I would not have

⁵³ Available at: <http://www.rand.org/standards/>

tolerated the abuses in your report nor would I have sanctioned any acts on the part of the [MeK] to hold people against their will. Each report of torture, kidnapping, and psychological deprivation turned out to be unsubstantiated. The [MeK] in fact notified us on a routine basis of people who desired to leave the organization and then transported them to our gate . . .

I believe that your recent report was based on unsubstantiated information from individuals without firsthand information or for reasons of personal gain. I personally spent a year of my life in Iraq with the responsibility for Camp Ashraf. I have very extensive firsthand knowledge of the [MeK] and the operations at Camp Ashraf. My comments are based on a full year of on location experience . . .

Thank you for taking the time to read my comments as your report was a direct affront to the professionalism of my units . . .⁵⁴

This view is further substantiated by JIATF commander Lt. Colonel Julie Norman, who served in that capacity from September 2005 through August 2006. In her Memorandum for Record, she stated:

The MeK has been very cooperative in facilitating International Organizations requests for family contact and JIATF's visits with these individuals . . . There exists no prison or any obligation to stay in Ashraf; everyone is free to leave [MeK] anytime he or she wishes to. To safeguard security and risk information of Ashraf residents and their families in Iran, those

⁵⁴ *Iran: Foreign Policy Challenges and Choices: Empowering the Democratic Opposition*, DLA Piper Rudnick Gray Cary US LLP & GlobalOptions Inc., February 2006, at 106-107.

who leave [MeK] and wish to go directly to Iran will be kept in TIPF for at least three weeks prior to their departure⁵⁵

The *Mission Report of Friends of Free a Iran*, a group of European parliamentarians, also refuted the allegations of abuse. In his introduction to the report, Alejo Vidal-Quadras Roca, Vice President of the European Parliament, stated the following:

We at the European Parliament decided to conduct a full investigation into the alleged human rights violations by the [MeK] contained in HRW report. To this end, unlike HRW [Human Rights Watch], which relied only on 12 hours of telephone interviews with 12 suspicious individuals, we felt obliged to conduct a comprehensive study to fully address every aspect of this issue. In addition to extensive research, a delegation of MEPs visited Camp Ashraf in Iraq, held face-to-face private interviews with [MeK] members and officials. It also conducted impromptu inspections of the sites of alleged abuses. We found the allegations contained in HRW report unfounded and devoid of any truth. We also came to the conclusion that HRW report was procedurally flawed and substantively inaccurate. Moreover, in the course of our study we became aware of an elaborate and complex misinformation campaign by Iran's Ministry of Intelligence and Security (MOIS), against MeK.⁵⁶

⁵⁵ *Id.* at 103-104.

⁵⁶ *People's Mojahedin of Iran Mission Report*, FRIENDS OF A FREE IRAN Parliamentary Inter-Group, The European Parliament, September 25, 2005, at 4-5.

Additionally, JIATF Deputy Commander Darrell Martin was complimentary of the MeK and made no mention of any issues that could be associated with being an alleged “cult.” “Over the past several months JIATF has seen an increase in the number of ‘family contact’ request from the ICRC,” he wrote in a Memorandum for Record, “and the PMOI have been very cooperative in facilitating JIATF’s visits with these individuals.”⁵⁷

There is also evidence from non-governmental sources that discuss the daily activities at Ashraf. Colonel Gary Morsch, President of Heart to Heart International, a “relief and development organization that specializes in volunteer action and worldwide humanitarian assistance to alleviate human suffering,”⁵⁸ as well as an emergency room physician at Ashraf, wrote:

Before I was assigned to Camp Ashraf, I had never heard of Ashraf or of the PMOI/MeK. So I came to Ashraf with an open mind . . . I asked for and was given free access, unannounced, to visit any part of Ashraf. I took advantage and visited their two hospitals, factories, housing units, schools, sports facilities, training facilities, cultural facilities, etc. I got to know the people of Ashraf and the problems they faced . . . As I left Iraq for home, it struck me that these people are playing a major role in creating stability in Iraq and contributing to the safety of American forces, both in the intelligence they are gathering, and the goodwill they are creating among the Shia and Sunnis.”⁵⁹

Given these statements by highly authoritative sources, how is

⁵⁷ Memorandum for Record, JIATF Deputy Commander Darrell Martin, June 4, 2006. See Appendix A.

⁵⁸ <http://www.hearttoheart.org/>

⁵⁹ “U.S. Faces Humanitarian Crisis in Iraq,” HUMAN EVENTS, September 25, 2005.

it possible for the RAND authors to have concluded “JIATF military members soon discovered that they were dealing with a cult”? At a bare minimum, any basic objectivity would have required the authors to have reported that their conclusion is disputed by a former JIATF commander and a former MP Brigade commander responsible for the protection of Ashraf, let alone an independent group of European parliamentarians, and a humanitarian organization to explain why their conclusion was nevertheless still accurate.

[A] significant, indeterminate portion of the MeK rank and file in Iraq were at Camp Ashraf only because of the MeK's fraudulent recruiting practices.⁶⁰

The authors claim the MeK had offered employment, land, spouses, etc. to attract new members, but never made good on their promises and thus the “recruiting practices” are fraudulent. No sources are provided by the authors to support the assertion.

The MeK is an all volunteer resistance movement and does not offer to hire workers or provide spouses. Nor has it promised asylum in a European country to new recruits – an assertion that defies logic given the extreme difficulty for MeK members to even travel to Europe given FTO sanctions, much less provide asylum.

The allegations are part of a misinformation campaign orchestrated by the government of Iran. Lord Avebury, then Chairman of the British Parliamentary Human Rights Group, discussed the tactics employed by Iran to discredit the MeK and other groups in his book, *Iran: State of Terror*:

Another method [of Iran] is using the small number of defectors who had at one stage cooperated with opposition organizations and individuals. These persons, due to their low or

⁶⁰ *Supra* note 1, at xvi.

non-existent motivation to continue the struggle and maintain principles, allowed themselves to be bought by the Iranian regime at a later stage... [T]hey prepare the political grounds for the murders of the dissidents by spreading propaganda against the individuals or organizations they had previously cooperated with, defaming them and accusing them of being worse than the ruling regime.⁶¹

The RAND authors appear to accept at face value the allegations of fraudulent recruiting practices by the MeK, seemingly unaware of Iran's extensive propaganda campaign.

The authors also fail to explain that if people are living at Camp Ashraf as a result of fraudulent recruiting practices, while stating "[m]any MeK members requested coalition assistance to leave the group," then why wouldn't all of those individuals who claimed to have previously been there under duress have long since left the group?⁶²

All MeK members have been interviewed and screened privately by several U.S. agencies. In fact, from 2003 until 2009, the U.S. conducted an annual census at Ashraf. Additionally, diplomats from several countries, including the United Kingdom, Denmark, Canada, Australia, and Pakistan interviewed MeK members who were citizens or held refugee documents from those countries. Representatives of the International Committee of the Red Cross (ICRC) also visited Camp Ashraf, most recently in August 2008 when they met privately with hundreds of MeK members.

In these meetings and encounters, MeK members had an opportunity to state their desire to leave Camp Ashraf. In April 2009, Iraqi authorities also conducted private interviews with all residents outside the Camp's perimeter yet just six

⁶¹ *Iran: State of Terror*, Lord Eric Avebury, Chair, British Parliamentary Human Rights Group, June 1996.

⁶² *Supra* note 1, at 5.

residents out of 3,416 members chose to leave.⁶³

“They [alleged former Iranian prisoners of the Iran-Iraq war now part of the MeK] reported that the ICRC had visited MeK camps prior to OIF, but the MeK leadership had frustrated the ICRC’s efforts to facilitate their repatriation and reestablish family links.”⁶⁴

This assertion is inaccurate and without any foundation. In the aftermath of the Persian Gulf War in 1991, the International Committee of the Red Cross (ICRC) facilitated the repatriation of prisoners of war from Iraq, Iran, Kuwait and other Gulf nations. Some Iranian prisoners rather than return home stayed in Iraq and joined the MeK.

In 1992, the ICRC interviewed 591 Iranian prisoners who had elected to remain in Iraq with the MeK to ensure they had been properly adjudicated. Following the interviews, the ICRC stated in an official memorandum:

On 19th August 1992, the ICRC Delegation in Baghdad has carried out a visit to 591 former Iranian POWs or Iranian servicemen now with the People’s Moujahedin Organisation of Iran (PMOI) at Khaless (Iraq). During the visit, the ICRC Delegation would interview without witness the 591 Iranian nationals in order to establish their identity and to ascertain whether or not they wished to be repatriated to their country of origin. None of the 591 persons met

⁶³ “Following private interviews by Iraqi authorities with 2,600 Ashraf residents, 99.8 percent declared Ashraf is their only choice,” Press Release, National Council of Resistance of Iran, April 16, 2009. <http://nrc-iran.org/content/view/6242/154/>

⁶⁴ *Supra* note 1, at 31.

during the visit wished to be repatriated.”⁶⁵

The ICRC reaffirmed its earlier decision in a letter from its Head of Middle East and North Africa Operations to the National Council of Resistance of Iran (NCRI) on June 10, 2005:

As mentioned to you, the International Committee of the Red Cross (ICRC) no longer considers the persons of question as prisoners of war (POWs). The decision is based on a policy decision taken in 1992. It is moreover reinforced by our legal interpretation of the situation.⁶⁶

The former Iranian POWs again were interviewed in 2005, this time by the JIATF to determine if they wanted to be repatriated to Iran. The interviews were conducted at a neutral location without a witness from either the Iraqi government or MeK personnel.⁶⁷ There is no evidence that any of the POWs sought to return to Iran.

There is also no evidence to support the assertion that the MeK frustrated the ICRC's efforts to facilitate their repatriation and reestablish family links. The government of Iran appears to be the source of the accusation as a means to identify the MeK members. From October 2006 to April 2007, the JIATF received numerous requests from the ICRC to interview Ashraf residents, which were subsequently conducted. In a 2006 Memorandum for Record, Major Jamica Powell discussed the ICRC requests for interviews, stating the “PMOI has been cooperative in facilitating our meetings with the individuals.” Additionally, he stated the MeK members had “expressed

⁶⁵ International Committee of the Red Cross, letter to Ministry of Foreign Affairs of the Republic of Iraq, September 16, 1992. See Appendix A.

⁶⁶ Letter from George Comminos, Head of Middle East and North Africa Operations of the ICRC, to the National Council of Resistance of Iran, June 10, 2005. See Appendix A.

⁶⁷ Letter by Maj. Gen. William H. Brandenburg, Deputy Commander General of MNF-1, to Ms. Mojgan Parsai, MeK's Secretary General, June 25, 2005. See Appendix A.

concerns that the ICRC interview requests are a result of pressure applied by the Iranian Regime on their families in an effort to identify and locate PMOI members.”⁶⁸

2. Actions Wrongly Attributed to the MeK

The authors repeatedly present factual errors in their discussion of the MeK’s history. While much of the information pertains to matters that are of no direct relevance to their stated research questions, three of the most erroneous assertions are examined here for purposes of illustrating the flaws in their basic research.

*Since 1997, the MeK has been listed as a foreign terrorist organization (FTO) by the United States . . . particularly due to the assassinations of three U.S. Army officers and three U.S. civilian contractors in Tehran during the 1970s, which were attributed to the MeK.*⁶⁹

DLA Piper, a global law firm, and GlobalOptions Inc., a national security firm, investigated these allegations in detail, going back to contemporaneous news reports, reviewing files available from Freedom of Information Act requests, and speaking to U.S. intelligence officials who were based in Iran at the time (1973, 1975, and 1976).

The investigation revealed that in February 1972, the three founders of the MeK, its 12 Central Committee Members, and dozens of other members were arrested. By the end of 1972, over 95 percent of its members, including every top leader, was executed or imprisoned. The MeK as it had been organized ceased to exist. The remaining members who were not arrested were disconnected from each other and were not

⁶⁸ Memorandum for Record, ICRC Visits from October 2006-April 2007, by Major Jamica Powell, Deputy Commander, JIATF, April 16, 2007. See Appendix A.

⁶⁹ *Supra* note 1, at xi.

deemed important enough by the Iranian intelligence to detain. A small group of radical Marxists, including some of those individuals, usurped the name of the organization, changed its logo and motto, and then carried out the attacks on the Americans. By 1976, the group had formally changed its name to Peykar. And by the end of that year, every person who had any involvement in the attacks had been killed by Iranian intelligence.

To be clear, this description of events is not merely the view of the researchers who had no connection to the MeK. The researchers surfaced a letter sent in 1992 by a State Department official to the then Chairman of the House International Relations Committee Lee Hamilton that stated “[i]t is true that some of the assassinations were carried out by avowedly Marxist members of the organization, who . . . split from the ‘Muslim’ wing”⁷⁰

This view is echoed by Ervand Abrahamian, who the authors rely heavily upon for their history of the MeK. There is not a shred of evidence that when the MeK was reconstituted upon the release of Massoud Rajavi from prison in 1979 that he or any of the other members of the re-formed MeK had anything to do – directly or indirectly – with the killing of these six Americans. Thus, it defies logic to blame the former or current group for these actions.⁷¹

The response of the RAND authors to these substantive evidentiary questions is to merely provide a footnote that says the “MeK alleges that these Americans had been assassinated by members of an MeK splinter group.”⁷² Not only does this statement mislead the reader into thinking the allegation is

⁷⁰ Letter to Chairman Lee Hamilton, Subcommittee on Europe and the Middle East, from Janet Mullins, Assistant Secretary, Legislative Affairs, U.S. Department of State, April 2, 1992.

⁷¹ *Iran: Foreign Policy Challenges and Choices: Empowering the Democratic Opposition*, DLA Piper Rudnick Gray Cary US LLP & GlobalOptions Inc., February 2006, at 86-90, 120-127.

⁷² *Supra* note 1, at 56. n.5.

fact (e.g., any objective reader would likely dismiss a self-serving statement by the group itself), but it ignores persuasive evidence from an independent U.S. government source as well as their own source cited in their bibliography.

The authors also ignore other critical information regarding the placement of the MeK on the Foreign Terrorist Organizations list in 1997. According to a Clinton Administration official, the designation was highly political and designed to curry favor with the government of Iran.

One senior Clinton administration official said inclusion of the People's Mujahedin [on the FTO list] was intended as a goodwill gesture to Tehran and its newly elected moderate president, Mohammad Khatami.⁷³

This is not the only instance in which the MeK has been mistreated in order to seek favor with the government of Iran. The State Department first attacked the MeK in 1985 as a condition to gaining its help in freeing American hostages. Since then, officials in the United States and France have repeatedly acted against the MeK and NCRI in hope of gaining concessions from Tehran.⁷⁴

After Khomeini forced Banisadr out of office in 1981, the MeK launched violent attacks against IRP [Islamic Republican Party] targets, the largest of which – the bombing of the IRP's Tehran headquarters, killed more than 70 members of the leadership.⁷⁵

The MeK has long denied it placed the bomb that caused this

⁷³ "U.S. Designates 30 Groups as Terrorists," LOS ANGELES TIMES, October 9, 1997.

⁷⁴ *Supra* note 54, see chapter "Goodwill Gestures to Iran" for a list of actions against the MeK and NCRI by the U.S. and France to curry favor with Iran.

⁷⁵ *Supra* note 1, at 2.

explosion. The official *Pars News Agency* reported that a note was found in the wreckage saying “This is the first gift of *Forghan*.”⁷⁶ After the attack, “several government officials issued statements blaming the leftist Mujahedeen Khalq . . . and the Fedayeen Khalq”⁷⁷

There was speculation that the armed forces might have been involved because of the way it was carried out.⁷⁸ *Time Magazine* explained “[i]t was possible that the government was simply trying to discredit the Mujahedeen, which potentially offers the mullahs their strongest opposition.”⁷⁹

For three hours after the attack, the government cut communications to the outside world, reportedly in fear a coup d'état was underway. “The Army, according to this theory, was paving the way for a coup by eliminating Khomeini men on the Defense Council, and . . . the bombing was to be the coup de grace.”⁸⁰

In a June 2009 interview, former Iranian President Abol Hassan Banisadr pointed to the Iranian Army or the Islamic Revolutionary Guards as the source of the attack:

At the time [of the explosion], I was at the home of martyr Laghai. That night, I heard the sound of the explosion . . . Two representatives of the Mujahedin-e Khalq came to see me [the next morning]. I asked them whether they had done it. They said no, we had nothing to do with it. I also asked the Army headquarters, with which I still had contact . . . They said this was a sophisticated military operation, which could

⁷⁶ “33 High Iranian Officials Die at Party Meeting,” *NEW YORK TIMES*, June 29, 1981.

⁷⁷ “Clergy Vows Vengeance for Bombing,” *ASSOCIATED PRESS*, June 29, 1981.

⁷⁸ “Khomeini Appoints New Chief Justice; Bombing Toll is 72,” *NEW YORK TIMES*, June 30, 1981.

⁷⁹ “Lurching Bloodily Onward,” *TIME MAGAZINE*, July 13, 1981.

⁸⁰ *Id.*

only have been carried out by the Army or the Islamic Revolutionary Guards Corps.⁸¹

The RAND authors repeat the allegations of the government of Iran that the MeK was behind the attack without any reference. They then fail to include in the report the MeK denial and contemporaneous independent news reports that point to other rebel groups and the military as possible sources of the attack. No evidence is provided to back up the allegation other than a general reference to Ervand Abrahamian's book. While the publication provides good background on the MeK, it contains numerous factual errors. Given RAND's reputation for high-quality scholarship, it is reasonable to suggest that its researchers had an obligation to ensure that sources cited for key propositions were, in fact, accurate. Numerous other studies, including several mentioned previously and included in the bibliography, provide additional pertinent information, but the authors nevertheless chose to ignore it in violation of RAND's standard to provide "objective, independent, and balanced" research.

Why this issue is presented in the report in the first place is questionable since it has nothing to do with RAND's stated research questions. The effort would appear to be an attempt to bias readers against the MeK, in the same way they mislabel the group as a Marxist cult.

Of particular modern significance was another June 1981 MeK bombing that critically injured the IRP's present-day supreme leader, Ayatollah Ali Khamenei, permanently limiting his use of his right arm.⁸²

⁸¹ Abol Hassan Banisadr, interview, HIS website, June 29, 2009, <http://www.iranianuk.com/list.php?search=%D8%A8%D9%86%D9%8A+%D8%B5%D8%AF%D8%B1&list=0&Submit=%D8%AC%D8%B3%D8%AA%D8%AC%D9%88>

⁸² *Supra* note 1, at 57.

Several days before the IRP headquarters attack, Ayatollah Khamenei was injured when a bomb hidden in a tape recorder exploded near his microphone at a mosque in Tehran. Those responsible for the attack remain uncertain, contrary to the assertion made by the RAND researchers. Soon after the bombing, "Iran's official media blamed leftist groups and the shadowy Forghan organization, which opposes the involvement of the clergy in politics."⁸³ The *Pars News Agency* quoted an unidentified witness as saying the remains of the booby-trapped cassette tape recorder "indicate that this action has been the work of the Forghan group."⁸⁴ But according to sources in Tehran who were contacted by The Associated Press, the "government was not sure whether the bombers were leftists or royalists."⁸⁵

3. Mislabeled of the MeK

*The United States designated the MeK . . . a belligerent enemy force in OIF in 2003.*⁸⁶

The authors do not provide a citation for this assertion and imply it was a formal designation. Furthermore, contemporaneous news reports make very clear that even if the MeK was viewed as a professional army of concern, the motivation for U.S. forces attacking the MeK had little if anything to do with it being a belligerent. Prior to the bombings, the government of Iran encouraged the U.S. to attack the MeK bases in Iraq in the event military action was taken against the country.

Mohsen Rezaii, Secretary of the State Exigency Council and former Commander in Chief of the Islamic Revolutionary Guards Corps (IRGC), stated:

⁸³ "Bombing Is Blow to Stabilization," ASSOCIATED PRESS, June 29, 1981.

⁸⁴ "Exploding Tape Recorder Wounds Imam," ASSOCIATED PRESS, June 27, 1981.

⁸⁵ *Id.*

⁸⁶ *Supra* note 1, at iii.

If the Americans spare the Mojahedin's bases in Iraq during their general attack on Iraq, then it shows a clear bias in their approach towards terrorism, a bias which would further worsen their past record against the Iranian people. On the other hand, if the Americans attack the Mojahedin bases, this would in turn be considered as a goodwill gesture towards us.⁸⁷

After the U.S. attacks on the bases, the *Wall Street Journal* reported:

In a move to persuade Iran not to meddle in Iraq, U.S. forces have bombed the camps of Iranian opposition fighters on the Iraqi side of the border and have reached a surrender agreement with the group's remaining fighters, U.S. officials said.

The dismantling of the Iranian opposition force in Iraq, known as the Mujahedin-e Khalq, or MeK, fulfills a private U.S. assurance conveyed to Iranian officials before the start of hostilities that the group would be targeted by British and American forces if Iran stayed out of the fight, according to U.S. officials. The effort was part of broader strategy aimed at reassuring Tehran that the war in neighboring Iraq held out the prospect of benefits, the officials said.

Eliminating the MeK's Iraqi base of operations, from which the group has mounted hit-and-run operations along the border and violent terrorist attacks in Tehran for decades, has long been a major Iranian goal.⁸⁸

⁸⁷ Interview in August 6, 2002, quoted in a letter from the National Council of Resistance of Iran to then Secretary of State Colin Powell, February 4, 2003.

⁸⁸ *Supra* note 35.

At a minimum, it was fundamentally unfair for the authors to merely state and repeat that the MeK was a belligerent force without noting that the U.S. officials themselves had at least partially explained their justification for attacking MeK positions as being related to keeping Iran out of Operation Iraqi Freedom. This is yet another example of the authors violating RAND's *Standards for High-Quality Research* by omitting critical information.

Because the MeK was a belligerent that operated with Iraqi forces but was also a nonstate actor and a designated FTO, staff lawyers for Combined Joint Task Force 7 (CJTF-7) were not sure whether the Geneva Conventions should apply to its members or if they should be considered 'unlawful' or 'illegal' combatants.⁸⁹

First, there is no substantiated evidence to support the claim that the MeK was a belligerent fighting alongside Saddam Hussein against the coalition forces. To the contrary, there is ample evidence that the MeK was keen to avoid all confrontation with coalition forces, as well as Iranian forces that crossed into Iraqi territory to attack the MeK, which is well documented.

As previously discussed, Lord Corbett, Chairman of the British Parliamentary Committee for Iran Freedom, and Lord Clarke alerted the Ministry of Defense and the Foreign and Commonwealth Office to the MeK's position of neutrality and sought to prevent attacks against them by the coalition forces. Lord Corbett also provided a list of MeK camps in Iraq and their specific locations to the Ministry – information highly detrimental to the MeK's security had they in fact been a belligerent.

Despite suffering casualties from coalition bombings, the MeK leadership ordered its members to not resist coalition forces.

⁸⁹ *Supra* note 1, at 13.

Beyond the citations in the RAND report, which are not validated, there is no evidence to suggest the MeK ever operated with Iraqi forces or took belligerent actions against coalition forces during OIF.

Second, it is not surprising that the staff lawyers for the Combined Joint Task Force 7 (CJTF-7) may have expressed uncertainty about the designation of the MeK as “protected persons” or “unlawful” or “illegal” combatants given the complexity of the issues and the extensive misinformation campaign directed against the MeK by the Iranian government and its operatives prior to OIF.

The CJTF-7 formed a review board called JIATF-Ashraf (MeK Review Board) to collect detailed information on the identities of each MeK member to determine if they should be “detained or classified as eligible for release.” The 16-month assessment involved about 70 professionals from the DoD, CIA, FBI, Department of Justice, and Department of Homeland Security. The Board concluded that “nearly all were classified ‘release-eligible’” and “nearly no MeK members presented a threat sufficient to justify detention.”⁹⁰

Given that almost all MeK members were determined to be little or no threat to the U.S. and classified “release-eligible,” yet are still considered members of a terrorist organization is, indeed, perplexing and calls into question the validity of the FTO designation. And the MeK’s non-belligerency and the fact that it was not a military ally of Saddam Hussein and did not operate with his forces, but remained neutral, invalidates assertions that MeK members should have been considered as prisoners of war.

4. Risks for MeK Members if Returned to Iran

Coalition forces provided protection to prevent the Iraqi government from expelling MeK members to Iran, even though Iran had

⁹⁰ *Supra* note 1, at 1

***granted the MeK rank and file amnesty from prosecution.*⁹¹**

Coalition forces provided protection from expulsion because MeK members had been designated as “protected persons” under the Fourth Geneva Convention. Article 49 states: “Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory . . . to that of any other country, occupied or not, are prohibited, regardless of their motive.”

Considering this designation, any statements concerning “amnesty” by the government of Iran are irrelevant. In fact, it is a major, material omission that the authors fail to note that such a decision would be a flagrant violation of international law. Even more troubling is that the authors imply the government of Iran could be trusted with regard to its treatment of involuntarily repatriated members of the MeK.

The authors completely ignore the long history of brutality by the government of Iran against the MeK. More than 100,000 MeK members and sympathizers have been murdered by the Iranian regime, including 30,000 during a five-month period in 1988. Amnesty International described the massacre as a crime against humanity.

Between 27 July 1988 and the end of that year, thousands of political prisoners, including prisoners of conscience, were executed in prisons nationwide. The vast majority were sentenced to death after summary trials or brief interviews. The executions were authorized at the highest level of the Iranian leadership and were supposed to tackle the perceived threat from armed opposition groups, in particular the People’s Mojahedin of Iran and the *Fedayan-e Khalq*. Amnesty believes these executions

⁹¹ *Supra* note 1, at xi.

amount to a crime against humanity.⁹²

The Iranian law criminalizing membership in the MeK and providing it as a capital offense remains in force. According to Article 186 of the Iranian “Islamic Punishment Act” (1997), “all members and supporters” of the MeK “who in one way or the other are effectively involved in advancing its aims” are “*Mohareb*,” which is to say guilty of waging war on God. Article 190 of that Act establishes that the punishment for *Mohareb* is “killing, hanging, amputation of the right hand and then the left leg, or internal exile.” A “religious judge” determines which punishment to apply.⁹³

The government of Iran has a long history urging the *refoulement* of both the leaders and rank and file members of the MeK to Iran to face “justice” and destruction. As examples:

- Iranian Ambassador to Iraq Hassan Kazemi Qomi said “[w]e had asked the Iraqi Governing Council in 2003 to expel the terrorist Mojahedin from that country. We are insisting on that demand.”⁹⁴ He later added “an Iraqi committee has been formed to expel the . . . [MeK] from the country.”⁹⁵
- A top Majlis deputy, Moussa Ghorbani, told *Fars News Agency* “[i]n light of the groundwork that has been laid, the least the Iraqi government must do is turn over the

⁹² *Fear of Ill-treatment/possible prisoner of conscience*, Public AI Index: MDE 13/128/2007, Amnesty International, November 2, 2007, <http://www.amnesty.org/en/library/asset/MDE13/128/2007/en/d6ea449a-d359-11dd-a329-2f46302a8cc6/mde131282007en.pdf>

⁹³ *Collection of Islamic Punishment*, Office of the State Laws and Regulations, Government Punishments and Fight Against Narcotics (Javidan Publishers, Summer 2007).

⁹⁴ “SOFA Not Favoring Iraqi Nation, Mojahedin Must Be Expelled,” MEHR NEWS AGENCY, Jun. 26, 2008.

⁹⁵ These comments were reported on July 10, 2008, on Press TV, an English-language news agency of the Iranian regime.

Monafeqin (MeK) leaders to the Islamic Republic.”⁹⁶

- Parviz Sarvari, a member of Iran’s National Security Commission, emphasized that the regime must make every effort “for the extradition of these leaders,” adding “[w]e must insist from the Government of Iraq that this action be taken [and] they be turned over to Iran for prosecution.”⁹⁷
- Nabi Rudaki, another Majlis deputy, called on the al-Maliki government to “reduce the six-month time period [in which they may leave] and order the Iraqi judicial system to clarify the situation of those remaining, so that the people of Iraq might once again see calm and such groups be wiped off the face of the earth.”⁹⁸
- Javad Karimi, a Majlis representative who serves on the National Security and Foreign Policy Committee said that Iran and Iraq have agreed on the expulsion of the MeK from Iraq: “The Iraqi president, prime minister, and parliament have repeatedly insisted on this point.”⁹⁹

For the authors to have failed to cite to the law criminalizing membership in the MeK and providing for the death penalty is a significant material omission. It is also a major failing of the authors to accept at face value the Iranian offer of amnesty without an examination of the lengthy and highly disturbing record of public statements by Iranian government officials and their history of failing to abide by prior agreements, as well as their history of violence against the MeK.

To date, there is no evidence that any MeK

⁹⁶ “Islamic Republic Sharpens Its Fangs for Slaughter and Torture of Members of Ashraf Base,” ROSSHANGARI, Sept. 5, 2008.

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ “Iran and Iraq Have Diplomatically Agreed on MKO Expulsion: MP,” TEHRAN TIMES, Sept. 9, 2008.

members who were repatriated to Iran through the ICRC have been persecuted or tortured.¹⁰⁰

The former MeK members who have been repatriated to Iran all returned voluntarily. Before doing so, however, they not only disavowed membership in the MeK, but also denounced the organization and began to cooperate with Iran's Ministry of Intelligence and Security (MOIS) prior to returning to Iran.

Additionally, just because there is no evidence the repatriated MeK members have yet been mistreated does not mean other members of the MeK involuntarily repatriated to Iran will not be persecuted or tortured, especially given the government's record of lies and brutality.

It would be exceptionally unwise for the government to mistreat those who have returned voluntarily, given that it seeks the repatriation of all MeK members and especially those who do not want to return.

To support its assessment, the RAND authors cite an ICRC report. But when other conclusions in the report contradict its position, they are conveniently omitted. A case in point is the failure of the RAND authors to mention anywhere in the monograph a key conclusion of the ICRC – that the principle of *non-refoulement* must be applied to the MeK members.¹⁰¹ This conclusion by the ICRC is in direct contravention of the authors' core recommendation.

5. Inaccurate or Otherwise Pejorative Statements

A large segment of the Iraqi population regards the MeK with antipathy because of widely held perceptions that the group acted as Saddam's 'private army,' working on his behalf to help suppress the Shia and

¹⁰⁰ *Supra* note 1, at xix.

¹⁰¹ *See infra* section VI.

***Kurdish uprisings after the first Gulf War
and to provide security in the areas around
the MeK camps***¹⁰²

Readily available documents and news reports have long discredited the allegation that the MeK assisted in suppressing the Shia and Kurdish uprisings in the aftermath of Operation Desert Storm in 1991. Months before the outbreak of the Persian Gulf War, the MeK evacuated all of its bases in the Kurdish areas in the north and the regions in the south of Iraq. It consolidated its forces in the central region of the Iran-Iraq frontier specifically to avoid involvement in the internal affairs of Iraq.

The MeK's non-involvement in the uprisings is substantiated in a 1999 letter by Iraq's Foreign Minister on behalf of the Kurdistan Democratic Party of Iraq.

[We] can confirm that the Mujahedeen (sic) were not involved in suppressing the Kurdish people neither during the uprising nor in its aftermath. We have not come across any evidence to suggest that the Mujahedeen have exercised any hostility towards the people of Iraqi Kurdistan.¹⁰³

Four years earlier, International Educational Development (IED), a Non-Governmental Organization with consultative status to the United Nations Commission on Human Rights, refuted the charges on MeK's alleged role in the crackdown of the Kurdish uprising. It also noted the allegation was part of an orchestrated misinformation campaign by the government of Iran to discredit the Mek. "From our independent investigation and discussion with parties involved," IED stated, "we find these allegations false."¹⁰⁴

¹⁰² *Supra* note 1, at 26 and n. 2.

¹⁰³ "U.S. Says Iraq-based Iran Opposition Aids Iraq Government," REUTERS, May 22, 2002.

¹⁰⁴ *Implications of Humanitarian Activities for The Enjoyment of Human Rights*, by International Educational Development, United Nations

In 2001, the IED submitted a supplemental document to the United Nations that corroborated its earlier finding that the Iranian intelligence services were the source of the allegation.¹⁰⁵

Since its consolidation at Camp Ashraf, the MeK has sometimes stated that it enjoys wide popularity among Iraqis. For instance, the MeK publicized a petition that allegedly contained the signatures of 5.2 million Iraqis who proclaimed their support for the MeK. It turned out that the petition was a fraud; it contained falsified signatures (interview with a DOS official, October 2007).¹⁰⁶

This assertion is directly and strongly contradicted by Dr. Abdullah Rasheed Al-Jubori, former Mayor of Muqdadiya and former Governor of Diyala province, where Camp Ashraf is located. Dr. Al-Jubori is a leading figure in Al-Jubor, Iraq's largest tribe. In a sworn witness statement provided to the UK Proscribed Organisations Appeal Commission on April 28, 2007, he contradicted assertions made by the State Department regarding the declaration signed by 5.2 million Iraqis. The statement was made at a meeting in Camp Ashraf on June 17, 2006.¹⁰⁷ According to his affidavit, he was asked to

Economic and Social Council, Commission on Human Rights, Sub-Commission on Prevention of Discrimination and Protection of Minorities, Forty-seventh session, Agenda item 19, E/CN.4/Sub.2/1995/NGO/55, August 22, 1995.

¹⁰⁵ *Question of the Violation of Human Rights and Fundamental Freedoms in Any Part of the World, by International Educational Development*, United Nations Economic and Social Council, Commission on Human Rights, Sub-Commission on Prevention of Discrimination and Protection of Minorities, Fifty-seventh session, Agenda item 9, E/CN.4/Sub.4/2001/NGO/51, January 23, 2001.

¹⁰⁶ *Supra* note 1, at 26 and n. 2.

¹⁰⁷ *Witness Statement of Dr. Abdullah Rasheed Al-Jubori*, PC/2/2006, April 28, 2007.

comment on the following email exchange between an unnamed U.S. official in Baghdad and an unnamed U.S. official at the State Department's Bureau of Near East Affairs. In that exchange, the U.S. official in Baghdad states:

[I asked U.S. official 1, U.S. official 2's predecessor in Baghdad, about the 5.2 million Iraqis alleged to love the MeK. She says she has been shown bookshelves at the MeK central in Ashraf that the leadership claims contains those 5.2m signatures. She wasn't able to actually see them, much less try to verify any of them for authenticity. Implausible on two accounts: Strongly doubt any one could find many Iraqi MeK fans, much less 5.2 million, and there's been no opportunity for the MeK to go out and collect 5.2 million Iraqi signatures.]¹⁰⁸

Presumably this is the kind of statement that was relayed to the authors of the MeK monograph. It should be noted that the assessment of the authors here is conclusory – that “the petition was a fraud; it contained falsified signatures.” Not only is this not what the State Department officials actually stated, but the authors also never even mention the existence, let alone the content, of Dr. Al-Jubori's statement. He goes on to provide direct evidence in contradiction to the doubts expressed by the State Department official:

I chaired the Congress that was held in Ashraf City on 17 June 2006, and I am able to give the following information about it and the petition. It should also be noted that document 44 in the Secretary of State's [of the UK] exculpatory material strongly contradicts the above [State Department] statements. Document 44 states, “*From my visit to Camp Ashraf last year, when I saw one such session [conferences with Iraqis] under way, I have the impression that the MeK*

¹⁰⁸ *Id.* at 4-5.

can indeed find Iraqis, including prominent ones, sympathetic to them.”

The initiative for the petition came from some Iraqi political parties and associations and was sponsored by at least 61 Iraqi bodies, including . . . [goes on to list a dozen or so]. Signatures to the petition were collected over a period of several months by thousands of Iraqi volunteers from Diyala province and elsewhere . . . Some 121 political parties and social groups, 700,000 women, 14,000 lawyers and jurists, 19,000 physicians, 35,000 engineers, 320 clerics, 540 professors, 2,000 tribal sheikhs and 300 local officials were among the 5.2 million signatories to the declaration. At the Congress on 17 June 2006, I personally presented the signatures, contained in some 573 binders I have inspected the binders personally and can confirm they contain signed petitions. We, the board of directors of the Iraqi Solidarity Congress, invited the United Nations, international organisations and an international committee of lawyers to study the documents . . . (emphasis added).

‘US official 2’ said that she was not ‘able to actually see them [the signatures].’ It is not clear whether she asked to do so. If she had, I can say confidently that she would have found that the 573 binders did indeed contain the 5.2 million signatures of support (emphasis added).¹⁰⁹

The authors’ claim is generally contradicted by Lt. Colonel Julie Norman, a former JIATF commander, who relayed substantial positive feedback about her collaboration with the MeK and the Iraqis’ views of MeK members.

¹⁰⁹ *Id.* at 5-6.

The [MeK] has encouraged and assisted various Iraqi groups to help join the political process and dialogue with US forces. This action by the [MeK] has helped to establish a safe and secure environment and should be continued

The relationship between the [MeK] and inhabitants of regions surrounding Ashraf has played a positive role in providing security in the area . . . The Iraqis who have talked to our forces have expressed positive and sympathetic opinion about residents of Ashraf.¹¹⁰

Colonel Gary Morsch, a U.S. Army emergency room surgeon who had been assigned to Camp Ashraf, also provides contradictory details to the RAND assertion:

In 2004, I was called up to go to Iraq as a physician on active duty with the army. Before I was assigned to Camp Ashraf, I had never heard of Ashraf or of the [MeK]. So I came to Ashraf with an open mind.

[T]hese people are playing a major role in creating stability in Iraq and contributing to the safety of American forces, both in the intelligence they are gathering, and the goodwill they are creating among the Shia and Sunnis. After living and working with the people of Ashraf, I am convinced that they are a tremendous asset to the common goals of our country and to freedom-loving Iraqis.¹¹¹

The authors' statement is also called into question by a prominent group of Iraqi political leaders who wrote the following in a letter to President George W. Bush in 2007:

¹¹⁰ *Supra* note 54, at 103-104.

¹¹¹ "U.S. Faces Humanitarian Crisis in Iraq," HUMAN EVENTS, December 29, 2008.

One of the means for the Iranian regime to consolidate its control in Iraq is to expel its opposition from our country, in particular the [MeK] which is a friendly Moslem force with its members enjoying the status of protected persons under 4th [sic] Geneva Convention. Politico-strategic realities dictate that to nullify the Iranian regime, the presence and role of the [MeK] in Iraq should be recognized.

Allies of the Iranian regime in Iraq acknowledge the fact that the expulsion of the [MeK] from Iraq is part of U.S.-Iran confrontation. If the Iranian regime is to succeed in this matter, this would deprive us of a counter-balance to the regime which may result irreparable situation [sic] that will damage the status of moderate and anti-extremist forces, therefore, it should be stopped.¹¹²

An Iran Policy Committee delegation traveled to Iraq to conduct research, during which the petition was discussed.

The IPC delegation had the opportunity to interview dozens of Iraqis, including Arabs and Kurds; Shiites, Sunnis, and Christians; and professionals from all walks of life. One Sheikh specifically cited the petition of June 2008 [then] signed by over 3 million Iraqi Shiites in support of the MeK at Camp Ashraf because of their anti-Tehran orientation and another Sheikh presented an electronic copy of the petition to the IPC delegation. Because of IPC initial skepticism, the Sheikh described the motivation for and the process by which signatures for petitions were collected. The IPC received a

¹¹² *Letter from Iraqi Leaders to President George W. Bush*, February 19, 2007.

notarized statement from scores of sheikhs authenticating the signatures as valid.¹¹³

In sum, the RAND authors presented a conclusion apparently drawn from the statement of a single unnamed State Department official and failed to consider publicly available and strong countervailing evidence from a former JIATF commander, British government official, Dr. Al-Jubori, and others. It would appear the authors either failed to go beyond a single source at the State Department or chose not to include countervailing evidence.

Indeed, the authors could have merely asked during their visit to Camp Ashraf to see the 573 binders for themselves. Ironically, in their acknowledgements, they state they “wish to thank the MeK leaders and spokespeople who guided our tours of Camp Ashraf; provided information about the MeK; its history, and its lifestyle; and welcomed us into their meetings”

Yet not only did the authors fail to relate the substance of the MeK’s perspective, they also failed to ask the most basic questions to provide the MeK with an opportunity to present contradictory evidence. This constitutes another flagrant violation by the authors of their *Standards for High-Quality Research*, which requires their research to be objective, independent, and balanced.

Many MeK members requested coalition assistance to leave the group, and the coalition constructed a temporary internment and protection facility (TIPF) adjacent to the coalition base to house them.¹¹⁴

This statement directly contradicts the assertion by the RAND

¹¹³ *President Obama and Iraq: Toward a Responsible Troop Drawdown*, IPC, March 2009.

¹¹⁴ *Supra* note 1, at 5.

authors that leaders of the MeK have an alleged cult-like hold on its rank and file members. If this were true then how could “many” of its members have been able to leave? Over the years, about 400 MeK members are reported to have chosen to leave the group, which constitutes some 10 percent of the original number.

It is clear that dismantling the MeK would have led to desirable outcomes in OIF, among them a likely reduction in U.S. casualties that resulted from carrying out escort missions demanded by MeK leaders as they pursued their own agenda.¹¹⁵

The recommendation by the RAND authors fails to recognize that it would be a flagrant violation of U.S. obligations under the Fourth Geneva Convention to dismantle the MeK by *refouling* members to Iran. As noted previously, Article 49 states: “Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory . . . to that of any other country, occupied or not, are prohibited, regardless of their motive.”

The authors also imply, incorrectly, that had this happened, there would have been no further obligation on coalition forces. Yet if the MeK members at Camp Ashraf had been designated as prisoners of war, as they have suggested, the very same protections would have been required.

The assertion that the MeK leaders were pursuing their “own agenda” is contradicted by positive statements about their contributions from former JIATF commanders and information contained in *All Roads Lead to Baghdad*. The authors also fail to explain why U.S. forces could not have declined to carry out the escort missions reportedly demanded by the MeK, especially if it was in pursuit of their “own agenda.” Nothing in the Fourth Geneva Convention requires such actions on the part of U.S. forces.

¹¹⁵ *Supra* note 1, at 52.

In addition, for several years, the MeK continued to broadcast from its radio station despite GOI protests and coalition orders to desist.¹¹⁶

No citation is provided by the authors to support this assertion, which is contradicted by public declarations made by the 324th MP Battalion Commander Lt. Colonel Thomas Cantwell, who served in Ashraf from May to November 2003.

In a public speech that he gave about his experiences in Camp Ashraf, the Lt. Colonel spoke extensively about the MeK radio station. He indicated that upon his arrival at Camp Ashraf, he had Farsi-speaking soldiers in his unit monitoring the broadcasts. The translators indicated that in their judgment, the MeK broadcasts sounded like Voice of America's Farsi service, providing pro-democracy-oriented programming into Iran. Indeed, his soldiers explained to him that the MeK had broadcast an accurate translation of a recent speech by then President George W. Bush about Iran in Farsi.

Nevertheless, within weeks of his arrival, he received an order from his commanding officer to shut down the radio station. He initially protested, stating that he thought the programming was actually excellent and very much in line with U.S. foreign policy as it related to Iran. Once the order was repeated to him, having acknowledged his concerns, he followed orders and shut down the radio station. In his public speech in Washington, D.C., as an army reservist, he expressed his frustration about this series of events and said he was never given a good explanation as to why this had to be done, but that he continued to believe it had been a mistake.¹¹⁷

The assertion by the authors is yet another instance of

¹¹⁶ *Supra* note 1, at 44.

¹¹⁷ 2005 National Iranian Convention, DAR Constitution Hall, Washington, DC, April. 14, 2005 (speech by Lt. Colonel (Reservist) Thomas Cantwell).

misrepresenting the facts. In this instance, it impugns the reputation of a distinguished military officer by suggesting he failed to follow orders.

There is no fence around the approximately 15-square mile facility; further . . . Lack of manpower has meant the coalition has never conducted a thorough search of Camp Ashraf.¹¹⁸

The description of the Camp's fence is inaccurate, as well as the assertion that exhaustive searches have not been conducted. The authors personally visited Camp Ashraf and had an opportunity to view firsthand its high security measures. A double chainlink fence topped with barbed wire surrounds the entire perimeter of the Camp. There are only four access gates that are guarded at all times. The fence was constructed by the MeK to protect against attacks on the Camp by the Iranian regime or its proxies in Iraq. Additional security measures include ten guard towers that were manned 24/7 until January 2009, when Iraqi authorities ordered the MeK to stop the procedure.

The fence is visible in satellite photos (Google Earth) of Camp Ashraf, as well as in videos showing clips from reliable news outlets referencing Camp Ashraf.¹¹⁹ Given the personal visit of the authors and other available sources of information, the factual error about the fence is difficult to explain other than sloppy research and lack of fact checking.

Regarding the claim that the coalition "never" conducted a search of Camp Ashraf, it is directly contradicted by statements from former 89th MP Brigade Commander General David Phillips in his prior referenced statement in which he describes numerous unannounced visits and searches. It is also contradicted by Colonel Wes Martin, who previously

¹¹⁸ *Supra* note 1, at xviii.

¹¹⁹ See, e.g., <http://www.youtube.com/watch?v=p4l-Y-28lN0;>
<http://www.youtube.com/watch?v=-9ACMUDamOg>

commanded the military police at Camp Ashraf:

On October 12, 2006, I received information that questionable activities were going on at the University Compound, Camp Ashraf . . . Supported by the [MeK], I conducted a visit of the compound and found no foundation to the information we received. On site, we went to every building on the compound and I spoke with several people . . . The [MeK] opened every door and even pointed out some we did not see at first.¹²⁰

Additionally, the Iraqi Interior Ministry conducted a three-day search of Camp Ashraf using bomb-sniffing dogs in April 2009. The Ministry affirmed that there were no weapons or ammunition at the Camp.¹²¹

B. Discredited Sources

The authors rely on several sources that have long been discredited, as will be demonstrated below, including Massoud Khodabandeh, Anne Singleton, Karim Haggi Moni, and Masoud Banisadr. The four individuals are alleged to have associations with Iranian intelligence operations that have been aimed at discrediting opposition groups, including the MeK. Such a concerted campaign has been reported on by Western intelligence services as far back as 1999 and the services have since then compiled additional reports. For example, the German Federal Office for the Protection of the Constitution (BfV) wrote in its Annual Report:

VEVAK [Iranian Ministry of Intelligence and

¹²⁰ Supra note 57.

¹²¹ Memorandum signed by Lt. Badroddin Taha Mahmoud, from the Directorate of the Police Dog Department of the Ministry of the Interior of Iraq, April 20, 2009. The Memorandum was also signed by Messrs. Mehdi Barai and Ali Bahari Javan, representatives of Ashraf residents. See Appendix A.

Security] activities were, as in previous years, focused on the political neutralization of opposition groups and their anti-regime activities. [The MeK] continued to be the focus of intelligence interest of the Iranian intelligence service . . . [which] initiates anti-[MeK] publications which are published by former [MeK] activists and have the aim of persuading readers of these publications to turn their backs upon this organization. For spying on the [MeK], the Iranian intelligence service also recruits supporters of that organization and other Iranian nationals. Recruitment mostly takes place during visits by exiled Iranians to Iran. When in that country, they will be approached by VEVAK and, in instances, under threat of massive harassment against themselves or their relatives in Iran, are compelled to co-operate with the intelligence service.¹²²

With respect to the four sources, the specifics of their activities are described as follows.

1. **Massoud Khodabandeh and Anne Singleton**

The authors cite to Massoud Khodabandeh and Anne Singleton for several key assertions, including that the MeK had been paying off insurgents to prevent attacks on its bases in Iraq, hijacked a number of airplanes, killed thousands of civilians directly or indirectly, and had cultic characteristics. They are also cited as a key source for the lengthy timeline of MeK activities.¹²³

¹²² *Annual Report of the Office for the Protection of the Constitution*, Federal Republic of Germany, Interior Ministry (1999), at 205-206.

¹²³ *Supra* note 1, at 46, 58, 69, and 80 (actually six citations on those pages). Also cited to support these propositions is an article in an Iranian state-run newspaper. To cite to a state-run newspaper of a state sponsor of terror for a proposition it makes against what it views as a key enemy has absolutely no credibility.

To cite these individuals for these assertions implies they are credible sources for information. Yet Mr. Khodabandeh and his wife, Anne Singleton, are allegedly agents of the Iranian regime. Their activities were the subject of a report issued by the British Parliament, and his own brother, in a sworn affidavit filed in a British court in 2003, stated Mr. Khodabandeh was an agent of Iranian intelligence.¹²⁴

Concerns about Mr. Khodabandeh and his wife were reaffirmed when Trita Parsi attempted to bring them to the United States in 2008 to make a presentation in the U.S. Congress. Substantial information linking them to Iranian intelligence and the Qods Force of the Iran Revolutionary Guards Corps was presented to a U.S. Member of Congress. When they tried to board a plane to the United States, they were told they were on the U.S. “do not fly” list and were denied boarding.¹²⁵

Additionally, in a witness statement submitted to POAC, Mr. Win Griffiths, former Member of the House of Commons in Britain, wrote:

Between 14 and 17 June 2004, I visited Iran on a humanitarian trip to meet two NCRI members who had been kidnapped in Syria and forcibly, and in breach of international law, sent to Iran . . . They were both being kept in Iran’s notorious Evin prison, [which] is recognized as one of the most secretive and brutal prisons in the world . . . I was surprised to see Anne Singleton in Evin prison . . . She was moving around freely and was in direct contact with Iranian officials in the prison.¹²⁶

¹²⁴ See “Spying for the Mullahs: Iran’s Agents in the UK,” BRITISH PARLIAMENTARY COMMITTEE FOR IRAN FREEDOM, October 2007, at 8.

¹²⁵ This information was relayed by a Congressional staffer to a Member of Congress familiar with the situation on condition of anonymity.

¹²⁶ Witness statement by Win Griffiths to Proscribed Organisations Appeal Commission, July 7, 2007.

It is worth noting that the United Kingdom has very liberal libel laws and yet neither Mr. Khodabandeh nor his wife has sued the British parliamentarians or various NGOs that have accused them of being agents of the Iranian regime.

For the authors of the monograph to attempt to portray Mr. Khodabandeh, Ms. Singleton, and their website as impartial or credible sources of information demonstrates a lack of basic awareness of Iranian intelligence's ongoing efforts to delegitimize the MeK. At a minimum, if they were to cite to these sources, they had an obligation to surface the evidence presented against them, including the information provided by the British Parliament and his brother's open court accusation, and to explain why they nevertheless found them to be viable sources.

2. Karim Haggi Moni

The RAND authors cite to Karim Haggi Moni and his Iran Peyvand Association for several assertions, including that the MeK fought Iranian troops with the assistance of Iraqi troops and that the German High Court closed several MeK safe houses.¹²⁷ It is well known that Mr. Haggi Moni collaborates with the Iranian intelligence service:

- According to Paulo Casaca, then MEP and co-chair of Friends of a Free Iran, Karim Haggi Moni “has been collaborating with the Iranian Ministry of Intelligence and Security (MOIS) since 1995.”¹²⁸
- Lord Corbett, chairman of the British Parliamentary Committee for Iran Freedom referenced Peyvand in a letter to Members of the British House of Lords where he stated: “I wrote some time ago about the activities of the Iranian regime's MOIS . . . in the United

¹²⁷ *Supra* note 1, at 3, 59.

¹²⁸ See *Letter from* FRIENDS OF A FREE IRAN Parliamentary Inter-Group to Euro-MPs, November 29, 2006.

Kingdom . . . There are several other groups working as part of the MOIS including the Nejat Society, Peyvand and Aawa Association. The regime also uses numerous websites to spread misinformation . . . such as . . . iranpeyvand.com” (emphasis added).

- Mr. Win Griffiths MP, in his previously-cited witness statement provided to POAC regarding the question of the de-listing of the MeK, said the following: “I am aware, through personal experience and the experience of many former colleagues in Parliament that whenever a Member of Parliament expresses support for the goals of freedom and a secular democracy for Iran, as espoused by the NCRI and [MeK], they are immediately bombarded with misinformation about Iran's main opposition from a variety of sources . . . These front organisations for the Iranian regime include Nejat Society, Peyvand and Aawa Association” (emphasis added).¹²⁹

In addition to the above attributions connecting Mr. Haggi Moni and Peyvand to MOIS, Mr. Haggi himself has described his contacts with Dutch security services in his own publication:

On Tuesday, 1 February 2000, around 4:30 pm, a Dutch undercover security agent came to my residence in the Elst Township . . . After reading a list of names, the agent added: ‘All of you have ties with the Iranian regime and have formed a large network . . .’ He added: ‘We have sufficient information that you have ties with the [Iranian] regime and it [the regime] pays for your publication. It would suit you better to stop this kind of work and go after your normal business and think about the future of your children.’¹³⁰

¹²⁹ PC/2/2006, July 4, 2007.

¹³⁰ *Peyvand*, Publication of the Political-Cultural Association of Peyvand, February 2000.

For the authors of the monograph to attempt to portray Mr. Haggi Moni or the Peyvand website as an impartial, credible source of information again demonstrates a surprising lack of awareness by the authors of Iranian intelligence's ongoing efforts to delegitimize the MeK. At a bare minimum, if they were to cite to these sources, they had an obligation to surface the evidence presented against them, including the information provided by the UK and European parliamentarians and his own statement and explain why they nevertheless found Mr. Haggi Moni to be a credible source of information.

3. Masoud Banisadr

The authors cite to Masoud Banisadr, a cousin of the first elected president of the Islamic Republic, for several assertions, and especially for the MeK's alleged cult-like practices.¹³¹ Yet they fail to reveal in their report that Mr. Banisadr is a former MeK member who left the group voluntarily and, according to his own biography, with no difficulties at all.¹³² He never explains why he left the group or the logical disconnect between alleging the MeK has "cult-like" practices and the fact he had no difficulty leaving the organization.

Seven years after Mr. Banisadr left the MeK he began to speak out against the group and since then has travelled to Iran despite his previous refugee status and has had extensive public correspondence with other MOIS operatives concerning the dissemination of inaccurate materials against the MeK.¹³³

At a minimum, the authors had an obligation to reveal Mr. Banisadr's previous connection to the organization and that by definition of his departure, where he must have been dissatisfied, he may have lacked objectivity in his analysis.

¹³¹ *Supra* note 1, at 68-69.

¹³² See *Memoirs of an Iranian Rebel* (Saqi Books 2004).

¹³³ See <http://www.banisadr.info/AEbi250208.htm>

C. Comments Lacking Context

Approximately 14 U.S. soldiers were killed and 60 wounded as they provided security for convoys escorting MeK members to Baghdad to purchase supplies.¹³⁴

The statement is highly prejudicial and entirely lacking in context. There also is no citation provided in the report to substantiate the assertion.

The implication of this statement is that coalition forces or U.S. soldiers in particular had another option other than providing protection to the residents of Camp Ashraf. On the contrary, upon negotiating the ceasefire and disarmament of the MeK, coalition forces designated each person in Camp Ashraf “protected persons” under the Fourth Geneva Convention. Even if, as the authors suggested, all the MeK members had been detained as prisoners of war under the Third Geneva Convention, coalition forces would have had precisely the same obligations to protect the MeK members and provide them with supplies to cover their basic needs.

The authors neglect to cite to substantial information that affirms the value of the U.S. presence at Camp Ashraf. Specifically, for example, Lt. Colonel Julie Norman, a former JIATF commander, relayed substantial positive feedback about her collaboration with the MeK:

The [MeK] has encouraged and assisted various Iraqi groups to help join the political process and dialogue with US forces. This action by the PMOI has helped to establish a safe and secure environment and should be continued . . .

The relationship between the [MeK] and inhabitants of regions surrounding Ashraf has

¹³⁴ *Supra* note 1, at xviii.

played a positive role in providing security in the area . . . The Iraqis who have talked to our forces have expressed positive and sympathetic opinion about residents of Ashraf . . .

The [MeK] has always warned against the Iranian regime's meddling and played a positive and effective role in exposing the threats and dangers of such interventions; their intelligence has been very helpful in this regard and in some circumstances has helped save the lives of soldiers.¹³⁵

Third, the only book cited by the authors to allege the MeK caused a casualty, actually has substantially positive things to say about the MeK's role after the ceasefire. The authors saw fit to omit this information from their report:

The amicable resolution with the MeK provided residual benefits, as the MeK later passed on a great deal of quality intelligence information about Iran, which it had gathered from its extensive intelligence networks throughout the country.¹³⁶

And finally, as has been repeatedly noted by senior U.S. government officials, including former President George W. Bush, Vice President Cheney, Secretary of State Rice, National Security Advisor Hadley, Secretary of State Powell, the MeK played a key role in exposing Iran's nuclear program in Natanz in 2002, and has also provided other helpful related intelligence.¹³⁷

¹³⁵ *Supra* note 54, at 103-104.

¹³⁶ *Supra* note 33, at 385.

¹³⁷ *See, e.g., Press Conference by the President*, March 16, 2005 (stating "Iran has concealed its – nuclear program. That became discovered, not because of their compliance with the IAEA or NPT, but because a dissident group pointed it out to the world . . ."); Interview by LOS ANGELES TIMES with Secretary of State Condoleezza Rice, March 24,

While it may indeed be true that U.S. soldiers lost their lives providing security for the MeK members at Camp Ashraf, not only did the United States have no option but to provide that security, but there were substantial benefits yielded by the arrangement that the authors failed to present.

Through this uncertainty [the legal status on the FTO designation as compared to the Fourth Geneva Convention status], the United States has exposed itself to accusations of hypocrisy in its war on terrorism.¹³⁸

The U.S. government's decision in 2008 to keep the MeK on the FTO list is highly questionable. Members of the MeK have given up all their weapons, renounced involvement in violence and terrorism, have been guarded by coalition forces for six years, have not committed any terrorist acts, and yet the group remains on the FTO list. Because of these actions, the United Kingdom and European Union removed the MeK from their respective terrorist lists.

The British Proscribed Organisations Appeal Commission (POAC) described the continued listing of the MeK on the terrorism list as "perverse."¹³⁹ And later this ruling was affirmed by the English Court of Appeal, which noted that having examined both open and closed-source material, the classified evidence only reaffirmed their conclusion that the group should be de-listed. The European Court of Justice reached the same conclusion. Having determined that no evidence existed, open or classified, to justify maintaining the organization on the list, the European Union removed the MeK

2005 (stating "[i]t was a dissident group that exposed Natanz so you have some sources of information.").

¹³⁸ *Id.* at 41.

¹³⁹ Judgment of the Proscribed Organisations Appeal Commission (POAC), p. 144, ¶ 360, November 30, 2007, <http://www.siac.tribunals.gov.uk/poac/outcomes.htm>

from its terrorist list on January 26, 2009. These documents are all widely and publicly available.

Any objective analysis of the FTO listing and designation under the Fourth Geneva Convention status should address these important issues from a neutral perspective, not the conclusory one presented by the authors. Had this been the case, is it not just as possible that the hypocrisy is not the protection of the people of Camp Ashraf, but the maintaining of the group on the U.S. FTO list?

V

Ignored Own Findings

Although the authors of the monograph concluded the MeK members should be “repatriated” to Iran, and that the organization should have been broken up by U.S. and coalition forces, much of the presented research by the RAND authors actually contradicts and undermines these conclusions.

Specifically, through its detailed analysis of the process by which the MeK negotiated a ceasefire and its legal status was assessed and confirmed by coalition forces, the authors demonstrate conclusively that the residents of Camp Ashraf are not a security threat to the United States or Iraq. Consider the following timeline drawn from *The Mujahedin-e Khalq: A Policy Conundrum*:

- On April 15, 2003, “special operations officers agreed to a cease-fire rather than to the surrender ordered by USCENCOM.”¹⁴⁰
- On May 10, 2003, a new agreement allowed the MeK to “accept a lasting ceasefire.” The agreement also required each MeK member to “sign a document renouncing terrorism and the use of violence.” General Raymond Odierno “commended the MeK’s cooperation, and he recommended that the group’s FTO status be reviewed.”¹⁴¹

¹⁴⁰ *Supra* note 1, at 11.

¹⁴¹ *Id.* at 12, n. 14.

- Initially, “staff lawyers for the Combined Joint Task Force 7 . . . were not sure whether the Geneva Conventions should apply to its members or if they should be considered ‘unlawful’ or ‘illegal’ combatants.”¹⁴²
- Originally, they were all given an interim status of “other detainees” under the Third Geneva Convention. An MeK Review Board was formed to classify all MeK members into one of four categories: (1) detain-potential prosecution; (2) detain-security threat/risk; (3) detain-potential intelligence value; or (4) release-eligible.¹⁴³
- To categorize the MeK members, coalition forces had to answer a series of questions about the threat posed by the group, whether it had committed belligerent acts against coalition forces, whether they had committed terrorist acts, whether they had violated U.S. law, and whether they had assisted Iraq in hiding WMDs, among other questions.¹⁴⁴
- To answer these questions, JIATF-Ashraf was created to report to CJTF-7. Approximately 70 affiliated staff participated in these reviews, including officers from DoD, CIA, FBI, DOJ, and DHS, among others. “The MeK Review Board . . . determined that very few should be detained . . . Nearly all were classified ‘release-eligible.’” In other words, whatever their legal status, “nearly no MeK members presented a threat sufficient to justify detention.”¹⁴⁵
- “No decision had been made regarding the disposition of the MeK after battle or the then-anticipated rapid withdrawal of coalition forces from Iraq, except that they would not be sent to Iran for fear that they might

¹⁴² *Id.* at 13.

¹⁴³ *Id.* at 15.

¹⁴⁴ *Id.* at 16.

¹⁴⁵ *Id.* at 17.

be persecuted and that repatriating them would be a ‘gift’ to the IRI.”¹⁴⁶

- As the June 2004 transfer of power from the CPA to IIG approached, no status decisions had been made about the MeK members. “U.S. and coalition officials feared that the IIG would forcibly deport the MeK to Iran and that such an effort would lead to violence at Camp Ashraf.”¹⁴⁷
- On June 25, 2004, then Secretary of Defense Donald Rumsfeld designated the MeK as civilians protected by the Fourth Geneva Convention, which protects civilians in a time of war. His memorandum noted that the decision was intended to facilitate collaboration with the UNHCR and ICRC. The memorandum “did not require the MeK Review Board to make these decisions on an individual basis, and there was no subsequent action to determine any individual MeK member’s status.”¹⁴⁸
- The impact of this legal status determination was unclear because it is “not evident that MNF-I determined whether it was still detaining them after the MeK Review Board classified nearly all residents of Camp Ashraf as release-eligible . . . No coalition body ever revisited the question of whether security reasons mandated continued assigned residence for MeK members.”¹⁴⁹

Without any reasoning to support its analysis, the authors then conclude: “The MeK falsely promoted – and may have falsely interpreted – the decision as support for its assertion that the group was innocent of, or immune to, all accusations of terrorism or violence.”¹⁵⁰ Not only does the authors’ assertion

¹⁴⁶ *Id.* at 17.

¹⁴⁷ *Id.* at 19.

¹⁴⁸ *Id.* at 21.

¹⁴⁹ *Id.* at 22.

¹⁵⁰ *Id.* at 23.

have no substantial evidence, but it is directly contradicted by senior U.S. government officials, as cited in contemporaneous news reports. For example, the *New York Times* reported:

A 16-month review by the United States has found no basis to charge members of an Iranian opposition group in Iraq with violations of American law . . . according to senior American officials . . .

But senior American officials said extensive interviews by officials of the State Department and the Federal Bureau of Investigation had not come up with any basis to bring charges against any members of the group.

“A member of a terrorist organization is not necessarily a terrorist,” a senior American official said. “To take action against somebody, you have to demonstrate that they have done something.”¹⁵¹

The authors’ central conclusion is contradicted by the presented timeline, the detailed explanation of the investigations that were completed on the MeK members, the fact that nearly all were “release-eligible,” and contemporaneous news reports. Additionally, there is no public evidence to support a finding for the detention of any MeK member for having committed an unlawful act or violating U.S. law.

It is therefore reasonable to ask, what is the factual basis for the authors’ conclusion? What were the outstanding accusations of terrorism or violence directed at the United States or Iraq that they are implying? How do they explain their conclusion in light of it being contradicted, at the time, by

¹⁵¹ “The Reach of War: People’s Mujahedeen: U.S. Sees No Basis to Prosecute Iranian Opposition ‘Terror’ Group Being Held in Iraq,” *NEW YORK TIMES*, July 27, 2004.

senior U.S. government officials? And how do they justify having failed to surface and address this countervailing evidence in light of RAND's *Standards of High-Quality Research*?

VI

Misguided Recommendations

The core recommendation of *The Mujahedin-e Khalq: A Policy Conundrum*, if implemented, would be a clear violation of international law. Specifically, the authors state that U.S. officials are in a position to influence how the government of Iraq treats the MeK. They recommend:

The GOI [Government of Iraq] should be encouraged to repatriate the MeK to Iran by a process that respects the principle of *non-refoulement*, preferably facilitated by the ICRC. Forcible repatriation is allowed, but only after each member's case is considered individually, and only if there are no substantial grounds for believing that he or she will be subjected to persecution or torture . . .

In cases in which demonstrable risk of persecution or torture does exist, which may include the MeK leaders who do not benefit from IRI's offer of amnesty, the GOI should provide rights of residency, attempt to resettle the individuals in a third country, or prosecute them.¹⁵²

Despite the unfounded recommendation to eliminate the MeK and disperse its members, the authors fail to address five key questions.

¹⁵² *Id.* at xix-xx.

First, as has been substantially demonstrated in this report's analysis, there is serious reason to doubt the authors' assertion that the MeK engaged coalition forces in Operation Iraqi Freedom and thus should be constructively viewed as prisoners of war under the Third Geneva Convention. Indeed, the authors acknowledge that although they felt the decision was incorrect, the MeK members have been granted Fourth Geneva Convention protections. In such a circumstance, how do they overcome Article 49 of the treaty which states: "Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory . . . to that of any other country, occupied or not, are prohibited, regardless of their motive"?

The ICRC, which the authors repeatedly cite to as having authority in these matters, stated: "[c]ases have in fact occurred where the authorities of an occupied power have, under pressure . . . tolerated the . . . deportation of protected persons. Such stipulations are in flagrant [violation] of the Convention and are consequently strictly forbidden" (emphasis added).¹⁵³

Second, how do they overcome Article 45, which states "[i]n no circumstances shall a protected person be transferred to a country where he or she may have reason to fear persecution for his or her political opinions or religious beliefs?" The ICRC commentary to the Fourth Geneva Convention further explains: "The prohibition in this paragraph is absolute, covering all cases of transfer, whatever the country of destination may be and whatever the date . . . It follows that the Detaining Power cannot transfer protected persons unless it is absolutely certain that they will not be subject to discriminatory treatment or, worse still, persecution" (emphasis added).

The Office of the UN High Commissioner for Refugees (UNHCR) and independent human rights groups long have

¹⁵³ Commentary on the Geneva Conventions of 12 August 1949 (Volume IV), International Committee of the Red Cross, 1958, at 275.

expressed concern about what might happen if the MeK members were *refouled* to Iran. On March 6, 2007, UNHCR emphasized that it had “repeatedly appealed to the competent Iraqi authorities and to the Multinational Forces (MNF-I) to refrain from any action that could endanger the life or security of these individuals, such as their forcible deportation from Iraq or their forced displacement inside Iraq.”¹⁵⁴ And on August 28, 2008, Amnesty International sent letters to the governments of both the United States and Iraq expressing deep concern about the situation of the residents of Camp Ashraf and reminding both governments of their obligations under international humanitarian law. The organization issued a public statement concerning the situation in which it said “Amnesty International considers that those living in Camp Ashraf would be at great risk of torture or other serious human rights violations if they were to be returned involuntarily to Iran.”¹⁵⁵ These concerns were echoed by Souhayr Belhassen, President of the French International Human Rights League (FIDH): “In case of expulsion to the Islamic Republic of Iran, those persons would evidently face the risk of being tortured, condemned to death and even executed. A long-term solution must be found to ensure their protection.”¹⁵⁶

Given that the law relating to membership in the MeK is punishable by death has not been repealed, that credible human rights groups have expressed serious concern about their potential treatment if returned, and that the government of Iran has repeatedly called for the return of MeK members so they can face justice, it is not possible for anyone to be certain that any MeK member *refouled* will not be subject to discriminatory treatment or persecution.

¹⁵⁴ *Supra* note 1, Appendix D.

¹⁵⁵ *Iraq: No Iranians in Need of Protection Should be Sent to Iran Against Their Will*, Amnesty International, AI Index MDE 14/023/2008, August 28, 2008.

¹⁵⁶ *Call on Iraqi Authorities and USA*, French International Human Rights League, September 12, 2008.

Not only does the authors' conclusion strain all credulity, they fail to even identify the correct standard of "absolute certainty" (indeed they misstate the standard as being a lesser "no substantial grounds" test). They also do not surface and address concerns raised by credible independent human rights groups, let alone apply the standard to the facts in this case, including the Iranian law that remains in place. These are all profoundly significant omissions. As a result, based on the incomplete presentation in the RAND report, most readers would understandably fail to grasp the fatal implications for the MeK members if they were to be *refouled* to Iran.

Third, how do the RAND authors justify a breach in commitments made repeatedly by the United States to the residents of Camp Ashraf by coalition forces? A proclamation by the Commander, Multi-National Force – Iraq to "the residents of Ashraf" stated "The United States has confirmed your status as 'protected persons' under the Fourth Geneva Convention" ¹⁵⁷ On October 7, 2005, Major General William H. Brandenburg, on behalf of MNF-I, sent an official letter to the residents of Camp Ashraf where he reviewed their "important rights and protections under international law" grounded in the Fourth Geneva Convention. He specifically stated with respect to the residents of Camp Ashraf that "They have the right to refuse to return to their country of nationality, regardless of the legal status in the country in which they are protected . . . [A]ll of these rights are essential for the protection of the residents of Camp Ashraf, and under the terms of the Fourth Geneva Convention, and they cannot be renounced, either by the residents of Camp Ashraf or by Coalition Forces." ¹⁵⁸ In a letter on February 16, 2006, General John D. Gardner, then MNF-I's Deputy Commanding General, reiterated General Brandenburg's initial commitment: "Multinational Force-Iraq appreciates our responsibilities with

¹⁵⁷ "Proclamation by the Commander, Multi-National Forces – Iraq, on the Signing of the 'Agreement for the Individuals of the People's Mujahedin Organization of Iran (PMOI)' at Ashraf, Iraq," July 2, 2004. See Appendix A.

¹⁵⁸ *Supra* note 1, Appendix E.

regard to the Geneva Convention Relative to the Treatment of Civilian Persons (GC-IV), 1949. In particular, we are sensitive to the requirements established in Article 45 which prohibit the transfer of a protected person to a country in which he or she may have reason to fear persecution for his or her opinions or religious beliefs.”¹⁵⁹

Under Article 45 of the Fourth Geneva Convention a “Detaining Power,” like the United States, may indeed transfer responsibility for protected persons to another government which is a party to the Convention. In this circumstance, however, such a transfer can only be carried out if the United States has “satisfied itself of the willingness and ability of such transferee Power to apply the . . . [Fourth Geneva] Convention.”

That said, however, the United States retains a residual responsibility for ensuring its protection obligations both through the reduced presence of U.S. forces in Ashraf City and through the operation of the Fourth Geneva Convention. Indeed, if an accepting power, like the government of Iraq, “fails to carry out the provisions of the present Convention in any important respect, the Power by which the protected persons were transferred shall . . . take effective measures to correct the situation or shall request the return of the protected persons. Such a request must be complied with.” Thus, under these circumstances, for the United States to encourage the government of Iraq to *refoule* the MeK members would be a flagrant violation of the Fourth Geneva Convention and its prior written commitment to the people of Camp Ashraf.

Fourth, the authors suggest the ICRC “preferably” assist in facilitating the *refoulement* of the MeK members to Iran. Yet, the ICRC and UN Assistance Mission for Iraq have both repeatedly taken the position that the *non-refoulement* principle with respect to the MeK members at Camp Ashraf must not be violated:

¹⁵⁹ Major General John Gardner, Deputy Commanding General, MNF-I, Letter to PMOI Secretary General Sedigheh Hosseini, February 16, 2006.

- George Comninos, Head of ICRC Operations, Middle East and North Africa, wrote to the National Council of the Resistance of Iran on April 20, 2004, stating: “[a]lthough the ICRC is not in the position to determine the status of each individual [MeK] member, it appears nevertheless that [MeK] members in Iraq fall generally under the protection of the Fourth Geneva Convention. Persons protected by this Convention benefit from a number of safeguards, including the prohibition of individual or mass transfers, as well as deportation from Iraq . . . to that of any other country, regardless of their motive” (emphasis added).¹⁶⁰
- Mr. Comninos wrote again to the National Council of Resistance of Iran on December 16, 2004, stating “those persons who were protected by the Fourth Geneva Convention . . . remain protected . . . until release, repatriation, or re-establishment . . . Finally and whatever the individual status is they should not be transfer [sic] out of Iraq in violation of the principle of *non-refoulement*.”¹⁶¹
- And Mr. Comninos wrote a third time on March 20, 2007, stating “[t]he ICRC is in direct contact with the relevant authorities on the issue of the [MeK] members in Camp Ashraf, Iraq, and repeatedly reminds them of their obligation to act in accordance with the principle of *non-refoulement* . . . [t]he ICRC has made clear that the residents of Camp Ashraf must not be deported, expelled or repatriated in violation of the above-mentioned principle or displaced inside Iraq in violation of the relevant provisions of International Humanitarian Law.”
- The UN Assistance Mission for Iraq has visited Camp Ashraf and stated unequivocally that it “takes the view

¹⁶⁰ ICRC letter from Georges Comninos to the National Council of Resistance of Iran, April 20, 2004. See Appendix A.

¹⁶¹ *Id.* at 59-60.

that the residents must . . . not be deported, expelled or repatriated in violation of the principle of *non-refoulement* or displaced inside Iraq in violation of the relevant provisions of international humanitarian law.”¹⁶² It reaffirmed this view in its report issued for the January-June 2008 timeframe.¹⁶³

Surely this information was available to the RAND authors. So to suggest that the ICRC preferably supports this process, when it has already stated the MeK members must not be transferred, let alone *refouled*, is a disingenuous suggestion at best.

Fifth and finally, for the authors to suggest that the government of Iraq *refoules* the MeK residents to Iran, despite the overwhelming evidence of the risk they would face, is to encourage it to breach its clear obligations under the International Covenant on Civil and Political Rights, which it has signed and ratified.¹⁶⁴ Specifically, Article 7 of the treaty states “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”

The Human Rights Committee, the body created to monitor implementation of the treaty has concluded “States parties must not expose individuals to the danger of torture or cruel, inhuman or degrading treatment or punishment upon return to another country by way of their extradition, expulsion or *refoulement*.”¹⁶⁵ The authors completely fail to raise the question of the government of Iraq’s obligations under international law and address how they expect to legally not abide by the prohibition.

¹⁶² *Human Rights Report*, UN Assistance Mission for Iraq, April 1 – June 30, 2007, at ¶ 45.

¹⁶³ *Human Rights Report*, UN Assistance Mission for Iraq, January 1 – June 30, 2008, at ¶ 78.

¹⁶⁴ The government of Iraq signed the ICCPR on February 18, 1969, and ratified the treaty on January 25, 1971.

¹⁶⁵ Comment 20(9) to the International Covenant on Civil and Political Rights.

VII

Deadly Consequences

On July 28 and 29, 2009, Iraqi security forces stormed Camp Ashraf. Video of the attack, which has been widely disseminated, shows unarmed MeK members being beaten and fired upon. Amnesty International reported that eight MeK members were initially killed and hundreds wounded (three more later died from their wounds). In addition, 36 individuals were detained, beaten, and tortured.¹⁶⁶ The same report stated “[s]ince mid-2008 the Iraqi government has repeatedly indicated that it wants to close Camp Ashraf, and that residents should leave Iraq or face being forcibly expelled from the country . . . Amnesty International has urged the authorities not to forcibly return any Camp Ashraf resident or other Iranians to Iran, where they would be at risk of torture and other serious human rights violations.”¹⁶⁷

So why should this be relevant to RAND?

The RAND report, which had been circulating in draft form in the weeks prior to the attack, added fuel and a spark to an incendiary situation. The authors either knew or should have known that a government-funded report delegitimizing the MeK, repeating long-discredited myths, and recommending the dispersal and *refoulement* of the residents of Camp Ashraf would have a devastating impact. First, it is important to understand the long history of anti-MeK statements and

¹⁶⁶ See, e.g., *Concerns Grow for Detained Iranian Residents of Iraq’s Camp Ashraf*, Amnesty International, August 11, 2009.

¹⁶⁷ *Id.*

actions by the government of Iraq. And second, it is relevant to appreciate that the RAND monograph and its findings have been embraced by the official media of the government of Iran and the anti-MeK and Iran-intelligence-linked network of “NGOs.”

A. Prior Statements of the Government of Iraq

The authors of the RAND report must have been well aware the government of Iraq had taken an aggressive posture with respect to the MeK.¹⁶⁸ This posture has grown more threatening in the last few years. In February 2009, Iran’s Supreme Leader Ali Khamenei revealed the existence of an agreement between Tehran and Baghdad on the expulsion of the MeK from Iraq. In a meeting with Iraqi President Jalal Talabani, he demanded the Iraqi government implement the bilateral agreement regarding the MeK.¹⁶⁹

On August 6, 2007, Iraqi Prime Minister Nouri al-Maliki said as he was departing for a visit to Iran that the presence of the MeK in Iraq “is harmful to the security of Iran. This organization is on the list of FTOs and the presence of this organization on our soil is tantamount to ignoring regulations, rule of law, and the Constitution.”¹⁷⁰ Although Prime Minister al-Maliki did not say so explicitly, presumably he was referencing Article 7 of Iraq’s Constitution which states in pertinent information:

First: No entity or program, under any name, may adopt racism, terrorism, the calling of others infidels, ethnic cleansing, or incite, facilitate, glorify, promote, or justify thereto, especially the

¹⁶⁸ See, e.g., *supra* note 1, at 18 (noting the Iraqi Governing Council called on December 9, 2003, for the expulsion of the MeK from Iraq within six months).

¹⁶⁹ “*Iran urges Iraq to expel opposition group*,” AGENCE FRANCE PRESSE, February 28, 2009.

¹⁷⁰ AL-IRAQIYA TELEVISION.

Saddamist Baath in Iraq and its symbols, regardless of the name that it adopts. This may not be part of the political pluralism in Iraq. This will be organized by law.

Second: The State shall undertake combating terrorism in all its forms, and shall work to protect its territories from being a base or pathway or field for terrorist activities.

On June 17, 2008, the Council of Ministers of Iraq adopted Directive 216 in its 27th ordinary session, making clear the government of Iraq's intent to ignore any protections afforded to the residents of Camp Ashraf as protected persons under the Fourth Geneva Convention. This directive included the following points:

1. All the previous ratifications that had been approved previously that the Mujahedin-e Khalq Organization must be expelled as a terrorist organization from Iraq is hereby underscore; (sic)
2. The Mujahedin-e Khalq Organization which is present on Iraqi territory will come under the full control of the Iraqi government until it is expelled from Iraq. This organization will be treated according to the laws of Iraq.
3. Any cooperation with the terrorist Mujahedin-e Khalq Organization by any organization, party, institution or persons (whether Iraqi or alien) in Iraq is prohibited and anyone who cooperates with them will be subject to the laws of the war on terrorism and will be referred to the judicial system according to the said laws.
4. It is incumbent on the Multi-National Force-Iraq to abandon this organization and hand over to relevant Iraqi authorities all control points and issues that relate to the members of this

organization.

5. Judicial lawsuits against those groups of members of the terrorist Mujahedin-e Khalq Organization who have committed crimes against the People of Iraq will be activated.

6. Coordination will be made between the Government of Iraq and the International Committee of the Red Cross to find fundamental solutions for the problem of the presence of the said organization in Iraqi territory and the implementation of the decisions taken to expel them from Iraq.¹⁷¹

The directive was signed by Ali Mohsen Esmael, Acting Secretariat for the Council of Ministers.

Public statements and actions by the government of Iraq have also become increasingly aggressive against the MeK:

- During a January 1, 2009, visit to Tehran, Iraqi Prime Minister Nouri al-Maliki stated “Iraq is determined to put an end to this organization because it is affecting relations between Iran and Iraq” and he announced the MeK would not be permitted to remain in Iraq.¹⁷²
- On January 19, 2009, Iraqi National Security Advisor Muwaffaq al-Rubaie told reporters in Tehran that “the Iraqi government has made a serious decision to expel” the residents of Ashraf City.¹⁷³
- In a press conference on January 23, 2009, with Secretary of Iran’s Supreme National Security Council

¹⁷¹ Directive 216, government of Iraq.

¹⁷² “Iranian Militant MEK Group Losing Fight to Stay in Iraq,” FOX NEWS, January 12, 2009.

¹⁷³ “Iraq Accuses Iranian Exiles of Plotting Attack,” WASHINGTON POST, January 21, 2009.

Saeed Jalili in Tehran, Iraqi NSA Muwaffaq al-Rubaie announced that Camp Ashraf will be “closed forever” in two months, that the decision of Iraqi government is “irreversible” and residents must return to Iran or go to other countries.¹⁷⁴

- On January 27, 2009, Iraqi National Security Advisor Muwaffaq al-Rubaie and Iraqi Human Rights Minister Wijdan Michael held a meeting with Ambassadors of nine European countries, United States, Canada, Australia and Iran to ask them to accept the residents of Ashraf City in their countries. Al-Rubaie said 35 camp residents have Western citizenship and 914 have acquired refugee status abroad. He asked diplomats to take in those 949 plus others with family ties to their countries. "You have helped us a great deal in liberating Iraq. Now we need to clear up some of what we have unwillingly inherited from the previous regime . . . Our constitution is clear that no terrorist organization can stay in Iraq to threaten our neighbors," al-Rubaie said. He added that Iraq has no refugee law, and the Iranians cannot therefore stay in Iraq as refugees.¹⁷⁵
- On March 27, 2009, Iraqi National Security Advisor Muwaffaq al-Rubaie indicated that the government of Iraq planned to move the residents of Camp Ashraf to remote areas in the country and added “The residents should understand . . . that their days in Iraq are numbered and we are literally counting down.”¹⁷⁶ Reportedly, numerous restrictions were imposed on the MeK members including: (1) entry to Camp Ashraf is banned except for workers; (2) entry of Iraqi lawyers of

¹⁷⁴ “Iraq Repeats Pledge to Close Iran Opposition Camp,” ASSOCIATED PRESS, January 23, 2009.

¹⁷⁵ “Iran Rebels Resist Leaving Iraq, Fear for Future,” REUTERS, January 27, 2009.

¹⁷⁶ “Iraq to Move Iranian Opposition Group: Official,” ASSOCIATED PRESS, March 27, 2009.

Ashraf residents to the Camp is banned. Entry of foreign lawyers and delegations has been banned for some time; (3) entry of women of any nationality is banned; (4) entry of vehicles without Iraqi number plates is banned; (5) any construction work on standing buildings in Ashraf is banned; (6) entry of any construction material is banned; (7) wearing uniforms is banned; and (8) carrying any kind of video recorder and cameras by Ashraf residents is forbidden.

In light of the history of increasingly hostile statements and actions by the government of Iraq, the authors of the report should have known their suggestion that the U.S. government urge the Iraqis to break up Camp Ashraf and *refoule* its members to Iran would provide it with a justification to act.

B. Tehran Embraces the RAND Report

Beyond the misguided recommendations, the reaction to the monograph is of particular interest. A close examination of the reaction to the RAND monograph makes clear that it has been embraced by the government of Iran and its proxies.

- Iran state-run English-language *Mehr News* reported remarks made by Majlis Speaker Ali Larijani with respect to the RAND monograph. The article reports “he stated that the U.S. non-profit think tank RAND Corporation which provides objective research has recently announced the U.S. has not treated the [MeK] as a terrorist organization.” Mr. Larijani said “The Americans have confessed the United States has not dealt with the Mojahedin Khalq Organization as a terrorist group and this is a political fiasco for the United States.”¹⁷⁷
- The *Islamic Republic News Agency* featured a story on

¹⁷⁷ “Nominees Should Have ‘Revolutionary Records’ and ‘Efficiency’”: *Larijani*, MEHR NEWS, August 26, 2009.

the RAND monograph.¹⁷⁸

- IRIB English-language radio reported that “[a] recent report by the RAND Corporation, a prominent think tank . . . says Washington committed a judgmental error when dealing with the [MeK] terrorist outfit in Iraq . . . To make matters worse, the terrorist group, which has a long history in subterfuge, asserted that it had not engaged coalition forces in combat. US officers responsible for detaining the [MeK] accepted this claim.”¹⁷⁹
- Iran state-controlled English-language *Press TV* presented a written feature story on its website¹⁸⁰ and then followed up with a one-hour television show. The television program featured interviews with aforementioned discredited sources Anne Singleton and the brother of Massoud Khodabandeh, as well as Abdul Reza Davari, Deputy Director of the Islamic Republic News Agency.¹⁸¹
- The RAND monograph is featured on the websites of the major anti-MeK and MOIS-sponsored websites and has been translated, presumably by Iranian intelligence, into Farsi. We have no reason to believe that RAND has issued a cease-and-desist letter to these online distribution points for violation of its copyright.¹⁸²

¹⁷⁸ See “U.S. Has Double Standard in Dealing with Terrorism,” ISLAMIC REPUBLIC NEWS AGENCY, August 16, 2009, available at: <http://www.irna.ir/View/FullStory/?NewsId=625694> (the subtitle of the article cites the RAND monograph for this proposition).

¹⁷⁹ “RAND Faults U.S. Handling of MKO Terrorists,” IRIB ENGLISH RADIO, October 19, 2009.

¹⁸⁰ See “Study Faults US Handling of MKO Terrorists in Iraq,” PRESS TV, October 14, 2009.

¹⁸¹ See <http://littlealexinwonderland.wordpress.com/2009/10/20/u-s-backed-terror-group-m-e-k-in-iraq-video/>

¹⁸² See, e.g., <http://www.iran-interlink.org/index.php?mod=view&id=6790>; <http://www.khodabandeh.org/>; <http://www.nejatngo.org/en/post.aspx?id=2773>.

In such circumstances, it is clear that the government of Iran believes its foreign policy interests have been advanced by the publication of the monograph. No such similar statements of support have appeared in the media by U.S. government officials. As many of the assertions in the report were drawn from Iranian-government-inspired sources, it is not surprising that the government of Iran, its state-run media, and its proxies have fully embraced the monograph and its conclusions.

C. Conclusion

In sum, the RAND report appears to have been crafted to justify the destruction of the MeK as a group and the elimination of its members, without regard to the lives of the MeK members or the consequences of the United States committing grave breaches of international law.

We urge RAND to conduct an independent investigation to determine how the highly flawed report on the MeK could have been produced and distributed by the Corporation. We urge that members of the U.S. Congress, in their oversight role, task the General Accountability Office to conduct an investigation of the report and to examine the processes in place at RAND to ensure its publications attain “high standards for research and objectivity.” Finally, we urge the Secretary of Defense, which commissioned the report, to discount the misguided recommendations in the document and commission a new impartial study that includes authors with respected and appropriate expertise to properly address the issues in question regarding the MeK.

Appendix A

93-APR-2003 10:05 FROM MOD-SEC(0) TO 070083370
 HOUSE OF LORDS (X) LRBIC VJlg P. 03/09


 House of Lords
 London SW1A 0PW

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URGENT BY HAND

Rt Hon Geoff Hoon MP
 Secretary of State
 Ministry of Defence
 Old War Office Building
 London SW1A 2EU

20 March 2003

Dear Geoff,

I am concerned that the leaders of the fundamentalist regions in Iran may try to take advantage of the situation over Iraq, to strike at the camps run by the Iranian resistance on the Iraq side of the border.

The People's Mojahedin Organisation has made clear that it has had no presence in either northern or southern Iraq for more than 12 years, that it is not involved in Iraqi internal affairs and that it is entirely independent of, and separate from, the Iraqi regime. You can easily confirm that the PMO was not involved in any way in the last Gulf War and its camps were not attacked during the liberation of Kuwait.

I understand that there is a committee which oversees targeting policy for possible US/UK air and missile attacks and want to ask that the Iran opposition camps are specifically excluded from consideration of attack. I attach a list of their locations which is also known to UNMOVIC.

The Iranian regime is understood to have 36 brigades along the borders with Iraq and the 'Financial Times' reported on 19 February that it has sent 5,000 of its prods into Iraq. This is believed to be in preparation for an arm's length attack on the Iranian opposition.

RECEIVED BY
 PARLIAMENTARY BRANCH

more/ ON: 25-3-03

MINISTER REPLYING: SS

KEYWORD(S): Iraq Sec(0)

LEAD BRANCH:

COPIED TO:

RELATED CASE:

CLERK:

Footnote 38 - Letter from Lord Corbett to the Rt. Hon. Geoff Hoon MP, March 20, 2003.

03-APR-2003 10:05 FROM MOD-SEC(0)

TO 070083370

P.04/09

- 2 -

I do not wish to rehearse arguments here about the clear and present danger which the Iranian regime's use of terror at home and its sponsorship of it abroad implies for the region and world but simply to ask you to accept that the Iranian resistance represents the best-organised coalition to end the fundamentalist threat from Iran and introduce a secular, democratic state.

I anticipate the difficulties in your responding in detail to these points at present but would like your acknowledgement that they will be seriously and urgently considered.

Thank you for your attention.

Sincerely,
Robin.

Lord Corbett of Castle Vale
Chairman, Committee for
Iran Freedom

Comments from R. Corbett's lobby
Clarke re Iranian resistance
groups being potentially targeted
Dunlop has also raised this
issue re [file by Liz Blain re
PPS to SFS]

→ Party branch
- Suggest SFS
replies to Lord
Corbett, cc. Lord
Clarke + Wia
Griffiths
M. 25/3

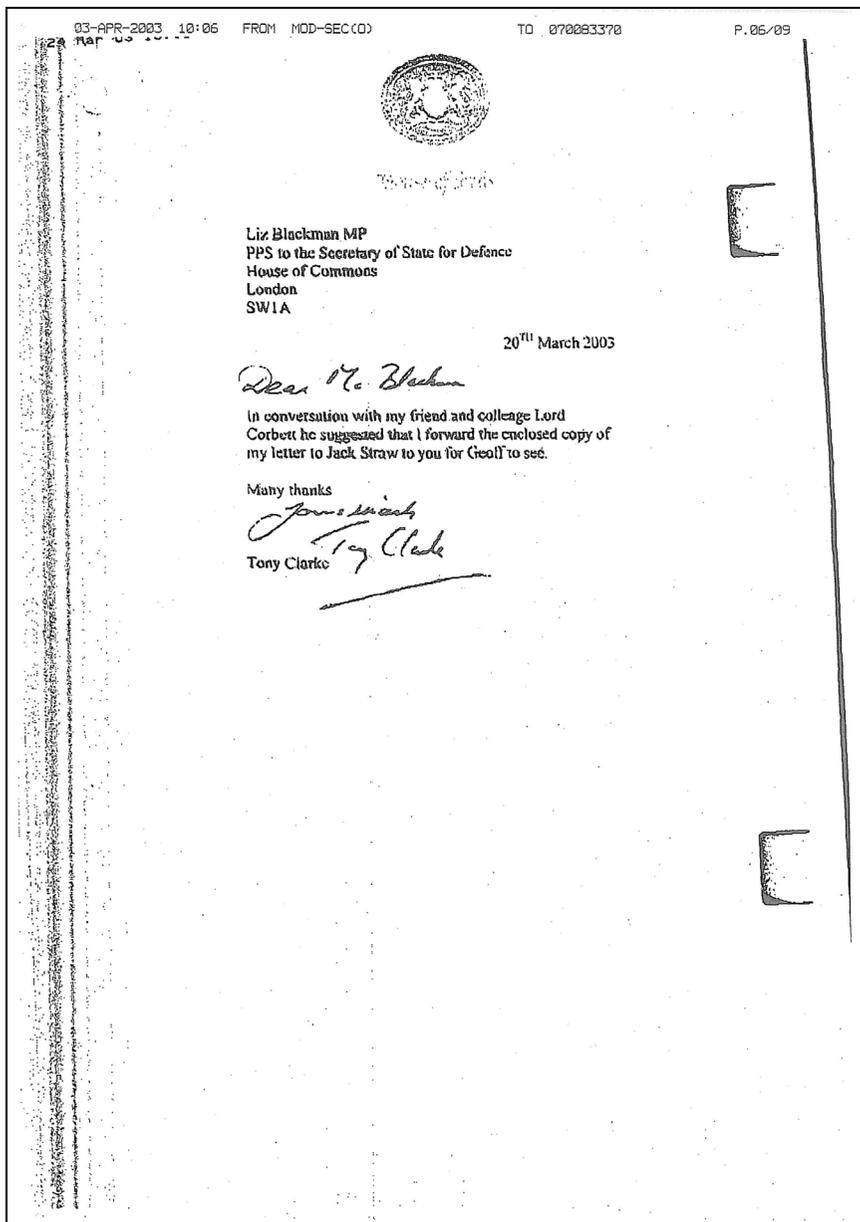
03-APR-2003 10:06 FROM MOD-SEC(O)

TO 070083370

P.05/09

Mar 03 09:48

1. Anzali camp, near the city of Jaloula, 30 km from the border with Iran
2. Alavi camp near the city of Meghdadieh
3. Ashraf camp, 30 km in the north of city of Khalis
4. Faezeh camp, near the city of Kut
5. Homayoun camp, 5 km to the south of city of Alamarch
6. Mouzarmi camp, situated in the area of Salaf Fakher, south west of the city of Alamareh
7. Habib camp, 45 km to the north of the city of Basra
8. Badi' Zidegan camp, in the west of the town of Abughorcih, west of Baghdad
- 9,10,11. Bagherzadeh camps no. 1, 2, and 3 situated in the west of the town of Abu-ghorcih, west of Baghdad. These three camps are in a short distance from one another.
12. Mojahedin central office in Baghdad, in the Sa'doun street, Andoles square. This office comprises a number of big buildings and very well known, that has been separated from the rest of the city of Baghdad.



Footnote 39 - Letter from Lord Clarke to Foreign Secretary Jack Straw, March 20, 2003.

03-APR-2003 10:06 FROM MOD-SEC(O)

TO 070083370

P.07/09



THE LORD CLARKE OF HAMPSTEAD C.B.E. K.S.G.

HOUSE OF LORDS · LONDON · SW1A 0PW
TELEPHONE 020 7219 1379

Rt Hon Jack Straw MP
The Foreign Secretary
Foreign & Commonwealth Office
London SW1

20th March 2003

Dear Jack,

You will be aware of my long-standing support for the National Council of Resistance of Iran. I am writing to express my wholehearted agreement with the contents of the letter to you from The Lord Alton of Liverpool dated 19th March. I believe it is of vital importance that the position of neutrality of the Iranian opposition movement based in Iraq is clearly recognised, especially in the present circumstances where the Iranian regime may be tempted to attack the camps belonging to the Iranian opposition movement.

I am also aware of the letter to the Secretary of State for Defence from The Lord Corbett on this subject, the contents of which I fully endorse.

It is my fervent prayer that the action taken by the Government, which I support, on the need to secure the disarmament of the Saddam Hussain regime is successful in the shortest possible time.

With best wishes

Tony Clarke
Tony Clarke

CC. The Rt Hon Geoffrey Hoon

PLEASE REPLY TO:

83 ORCHARD DRIVE · ST. ALBANS · HERTFORDSHIRE · AL2 2QH
TEL: 01727 874276
FAX: 01727 874491
E.MAIL: tonyc@zone99.fhncf.co.uk

03-APR-2003 10:07 FROM MOD-SEC(0)

TO 070083370

P. 08/09

URGENT.March 19th 2003.

Rt Hon Jack Straw MP
The Foreign Secretary.

Dear Jack,

I am writing to you regarding the presence of part of the People's Mojahedin Organisation of Iran in Iraq. While I have supported the government policy on the crisis in Iraq, I must emphasize that I am extremely concerned about the safety of the Mojahedin and our government's approach to this sensitive issue.

I believe, both from a moral and humanitarian point of view as well as from a hard headed political position, it is important that both Britain and the United States consider the issue of the Iranian resistance. Every effort should be made to ensure that the terrorist regime ruling Iran will not be given an opportunity to take advantage of the situation and attack the opposition. Our forces should take all necessary measures to prevent any attack under the cover of hostilities on the camps belonging to the Iranian opposition movement. They are fighting for a just cause to liberate their homeland from the clutches of a brutal and fundamentalist regime.

As you are aware, the Iranian regime has already sent its proxies to Iraq. The Financial Times reported on 19 February 2003, that "Iranian-backed Iraqi opposition forces have crossed into northern Iraq from Iran with the aim of securing the frontier in the event of war. This report was attributed to a senior Iranian official. The forces, numbering up to 5,000 troops, with some heavy equipment, are nominally under the command of Ayatollah Mohehammad Baqir Al-Hakim, the opposition leader who has been based in Iran since 1980 and lives in Tehran."

For more than two decades the Iranian regime has been the main source for spreading Islamic fundamentalism and anti-western radicalism in the region. This regime has rightly been described by our ally, the United States, as the "most active state sponsor of terrorism." According to reliable, and indeed confirmed, information recently released by the National Council of Resistance of Iran, the Iranian regime is very close to having a nuclear bomb. In an analogous situation, by taking advantage of the instability in Iraq in 1991, the Iranian regime sent thousands of its troops to Iraq to destroy the resistance. I hope that you will concur with me that my concern is more than justified.

LOCAL CEASE- FIRE AGREEMENT
OF MUTUAL UNDERSTANDING AND COORDINATION

The undersigned, each acting under their respective military authority, hereby agree to a local cease – fire between Lieutenant Colonel Kenneth Tovo of the Coalition Forces, and Mr. Mehdi Baraie of the National Liberation Army of Iran- NLA of the People's Mojahedin Organization of Iran (PMOI), also known as the Mojahedin E-Khalq within Iraq. This agreement is intended to ensure a complete cessation of hostilities and prohibits all acts of armed force between the parties and does not constitute an act of surrender. The parties agree to accept and to be bound by the conditions and terms of this agreement as set forth in the following articles.

NLA/PMOI state that they have not fired even a single bullet against US/Coalition forces in this war because their only enemy is the religious dictatorship ruling Iran. NLA/PMOI also state that they have never been involved in the war or any act of hostility with U.S. /Coalition forces.

Article 1. The parties shall order and enforce a complete cessation of all hostilities against each other in Iraq by all specified armed forces under their control, including all units and personnel of the ground, naval, and air forces, as appropriate, effective immediately. The NLA Units Commanders' forces shall remain in uniform.

Article 2. Unless otherwise directed by U.S.\ Coalition Commander, the NLA Units Commander shall, in order to prevent incidents which might lead to a resumption of hostilities or incidental engagement, ensure that forces under his command remain within the following geographic limits:

1. Ashraf Camp, described as that geographic area enclosed by the map coordinates of 38S MC 5676 and 38S MC 6876 and 38S MC 6864 and 38S MC 5664.
2. Alevi Camp, described as that geographic area enclosed by the map coordinates of 38S NC 0371 and 38S NC 0671 and 38S NC 0666 and 38S NC 0366.

Footnote 46 - *Local Ceasefire Agreement of Mutual Understanding and Coordination*, April 15, 2003.

3. Zohrah Camp, described as that geographic area enclosed by the map coordinated of 38S NC 1784 and 38S NC 3184 and 38S NC 3158 and 31S NC 2258.
4. Rana Base, described as that geographic area enclosed by the map coordinates of 38S NC 1762 and 38S NC 2562 and 38S NC 2255 and 38S NC 1755.
5. Sodeh Camp, described as that geographic area enclosed by the map coordinates of 38S NC 1646 and 38S NC 2153 and 38S NC 2550 and 38S NC 2044.
6. The major roads connecting the above camps and base.

Article 3. NLA forces under the Command of the NLA Unit Commander shall display white flags on all mechanized equipment, to include on artillery pieces, as a flag of truce.

Article 4. During the period of this agreement, NLA Unit Commander shall ensure that all NLA units comply with the following:

- A. Not fire upon, or commit any hostile act toward, any U.S.\ Coalition forces.
- B. Not destroy or damage any of the NLA unit's vehicles or equipment.
- C. Not destroy or damage any government or private property (e.g., public infrastructure, oil pumping\ refining \storage \ transportation facilities).
- D. Place all towed artillery and air defense artillery pieces in a passive travel mode.
- E. Turn off all radars. NLA emphasizes that it has never had any radars.
- F. Keep military personnel in uniform at all times.

Article 5. U.S.\ Coalition forces will not fire upon, or commit any hostile act toward, any NLA forces covered by this agreement. U.S.\ Coalition forces will not destroy or damage any NLA\PMOI property in their camps in Iraq.

Article 6. Failure to order and enforce a complete cessation of all hostilities, or failure to comply with all requirements contained in the preceding Article shall constitute a serious violation of this agreement.

A serious violation of this agreement may lead to denouncement of the cease-fire and recommencement of hostilities.

Article 7. For mutual protection of forces the undersigned U.S.\ Coalition and NLA Unit Commanders will provide each other with the location of all known land mines in and around the geographic vicinity as described in Article 2. NLA emphasizes it has never planted any mines anywhere.

Article 8. The undersigned U.S.\ Coalition and NLA Commanders are responsible for enforcement of this agreement, and shall establish within their respective commands all measures and procedures necessary to ensure compliance with all of the provisions of this agreement, by all elements under their command. They shall cooperate in complying with the provisions of this agreement.

Article 9. The U.S.\ Coalition and NLA Commanders agree that this local agreement does not surrender or capitulate troops under command of the NLA Commander. The respective Commanders agree that, except in the case of a serious violation identified in Article 6 of this agreement, hostilities will not recommence without appropriate notice to the other Commander which will in no case be less than 48 hours.

Article 10. The Articles of this agreement shall remain in effect until expressly superseded either by mutually acceptable amendments and additions or by provision in an appropriate agreement between both sides.

Article 11. NLA reserves the right to self defense against the Iranian regime's attacks and to prevent and confront theft, looting and abduction. The NLA agrees that if it becomes necessary to leave the designated geographical limits established in Article 2 above in order to protect itself in self-defense, it will inform the Coalition Forces prior to doing so, in order that the Coalition Forces can avoid engaging the NLA unit.

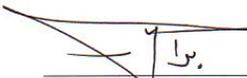
Article 12. This agreement comes into force upon signature of both parties.

Article 13. This agreement may be amended by mutual written agreement of the parties.

Article 14. Done this 15th day of April, 2003, in Ashraf Camp near the city of Khalis, Iraq, in two copies, each in the English and Farsi, the English text being authentic.



LTC Kenneth Tovo
U.S.A Coalition Unit Commander



Mr. Mehdi Baraie
Representative of the NLA General
Command Staff

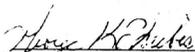
MEF CF Amendment (190745ZAPR03)
AMENDMENT TO LOCAL CEASE-FIRE AGREEMENT
OF MUTUAL UNDERSTANDING AND COORDINATION

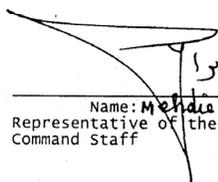
By mutual agreement of the Parties, the Local Cease Fire Agreement entered into on April 15th, 2003, between the Coalition Forces and the National Liberation Army of Iran - NLA of the People's Mojahedin Organization of Iran (PMOI), also known as the Mojahedin E-Khalq within Iraq, is hereby amended as follows:

1. The geographic limits of the Alevi Camp set forth in Article 2(2) of the Agreement are hereby expanded and now is described as the geographic area enclosed by the map coordinates of 38S MC 9871 and ~~38S NC 0671~~ and ~~38S NC 0663~~ and 38S MC 9863

38S NC 0771 *AKC* 38S NC 0763 *AKC*

Done this 19th day of April, 2003.


MAJ George Thiebes
U.S. / Coalition Representative


Name: Mehdi Barzai
Representative of the NLA General
Command Staff



DEPARTMENT OF THE ARMY
TF 134, JIATF
Camp Ashraf, Iraq
APO AE 09391

TF 134 - JIATF

4 Jun 06

MEMORANDUM FOR RECORD

SUBJECT: ICRC Request for Family Contact

Over the past several months JIATF has seen an increase in the number of "family contact" requests from the ICRC, and the PMOI have been very cooperative in facilitating JIATF's visits with these individuals. After meeting with the individuals we relay their desires concerning establishing communication with the requester back to the ICRC representative. All of this correspondence takes place via email, is treated as confidential, and a copy is placed in the Ashraf resident's local JIATF file. Many of the residents of Ashraf express concern over the true intent of those requesting to establish contact, and in order to address their concerns we now offer them the opportunity to provide written responses to the ICRC concerning each request.

A handwritten signature in black ink, appearing to read "Darrell Martin".

Darrell Martin
CPT, EN
JIATF Deputy Cdr

Footnote 57 - Memorandum for Record, Captain Darrell Martin, Deputy Commander, Task Force 134, JIATF, June 4, 2006.



INTERNATIONAL COMMITTEE OF THE RED CROSS

7382

The International Committee of the Red Cross (ICRC) in Baghdad presents its compliments to the Ministry of Foreign Affairs of the Republic of Iraq and has the honour to submit the following:

On 19th August 1992, the ICRC Delegation in Baghdad has carried out a visit to 591 former Iranian POWs or Iranian servicemen now with the People's Mujahedin Organisation of Iran (PMOI) at Khales (Iraq).

During its visit, the ICRC Delegation could interview without witness the 591 Iranian nationals in order to establish their identity and to ascertain whether or not they wished to be repatriated to their country of origin. None of the 591 persons met during the visit wished to be repatriated.

Following this visit, the ICRC no longer considers the 591 former POWs as protected persons under the Geneva Conventions of 1949, and will therefore not visit them again.

The ICRC Delegation in Baghdad avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the Republic of Iraq the assurance of its highest consideration.

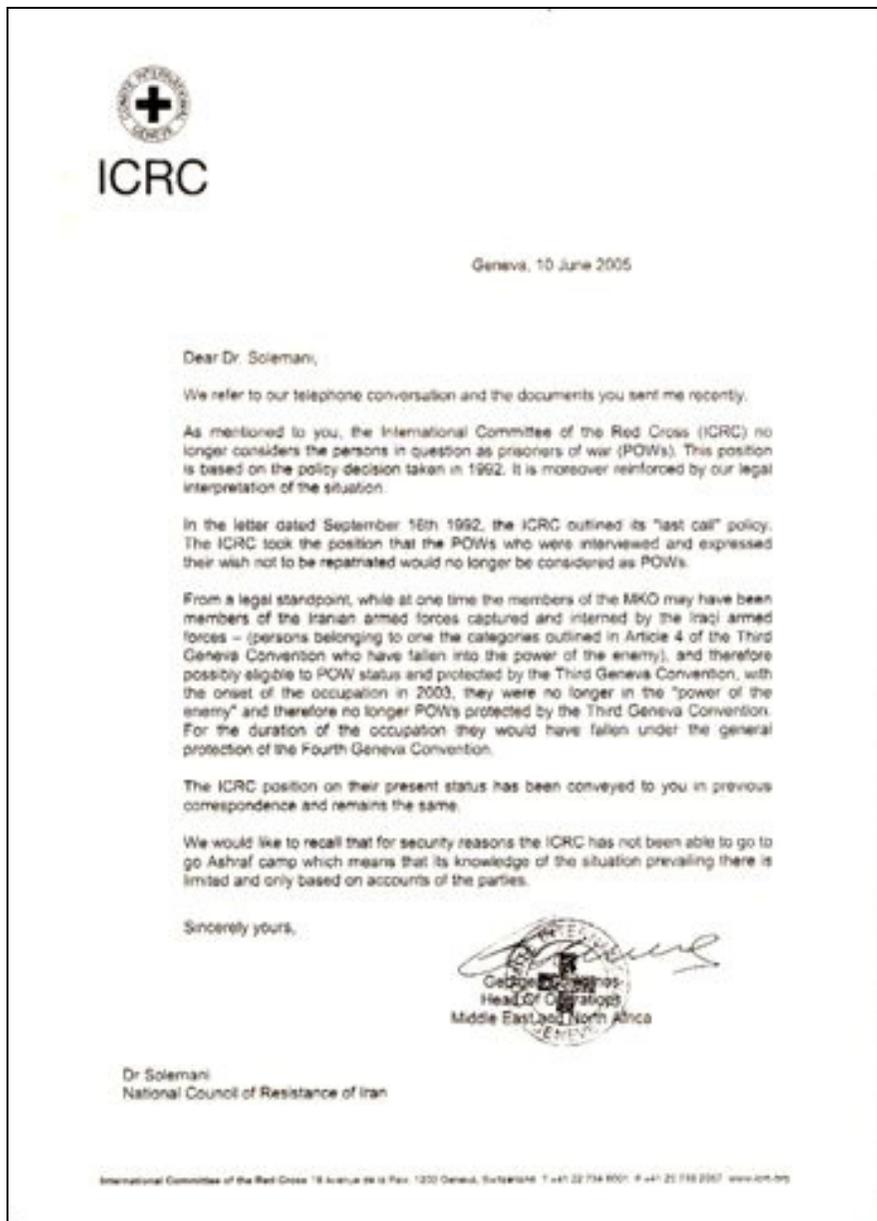
Baghdad, September 16th, 1992



MINISTRY OF FOREIGN AFFAIRS
OF THE REPUBLIC OF IRAQ

B A G H D A D

Footnote 65 - International Committee of the Red Cross, letter to Ministry of Foreign Affairs of the Republic of Iraq, September 16, 1992.



Footnote 66 - Letter from George Comminos, Head of Middle East and North Africa Operations of the ICRC, to the National Council of Resistance of Iran, June 10, 2005.



HEADQUARTERS
MULTI-NATIONAL FORCE - IRAQ
BAGHDAD, IRAQ
APO AE 09342-1400

June 25, 2005

MNFI-DCG

Madam Parsaii
Camp Ashraf, Iraq

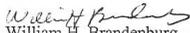
Dear Madam Parsaii,

Following our meeting on June 12th, 2005, I recognize that the Mujahedin e-Khalk (MeK) personnel currently residing at Camp Ashraf, Iraq, qualify as protected persons under Article 4 of the Fourth Geneva Convention (GC IV) relative to the Protection of Civilian Persons in Time of War (12 August 1949). I understand your concerns and appreciate your cooperation with our interviews of selected MEK personnel to determine if they are former Enemy Prisoners of War (EPW) from the Iran/Iraq war. In accordance with Article 143, GC IV, we shall have full access to the designated personnel and will conduct the interviews at a neutral location in Ashraf under the following conditions:

- a. The interviews will begin the week of July 2, 2005 and will continue daily until completed.
- b. Joint Interagency Task Force (JIATF) personnel will submit to your LNOs a list of MeK personnel to be interviewed. The interviews will be conducted alphabetically in accordance with the submitted list.
- c. JIATF personnel will pick up a group of approximately twenty interviewees per day at your Convention Center or at a mutually agreed upon location and return them when the interviews are completed on the same day.
- d. The interviews will be conducted privately by JIATF personnel at a designated location in Ashraf.
- e. The interviews will be conducted without witness from either the Iraqi Government or MEK personnel.

If you would like to recommend changes to the above listed conditions, please submit them to me no later than June 30, 2005. Thank you for your continuing cooperation and understanding.

Very Respectfully,


William H. Brandenburg
Major General, U.S. Army
Deputy Commanding General

Footnote 67 - Letter by Maj. Gen. William H. Brandenburg, Deputy Commander General, MNF-1, to Ms. Mojgan Parsai, MeK's Secretary General, June 25, 2005.



DEPARTMENT OF THE ARMY
MULTI NATIONAL FORCE - IRAQ
JOINT INTER-AGENCY TASK FORCE
BAGHDAD, IRAQ
APO AE 09342

Joint Inter-Agency Task Force

16 April 2007

MEMORANDUM FOR RECORD

SUBJECT: ICRC Visits from October 2006-April 2007

1. As a result of ICRC requests received for visiting Ashraf residents between the dates of October 2006 and April 2007, we have met with 27 people privately. PMOI has been cooperative in facilitating our meetings with the individuals. The meetings were conducted by JIATF staff and held in a private manner. The results of each visit have been reported back to the ICRC. The individuals have expressed that they have no communication issues with their families. They have also expressed concerns that the ICRC interview requests are a result of pressure applied by the Iranian Regime on their families in an effort to identify and locate PMOI members.


JAMICA POWELL
MAJOR, U.S. Army
Deputy Commander, JIATF

Footnote 68 - Memorandum for Record, ICRC Visits from October 2006-April 2007, by Major Jamica Powell, Deputy Commander, JIATF, April 16, 2007.

**In the Name of God, the Most Compassionate,
the Most Merciful**

On 18 April 2009 we started searching Camp Ashraf with police dogs of the Interior Ministry and we completed our task on 20 April 2009. We found no explosives or any weapons other than 23 packages of fire crackers some of which had become rotten and some others empty. We left the Camp at 16:00 on 20 April 2009 and therefore we sign this statement.

Lieutenant Badroddin Taha Mahmoud
From Directorate of the Police Dog Department of the Interior
Ministry
20 April 2009

Mehdi Barai
Representative of
Ashraf residents
20 April 2009

Ali Bahari Javan
Representative of
Ashraf residents
20 April 2009

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

بتاريخ ١٨ / ٤ / ٢٠٠٩ بدأنا بتفتيش حثيم آشرف بواسطة الكلاب البوليسية في وزارة الداخلية وباتاريخ ٢٠ / ٤ / ٢٠٠٩ أكملنا عملنا ولم نعثر على أية مواد متفجرة أو أسلحة باستثناء (ألعاب نارية عدد ٥٥ عبوة قس عادية وقسم فاديتة) وبالساعة ١٦:٠٠ يوم ٢٠ / ٤ / ٢٠٠٩ تم مغادرة الحثيم وللجلد وقفت

بوا
مهدى براى
ممثل سكان آشرف
٢٠ / ٤ / ٢٠٠٩

على باهاري جوان
ممثل سكان آشرف
٢٠ / ٤ / ٢٠٠٩

بالتوقيع
بدر الدين طه محمود
مديرية الكلاب البوليسية
في وزارة الداخلية
٢٠٠٩ / ٤ / ٢٠

Footnote 121 - Memorandum signed by Lt. Badroddin Taha Mahmoud, from the Directorate of the Police Dog Department of the Ministry of the Interior of Iraq, April 20, 2009. The Memorandum was also signed by Messrs. Mehdi Barai and Ali Bahari Javan, representatives of Ashraf residents.



HEADQUARTERS
MULTI-NATIONAL FORCE - IRAQ
BAGHDAD, IRAQ
APO AE 09342-1400

*Proclamation by the Commander, Multi-National Forces –
Iraq, on the Signing of the “Agreement for the Individuals of the
People’s Mujahedin Organization of Iran (PMOI)” at Ashraf,
Iraq*

To the residents of Ashraf

The United States has confirmed your status as “protected persons” under the Fourth Geneva Convention and has communicated that determination to the International Committee of the Red Cross in Geneva. The acknowledgement of this determination will assist in expediting the efforts of the International Committee of the Red Cross and the United Nations High Commissioner for Refugees in your disposition as individuals in accordance with applicable international law.

2 July, 2004

Footnote 157 - “Proclamation by the Commander, Multi-National Forces – Iraq, on the Signing of the ‘Agreement for the Individuals of the People’s Mujahedin Organization of Iran (PMOI/MeK)’ at Ashraf, Iraq,” July 2, 2004.

**ICRC****CONFIDENTIAL**

Geneva, 20 April 2004

Dear Dr. Solemani,

I would like to refer to our telephone of last week during which you raised the question of the legal status of the People's Mojahedin Organization of Iran (PMOI) in Iraq.

As you are well aware, Iraq is under the regime of belligerent occupation in which the 1949 Geneva Conventions and the customary rules of international humanitarian law (IHL) apply to all parties to the conflict. Under the law of occupation, the Occupying Power has a series of responsibilities, including the obligation to ensure the respect of all persons in occupied territories.

Persons deprived of liberty in the hands of an Occupying Power are either protected by the Third Geneva Convention and entitled to prisoner of war status, or covered by the Fourth Geneva Convention, insofar as the nationality criteria of Article 4 of this Convention are met. Persons neither protected by the Third or Fourth Geneva Convention benefit nevertheless from the fundamental guarantees set forth in Article 75 of Additional Protocol I to the Geneva Conventions which reflect binding customary international law, and by the provisions of Common Article 3 of the Geneva Conventions.

The PMOI members currently deprived of liberty in Iraq are under the responsibility of the Occupying Powers and therefore are protected by the Geneva Conventions. The determination of their status cannot be made on a group basis, but must be made individually for each PMOI member by the Occupying Power who detains them.

Dr. Solemani
National Council of
Resistance of Iran

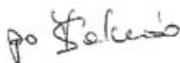
Footnote 160 - ICRC letter from Georges Comminos to the National Council of Resistance of Iran, April 20, 2004.

2

Although the ICRC is not in a position to determine the status of each PMOI individual, it appears nevertheless that PMOI members in Iraq fall in general under the protection of the Fourth Geneva Convention. Persons protected by this Convention benefit from a number of safeguards, including the prohibition of individual or mass forcible transfers, as well as deportation from Iraq to the territory of the Occupying Power or to that of any other country, regardless of their motive.

Adequate solutions within Iraq or another country will have to be found for those PMOI members who are not willing to be repatriated or transferred to a third country where they fear persecution.

Sincerely yours,



Georges Comninos

Head of Operations
Middle East and North Africa

Appendix B

Camp Ashraf, Iraq



Top: Camp Ashraf is located 60 miles northeast of Baghdad. *Bottom:* Lions adorn the front gate at Camp Ashraf. The lion, an historical symbol of Iran, was added to its flag in the Constitutional Revolution of 1906, which created the first democratically elected Constitutional Assembly. It was dissolved in 1908 after a coup d'état by Mohammad Ali Shah, giving rise to the Mujahedin Constitutionalists. They battled to restore the Constitution and are the inspiration for the Mujahedin-e Khalq and their goal to establish a democratic, secular government in Iran.



Camp Ashraf Facilities



Top: View of Camp Ashraf looking northeast. *Bottom:* One of the technical workshops at the Camp. An article in the *Los Angeles Times* in 2005 described the Camp as an “idyllic sprawl of self-contained mini-villages with barracks-style living quarters, dining halls, recreational facilities and carefully maintained gardens . . . Camp Ashraf has its own swimming pool, library, monument to fallen comrades and a museum where visitors can view gruesome videos of Iranian regime brutality . . .”



MeK Camps Bombed by Coalition Forces



Camp Ashraf (above), and Camp Alavi (below), were among the MeK Camps bombed in 2003 by coalition forces during OIF despite MeK's neutrality. The MeK suffered numerous casualties yet did not fire a single bullet in retaliation.



Senior U.S. Officers Meet MeK Members at Ashraf



U.S. Military officers and government officials hold meetings with MeK officials at Camp Ashraf. *Top:* Rear Admiral Garland Wright, Commander of Multi-national Force-Iraq, Task Force 134, meets with MeK members during a visit to Ashraf. *Bottom:* Admiral Wright, Brig. Gen. David Quantock, MNF-I Deputy Commanding General, and Col. Leo McCloskey, JIATF Commander, confer with MeK officials in 2008.



Iraqi Support for the MeK



Top: A petition expressing support for the MeK with 5.2 million signatures (primarily Sunnis) was presented to the MeK at Camp Ashraf by Iraqi political and tribal leaders in June 2006. The signatures are contained in the 573 binders. *Bottom:* Iraqi Shiite officials presented a petition with 3 million signatures voicing support for the MeK in June 2008.

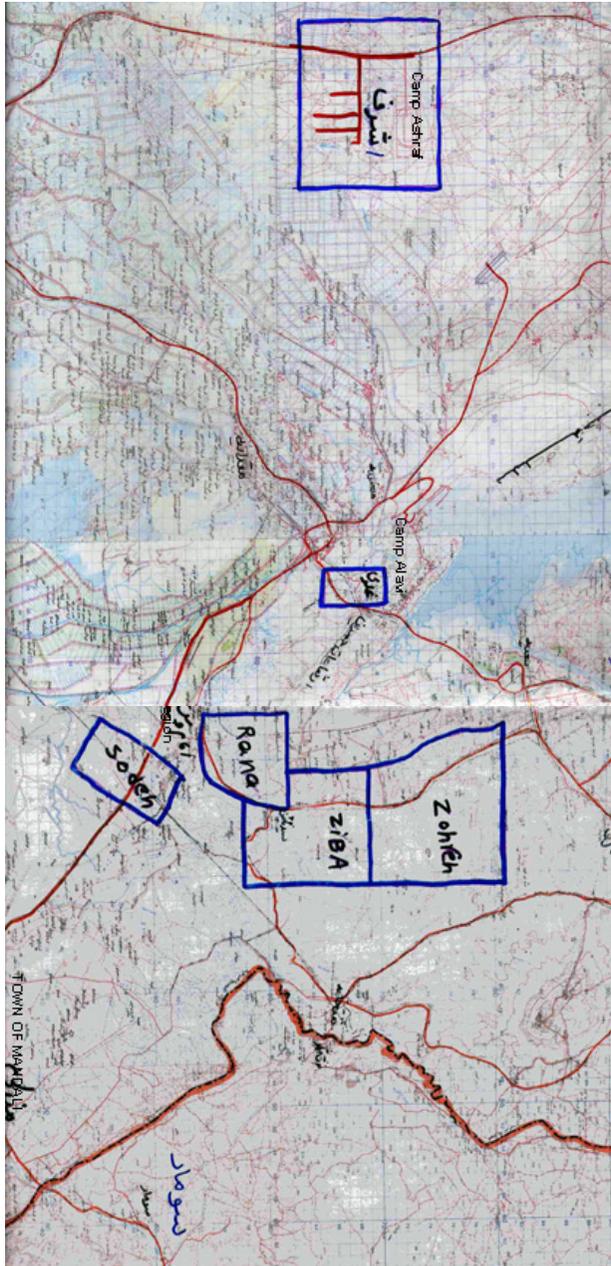


Iraqi Security Forces Attack Camp Ashraf



On July 28 and 29, 2009, Iraqi security forces stormed Camp Ashraf, shooting unarmed MeK members and beating them with clubs and axes. In the melee, 11 MeK members were killed and hundreds injured. The Iraqi government is seeking to close the Camp and expel the MeK members to Iran, in violation of the Geneva Conventions. If forced to return to Iran, many MeK members face severe punishment and death.





Map showing the positions of the MeK forces in Iraq's Diyala Province during OIF in March and April 2003.

