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The Mujahedin-e Khalq in Iraq

A Policy Conundrum

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Cover photo of the Mujahedin-e Khalq flag (left) and Iranian flag (pre-1980) at Camp Ashraf, courtesy of Jeremiah Goulka.

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Summary

The Mujahedin-e Khalq Conundrum

From the early weeks of Operation Iraqi Freedom (OIF) until January 2009, coalition forces detained and provided security for members of the Mujahedin-e Khalq (MeK),¹ an exiled Iranian dissident cult group living in Iraq. At the outset of OIF, the MeK was designated a hostile force, largely because of its history of cooperation with Saddam Hussein's military in the Iran-Iraq War and its alleged involvement in his suppression of the Shia and Kurdish uprisings that followed the Gulf War of 1991. Since 1997, the MeK has been listed as a foreign terrorist organization (FTO) by the United States because of the attacks it has conducted against Iranian targets since the time of its founding in 1965—and 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. Despite their belief that the MeK did not pose a security threat, coalition forces detained the group and provided protection to prevent the Iraqi government from expelling MeK members to Iran, even though Iran had granted the MeK rank and file amnesty from prosecution. The coalition's decision to provide security for an FTO was very controversial because it placed the United States in the position of protecting a group that it had labeled a terrorist organization. Among many resulting complications, this policy conundrum has made the United States vulnerable to charges of hypocrisy in the war on terrorism.

¹ In English, the name means “the People's Holy Warriors.”

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.

The Coalition's Cease-Fire Agreement with the MeK

In April 2003, after a brief period of conflict, the MeK requested a cease-fire.² Because they had no information about the characteristics of the group, the special forces officers who received the request were persuaded by MeK leaders (who spoke fluent English) that, prior to the invasion, the group had offered to fight on the coalition's behalf and that many of its members had been educated in the United States.³ Based on these claims, which turned out to be false, the officers accepted the MeK's request for a cease-fire under terms that allowed the MeK to keep its weapons.

In May 2003, the Washington agencies agreed to direct coalition forces to secure the MeK's surrender and to disarm the group. Again,

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).

³ Alternatively, the MeK claims that it sent a letter to the Secretary of State that announced an intention to remain neutral. U.S. Department of State (DOS) officials were unaware of such a letter (interviews with DOS officials, October 2007 and February 2008).

the coalition officers who negotiated with the MeK leadership were dissuaded from carrying out this instruction. Rather than insisting upon the MeK's surrender, they accepted a cease-fire agreement under which the MeK would be disarmed and its (at the time) 3,800 members would be consolidated and detained through assigned residence (rather than internment) at the MeK's largest facility, Camp Ashraf, which is located approximately 40 miles north of Baghdad.⁴

The MeK's Controversial Status as Protected Persons

The types of protections required for detainees are dictated by their legal status under international humanitarian law (the law of war). However, coalition forces took no action to determine the legal status of the MeK for more than a year. This was due partly to confusion at the U.S. Department of Defense (DoD) about which law to enforce. The United States had adopted the contentious policy of not applying the Geneva Conventions to foreign terrorists fighting in Iraq, though it did apply them to enemy forces in OIF, and OIF planners had named the MeK an enemy force. To further complicate the issue, the MeK asserted that it had not engaged coalition forces in combat, and many officers responsible for detaining the MeK accepted this claim, even though at least one special forces casualty had resulted from combat with the MeK.

When there is uncertainty as to whether persons can properly be classified as combatants, the Third Geneva Convention requires that each have his or her case determined by a competent tribunal. Coalition forces formed a joint interagency task force (JIATF) to gather

⁴ Although Camp Ashraf is also known as Ashraf City, we use the more commonly applied name, Camp Ashraf. Some observers incorrectly identify Camp Ashraf as a regular coalition detention facility, like Camp Bucca or Camp Cropper. However, Camp Ashraf is a MeK facility. Nearby, the coalition built a base (Forward Operating Base Grizzly) to house the coalition forces that managed the MeK and provided security in the region. The coalition also built a temporary internment and protection facility (TIPF) for MeK members who asked to leave the group. In 2006, an improved TIPF was constructed, and in 2007, it was renamed the Ashraf Refugee Camp (ARC). The ARC was closed in 2008.

information on the MeK members at Camp Ashraf and established the MeK Review Board to consider their cases. In the interim, all MeK members were given the protection required for captured combatants, who are referred to as prisoners of war.

But in June 2004, without tribunal review, U.S. Secretary of Defense Donald Rumsfeld determined the legal status of the MeK. Instead of prisoners of war, he designated MeK members as civilian “protected persons” under the terms of the Fourth Geneva Convention. Because MeK members would likely have qualified as combatants, this presumes that they had not engaged coalition forces in battle. Moreover, he applied the designation to the entire group, denying tribunal review to each individual. His decision controverted DOS, International Committee of the Red Cross (ICRC), and Office of the United Nations High Commissioner for Refugees (UNHCR) recommendations. It has proven to be extremely controversial because it appeared that the United States selectively chose to apply the Geneva Conventions to a designated terrorist organization and, further, to grant it a special status.

Relocating the MeK

In December 2003, the Iraqi Governing Council passed a resolution calling for the expulsion of the MeK from Iraq. Subsequently, the interim Iraqi government and then the GOI reaffirmed this pledge. Based on the presumption that the MeK’s members would be persecuted if they returned to Iran and that returning them would be a “gift” to the Islamic Republic of Iran (IRI), the United States announced its intention to seek the MeK’s relocation elsewhere. However, the central question remained: Where could they go? According to the Geneva Conventions, when detainees are released from assigned residence or internment, they may be

- reestablished in their country of residence prior to detention
- resettled or “accommodated” in third or neutral countries
- repatriated to the country of their nationality.

Governing each of these options is the overarching principle of nonrefoulement, a key concept in international humanitarian law, refugee law, and human rights law.⁵ Although variously defined in different treaties, in the case of the MeK, nonrefoulement prohibits the forced transfer of any individual member to a country where there are substantial grounds for believing that he or she would be in danger of being subjected to persecution because of his or her political opinions or religious beliefs or to torture for any reason.

Of the three options for relocation, the only viable one for most MeK members is repatriation to Iran. For six years, Iran has offered amnesty to the MeK rank and file. Despite the broad-based expectation that the IRI would persecute all former MeK members who returned to the country, that has not proven to be the case for the approximately 250 individuals who have already been repatriated through a process managed by the ICRC.⁶

Nonrefoulement does not prohibit forcible deportation in general, but it does forbid forcible deportation when an individual faces a substantial risk of persecution or torture. The likelihood of persecution should not be presumed. Instead, each person's case should be considered individually, preferably by an impartial organization, such as the ICRC, and each individual must be interviewed. Both objective and subjective factors should be considered when analyzing the risk that the individual might face if repatriated.

Several factors suggest that repatriation to Iran is appropriate for the MeK rank and file. First, a significant, indeterminate portion of the MeK rank and file in Iraq were at Camp Ashraf only because

⁵ The term is derived from the French verb *refouler*, which means "to drive back." The United States treats nonrefoulement as a matter of policy rather than a legal requirement.

⁶ In addition to the 250 former members who were repatriated, a further 200 former members who had left Camp Ashraf and were housed at the TIPF refused repatriation. The JIATF worked with UNHCR to secure their designation as refugees and their resettlement in third countries. UNHCR provided the refugee designation but was unable to secure resettlement, in part because the United States was barred by law from admitting even a token number. These refugees were moved to Kurdistan in late 2008 when the ARC was closed. Many of the refugees have since left Iraq (electronic communication from JIATF officer, December 2008).

of the MeK's fraudulent recruiting practices. For example, Iranians taken prisoner by Saddam's forces during the Iran-Iraq War were promised repatriation to Iran if they transferred from Iraqi prison camps to MeK facilities. Iranian expatriates in third countries were told that they would be granted asylum in European countries. They were also given offers of employment as translators, along with promises of land and spouses. Some Iranians were enticed to MeK camps by offers of free visits with family members. Others who paid to be smuggled out of Iran found themselves trafficked to MeK camps rather than to their intended destinations. Although the exact figure is not known, it is estimated that approximately 70 percent of MeK members now in Iraq joined the group *after* its relocation there and subsequent decline in popularity. Many of them were victims of these fraudulent recruiting practices.

In addition, these victims as well as the MeK's true volunteers (most of whom joined prior to the MeK's exile from Iran) have been trapped in a cult environment: The MeK leadership has confiscated their identity documents, threatened them with persecution in Iran and prosecution for illegal immigration in Iraq, and prevented those who wished to do so from returning to their home country. Therefore, humanitarian considerations regarding the MeK must not assume that the wishes of the MeK's leadership are the same as those of the rank and file, particularly those who were deceived and then trapped at MeK camps.

In addition, it would be in the interest of the IRI to continue to abide by its offer of amnesty in order to improve its international standing while pursuing its primary goal of dismantling the MeK. The GOI can also achieve its goal of ejecting the bulk of the MeK population while similarly improving its international standing by supporting repatriation efforts that are conducted according to international norms. International humanitarian and human rights laws require Iraq to provide individual MeK leaders or members whom the ICRC determines should not be deported because of nonrefoulement with rights of residence or to seek their resettlement in a third country; Iraq may also prosecute them.

In light of ongoing vows by the GOI to deport the MeK and shut down Camp Ashraf, in December 2008, the GOI provided written assurances to Washington that, when Iraqi security forces took responsibility for Camp Ashraf, the MeK would be treated humanely and that members would not be forcibly transferred to a country where they might face persecution. GOI officials have stated their intention to work with the ICRC to pursue repatriation to Iran. Meanwhile, the JIATF will monitor the transition and provide guidance to Iraqi security forces.

Major Challenges and Lessons Learned

The MeK was a minor issue in the overall conflict in Iraq, but it was an important one because the issues that emerged in the course of detaining the MeK were, in many ways, a microcosm of the larger challenges posed by detainee operations in general. Thus, both the missteps and the small successes along the way provide valuable lessons for improving how the United States deals with “special populations” in future operations.

This study identified five principal problem areas that require attention:

1. *OIF planners did not adequately define their military goals and objectives regarding the MeK.* Although the MeK had FTO status and had been designated a hostile target, coalition forces were given no military objectives regarding the group except to secure its surrender, and that outcome was never achieved. Without a clear goal, the coalition’s activities at Camp Ashraf began—and largely remained—ad hoc.
2. *Coalition forces were not prepared to deal with a special population like the MeK.* The officers who served on the JIATF that was responsible for managing the MeK at Camp Ashraf had little or no lead time to prepare for their assignments and had no time between changes of command to share hard-won experience. No information or training was provided regarding the Iranian

(Persian) and Iraqi (Arab) cultures in general or the MeK in particular, and, in the early days of OIF, no interpreters were assigned specifically to the JIATF. Most importantly, JIATF military members soon discovered that they were dealing with a cult. Despite the special challenges posed by cult behavior, those in charge of detainee operations were given no training on how to manage a cult. Thus, the ability of the MeK leadership to create the appearance of cooperation and to manipulate coalition perceptions of the group's intentions seriously hampered the overall detainment process and, in particular, repatriation efforts.

3. *Coalition forces did not establish a dominant role at Camp Ashraf.* Although the coalition disarmed the MeK and consolidated its members at the largest MeK facility, it took very little action to limit the MeK's freedom of movement. There is no fence around the approximately 15-square-mile facility; further, the coalition guarded only the main gate and did not search all vehicles entering or exiting the camp on a daily basis. Lack of manpower has meant that the coalition has never conducted a thorough search of Camp Ashraf. The MeK was allowed to establish a liaison office on the coalition's nearby forward operating base (FOB) rather than at Camp Ashraf, to hang its propaganda posters in recreation areas at the FOB, and to hold conferences to promote its agenda. Approximately 14 U.S. soldiers were killed and 60 wounded as they provided security for convoys escorting MeK members to Baghdad to purchase supplies. Thus, it was often unclear just who was in charge of Camp Ashraf.
4. *The coalition did not actively encourage MeK members to leave the camp.* One of the purposes of consolidating the MeK at Camp Ashraf was to reduce the number of troops needed to control the detainee population. Another way of doing this would have been to reduce the size of that population. Given the MeK's cult-based control over its members, this would likely have been a difficult and frustrating process. However, at a minimum, the leaders should have been separated from the rank and file. Most JIATF officers believed that the rank and file would have

requested repatriation had they simply been separated from the leadership. No effort was ever made to do this, even though the Third Geneva Convention provides that officers should be quartered separately from enlisted personnel. And although the JIATF built a facility to house individuals who left Camp Ashraf, it did not oppose the construction of physical barriers—e.g., guard posts, berms, concertina wire—that were used to keep MeK members from leaving the group.

5. *The MeK has not been treated as a terrorist organization.* Failure to assert control over the MeK and its facility has exposed the coalition, and particularly the United States, to criticism that the group is being treated as an ally for intelligence-gathering purposes rather than as an FTO. This has exposed the United States to accusations of hypocrisy in its worldwide effort to counter violent extremism, and there have been no attempts to counter this destructive misperception through broad-based communication efforts aimed at policymakers and the public.

Recommendations for the Future

This research suggests that an opportunity exists for the Multi-National Force–Iraq (MNF-I)—particularly the detainee operations command and the JIATF—or other U.S. officials to influence how the GOI treats the MeK. The GOI should be encouraged to repatriate the MeK to Iran by a process that respects the principle of nonrefoulement, 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. To date, there is no evidence that any MeK members who were repatriated to Iran through the ICRC have been persecuted or tortured. JIATF personnel and former MeK members believe that many members of the MeK rank and file would volunteer for repatriation if they were freed of the MeK leadership’s authoritarian, cultic practices.

In cases in which a demonstrable risk of persecution or torture does exist, which may include the MeK leaders who do not benefit from the IRI's offer of amnesty, the GOI should provide rights of residency, attempt to resettle the individuals in a third country, or prosecute them. It is also likely that MeK leaders at Camp Ashraf will simply disappear from Iraq (as many did shortly before the commencement of OIF) if the GOI commences a repatriation effort.

For the longer term, we offer six additional recommendations.

- Defense planners should act in coordination with DoD, DOS, and the White House to formulate specific objectives and a clear mission statement for field commanders regarding the treatment of special populations, particularly in circumstances that are politically sensitive.
- Prior to the commencement of military action, field commanders and their delegated officers and enlisted staff should be provided with information about the history, goals, and relevant cultural differences of these special populations. Particular attention should be given to their sociological makeup and the ability of their leadership to physically or mentally harm their followers.
- Commanders in charge of detainee operations should establish stricter oversight of all types of detention environments and all procedures that govern day-to-day activities within them.
- Although consolidation in an assigned residence may require less manpower than would be the case in an internment facility, FTOs and cultic groups should be dispersed rather than allowed to concentrate their numbers, control their home facilities, and secure power over their rank and file.
- During a military conflict, the offices of the Secretary of Defense and the Secretary of State, along with commanders in the field, should work together to develop a plan for communicating with the public (in the United States, in theater, and worldwide) about politically sensitive issues regarding special populations.
- Commanders of detainee operations would benefit if international humanitarian law treaty instruments provided a clearer legal framework to govern the detention of designated terrorists,

nonstate actors, and unusual militias in both international and noninternational conflicts. Until such changes are made, U.S. commanders of detainee operations should collaborate with DoD and DOS to secure a legal finding regarding the rules governing detention that apply under both treaty-based and customary international humanitarian law.