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The Mujahedin-e Khalq in Iraq

A Policy Conundrum

Jeremiah Goulka, Lydia Hansell, Elizabeth Wilke, Judith Larson

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Preface

This monograph presents the results of one of several studies performed for Multi-National Force–Iraq, Task Force 134 (Detainee Operations) (TF-134), to provide analytical tools and insights intended to help future field commanders and policymakers design and perform detention operations in irregular military environments.

During Operation Iraqi Freedom (OIF), coalition forces faced an unusual detainee issue centering on the Mujahedin-e Khalq (MeK), an exiled Iranian cult dissident group that Saddam Hussein had invited into Iraq to fight on his behalf during the Iran-Iraq War. The United States designated the MeK a foreign terrorist organization in 1997 and a belligerent enemy force in OIF in 2003. Shortly after the invasion, coalition forces accepted a cease-fire from the MeK, disarmed the group, and consolidated its members at one of the MeK's camps. In 2007, Major General Douglas M. Stone, U.S. Marine Corps, who at the time commanded detainee operations in Iraq, asked RAND to provide a rigorous analysis of the circumstances surrounding coalition protection of the MeK. This work should be of interest to policymakers, military commanders, or researchers who are involved with the assessment or planning of detainee operations, as well as to Iraqi government officials and commanders with responsibility for their government's policies concerning the MeK and similar groups. This monograph reflects the research that RAND conducted between October 2007 and January 2009, both in Iraq and in the United States. This research was sponsored by TF-134 and conducted within the International Security and Defense Policy Center of the RAND National

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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.

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In preparing this monograph, we sought information, comments, and suggestions from past and current members of the MNF-I Task Force 134 (Detainee Operations) (TF-134) and the JIATF at what became FOB Grizzly, civilian officials at the U.S. Embassy in Baghdad, and current and former civilian and military leaders at DoD, DOS, and the National Security Council in Washington, D.C. Because our interviews were conducted primarily on a nonattribution basis, these individuals cannot be acknowledged by name, but we are grateful for their assistance.

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Abbreviations

ARC	Ashraf Refugee Camp
CJTF-7	Combined Joint Task Force 7
CPA	Coalition Provisional Authority
DHS	U.S. Department of Homeland Security
DoD	U.S. Department of Defense
DOJ	U.S. Department of Justice
DOS	U.S. Department of State
EPW	enemy prisoner of war
FBI	Federal Bureau of Investigation
FOB	forward operating base
FTO	foreign terrorist organization
GOI	government of Iraq
ICRC	International Committee of the Red Cross
IED	improvised explosive device
IIG	interim Iraqi government
IRGC	Islamic Revolutionary Guard Corps
IRI	Islamic Republic of Iran

IRP	Islamic Republican Party
JIAF	joint interagency task force-Ashraf
MeK	Mujahedin-e Khalq
MKO	Mujahedin-e Khalq Organization
MNF-I	Multi-National Force–Iraq
MP	military police
NCRI	National Council of Resistance of Iran
NLA	National Liberation Army
OIF	Operation Iraqi Freedom
PMOI	People’s Mujahedin of Iran
POW	prisoner of war
TF-134	Task Force 134 (Detainee Operations)
TIPF	temporary internment and protection facility
UNHCR	Office of the United Nations High Commissioner for Refugees
UNSCR	United Nations Security Council Resolution
USCENTCOM	U.S. Central Command
WMD	weapons of mass destruction

The Mujahedin-e Khalq: A U.S. Policy Conundrum

During the six years that coalition forces have occupied Iraq, and particularly since the Abu Ghraib scandal, detainee operations have become an increasingly prominent and contentious focal point of U.S. military activity. The number of U.S.-held detainees peaked at around 26,000 in the fall of 2007 and, as of January 2009, remained at around 15,000. In addition to these detainees, coalition forces have detained approximately 3,500 members of the Mujahedin-e Khalq (MeK) in a form of assigned residence.¹ The MeK is a cultic group of Iranian dissidents that for more than four decades has advocated the overthrow of the government of Iran and that the U.S. Secretary of State designated a foreign terrorist organization (FTO) in 1997.² How did the U.S. military find itself in the position of securing and protecting members of a group that its own government had labeled as terrorists? What complications have resulted from this arrangement? How can the situation be resolved now that coalition forces have transferred responsibility for the MeK to the government of Iraq (GOI) following the enactment of the status of forces agreement between Iraq and the United States?³ How can a similar situation be avoided in the future? In broad terms, this monograph seeks to address these questions.

¹ Using the terminology of the Fourth Geneva Convention, there are two primary forms of detention: internment and assigned residence. The coalition interned most detainees other than MeK members.

² See Appendix D for a detailed definition of an FTO.

³ The agreement entered into force on January 1, 2009, but it must be confirmed by a voter referendum in July 2009.

Who Are the MeK?

The MeK was founded in 1965 by a group of Tehran University students whose radical ideas centered on armed revolt against Shah Mohammad Reza Pahlavi, whom they regarded as a U.S. puppet responsible for the growth of Western influences in Iran.⁴ Their embrace of both Marxist philosophy and Islamic values formed the core of their belief in revolutionary struggle expressed in violent action, which is reflected in the name they chose: Mujahedin-e Khalq, “the People’s Holy Warriors.”⁵

In 1971, the MeK’s first planned terrorist attack, which targeted electric power grids in Tehran, was thwarted by the Shah’s secret police, which had infiltrated the organization. Many members of the MeK were killed, and its three founding members were executed. Despite this failed attempt and the general crackdown that followed, throughout the 1970s, the MeK carried out a series of attacks against the Iranian government and Western targets, including the assassination of three U.S. Army officers and three U.S. civilian contactors in Tehran.⁶

In 1979, the new MeK leader, Masoud Rajavi, aligned the group with Ayatollah Ruhollah Musavi Khomeini. However, after the fall of the Shah, Khomeini suppressed opposition and prevented Rajavi and many MeK members from running for office in the new government. Rajavi shifted his allegiance to Iran’s first elected president, Abol-Hassan Banisadr, and against Khomeini’s Islamic Republican Party (IRP). After Khomeini forced Banisadr out of office in 1981, the MeK launched violent attacks against IRP targets, the largest of which—the bombing of the IRP’s Tehran headquarters—killed more than 70 members of the leadership. In the face of the subsequent brutal suppression of the MeK by the IRP, Rajavi and Banisadr escaped to

⁴ The brief history presented in this section is derived from Ervand Abrahamian’s *The Iranian Mojahedin* (1992), the definitive study of the MeK from its foundation until just before the end of the Iran-Iraq War. A more detailed history of the MeK is provided in Appendix A of this monograph.

⁵ The group is also known as the People’s Mujahedin Organization of Iran (PMOI) and the Mujahedin Khalq Organizaton (MKO). The English spelling of these names varies.

⁶ Appendix C contains a timeline that includes a chronological listing of major acts of violence attributed to the MeK over an approximately 30-year period.

Paris, where they formed the National Council of Resistance of Iran (NCRI), an umbrella organization of Iranian dissident groups opposed to Khomeini. Some of the MeK rank and file either followed the leadership to Europe or moved into Iranian Kurdistan. Others crossed the border into Iraq, where they established a series of communes. Those remaining in Iran formed an underground network that continued to plan and conduct attacks aimed at destabilizing the Khomeini regime.

After invading Iran in 1980, Saddam Hussein began funding the MeK to extend the reach of the NCRI's European publicity campaign opposing the Islamic Republic of Iran (IRI) and to secure any intelligence that the MeK collected regarding Iran. In 1986, the MeK leadership accepted an invitation from Saddam to relocate to Iraq to join forces with Saddam's military and fight against the IRI. Saddam provided the MeK with protection, funding, weapons, ammunition, vehicles, tanks, military training, and the use (but not ownership) of land.

With these resources, the MeK established several compounds in Iraq and encouraged its members and supporters in Iran and elsewhere to relocate there. Approximately 7,000 members, accounting for approximately 80 percent of the exiled MeK population, went to these camps. Rajavi made them soldiers in his new National Liberation Army (NLA). In exchange for Saddam's support, the MeK provided him with intelligence on the IRI, interrogation and translation services, and direct military assistance. The MeK launched numerous raids across the border into Iran, clashing with Iranian military forces and the Islamic Revolutionary Guard Corps (IRGC), sometimes with the assistance of the Iraqi military.⁷ More than a quarter of the MeK's members in Iraq were killed in these unsuccessful raids.

The MeK's service to Saddam continued after the Iran-Iraq War ended in 1988. The MeK is widely believed to have assisted Saddam in the suppression of the Shia and Kurdish uprisings in Iraq in the aftermath of the Gulf War of 1991.⁸ The MeK also conducted security operations in the regions around its camps for years.

⁷ Moni, 2003.

⁸ Galbraith, 2007.

Prior to its exile, the MeK was the most popular dissident group in Iran. It lost much of its popularity due to its willingness to fight with Saddam—the instigator of the destructive Iran-Iraq War—and to kill Iranian conscripts. It also lost much of its popularity due to Masoud Rajavi’s transformation of the MeK from an activist dissident group into an inward-looking cult. Rajavi instituted what he termed an “ideological revolution” in 1985, which, over time, imbued the MeK with many of the typical characteristics of a cult, such as authoritarian control, confiscation of assets, sexual control (including mandatory divorce and celibacy), emotional isolation, forced labor, sleep deprivation, physical abuse, and limited exit options.⁹

The MeK During Operation Iraqi Freedom

Operation Iraqi Freedom (OIF) war planners designated the MeK as a hostile military target, in large part because the United States viewed the group as an unofficial subsidiary of Saddam’s military.¹⁰ Planners did not, however, provide field commanders with guidance about what to do following combat with the MeK. After brief combat (which the MeK denies ever occurred), special forces officers signed a cease-fire agreement with the MeK in April 2003. Lacking any briefings regarding the MeK’s cult practices and past criminal activities, the officers were persuaded by the MeK leadership’s false claims (presented in fluent English) that the MeK had offered to fight on behalf of the coalition, and they allowed the MeK to retain their weapons.¹¹ Washington agencies agreed that the MeK should be disarmed and compelled to surrender, but the coalition officers who negotiated with the group in May 2003 were again dissuaded from carrying out this instruction. The new agreement did disarm the MeK, and it consolidated the MeK’s

⁹ The MeK’s cultic characteristics are discussed in detail in Appendix B.

¹⁰ See, for example, Buchan, 2002.

¹¹ For a discussion of the MeK’s presentation techniques by someone who found them persuasive—apparently due to the lack of briefings given to coalition officers, the MeK’s language skills, and the relative comforts of MeK camps—see Putko, 2006.

membership at the group's largest compound, Camp Ashraf, which is about 40 miles north of Baghdad.¹² However, coalition forces accepted a cease-fire rather than the MeK's surrender.

Using buildings constructed by the MeK about 500 yards from Camp Ashraf, the coalition established a primitive forward operating base (FOB) to house personnel who supervised the MeK as well as coalition soldiers who provided security in the area.¹³ 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.¹⁴

Because international humanitarian law governing detention varies according to the detainees' legal classification—as, for example, combatants or civilians (or “unlawful” or “illegal” combatants, under the George W. Bush administration's controversial exceptions)—a first task for the coalition was to classify the MeK. According to the terms of the Third Geneva Convention and U.S. military law, coalition forces treated the MeK as enemy prisoners of war (EPWs) on an interim basis until each member's status could be determined by a competent tribunal. However, no tribunal decision was made. Instead, in June 2004, U.S. Secretary of Defense Donald Rumsfeld designated the MeK as protected persons (e.g., civilians) under the Fourth Geneva Convention. After this contentious designation, coalition forces maintained security at Camp Ashraf until authority was transferred to the GOI in accordance with the status of forces agreement that took effect on January 1, 2009.

¹² Although Camp Ashraf is also known as Ashraf City, this monograph uses the more commonly applied name, Camp Ashraf.

¹³ Over time, the base became less primitive. It has had several names, but was last called FOB Grizzly.

¹⁴ These former MeK members were treated as voluntary internees under Article 42 of Geneva Convention IV Relative to the Protection of Civilian Persons in Time of War. The TIPF was replaced with a more permanent facility in 2006 that was renamed the Ashraf Refugee Camp (ARC) in 2007. The ARC was closed in autumn 2008, and its residents were relocated to Kurdistan.

The Complicated Situation at Camp Ashraf

This arrangement has provoked considerable controversy, and many observers have questioned why members of a terrorist organization that the U.S. military initially identified as a hostile target were later designated protected persons whose security was the responsibility of coalition forces. In response to this complex and seemingly contradictory situation, in 2007, Major General Douglas M. Stone, U.S. Marine Corps, then the commander of Task Force 134 (Detainee Operations) (TF-134) and deputy commander of Multi-National Force–Iraq (MNF-I), asked RAND to conduct a rigorous analysis of the circumstances leading to the MeK's continued residence under MNF-I protection at Camp Ashraf. He asked that the study focus on the following issues:

- The responsibility imposed on TF-134 to contain and protect the MeK diluted the scarce financial and personnel resources available to support detainee operations in Iraq and resulted in casualties to U.S. troops. Might the detention of this group have been handled in a way that would have reduced these costs and produced a more desirable outcome from the U.S. perspective?
- The GOI wants the MeK out of the country in the near term. Given the constraints of relocating individuals who might face persecution in their home country, how can this best be accomplished?
- Although the MeK problem seems unique, could a similar situation present itself in future counterinsurgency operations? If so, what could be done to avoid the complications that occurred in this case?

Research Questions

As background for the study, we conducted a thorough analysis of the MeK's formation and internal organizational structure, the activities that resulted in its designation as an FTO, its alliance with Saddam, its consolidation at Camp Ashraf in 2003, its members' designation as

protected persons in 2004, the specific obligations that this designation imposed on MNF-I and particularly on TF-134, and efforts to resettle its members.

From this foundation, we 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?

Research Approach

This monograph presents the results of RAND's detailed analysis based on research conducted between October 2007 and December 2008. In addition to an extensive examination of primary and secondary source documents, we interviewed dozens of military and civilian officials in the United States and Iraq, including current and former members of the joint interagency task force (JIATF) responsible for the MeK, the commander of FOB Grizzly, U.S. military detainee operations officers, and officials at the U.S. Embassy in Baghdad, the U.S. Department of State (DOS), U.S. Department of Defense (DoD), Federal Bureau of Investigation (FBI), and National Security Council. These discussions were conducted primarily on a nonattribution basis. Therefore, in most cases, specific names are not cited in the text.

Former members of the MeK at the ARC approached RAND researchers to share their stories. All residents of the ARC were voluntary internees; they had not been detained by coalition forces as security threats. RAND researchers interviewed Alireza Jafarzeh, who directed the MeK's U.S. lobbying apparatus, the National Council of Resistance, until it was designated an FTO. We also visited Camp Ashraf, where we were given in-depth tours by MeK leaders and were allowed to observe meetings between MeK leaders and JIATF and TF-134 officers.

Organization of This Monograph

This monograph focuses on the MeK with an emphasis on its detainment following the OIF invasion in March 2003 and the complications that resulted, particularly with respect to the MeK's legal status as protected persons. Chapter Two describes the decision to designate the MeK a hostile target, the cease-fire agreements, and the MeK's consolidation at Camp Ashraf. It also addresses how the MeK's legal status was determined. Chapter Three discusses options for relocating the MeK members who are still detained in Iraq. Chapter Four describes the special challenges involved in detaining the MeK and the major lessons learned from that experience. It also offers recommendations for relocating the MeK and for addressing the types of issues that are relevant not only to the MeK situation but to detainee operations in general.

Appendix A provides greater detail about the MeK's history and major activities. Appendix B documents its cult behavior. Appendix C presents a timeline illustrating organizational milestones in the MeK's history as well as its major terrorist activities. Appendix D discusses what is meant by *foreign terrorist organization* and the ramifications of a group's designation as such.

The MeK During Operation Iraqi Freedom

Aware of the MeK's presence in Iraq, OIF planners had to determine whether it posed a threat to coalition forces. After some debate among U.S. military and civilian officials regarding its status, the MeK was listed as a hostile target.¹ This decision was based primarily on the MeK's past history of working with Saddam's military, including its alleged participation in the suppression of the Shia and Kurdish uprisings of 1991, as well as the many violent attacks that it had conducted against Iranian targets in recent years.²

Further, the MeK had a substantial armory, thanks to its long relationship with Saddam. Near MeK camps, there were dozens of bunkers belonging to both the MeK and the Iraqi military. These bunkers were generously stocked with weaponry, including artillery, tanks, aircraft, rocket launchers, infantry weapons, shells, rockets, land mines, and bullets. Whatever the MeK's military intentions against coalition forces might have been, it was imperative for the coalition to secure these armaments and munitions. Moreover, the group was a wild card that could have created security concerns vis-à-vis the IRI as well as the Shia and Kurd communities.

Finally, during negotiations between the United States and the IRI in January 2003, the United States agreed to bomb MeK bases in

¹ Interviews with Office of the Secretary of Defense and White House staff, January 2008 and February 2008; Center for Law and Military Operations, 2004.

² Briscoe et al., 2006; DOS, 2003b.

return for Iranian support for subsequent reconstruction efforts and cooperation in rescuing downed pilots.³

A MeK Cease-Fire but Not a Surrender

For its part, the MeK insisted that it dispatched a letter to DOS in February 2003 declaring its intention to be a neutral party during the impending invasion of Iraq and stating that it would not fire on coalition forces, even in self-defense.⁴ It also claimed to have offered to fight on behalf of the coalition.⁵ No interviewees were aware of such a letter or offer. Irrespective of the accuracy of either of these claims, such a letter was not discussed, or at least was not persuasive, in OIF planning.

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."⁶ Nevertheless, on April 13, 2003, in the face of collapsing Iraqi forces, the MeK requested peace. U.S. Central Command (USCENTCOM) ordered the special operations unit that had received the request to demand that the MeK capitulate and be disarmed.

However, the subsequent encounter between the special operations negotiating team and the MeK took a different turn. The MeK sent leaders who were fluent in English and who took pains to establish

³ Interview with a former White House staff member, January 2008; Bruck, 2006; Kessler, 2003a.

⁴ Center for Law and Military Operations, 2004.

⁵ Much of the following discussion of the early interactions between coalition forces and the MeK is drawn from Briscoe et al., 2006.

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.

ties with the United States by claiming—falsely, as it turned out—that a large portion of the group had advanced degrees from American universities and family members residing in the United States. The MeK again insisted that it had not fired on coalition forces (despite at least one documented special forces casualty from MeK fire) and that it had offered to fight on the coalition's behalf. The MeK also indicated a willingness to provide intelligence on Iran and to help secure the border with Iran. Impressed by the MeK's description of itself and its apparent willingness to be of service to the coalition, on April 15, 2003, special operations officers agreed to a cease-fire rather than to the surrender ordered by USCENTCOM.

The April 15 “Local Ceasefire Agreement of Mutual Understanding and Co-Ordination” was simply a truce. Like any truce, it provided the “suspension of military operations to the extent agreed upon by the parties.”⁷ In this case, the agreement stipulated that either side could recommence hostilities after giving 48-hours' notice.⁸ It also allowed the MeK to retain its weapons and confined its members to five of its camps.

Given the coalition's scarce manpower and the special forces' need for mobility, the cease-fire agreement seemed to offer an appealing alternative to surrender, which would have burdened the capturing forces with legal and logistical obligations to protect and possibly also to feed and house the captives as POWs according to the Geneva Convention III Relative to the Treatment of Prisoners of War.⁹ However, it has been noted that the special forces commander had no authority to enter into this type of agreement—i.e., one that allowed a designated FTO to keep its weapons—and this decision later created a substantial political and operational problem for the United States.¹⁰

⁷ Headquarters, U.S. Department of the Army, 1976, para. 479.

⁸ Center for Law and Military Operations, 2004.

⁹ Although international usage does not differentiate among prisoners of war, American usage distinguishes between Americans or allies taken prisoner (POWs) and enemy prisoners of war (EPWs).

¹⁰ Center for Law and Military Operations, 2004, p. 71, n. 276.

Consolidation of the MeK at Camp Ashraf

Washington agencies agreed that the MeK should be disarmed and compelled to surrender, though they did not direct that the MeK be dismantled.¹¹ According to press reports, USCENTCOM directed that “MEK forces will be destroyed or compelled to surrender, leading to disarmament and detention.”¹²

In an attempt to carry out the order, coalition officers endured a two-day negotiation with the MeK in early May. Again, the MeK presented itself sympathetically and negotiated tenaciously, succeeding in dissuading the coalition from forcing its surrender. Instead, the new agreement of May 10—which supplanted the April 15 agreement—allowed the MeK to continue to claim neutrality and to accept a lasting cease-fire. The principal differences between this agreement and the April 15 cease-fire agreement were the disarmament of MeK forces and the consolidation of all MeK personnel in Iraq at a single facility, Camp Ashraf in Diyala Province.¹³ The agreement also required each member of the MeK to sign a document renouncing terrorism and the use of violence. In announcing the terms of the agreement, Major General Raymond Odierno commended the MeK’s cooperation, and he recommended that the group’s FTO status be reviewed.¹⁴

First Tasks at Camp Ashraf

Numbering more than 3,800 members, the MeK was, at the time, the largest body of detainees under coalition control. The 530th Military Police (MP) Battalion was assigned to oversee implementation of the May agreement that, in addition to requiring disarmament and consolidation, protected the MeK from possible violence from Iraqis. Using MeK buildings approximately 500 yards from Camp Ashraf, the bat-

¹¹ Kessler, 2003a.

¹² Meixler, 2003.

¹³ 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.

¹⁴ “U.S. Should Hand Over People’s Mujahedeen: Iranian Official,” 2003; Coates, 2003.

talion established an FOB that would house additional coalition units that provided security in the region.¹⁵ In light of Abu Ghraib, it was unfortunate that one of the few MP units in Iraq that had experience with the internment of POWs and civilians was assigned to manage the assigned residence of the MeK rather than a theater internment facility. The 530th would remain there for a year.

Determining the MeK's Legal Status

In the course of implementing the agreement, important questions emerged. First, what was the MeK's legal status according to international humanitarian law as interpreted during the war on terrorism? Legal status was important because it would determine the specific obligations of coalition forces to its MeK detainees.¹⁶ 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)¹⁷ were not sure whether the Geneva Conventions should apply to its members or if they should be considered "unlawful" or "illegal" combatants.

According to the Third Geneva Convention, during a war between states, members of irregular forces that fight on the side of enemy forces and are captured on the battlefield are usually categorized as combatants. However, if there is doubt as to whether such a classification is appropriate, "such persons shall enjoy the protection of the present

¹⁵ Reflecting the practice of naming bases after the different units in command of the base at a given time, the site has been named FOB Spartan, FOB Red Lion, and FOB Barbarian. This monograph refers to the base by its final name, FOB Grizzly. 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.

¹⁶ It should be noted that the legal status decision is a separate decision from whether an individual may be lawfully detained. The Third Geneva Convention provides that POWs may be interned (Article 21), but the Fourth Geneva Convention allows detention of civilians only in exceptional circumstances ("if the security of the Detaining Power makes it absolutely necessary" or "for imperative reasons of security") and requires regular review of a decision to detain (Articles 42 and 78).

¹⁷ CJTF-7 replaced the Coalition Forces Land Component Command on June 14, 2003, as the operational command for OIF. It was replaced by MNF-I and Multi-National Corps-Iraq on May 14, 2004.

Convention until such time as their status has been determined by a competent tribunal.”¹⁸ The convention’s drafters saw designation by a competent tribunal as important because combatants are immune from prosecution for acts of war that would be crimes if committed by civilians, though combatants are not immune to prosecution for war crimes.¹⁹ In the context of the war on terrorism, such “Article 5” tribunals were particularly necessary because “illegal” or “unlawful” combatants were not given the full range of protections that the Geneva Conventions require for captured combatants or civilians.

While the question of the MeK’s legal status was under consideration, coalition forces gave MeK members the interim status of “other detainees,” who are required by the Third Geneva Convention to receive the same treatment as EPWs while their status is under review.²⁰ The MeK Review Board was formed and appeared to track U.S. Army regulations implementing Article 5’s “competent tribunal” requirement insofar as it was a military review panel “composed of three commissioned officers, one of whom must be of a field grade.”²¹ However, it seems that the board was not tasked with determining each MeK member’s legal status but rather with classifying members of the MeK into one of the following four categories:

¹⁸ Geneva Convention III, Article 5.

¹⁹ Pictet, 1960; Naqvi, 2002, p. 571.

²⁰ The Third Geneva Convention’s protections include, for example, maintenance of physical security and dignity and provision of housing, food, clothing, and health care. In fact, because the MeK was given an assigned residence at its own facility rather than in an internment camp, its members enjoyed better conditions than those required by the convention. For instance, Article 25 requires that POWs “be quartered under conditions as favourable as those for the forces of the Detaining Power who are billeted in the same area.” The MeK lived in air-conditioned buildings while coalition forces were housed in tents until the FOB was constructed.

²¹ Headquarters, U.S. Departments of the Army, Navy, Air Force, and Marine Corps, 1997, para. 1-6(c). Field-grade ranks include major, lieutenant colonel, and colonel in the Army, Air Force, and Marines and lieutenant commander, commander, and captain in the Navy and Coast Guard, where they are referred to as midgrade ranks (see DoD, 2004). Although there is a body of opinion that would require judicial as opposed to military or administrative legal status hearings, there is no specific agreement under international law (Chesney and Goldsmith, 2008, pp. 1089–1092).

- detain—potential prosecution
- detain—security threat/risk
- detain—potential intelligence value
- release-eligible.²²

The legal status decision remained with DoD. According to an officer involved in the process, the purpose of this determination was to eliminate the MeK organization in Iraq.²³ It is not evident how placing MeK members into one of these categories would achieve this goal, particularly since no action was taken to break up the MeK organization.

To determine whether each MeK member should be detained or classified as eligible for release, coalition forces had to obtain answers to several questions:

- Did they present a serious, current risk of violence or destabilization?
- Had members of the MeK committed belligerent acts against coalition forces?
- Had they committed terrorist acts in the past? Were they still committing terrorist acts?
- Could any of them be prosecuted for crimes or used in prosecutions under U.S. law, particularly for the murders of Americans in Tehran?
- Were rumors that the MeK was storing Iraqi weapons of mass destruction (WMD) accurate?

²² 530th Military Police Battalion, 2004. Any actual release or transfer decision could not be made by the board, only by the Secretary of Defense or a designee (U.S. Joint Chiefs of Staff, 2008; Headquarters, U.S. Departments of the Army, Navy, Air Force, and Marine Corps, 1997, para. 3-13).

²³ One expression of U.S. goals regarding the MeK is contained in a May 22, 2003, diplomatic note from the U.S. Embassy in London to the UK Foreign and Commonwealth Office, which states that the “policy of the [U.S. Government] is to eliminate the PMOI’s [MeK’s] ability and intent to engage in terrorist activity and to prevent its reconstitution as a terrorist organization.” The note, dated almost two weeks after the May consolidation agreement, incorrectly indicated that the coalition was still “in the process of obtaining the surrender of” the MeK (quoted in *Lord Alton of Liverpool and Others v Secretary of State for the Home Department*, 2007, para. 245).

- What intelligence could be gained from them about the IRI or Iraq?
- What were the identities of all individual MeK members? What was their citizenship? Where did they have rights of residence?

To answer these questions, CJTF-7 formed JIATF-Ashraf. The JIATF included representatives from the U.S. military and several civilian departments and would report directly to CJTF-7 on the Camp Ashraf investigation.²⁴ Military and foreign intelligence questions were handled by DoD intelligence officers and Central Intelligence Agency (CIA) personnel. The FBI and the U.S. Department of Justice (DOJ) handled law enforcement and domestic intelligence, interviewed targeted individuals, and conducted a census of each MeK member at Camp Ashraf. U.S. Department of Homeland Security (DHS) agencies addressed citizenship and immigration issues for members with ties to the United States. DOS conducted background interviews with each MeK member at Camp Ashraf and facilitated communication with the embassies of third countries where former MeK members claimed citizenship, residence rights, or family links. All of these agencies, except DHS, were invited to contribute nonvoting advisers to the MeK Review Board. In total, approximately 70 affiliated staff participated in these activities.²⁵

The MeK Review Board did not decide the legal status of MeK members, but it did classify them into the four categories listed earlier. The board determined that very few should be detained. For instance, a small number were detained for potential prosecution.²⁶ Although some

²⁴ The JIATF reported directly to the detention operations command (TF-134) after it was established in spring 2004 in response to the Abu Ghraib scandal.

²⁵ After its peak activity, its numbers were reduced. By late 2007, JIATF staff at FOB Grizzly comprised only three military personnel plus interpreters.

²⁶ The MeK and its supporters have presented the DOJ and FBI decision not to prosecute more MeK individuals as a U.S. finding that the MeK had not committed terrorist acts. This is not accurate. DOJ considered only U.S. citizens for prosecution. The agencies made their decisions on the basis of practical and legal considerations, such as whether U.S. courts could assert jurisdiction over each individual, whether sufficient evidence against each individual existed, and whether devoting prison resources in the United States to holding MeK mem-

officials have thought that the MeK might potentially provide useful intelligence information regarding Iran, no members of the group were detained on the basis of their having intelligence value.²⁷ Nearly all were classified “release-eligible.” In other words, the board determined that, whatever their legal status, nearly no MeK members presented a threat sufficient to justify detention.²⁸ Ironically, so long as the May 10, 2003, consolidation agreement remained in force, the MeK would remain at Camp Ashraf, meaning that “release” would have the same practical effect as assigned residence, which is a form of detention.

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 be persecuted and that repatriating them would be a “gift” to the IRI. In those early days, the only mission guidance that JIATF officials received was to gather information on each MeK member. There had been no strategic planning in terms of how to handle the group after combat ceased. Both the National Security Council and the field command staff, which faced staffing shortages, analyzed the problem; finding no solution (but refusing to consider repatriation to Iran), they opted for the status quo of holding the MeK at Camp Ashraf, providing security, maintaining calm, and doing nothing to break up the group.²⁹

bers was sound policy. A few were taken back to the United States to be prosecuted or to serve as witnesses in prosecutions against MeK cells in the United States. The JIATF did not explore the possibility of prosecutions under Iraqi law.

²⁷ The CIA unsuccessfully attempted to persuade some MeK leaders to leave the group and provide intelligence information about Iran (interview with a JIATF interpreter, January 2008). This effort was both futile and unnecessary; since 1981, MeK leaders have offered intelligence of inconsistent value to Western governments. Although maintaining the MeK as a possible proxy force in a regime change mission may have appeared reasonable to some U.S. policymakers and analysts in 2003, MNF-I’s heightened understanding of the MeK, its operations, and its cult practices have shown that the group would offer limited operational value and questionable intelligence value.

²⁸ Former MeK members were housed at the TIPF according to the voluntary internment provision of the Fourth Geneva Convention, not as security threats.

²⁹ Interviews with JIATF, Coalition Provisional Authority (CPA), DOS, and former White House staff members, October 2007 and January and February 2008.

The Iraqi Governing Council's Resolution to Expel the MeK from Iraq

On December 9, 2003, the Iraqi Governing Council complicated the MeK issue by passing a unanimous resolution calling for the expulsion of the MeK from Iraq within six months.³⁰ The resolution did not identify a destination. Indeed, a member of the Iraqi National Congress declared, "We don't care where they're going to go."³¹ However, the growing links between Iraqi Shia parties and the IRI created the suspicion that the interim Iraqi government (IIG) would deport the MeK to Iran when it assumed power at the end of June 2004.

The CPA's administrator, Ambassador L. Paul Bremer, proposed resettling MeK members in third countries.³² However, as he and JIATF officials would later learn, no country would accept anyone from the group who did not already have valid rights of residence there.³³ Refugee status was suggested, but the Office of the United Nations High Commissioner for Refugees (UNHCR) would not consider such applications from current or former MeK members because their legal status had not yet been formally resolved.

The MeK as Protected Persons

As the official special forces history of OIF notes, when "legal issues relating to the status of enemy POWs and the application of the laws of armed conflict in relation to non-state terrorists required clarification . . . these questions [often] found their way back to the Department of

³⁰ The resolution did not have the force of law because it was not signed by CPA administrator Bremer (interview with a senior CPA official, February 2008).

³¹ R. Wright and Chandrasekaran, 2003.

³² Tanter and Clawson, 2003.

³³ After a great deal of effort, the JIATF was able to repatriate a small number of former MeK members at the internment facility who had current rights of residency in countries other than Iran or Iraq.

Defense for resolution.”³⁴ The MeK issue was one such example. But as the June 2004 transfer of power from the CPA to the IIG approached, no status decisions had been made. 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.

The UNHCR and the International Committee of the Red Cross (ICRC) were willing to offer their assistance in helping to move MeK members out of Iraq, but they were unwilling to start work until the MeK’s legal status was resolved. In addition, the United Nations Security Council declared that the coalition’s occupation of Iraq would terminate as a matter of law upon the transfer of power at the end of June, which would have the effect of ending the application of most provisions of the Geneva Conventions.³⁵ Given this time pressure, on June 25, U.S. Secretary of Defense Donald Rumsfeld designated the MeK as civilians protected by the Fourth Geneva Convention, which protects civilians in times of war.³⁶ His memorandum noted that the decision was intended to facilitate collaboration with the UNHCR and the ICRC.

From the beginning, the designation was problematic from both legal and policy perspectives. Legally, if it is indeed true that the MeK engaged coalition forces in combat, the MeK’s members would likely have qualified for combatant status as members of a militia or volunteer corps forming part of the Iraqi armed forces and, having been captured, would therefore have been EPWs.³⁷ “Should any doubt arise” as to whether MeK members qualified for combatant status, the Third Geneva Convention requires that each individual’s status be

³⁴ Briscoe et al., 2006, p. 235.

³⁵ Preamble to U.N. Security Council Resolution (UNSCR) 1546, 2004.

³⁶ Geneva Convention IV. Civilians protected by the convention are known as *protected persons*. This term often causes confusion. Most civilians in a theater of operations or occupied territory are protected persons (Pictet, 1958). However, civilians who are citizens of an occupying power are not, though they do receive several basic protections. Accordingly, all Iraqi citizens who were not also citizens of coalition countries were automatically protected persons.

³⁷ Geneva Convention III, Article 4(A)(2).

determined by a competent tribunal.³⁸ Although no prosecutions have been brought against them, the decision—without tribunal review—stripped the MeK of immunity from prosecution for legal acts of war.

However, the Bush administration's policy was that foreign terrorists who were in Iraq illegally were not protected by the Geneva Conventions. Instead, they were to be detained according to the administration's controversial "unlawful" or "illegal" combatant policy.³⁹ In the case of the MeK, this would have been an awkward approach because the United States had declared it to be a subsidiary of Saddam Hussein's military during OIF and had applied the conventions to MeK members on an interim basis. In addition, to the extent that coalition forces might decide to detain MeK members as "unlawful" or "illegal" combatants, President Bush's military order of November 13, 2001, would limit the coalition's flexibility because it authorized detainment only for specific individuals who "engaged in, aided or abetted, or conspired to commit" terrorist acts "that have caused, threaten to cause, or aim to cause, injury to or adverse effects on the United States, its citizens, national security, foreign policy, or economy."⁴⁰

The ICRC, the UNHCR, and DOS all urged DoD not to make a legal designation without tribunal review. They noted that, procedurally, each MeK member was due Article 5 tribunal review. They also noted that civilian status would have been legally correct only for individual MeK members whom the tribunal decided had remained neutral, committed no belligerent acts, and had not carried arms openly against the coalition.⁴¹ Despite text in Secretary Rumsfeld's memorandum specifically limiting protected-persons status to members of the MeK who *qualified* under Article 4 of the Fourth Geneva Convention,

³⁸ Geneva Convention III, Article 5.

³⁹ Frieden, 2004.

⁴⁰ Bush, 2001, § 2(a)(1)(ii).

⁴¹ Geneva Convention III, Article 4(A)(2). Even today, the prevailing belief among many U.S. military officers and civilian officials is that the MeK never engaged coalition forces in combat. If that belief is correct and the official histories are not, then no members of the MeK could have been classified as combatants. See also Headquarters, U.S. Department of the Army, 2001, para. 4-33.

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.

In addition, the ICRC noted that, due to UNSCR 1546, the conflict in Iraq would no longer be a war between states; hence, the Geneva Conventions would no longer apply (except for Article 3, common to all four conventions).⁴² It argued that Common Article 3 and customary international humanitarian law govern noninternational conflicts; hence, continuing to apply the Geneva Conventions to the MeK would be legally incorrect.⁴³ However, because the Bush administration was wary of customary law because it is not treaty-based,⁴⁴ the UN Security Council's grant of authority to MNF-I to detain individuals—if necessary for imperative reasons of security—was modeled on the Fourth Convention's rules for interning civilians during an occupation.⁴⁵

According to our discussions with TF-134 and DOS staff attorneys, it appears that the civilian status determination was made to protect the MeK from deportation to Iran and to relieve coalition forces of the responsibilities incurred in detaining EPWs. With regard to deportation, the status determination did not matter. Although the Third Geneva Convention requires that POWs be “released and repatriated without delay after the cessation of active hostilities” (Article 118), its official commentary notes that POWs are protected from forced transfer to a country where “the dangers involved for the person concerned seems [sic] manifestly unjust and grave.”⁴⁶ The Fourth Convention pro-

⁴² ICRC, 2004. There is no scholarly consensus as to whether a legal proclamation, such as a UN Security Council Resolution, can end an occupation or whether occupations only end when full power is returned to the local government (Roberts, 2005). Despite a binding opinion by the DOJ Office of Legal Counsel, in the view of DoD, hostilities had not yet ended; therefore, an occupation had not even begun (interview with a DOS attorney, February 2008; Goldsmith, 2004).

⁴³ ICRC, 2004.

⁴⁴ See, e.g., Chertoff, 2009.

⁴⁵ UNSCR 1546, 2004, and CPA Memorandum No. 3 (revised), 2004, section 1(1)(d), which would continue to be the law of Iraq after the dissolution of the CPA per CPA Order No. 100, 2004.

⁴⁶ Pictet, 1960, p. 548.

vides similar protections, forbidding forcible transfer of any individual “to a country where he or she may have reason to fear persecution for his or her political or religious beliefs,” and each individual continues to be protected by the convention until such time as his or her disposition is finalized (Articles 6 and 45).⁴⁷

In terms of detention, the impact of the legal status determination on the MeK’s particular circumstances 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. As discussed in Chapter Four, MNF-I has never taken control of Camp Ashraf. The May 10, 2003, cease-fire agreement consolidated MeK members at Camp Ashraf, which was a form of assigned residence, albeit one agreed to by the group’s leaders. The Third Convention allows internment or lesser forms of detention for POWs during wartime. The Fourth Convention, on the other hand, allows assigned residence or internment of civilians in occupied areas only as an exceptional measure performed on a case-by-case basis when an individual presents an acute security threat that can be mitigated only by placing that person in internment or assigned residence: The decision to detain shall be made “according to a regular procedure,” be subject to appeal, and reviewed periodically, “if possible every six months.”⁴⁸ The rules for detainment after the transfer of power paralleled the Fourth Convention’s rules.⁴⁹ Despite these rules, MeK members have been kept in what is essentially an assigned residence after the MeK Review Board found almost all of them to be release-eligible rather than security threats. No coalition body ever revisited the question of whether security reasons mandated continued assigned residence for MeK members.⁵⁰

⁴⁷ The issue of forcible transfer is discussed in more detail in Chapter Three.

⁴⁸ Geneva Convention IV, Article 78. By comparison, Geneva Convention III, Article 21, simply states that the “[t]he Detaining Power may subject prisoners of war to internment.”

⁴⁹ CPA Memorandum No. 3 (revised), 2004.

⁵⁰ Failure to provide this regular review is a grave breach of the convention that should be prosecuted according to Article 147, but here, assigned residence was voluntarily accepted by the group’s leadership. It is not evident that MNF-I should have granted the cultic leadership

Secretary Rumsfeld's decision has had long-term policy costs. First, it shifted responsibility for the MeK squarely to DoD rather than allowing it to remain a shared obligation among the DoD, DOS, ICRC, and UNHCR. Second, because the decision came from the U.S. Secretary of Defense rather than from the MeK Review Board, it was widely viewed as an expression of support for the MeK, particularly since the term *protected persons* is widely misconstrued to denote an exceptional, special status. 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.⁵¹ The coalition never invested public-relations energy into overcoming this impression.⁵² Combined with the coalition's failure to treat the MeK as a terrorist organization at Camp Ashraf, this action exposed the United States to accusations of hypocrisy in its fight against terrorism.

of the MeK the power to deny its members their rights to freedom of movement under the conventions.

⁵¹ To the contrary, by virtue of being designated as civilians, any MeK members who had committed acts of war against the coalition could be prosecuted. POWs are immune from prosecution for legal acts of war (but not war crimes). Of course, no such prosecutions have yet been conducted.

⁵² See, for example, M. Rubin, 2006. Some U.S. officials attempted without much effect to counter perceptions that protected-persons status confers a pardon on the MeK. For instance, a DOS spokesperson stated that classifying the MeK “as protected persons . . . does not in any way attenuate our actions . . . holding these people to account for activities that they committed as MeK members that were terrorist in nature” (Ereli, 2004).

Options for Relocating the MeK

Both Iraq and the United States have publicly stated that their goal is to remove the MeK from Iraq. According to the Geneva Conventions, when detainees are released, 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.

The most common dispositions are reestablishment or repatriation. However, in some cases, neither option may be possible because a detainee has a well-founded fear, or would face a real risk, of persecution or threats to personal security—including torture or loss of life—as a result of his or her race, religion, nationality, political opinions, or membership in a particular social group. In international humanitarian law, human rights law, and refugee law, forced deportation of individuals facing persecution is forbidden under the principle known as nonrefoulement (derived from the French verb *refouler*, which means “to drive back”).¹ Although the Geneva Conventions mandate prompt

¹ Specific nonrefoulement provisions vary among treaties, with some focusing on *risk* of persecution (e.g., the Geneva Conventions and the Convention Against Torture) and others focusing on the *fear* of persecution (e.g., the 1951 Refugee Convention). The Fourth Geneva Convention is narrower than others insofar as it limits the basis of persecution to political opinion or religious beliefs, but it is wider in that it would bar transfer for protected person who “may have reason to fear persecution” (Article 45), not just those with a well-founded fear of persecution or those for whom substantial grounds exist for believing that they are likely to be persecuted. Commentators argue that the risk should be significant. The U.S.

release of detainees at the end of an occupation, for detainees whose situation triggers nonrefoulement protections because of their political or religious beliefs, the conventions allow continuing detention and Geneva Convention protections (including regular review of the necessity of detention) until a satisfactory disposition is arranged. In the case of the MeK, however, there has been no agreement on how to answer the fundamental question: Where can they go?

Option 1: Reestablishing the MeK in Iraq

Because the MeK members now at Camp Ashraf were living in Iraq when coalition forces invaded the country in 2003, the first option—reestablishing them in their country of residence—means allowing them to remain in Iraq. However, this has not been considered feasible for several reasons. First, when Saddam invited the MeK to Iraq, he did not grant its members legal residency, nor did they seek to become legal residents or citizens, though the MeK now asserts that it is legally present in Iraq. The GOI has indicated that it has no intention of legalizing the members' status.

Second, U.S. officials fear that the MeK faces persecution from Iraqis or physical danger from Iranian agents. 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 Kurdish uprisings after the first Gulf War and to provide security in the areas around the MeK camps.² Indeed, a primary function of placing coalition troops near

government observes nonrefoulement as a matter of policy—one that applies only to individuals within the United States—rather than as a legal requirement (interviews with DOS attorneys, October 2007 and February 2008).

² 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).

Camp Ashraf was to protect the MeK from possible retribution from Iraqi forces and Iranian agents.

Third, in a December 2003 resolution, the Iraqi Governing Council explicitly called for the ejection of the MeK, and Iraqi officials continue to take that position. Nevertheless, despite ongoing vows to deport the MeK and shut down the camp when the 2009 transfer of power took place, 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 MeK members would not be forcibly transferred to a country where they might face persecution. The guarantee will allow Washington to work with Baghdad and with such organizations as the ICRC “to find a humanitarian solution for the camp occupants.”³ In conjunction with these efforts, the JIATF will oversee the transition and provide guidance to Iraqi security forces.⁴

Option 2: Resettling the MeK in Third Countries

Given the IRI’s history of persecuting members of the MeK, the United States presumed that the principle of nonrefoulement prohibits repatriating the MeK to Iran. Therefore, resettlement in a third country was deemed to be the only viable option for the long term. So far, however, attempts to accomplish this goal have not been successful.

Resettling Current MeK Members

One of the obstacles to resettling the MeK is that its leadership has made clear that it wants the approximately 3,500 members to be moved either to a single country or to a small number of countries (preferably with strong social welfare systems) in order to protect the group’s vital-

³ “US Has Assurances from Iraq on Iranian Rebels: Official,” 2008.

⁴ Diplomatic assurances are a controversial means of ensuring nonrefoulement protections. Human rights groups typically find them to be inadequate to protect against persecution (Chesney, 2006, p. 695; Deeks, 2008, pp. 43–47). DOS typically prefers to avoid the use of diplomatic assurances, particularly nonwritten assurances (interviews with DOS attorneys, October 2007 and February 2008).

ity. To help facilitate that outcome, during the first year of consolidation at Camp Ashraf, the MeK leadership asked the UNHCR to grant its members refugee status.⁵ But the question remains whether each MeK member could substantiate a well-founded fear of persecution from Iran, and the UN's 1951 Refugee Convention has exclusions that deny refugee status to persons who have committed crimes under international law, serious nonpolitical crimes, and acts contrary to the purposes and principles of the United Nations. Would-be refugees cannot commit or condone violence, and refugee status provides no immunity from prosecution for criminal or terrorist acts committed at any time. Despite the MeK's public renunciation of violence in 2001, its previous history of violence and the leadership's requests for the return of its weapons during OIF made it highly unlikely that the UNHCR would grant refugee status to the entire group.

Furthermore, even if refugee status were to be conferred, sovereign states are not required to grant asylum. Rather, they may take it into account as they consider individual requests. The UNHCR projects that the subset of registered refugees who will require resettlement in 2009 will number 565,000; only 70,000 places were made available for resettlement in 2008.⁶ Considering that the Iraq war displaced more than 4 million people and that only 3,183 Iraqis were resettled between 2003 and 2006,⁷ it became increasingly unlikely that any country would admit members of a designated FTO in preference to other refugees from Iraq. Ultimately, the MeK abandoned its efforts to achieve refugee status, but it still requests resettlement, to no avail.

⁵ Stated very broadly, international refugee law links with domestic asylum law to give individuals who flee persecution a means of securing rights of residency for the purpose of protection from persecution rather than for the more common immigration purposes of economic opportunity and family ties. The UNHCR screens applicants for refugee status to determine whether they meet international qualifications and helps facilitate resettlement if appropriate. (Different refugee law provisions apply to people who are displaced from their homes by war, famine, or natural disasters, as opposed to persecution. Most of these populations are not resettled but instead wait to return home.)

⁶ UNHCR, 2008. Stateless refugees who cannot return home and cannot be resettled sometimes end up as "permanent refugees."

⁷ Amnesty International, 2007, p. 31.

Resettling Former MeK Members

Among MeK members who had renounced the group and taken up residence in the coalition's temporary internment facility, approximately 200 hoped to be resettled in Europe rather than repatriated to Iran. The JIATF believed that these former members had a better chance of resettlement than current MeK members. In 2004, the JIATF helped facilitate applications to the UNHCR on behalf of those individuals. All but 11 of these former MeK members were granted refugee status in a highly expedited process involving videoconferenced interviews.⁸ Still, no country would accept any current or former member of the MeK who did not already have valid rights of residence. The UNHCR indicated that a few countries might consider such action but only if the United States would accept a token number.⁹

For its part, the United States is precluded from granting legal residence to any current or former MeK members because the Immigration and Nationality Act (as amended by the Antiterrorism and Effective Death Penalty Act of 1996) bars admission of certain classes of aliens—i.e., individuals who are currently members of an FTO, who have engaged in or incited terrorist activity, or who have received “military-type” training “from or on behalf of” any FTO that was classified as such at the time the training was received.¹⁰ The MeK's own propaganda indicated that nearly everyone at its camps was a member of the National Liberation Army and had received some type of weapons training. Moreover, MeK members would most certainly have received military training between 1997 and 2001, the year in which the group ceased to claim responsibility for attacks against Iranian targets. Unlike some other provisions of the act, the exclusion prohibiting military-type training could not be waived even if the Secretary of State were to remove the MeK from the FTO list. Therefore, if resettling any current or former MeK members in third countries were contingent upon the United States following suit, the option did not exist.

⁸ Interview with a former JIATF commander, February 2008.

⁹ Interview with DOS official, October 2007.

¹⁰ 8 U.S.C. 12 §1182(a)(3)(B)(viii); see also Pub. L. 104-132.

A short- to medium-term solution was crafted when TF-134 successfully negotiated with the Kurdistan Regional Government to take responsibility for refugees within its territory. In late 2008, the remaining former MeK members residing at the ARC (numbering fewer than 200, most of whom had refugee status) were moved into Kurdistan, where they had freedom of movement.¹¹ Most of them reportedly used their freedom of movement to leave Iraq, and the ARC was closed in December 2008.¹²

Option 3: Repatriating the MeK to Iran

Because the majority of MeK members are Iranian nationals (though many are effectively stateless because they no longer have documentation or valid Iranian passports), the discussion of repatriation begins and ends with Iran.¹³ Aside from the general desirability of restoring individuals to their rightful homeland, the principal and most compelling reason to pursue repatriation to Iran is that, for more than five years, Iran has offered and honored a grant of amnesty to rank-and-file MeK members.

Amnesty was first suggested in early May 2003, when the IRI proposed, among other things, to exchange Al Qaeda members detained in Iran, including Saif al-Adel and a son of Osama bin Laden, for the MeK in Iraq.¹⁴ To address U.S. concerns about the dangers of such an arrangement (i.e., that the human rights of former MeK members

¹¹ Although refugees and voluntary internees have the right to freedom of movement, the JIATF did not grant that right to former members of the MeK because of its perception that the group would be at risk in Iraq. In response, some members conducted sit-down and hunger strikes and posted protest signs. At any time, the JIATF could have allowed individuals to leave voluntarily if they accepted the risks.

¹² Electronic communication from a JIATF officer, December 2008.

¹³ A small number of current and former MeK members have citizenship or valid rights of residence in countries other than Iran where they would not face persecution, though they often lacked the required documentation to reenter those countries. For former members who sought repatriation, the JIATF worked with DOS to secure their return.

¹⁴ Porter, 2006.

would be violated),¹⁵ Iran offered amnesty to all but 50 named leaders of the group.¹⁶ In addition, the IRI stated that it would invite the ICRC's facilitation of the MeK's repatriation as well as its oversight of trials of the MeK leadership.¹⁷ The United States initially refused the Iranian offer, not only out of distrust of the IRI's intentions and a desire to avoid encouraging the IRI to take hostages,¹⁸ but also because of an interest in preserving the MeK organization for its own possible future use—for example, providing coalition forces with intelligence on Iran—and to avoid giving Iran “a gift” (particularly if the IRI improved its human rights record by treating MeK members humanely).¹⁹ The United States also rejected a follow-up request to exchange the names of MeK detainees in Iraq and Al Qaeda detainees in Iran.²⁰ General Odierno's May 10 cease-fire negotiations with the MeK occurred shortly after these negotiations.

In 2004, the U.S. approach changed to a limited extent. With Saddam's assistance, the MeK had increased its numbers by using the promise of repatriation to attract Iranian prisoners from the Iran-Iraq War out of Iraqi prison camps and into MeK camps. Many of the first individuals to ask the JIATF to help them leave the MeK were these former POWs, several hundred of whom were moved to the TIFE. They 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.

¹⁵ These concerns were not without foundation, given the IRI's history of persecuting the MeK. DOS has repeatedly identified the IRI as a leading sponsor of torture.

¹⁶ In 2003, an IRI spokesman emphasized that the amnesty would exclude MeK “ringleaders who have directly been involved in terrorist operations and crimes against the Iranian people” (“Iranian Press Reports MKO Members Among Those Arrested in Recent Arrest,” 2003). In 2007, only about five of the named MeK leaders resided at Camp Ashraf, according to the JIATF.

¹⁷ Interview with a former member of the White House staff, January 2008.

¹⁸ See Tanter and Clawson, 2003.

¹⁹ Interviews with National Security Council, DoD, and DOS staff, October 2007 and January–February 2008.

²⁰ Porter, 2006.

Early in 2004, the JIATF contacted the ICRC to follow up on the repatriation offer. However, the ICRC could not facilitate repatriation until coalition forces resolved the legal status of the MeK. After the group's members were designated as protected persons, the ICRC conducted individual interviews and coordinated repatriation to Iran in late 2004 and again in early 2005. By this means, approximately 250 former MeK members were voluntarily repatriated to Iran, where they were reportedly treated well by the IRI.²¹ Indeed, to gain public-relations benefits, Iran hosted events to welcome the ex-MeK members home and then conducted individual two-week debriefings. To date, the ICRC is not aware of any ill treatment of these repatriates, even during the two-week debriefing period.²² In May 2004, the DOS group that conducted interviews at Camp Ashraf recommended repatriation for all MeK members, but no action was taken.²³

Repatriation to Iran has been the only successful long-term disposition option. Despite the broad-based expectation that the IRI would persecute all former MeK members, that has not proven to be the case. Indeed, it has been in the IRI's interest to abide by its grant of amnesty in order to improve its international standing while at the same time 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 through the ICRC. Several senior DOS officials continue to maintain that repatriation is the only plausible option.²⁴

It is essential that the ICRC be involved in any repatriation effort because the principle of nonrefoulement must be respected. This requires treating each member's case individually. The ICRC conducts interviews with individual candidates for repatriation to assess the nature of their fear of persecution. If an individual's fears are not objectively and subjectively sound, he or she can be forcibly repatriated. For those

²¹ ICRC, 2008.

²² Steele, 2009.

²³ Interview with a senior CPA official, February 2008.

²⁴ Interviews conducted in October 2007 and February 2008.

MeK members whose fears would indeed prohibit their repatriation, which would likely include the named leaders who are not protected by Iran's amnesty, nonrefoulement will bar their repatriation. These individuals are not immune from prosecution for illegal entry or other crimes committed in Iraq (or Iran, if Iraq asserts jurisdiction), but the GOI will have to abide by its written diplomatic assurances to treat these individuals humanely and according to international norms.

Unexpected Challenges, Unintended Consequences, and Lessons Learned

In the big OIF picture, the MeK had a small role. Where detainee operations are concerned, however, it loomed much larger—not only in the early days of the conflict, when MeK members being held at Camp Ashraf comprised a large percentage of the detained population—but also after the group was granted protected-persons status and thus became a longer-term DoD responsibility.

Clearly, the MeK has an unusual history, but its apparent uniqueness does not mean that the U.S. military will never encounter its like again. In the course of future combat operations—and particularly in counterinsurgency actions—other special populations will undoubtedly emerge. In such a context, the missteps made in the course of the MeK experience and the lessons learned from them can help improve the way in which the United States approaches and conducts future detainee operations. Both of these aspects are discussed in this chapter.

OIF Planners Did Not Adequately Define a Military Mission Regarding the MeK

Because of its FTO status and its history of military service to Saddam, the MeK had been designated a hostile target prior to the OIF invasion. Beyond that, however, coalition forces were given no military objectives regarding the group except to secure its surrender, and that outcome was never achieved. Many strategic questions ought to have been addressed in advance: What did field-level officers need to know

about the MeK's history? What action was to be taken after its capitulation? Under what terms were its members to be held? Where? For how long? What might be the terms of their release? What would be their destination?¹ These were predictable and practical concerns, but there is no evidence that they were given serious consideration, and no guidance on these issues was provided to either the combatant commanders or the commanders of detainee operations. This may reflect larger planning failures in OIF. As a result, without a clear goal, the coalition's activities at Camp Ashraf began, and largely remained, *ad hoc*.²

The only directions that the JIATF received related to tactical matters. Although DOS reported that U.S. policy was "to eliminate the MeK's . . . intent to engage in terrorist activity and to prevent its reconstitution as a terrorist organization," JIATF officers were initially given such routine assignments as disarming and consolidating the MeK, helping the FBI compile a biometric census of the MeK population and conduct intelligence interrogations, supporting DOS efforts to collect biographical information on the population, and carrying out the MeK Review Board process. Later on, JIATF leaders were required to simply maintain the status quo and preserve calm.

¹ Given that the MeK was listed as a hostile force due to its service to Saddam, which included helping him suppress the Shia and Kurdish uprisings in 1991, it should have been evident that Iraqi antipathy toward the MeK would complicate release or transfer to Iraqi authorities. This complication could have been avoided by repatriating the MeK to Iran, but DoD had foreclosed that option. Therefore, OIF planners should have predicted that coalition forces would be burdened with the MeK problem for some time.

² Several policies were proposed in 2003 and 2004, but none was adopted. Proposals included disbanding and repatriating the MeK, securing Iraqi rights of residence and integrating the MeK into Iraqi society, obtaining refugee status and resettling members in third countries, and actively encouraging defections (interviews with JIATF and DOS officials, October 2007 and February 2008).

Coalition Forces Were Not Prepared to Deal with an Unfamiliar Culture or the MeK's Atypical Characteristics

By all accounts, no coalition forces officers on the ground in Iraq, including those responsible for detainee issues, received a briefing of any significance regarding the MeK prior to deployment or interacting with MeK members. The first officers to serve on the JIATF at Camp Ashraf had little or no lead time to prepare for their assignments to Camp Ashraf. Neither the officers nor the soldiers who supported them received information or training regarding the Iranian (Persian) and Iraqi (Arab) cultures. During the first year of the occupation, some even remained unaware that different languages are spoken in the two nations.³ In an environment in which the occupying force and the detainees likewise speak different languages, not to mention different dialects of the same language, interpreters can play a fundamental operations role in conducting negotiations, elevating cultural awareness, and (in this case) gaining better access to and insight about the MeK. Yet in the early days of OIF, no interpreters were assigned specifically to the JIATF at Camp Ashraf.

Even when relevant cultural and operational knowledge was attained through hard-won daily experience in theater, there were limited opportunities to share it. MNF-I denied requests by outgoing JIATF commanders to allow several days of crossover time to mentor incoming commanders about their complex and frustrating new role. Some officers were given cursory briefings about the MeK; others received none. Therefore, the usual difficulties related to conveying institutional knowledge were compounded by the fact that there was virtually no overlap among the top leadership during changes of command.

³ Arabic and Persian are different languages, which created obvious complications. And although Farsi and Dari are both Persian languages, the MeK primarily speak Farsi. Dari is spoken in Afghanistan. However, most interpreters were fluent in Dari, and their translations of Farsi would likely have been imprecise. One interpreter recounted a particularly ludicrous example of the language issue. Asked to translate for a group of Arabic speakers who were visiting the TIPE, she informed the soldiers that she spoke Farsi, not Arabic. They, in turn, asked her to “concentrate” (interview with a former JIATF Farsi interpreter, January 2008).

As a result, the JIATF's commanders had few or no opportunities to discuss the difficulties inherent in dealing with the MeK, to share knowledge, or to compare strategies. This deficit had particularly profound consequences once it became apparent to JIATF officers through their early interrogations of MeK members that the organization was not just an FTO; it was also a cult.⁴

The MeK as a Cult

From its earliest days, the MeK had had tight social bonds, but these began to be transformed into something more sinister during the mid-1980s after the group's leaders and many of its members had relocated to Paris. There, Masoud Rajavi began to undertake what he called an "ideological revolution," requiring a new regimen of activities—at first demanding increased study and devotion to the cause but soon expanding into near-religious devotion to the Rajavis (Masoud and his wife, Maryam), public self-deprecation sessions, mandatory divorce, celibacy, enforced separation from family and friends, and gender segregation.

Prior to establishing an alliance with Saddam, the MeK had been a popular organization. However, once it settled in Iraq and fought against Iranian forces in alliance with Saddam, the group incurred the ire of the Iranian people and, as a result, faced a shortfall in volunteers. Thus began a campaign of disingenuous recruiting. The MeK naturally sought out Iranian dissidents, but it also approached Iranian economic migrants in such countries as Turkey and the United Arab Emirates with false promises of employment, land, aid in applying for asylum in Western countries, and even marriage, to attract them to Iraq. Relatives of members were given free trips to visit the MeK's camps. Most of these "recruits" were brought into Iraq illegally and then required to hand over their identity documents for "safekeeping." Thus, they were effectively trapped.

⁴ The cult characteristics of the MeK are discussed in detail in Appendix B of this monograph. Some of that information is repeated in this chapter, particularly as it bears on the MeK's deceptive recruiting practices and the methods that it used to thwart departures (called "defections" by JIATF) once the group had been interned in Camp Ashraf.

Another recruiting tactic was arranged with the assistance of Saddam's government. Iranian prisoners from the Iran-Iraq War were offered the choice of going to MeK camps and being repatriated or remaining in Iraqi prison camps. Hundreds of prisoners went to MeK camps, where they languished. No repatriation efforts were made.

For coalition forces, the MeK's cult behavior and questionable recruiting practices are significant insofar as they affect both the daily operations at the camp and the strategic disposition options available to the group. The leadership is unlikely to cooperate with policies that would undermine its ability to exert direct control over its members. Indeed, Human Rights Watch reports that the MeK long ago instituted a complicated process to retain members who expressed a desire to leave, which included a "trial," forced confessions of disloyalty, and even torture. Although this process has been modified since the group was consolidated at Camp Ashraf, would-be walkaways are still "debriefed" for days or even weeks while held in some form of solitary confinement, during which they are encouraged to change their minds.

Conversely, the long-term indoctrination and isolation experienced by MeK members are likely to have instilled an exaggerated sense of loyalty, causing them to reject offers to separate themselves from their leaders. This would apply in particular to repatriation to Iran, where the expectation of persecution has been dramatically instilled in their minds.⁵

The MeK as Skilled Manipulators of Public Opinion

During the more than four decades since its founding, the MeK has become increasingly adept at crafting and promoting its image as a democratic organization that seeks to bring down Iranian tyrants, both secular and religious. This profile has been especially effective in the United States and Europe, where, until recently, the MeK's extensive

⁵ Our extensive interviews with U.S. military officers, soldiers, and civilians indicate that the prevailing opinion about the MeK rank and file at Camp Ashraf is that the majority are neither terrorists nor freedom fighters; they are simply trapped and brainwashed people who would be willing to return to Iran if they were separated from the leadership.

fundraising activities have been very successful. But despite the MeK's ongoing attempts to build political support from the West through a multifaceted public-relations campaign,⁶ it was not enough to prevent the group from being designated an FTO by the United States as well as by the United Kingdom, Canada, Australia, and the European Union. According to U.S. law, providing any type of support—political, financial, or otherwise—for an FTO is a federal crime. Moreover, many of the MeK's fundraising activities have been proven to be fraudulent (for example, claiming to be soliciting funds on behalf of Iranian refugees, child welfare, or medical services for children). The MeK has also been linked with a range of money-laundering activities.

If coalition forces, and particularly those involved in any type of negotiations with the MeK, had been apprised of the group's long history of deception, they would have been far less likely to have made the kinds of concessions that proved so troublesome later on. However, they found MeK representatives to be friendly, appealing, and knowledgeable about the United States. Thus, they were susceptible to the MeK's assertions of neutrality; its apparent willingness to help further coalition goals; its professions of support for democratic ideals, both within and outside its own organization; and its insistence that it had broad political support in the international community. Had the U.S. military, in particular, been more wary, it is unlikely that the MeK would have been able to avoid the surrender demanded by USCENTCOM, and even less probable that it could have elicited a request for review of its FTO status from General Odierno.

The MeK Has Not Been Treated as a Terrorist Organization

Throughout OIF up to the present day, the MeK has remained on the U.S. list of FTOs. Yet several military and civilian leaders have made controversial public statements of support for the MeK, and, as

⁶ See Appendix A for more detailed information about the MeK's dubious claims of political support.

discussed later in this chapter, coalition forces consistently failed to assert control over or dismantle the group. These statements and failures have exposed the coalition, and particularly the United States, to criticism that it is treating the group as a possible ally and intelligence-gathering resource rather than as an FTO. U.S. relationships with the GOI and the IRI have been further complicated because of uncertainties regarding the nature of the connection. This is especially true in the case of the IRI, which suspected that the United States intended to use the MeK as ally in a regime-change action against Iran. Through this uncertainty, the United States has exposed itself to accusations of hypocrisy in its war on terrorism.

To some extent, this situation is a result of the Bush administration's approach to international humanitarian law (the law of armed conflict). The Geneva Conventions apply to everyone, including terrorists. Their rules on detention allow both the detention of individuals who present an imperative threat of terrorism and the criminal prosecution of terrorists. By creating an unnecessary exception to the Geneva Conventions in the case of Al Qaeda and the Taliban and then placing foreign insurgents and terrorists in Iraq into that category, DoD was essentially trapped into making legal-status decisions that the public would incorrectly interpret as a dichotomy: Terrorists were "illegal" or "unlawful" combatants not protected by the Geneva Conventions; therefore, anyone protected by the conventions must not be a terrorist. In addition, when Secretary Rumsfeld applied the terms of the Geneva Conventions to the MeK by granting its members the poorly understood yet evocative status of protected persons, his decision was viewed as a willful rejection of the group's terrorist status.

Neither the United States nor the coalition forces made any serious attempt to counter mistaken impressions about their relationship with the MeK through broad-based communication programs aimed at policymakers and the public. Given the abundance of rhetoric that the U.S. government devotes to promoting its antiterrorism message, it would have been a good idea to direct some of that energy to mitigate this destructive misperception of its stance toward the MeK.

Coalition Forces Did Not Establish a Dominant Role at Camp Ashraf

Without a clear mission, and in the face of the predictable chaos surrounding a major military action, it is not entirely surprising that coalition forces seemed to vacillate in their early dealings with the MeK. However, when a rapid victory in and withdrawal from Iraq failed to materialize and it became clear that a coalition presence would be required in the country for an indefinite period, the need for a firm policy regarding the MeK should have been obvious. Unfortunately, coalition actions continued to lack conviction, and, at times, it was not apparent whether the coalition was detaining the MeK or which side was actually in charge at Camp Ashraf.

The MeK Was Allowed Considerable Freedom of Movement

Coalition forces disarmed the MeK but took little action to limit the group's freedom of movement after consolidation at Camp Ashraf. Coalition forces provided security outside the camp's gates, mostly through routine patrols of the region, but there have been no patrols of the camp itself since 2003. Although individual housing units are fenced,⁷ there is no external fence around the 15-square-mile camp. Large numbers of local workers come and go each day without being stopped by coalition guards outside the camp's main entrance. As a result, MeK leaders have had considerable freedom of movement without MNF-I interference. Moreover, the MeK told the JIATF that at least 200 people had arrived at Camp Ashraf since protected-persons status was granted in June 2004. The JIATF knows nothing about them.

Insufficient Manpower Was an Ongoing Problem for the Coalition

Lack of manpower has also meant that MNF-I has never conducted a comprehensive search of Camp Ashraf. The MeK would not allow it, and MNF-I was unwilling to divert manpower at FOB Grizzly from

⁷ Former JIATF staff have noted that the fences outside MeK residence units are not intended to keep people out but rather to keep the members in.

regular regional security missions to force a search upon the group. As a result, there are buildings at Camp Ashraf that no American has ever searched. Former JIATF staff believe that weapons, personnel files, and possibly even MeK members detained by the leadership would likely be discovered in some of these buildings. At the very least, on the basis of rumors that the MeK were storing WMD for Saddam, the Iraq Survey Group, an international team organized by the Pentagon and the CIA to hunt for Iraq's alleged WMD stockpiles,⁸ should have secured access to every building.

The MeK Was Permitted to Establish a Liaison Office and to Promote Its Cause on a Coalition Base

When the coalition established the FOB near Camp Ashraf, it used the MeK's old, dilapidated buildings and allowed the MeK to retain the nicest one as a liaison office. Although the Third Geneva Convention requires the detaining power to establish a liaison with POWs, it is not standard practice for the U.S. military to provide detainees—much less designated terrorist organizations—with office space on its own bases. JIATF officials attended an average of three liaison meetings each week, and for some time the TF-134 commander flew to FOB Grizzly to attend weekly liaison meetings, even though the agenda usually included nothing but MeK leaders recounting recent news articles about the IRI.⁹

It is not standard practice for base commanders to allow terrorist groups to post propaganda and attempt to proselytize U.S. soldiers on a U.S. base. Not only was this allowed, but in the early days of the occupation, an FOB Grizzly base commander denied a JIATF request to force the MeK to stop doing so.¹⁰

⁸ The Iraq Survey Group replaced the UN inspections teams that had been tasked by the UN Security Council to search for illegal weapons in Iraq before OIF.

⁹ Information obtained from interviews with JIATF commanders, 2007–2008, and a RAND researcher's attendance at a liaison meeting, October 2007.

¹⁰ Incident recounted by that JIATF commander to a RAND researcher in February 2008. The absence of a clear MNF-I approach to handling the MeK sometimes led to discord between the JIATF leadership and the MP battalion at FOB Grizzly and caused them to work at cross purposes.

In addition, it is most certainly not standard practice for officers who report to a detainee operations command to allow terrorist groups under their supervision to hold major public conference events in support of their causes. Yet the MeK was permitted to do exactly that at Camp Ashraf. In addition, for several years, the MeK continued to broadcast from its radio station despite GOI protests and coalition orders to desist.

The Coalition Did Not Actively Encourage MeK Members to Leave the Group

One of the purposes of consolidating the MeK at Camp Ashraf rather than at a prison camp or even at multiple MeK camps was to reduce the number of troops needed to protect and control the detainee population. Reducing the number of detainees who required these services would have helped to achieve that goal. The Geneva Conventions allow many tactics aimed at dismantling the opposition and reducing its power. For instance, coalition forces could have separated the leaders from the rank and file, thus loosening the stranglehold of the cult. The Third Geneva Convention provides that officers should be quartered separately from enlisted personnel.¹¹

On the other hand, given the MeK's history of cult behavior, efforts to dismantle it would likely have been difficult and frustrating, and they might have included the risk of violence, especially self-inflicted violence. One of the MeK's cultic characteristics is a focus on suicide. Although it had not used suicide as a tactical weapon in terrorist attacks since 1981, the MeK has frequently used the threat of suicide as a negotiating tactic or to frustrate investigations. This proved particularly effective after 10 members immolated themselves in Paris as a protest action following the arrest of Maryam Rajavi, the MeK's co-leader, in 2003. Concerned that the Paris immolations might be repeated on a larger scale at Camp Ashraf if MNF-I tried to break

¹¹ Geneva Convention III, Article 97.

up the MeK, the JIATF rejected proposals to forcibly dismantle the organization.

Ultimately, the Only Coalition Policy Toward the MeK Was a Half-Hearted Measure Called “Graceful Degradation”

In 2004, recognizing that nonrefoulement concerns would make the coalition responsible for the MeK for an extended period, MNF-I and DOS officials devised a policy to guide coalition interactions with the MeK until the group’s members were released or transferred to the GOI. Dubbed “Graceful Degradation” by a DOS official, this interim policy consisted of three elements:

- Maintain security and calm at Camp Ashraf.
- Gradually reduce coalition support to the MeK.
- Encourage MeK members to leave the camp and go to the TIPF.

A principal goal of this policy was to meet obligations imposed by the Fourth Geneva Convention to support and protect protected persons who are not being interned. This primarily involved protection from violence and degrading treatment and ensuring the MeK’s access to food and medical treatment. To ensure safety, MNF-I maintained a U.S. Army MP battalion and a U.S. Marine Corps rifle company at FOB Grizzly to conduct security patrols in the area.

Food, fuel, and most living supplies had to be transported to the camp.¹² Coalition forces initially arranged for the MeK to purchase necessary items from the government of Diyala Province, where Camp Ashraf is located. However, because of Iraqi hostility toward the MeK, the governor soon refused to supply the group’s provisions.

Improvised explosive devices (IEDs) have made travel on many Iraqi roads dangerous, and the MeK’s lack of valid Iraqi identification

¹² The MeK pipes in water from a river and generates electricity at its own plant. Sales of these utilities—as well as direct payments, according to former JIATF officers—are the foundation of the MeK’s placid relations with many local Iraqis.

documents expose its members to arrest at security checkpoints. Therefore, beginning in October 2004, coalition forces agreed to escort the MeK to Baghdad and to Iraqi port cities to obtain the goods it needed. However, those escort missions have resulted in the deaths of 14 U.S. soldiers, and at least another 60 have been injured by IEDs.¹³ Not until mid-2006, after Major General John Gardner assumed command of detainee operations, were the number of escort missions strictly limited. General Gardner also raised the burden of proof required for the MeK to demonstrate a need for an escort mission, limited the number of MeK members who could ride with the mission, and instituted helicopter travel to avoid IED-lined roads.¹⁴ His successor, Major General Douglas Stone, further reduced the number of escort missions.

While the first two elements of the Graceful Degradation policy have been carried out with modest success, very little effort has been devoted to the third—encouraging departures. During the first year of consolidation, the JIATF negotiated with the MeK to create a process by which members who sought to leave the group could be transferred

¹³ Although escort missions between Camp Ashraf and Baghdad were often targeted by insurgents, FOB Grizzly, Camp Ashraf, and the TIPF received no indirect fire. Considering that they are located in dangerous Diyala Province, albeit in a remote area, JIATF officials and the GOI strongly suspect that the MeK is paying off insurgents to prevent attacks on the installations, thus providing monetary support to the insurgency (interviews with former JIATF officials, February 2007; also see, e.g., Khodabandeh, 2008).

¹⁴ The only previous reduction in escort missions occurred when the JIATF gained a role in the approval process. During the first two years of consolidation, the MP battalion, which conducted the missions, handled MeK requests and granted several per week. After learning that some missions were being made for frivolous purposes (one was purportedly to purchase a custom-tailored business suit) the JIATF insisted on monitoring requests and considerably cut down the number of missions.

The JIATF and the MP battalion report to different entities, and their officers have often differed in their attitudes toward the MeK. Until they were able to establish clear lines of responsibility regarding the MeK, the group was able to exploit command-and-control seams on the FOB. For example, the JIATF was unaware that MP escorts were dropping MeK members at the Baghdad city limit and not escorting them into the city during their six-hour visits. This violated an order, harmed Graceful Degradation's goal of limiting the silhouette of the MeK on the GOI's radar, and embarrassed embassy staff when members of the Iraqi government would discover unescorted MeK members in Baghdad, sometimes visiting government offices.

to the TIFP. The process for these “scheduled departures” allowed the MeK to conduct a multiday “debriefing” period, during which the would-be “defector” (as they were referred to by the JIATF) would have his or her “sensitive” knowledge of the MeK somehow erased. Although the debriefing was a clearly a ploy to threaten MeK members with detainment in retaliation for their requests to leave the group, the JIATF allowed it. Despite this impediment, during the first year of consolidation, the MeK transferred several hundred members to the TIFP—predominantly Iran-Iraq War POWs and other Iranians who had been lured to MeK camps in Iraq.¹⁵

After this initial flood, departures dwindled to a trickle, but the JIATF took no further action to encourage departures. The JIATF knew that the MeK leadership spread false information regarding bad living conditions at the TIFP, but it took no action to counter this information, even after the conditions improved dramatically when the new TIFP was built in 2006.¹⁶ In addition, it did nothing to assist MeK members who wanted to escape Camp Ashraf without going through the debriefing period in the scheduled departure process. MNF-I has never patrolled Camp Ashraf, so MeK members who would like to leave are not able to be picked up by an MNF-I vehicle or even to communicate their desire to depart to MNF-I representatives. The only other way to leave was to try to run to the TIFP. The JIATF knew that the MeK was constructing physical obstacles to make departure on foot difficult. For instance, the MeK built a guard post across

¹⁵ After having to quell violence following some of these early departures, the JIATF surmised that the MeK leadership had used the opportunity to rid itself of members that it had found difficult or had held in detention. Hence, some of the first members to arrive at the TIFP were likely to have been, to use the terminology of cult theory, *outcasts* rather than voluntary *walkaways*.

¹⁶ The new TIFP, later renamed the ARC, had air-conditioned tents; exercise, sports, and library facilities; a barber shop; and a coffeehouse tent. Refugees could work both at the camp and on the FOB, earning money to purchase comforts, such as televisions, satellite dishes, and video game consoles. (In October 2007, satellite dishes adorned nearly every tent.) Dexterous residents have even used leftover building materials to construct couches, tables, and other furnishings to make their tents more comfortable. They also eat the same food that the soldiers eat, which now comes from a dining facility rather than from Meals, Ready-to-Eat.

from the entrance to the TIPF. Although the post's ostensible function was to facilitate scheduled departures, it was clearly constructed for one purpose: to place MeK guards in a position to tackle walkaways. Walkaways (or, in this case, more literally, runaways) had to cover a potentially great distance of open ground, escape MeK patrols, and pass several physical obstacles—including fences, berms, and concertina wire—before finally confronting and somehow getting past the guards stationed in the post. Yet a number of MeK members attempted escape, and a few have successfully reached the TIPF.¹⁷ Despite knowing that the MeK was constructing these physical obstacles, MNF-I did not prevent them from being built, force the MeK to destroy them, or destroy them itself. Its only act of resistance was to refuse the MeK's 2007 request for more concertina wire.¹⁸

What Lessons Have Been Learned from the MeK Experience?

The MeK represents only a chapter in the OIF detainee story. However, it is an important one, representing in many ways a microcosm of the larger issues involved in these types of operations, particularly counter-insurgency operations. Thus, it is possible to extract lessons from the MeK experience that are relevant not just to a single group at a particular moment, but to the full spectrum of detainee operations that the U.S. military might be called upon to conduct in the future. This

¹⁷ One justification that MNF-I staff have made for failing to encourage departures is that, after the residents of the TIPF received refugee status from UNHCR but could not be resettled in third countries, there was no way to attract anyone to the TIPF. This flow of walkaways, even if limited, renders MNF-I's justification unconvincing. In addition, the JIATF was not obliged to keep the refugees locked in. Moreover, the MeK clearly perceived that there was a continued interest in departures because it continued to request concertina wire to build physical obstacles and it increased its nightly patrols for walkaways.

¹⁸ The MeK and its supporters claim that the patrols, fences, berms, and concertina wire reflect the military nature of Camp Ashraf, are intended to protect the MeK from attacks by Iraqi or Iranian forces, and are not intended to prevent walkaways. This claim is controverted by information volunteered by more recent walkaways at the ARC as well as by the ARC-focused locations of the physical obstacles that the MeK built after May 2003.

monograph concludes with an examination of those lessons and the actions that could be taken to address the problems they reveal.

Findings and Recommendations

Short Term

Each MeK member who has been granted amnesty by the IRI should be repatriated to Iran, unless there is a demonstrable risk that he or she will be persecuted there. To date, however, there is no evidence that Iran has failed to honor its offer of amnesty for the former MeK members who have already returned to the country.

Since December 2003, senior elements of the Iraqi government have indicated that they want to deport the MeK, and all evidence indicates that no country other than Iran will accept the group. Under the terms of the transfer of responsibility for the MeK pursuant to the status of forces agreement, which took effect on January 1, 2009, the GOI now has responsibility for the MeK. The GOI has provided the United States with written assurances that it will treat the group humanely and will not transfer its members to a country where they will face possible persecution. Nevertheless, the GOI still wants the MeK out of Iraq.

While there is an opportunity to influence Iraqi policy, MNF-I (particularly the detainee operations command and the JIATF at Camp Ashraf) and other U.S. officials should encourage the GOI to ensure that the geographic disposition of the MeK is conducted in a manner that satisfies humanitarian and human rights norms. Particular attention should be given to the approximately 70 percent of the Camp Ashraf population that joined the MeK after the group relocated to Iraq. A substantial number of these MeK members were lured to Iraq under false pretenses or did not have a clear understanding of the group's goals and methods of operation—particularly with respect to its cult behavior—and many have been forced to remain against their will. Repatriation will give these individuals a chance to restart their lives away from the MeK's cult-driven control. The alternative might be a lifetime of statelessness.

The U.S. detainee operations command should work with the ICRC and the GOI to craft a process to ensure that each MeK member's case is treated individually and includes a full nonrefoulement interview. Separating the leaders from the rank and file may be necessary to facilitate this outcome (though the threat of repatriation may lead MeK leaders to disappear on their own, just as Masoud Rajavi and many others did shortly before the commencement of OIF). Repatriation may be either voluntary or involuntary, but only those members who do not face substantial risk of persecution may be sent back to Iran. For the remainder, the detainee operations command should work with the GOI to ensure that each person either receives legal rights of residency in Iraq, is resettled in a third country, or is prosecuted on criminal charges. In cases in which the GOI decides to prosecute a MeK member, steps should be taken to ensure that international due process norms are observed.

Longer Term

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 belligerent groups, particularly in circumstances that are politically sensitive. In addition to guidance regarding the defeat of hostile forces, there should be instructions on how to properly detain them after the mission is successfully accomplished.¹⁹

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 the opposing force. Particular attention should be given to special populations like the MeK, in which the sociological makeup of the group and the ability of its leaders to inflict physical and mental harm on their followers created special problems. This knowledge will always be fine-tuned

¹⁹ Defeated forces, including militias like the MeK, will almost always require some form of detention or limited freedom of movement for some period of time during active conflict. Some militias may present complicated nonrefoulement issues that limit release options, as was the case here.

through experience in the field, and scheduled rotations should allow enough time for outgoing commanders to adequately brief their successors in order to reduce the learning curve and preserve institutional memory.

In OIF, coalition forces were not given even the most basic information about the differences between Iraqi and Iranian cultures and, therefore, were unequipped to detect the ongoing undercurrent of hostility that permeated their relationship.²⁰ More importantly, in their dealings with the MeK, coalition forces were at a distinct disadvantage from the beginning because they had had no instruction regarding its past activities or its cult characteristics and how these might present particular challenges relating to detainment. Had such information been available, U.S. military officers would have been much less likely to be taken in by the MeK's seemingly cooperative stance. This would not only have prevented their making public statements of support that ultimately proved embarrassing to the United States and destructive to its image in the war on terrorism, but it would also have improved the process employed to interview and categorize detainees and made it consistent with Geneva Convention regulations.

Over time, coalition staff attempted to use the Internet to educate themselves on these topics and especially about the MeK. However, the inaccuracies of press reports and even some scholarly works, combined with the MeK and IRI propaganda that permeates the Internet, made it very difficult to sort fact from fiction.

Commanders in charge of detainee operations should establish stricter oversight and firm, humane control of all types of detainment facilities as well as the procedures that govern day-to-day activities within them. Although assigned residence requires less manpower than internment, the balance of power should favor the detainers, not the detainees, a point that seems to have been lost at Camp Ashraf.

Immediate consideration should be given to separating detainee leaders from their followers. The Third Geneva Convention mandates

²⁰ Compounding these problems was the lack of qualified interpreters of Farsi who, in addition to performing necessary translation services, would no doubt have been able to provide valuable insights into the cultural differences that were at times so troublesome.

separate housing for officers and enlisted personnel. This would dramatically reduce the ability of those leaders to control the larger group, particularly a cult group.

Terrorist organizations in U.S. hands should be dismantled. Foreign terrorist organizations and cultic groups should be dispersed rather than allowed to concentrate their numbers and to control their home facilities. 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.

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) on issues of political sensitivity. In the case of OIF, the reaction to Secretary Rumsfeld's designation of the MeK as protected persons could have been largely avoided if the reasons for and terms of this action had been adequately explained. Failure to manage communication led to the perception that the United States was supporting an organization that was on its own FTO list. It also complicated detainee operations by giving the MeK the impression that it had the upper hand and led to strained relationships with the GOI, the IRI, the Iraqi public, and the media. Clear mission guidance is not only crucial with respect to combat and its aftermath, it is also necessary in the broad area of communication—not to impose censorship but to ensure that messages are not mixed, that they come from the people who understand the relevant circumstances, and that they do not wrongfully confer the impression that they are official public statements of the U.S. government.

Commanders of detainee operations would benefit if international humanitarian law were to provide a clearer legal framework governing the detention of designated terrorists, nonstate actors, and unusual militias. Because the Bush administration had created a controversial exception to the Geneva Conventions by defining a new category of "illegal" or "unlawful" enemy combatants, a status decision for the MeK was delayed and the one ultimately made by Secretary Rumsfeld denied

MeK members their procedural rights under the Third Geneva Convention and may have been legally incorrect.

Rather than use an alternative framework, detainee operations commanders should collaborate with DoD and DOS to secure a legal finding of how the United States interprets the Geneva Conventions and customary international humanitarian law, particularly with regard to requirements for detention in both international and noninternational conflicts, specifically including designated terrorists, nonstate actors, and unusual militias.

In addition, because the nature of combat is widely acknowledged to be shifting from major operations to smaller, insurgency-driven actions, it is time for the United States to revisit ratification of Additional Protocol II or to consider undertaking negotiations for an additional convention or a new or revised additional protocol to address the protection of civilians during a conflict “not of an international character” and to regulate the detention of designated terrorists, nonstate actors, and unusual militias during international and noninternational conflicts.

A Brief History of the MeK Prior to Operation Iraqi Freedom

Founding in Iran: 1965–1981

In September 1965, a small group of radical students at Tehran University began meeting to discuss an armed revolt aimed at ousting the government of Shah Mohammad Reza Pahlavi, whom they considered a puppet of the United States.¹ They differed from other anti-Shah groups in their embrace of violence and their creation of a new ideology, mixing Shiite Islamism and Marxism, both of which they believed provided a foundation for revolutionary struggle. Their choice of name reflects the group’s Marxist and Islamic roots—Mujahedin-e Khalq, “the People’s Holy Warriors.”²

The MeK recruited members and supporters (predominantly middle-class university students and graduates) with its Marxist social policy, coeducational living opportunities, antipathy to U.S. influence, and—unlike traditional Leftist groups—support for a government that reflected Islamic ideals. Members were encouraged to live in coed collectives, where they formed tight social bonds; shared financial resources; and studied Marxist economics, revolutionary theory, principles and techniques of guerrilla warfare, and Shia martyrdom.

¹ This appendix relies heavily on Abrahamian (1992), the definitive study of the MeK from its founding until just before the end of the Iran-Iraq War.

² Two alternate versions of the name are frequently used: Mujahedin Khalq Organization (MKO) and People’s Mujahedin of Iran (PMOI). There are also several anglicized spellings of the word *mujahedin* and the name *Mujahedin-e Khalq*.

Some members trained at Palestinian Liberation Organization camps in Jordan and Lebanon.

The Shah's secret police quickly infiltrated the organization and thwarted the MeK's first planned terrorist attack, which targeted electric power grids in Tehran and had been scheduled for August 1971. Approximately half of the MeK's membership was arrested, and its three founding members were later executed.³

Despite the government's crackdown, the MeK continued to build its membership and financial support base, both domestically and internationally, by recruiting at universities and inside prisons and by raising money from the intelligentsia, the domestic *bazaari* (the traditional Shia middle class), and the Iranian diaspora. The MeK collaborated with other dissident groups, most notably Ayatollah Khomeini's movement and the Palestinian Liberation Organization.

After the failure of its first attempt, the MeK carried out a number of violent attacks on a range of Iranian government and Western targets that it deemed to be supportive of the Shah.⁴ These attacks included the 1973 assassination of U.S. Army Lieutenant Colonel Lewis L. Hawkins and the 1975 assassinations of two other Army officers, Colonel Paul Shaffer and Lieutenant Colonel Jack Turner. An additional attack on August 28, 1976, killed U.S. civilian contractors Robert R. Krongrad, William C. Cottrell, Jr., and Donald G. Smith.⁵

The only original MeK central committee member to survive imprisonment was Masoud Rajavi, a charismatic organizer who quickly assumed the group's leadership when he was released from prison along with other political dissidents in January 1979. In the first of many tactical alliances, Rajavi associated himself with Khomeini and the Islamic Revolution.

³ Indeed, the majority of MeK leaders would ultimately be executed.

⁴ Appendix C provides a selection of attacks attributed to the MeK.

⁵ The MeK alleges that these Americans had been assassinated by members of a MeK splinter group that had rejected Islam and broken with the MeK in early 1975. It also claims that the guilty persons were later arrested and executed by the Shah's security forces (Slavin, 2007, p. 168; Abrahamian, 1992, p. 163).

However, in the wake of the revolution, Khomeini grew suspicious of Rajavi's ambitions and of the MeK's Marxist slant and widespread popularity. As part of an effort to suppress his opposition, Khomeini dashed the MeK's expectations of participating in the new government, along with those of other leftist and secular groups that had been part of a broad coalition against the Shah. He blocked Rajavi from running for a seat in the Assembly of Experts in 1979, prevented other MeK members from running for or winning seats in the parliament—the majlis—and then prevented Rajavi from appearing on the presidential ballot of January 1980.⁶

After its falling out with Khomeini, the MeK made the first of many dramatic shifts in its alliances and public platforms that were central to its efforts to survive. In mid-1981, it linked with Iran's elected president, Abol-Hassan Banisadr, against Khomeini's powerful IRP and called for social reform.⁷ After Khomeini closed MeK offices and newspapers and then forced Banisadr out of office on June 21, 1981, the MeK declared an "armed struggle" against the IRP with the goal of overthrowing Khomeini's regime. Toppling the IRI (or, as the MeK refers to it, "the mullahs") has remained the MeK's primary goal to this day.

The MeK commenced violent attacks against IRP targets. The most ambitious attack attributed to the MeK was the bombing of the IRP's Tehran headquarters on June 28, 1981. This attack killed more than 71 members of the Iranian leadership, including cleric Ayatollah Beheshti, who was both secretary-general of the IRP and chief justice of the IRI's judicial system. Of particular modern significance was another June 1981 MeK bombing that critically injured the IRI's present-day supreme leader, Ayatollah Ali Khamenei, permanently limiting his use of his right arm.⁸

Although Rajavi and the MeK leadership continued to inspire large demonstrations in Tehran, including one that allegedly drew

⁶ Bruck, 2006.

⁷ Waldman, 1994.

⁸ Pear, 1989.

500,000 people on very short notice,⁹ Khomeini's Iranian Revolutionary Guard Corps brutally suppressed the MeK, arresting and executing thousands of members and supporters. The armed revolt was poorly planned and short-lived. On July 29, 1981, Rajavi, the MeK leadership, and Banisadr escaped to Paris by hijacking an Iranian Air Force Boeing 707. A small portion of the MeK rank and file followed the leadership to Europe, moved into Iranian Kurdistan, or crossed the border into Iraq, where they established a series of communes.

While the MeK leadership was in exile, the underground network that remained in Iran continued to plan and conduct attacks aimed at destabilizing the Khomeini regime, such as the August 1981 bombing that killed the Iranian president and prime minister. The extent of casualties from MeK attacks is disputed. The MeK claims to have attacked only IRI government and military targets, but the IRI and anti-MeK groups claim that the MeK hijacked a number of airplanes and killed thousands of civilians, directly or indirectly.¹⁰

Exile in France: 1981–1986

Once in Paris, Rajavi and Banisadr formed the NCRI, an umbrella organization of Iranian dissident groups that shared a common opposition to Khomeini and the IRI, with Rajavi and Banisadr serving as co-chairs. The NCRI sought political and financial support from Western governments and individuals opposed to the IRI and attempted to present itself as *the* alternative government to the IRI, mimicking the approach of the Palestinian Liberation Organization. In another survival shift for Rajavi, the NCRI hid the MeK's Marxist-Islamic philosophy from European and American view and instead promoted a new platform espousing such political values as secular government, democratic elections, freedom of expression, equal rights for women, human rights, and a free-market economy, only some of which the MeK had

⁹ Abrahamian, 1992; Singleton, 2003.

¹⁰ "Iran Paper Condemns U.S. Resolution Designating Guards Corps as Terrorists," 2007; Khodabandeh, 2008.

previously endorsed. It also urged autonomy for Iranian Kurdistan and the repatriation of Iranian exiles.¹¹

The NCRI styled itself as the parliament-in-exile of the Iranian Resistance, with Rajavi as the president-elect, fighting for the establishment of a democratic Islamic republic in Iran. It commenced a public-relations campaign aimed at publicizing the IRI's repression and offered intelligence on the IRI's operations to Western governments. The group disseminated its messages through its own media outlets, including newspapers and a radio station.

Although a large portion of the NCRI's funding was provided by Saddam Hussein and some came from Saudi Arabia, the NCRI also raised money through fraud.¹² For example, until recently, MeK supporters sought donations at airports and public parks, often showing gruesome pictures of women who had been tortured by the IRI, by claiming to raise money for human rights victims in Iran but funneling the money to the MeK instead. The FBI arrested seven MeK supporters for raising more than \$1 million for a sham charity, the Committee for Human Rights in Iran, at Los Angeles International Airport.¹³ The British Charities Commission closed another MeK sham charity, Iran Aid, after finding no "verifiable links between the money donated by the British public [approximately £5 million annually] and charitable work in Iran."¹⁴ The German High Court closed several MeK safe houses, "foster" homes, and compounds after an investigation revealed that the MeK fraudulently collected between \$5 million and \$10 million in social welfare benefits for MeK children sent to Europe at the outset of the first Gulf War.¹⁵

As Rajavi increasingly transformed the NCRI from an umbrella organization into a MeK subsidiary, early partners separated from the consortium, including the Democratic Party of Iranian Kurdis-

¹¹ MIPT, 2007a.

¹² MIPT, 2007b.

¹³ Agarwal, 2004; Mcdermott, 2001.

¹⁴ Baldwin, 2000.

¹⁵ Moni, 2003; Krikorian, 2001.

tan. Banisadr himself withdrew from the NCRI in March 1983, and Rajavi divorced Banisadr's daughter, whom he had married the previous year.

In 1985, Rajavi announced that he had appointed Maryam Azodanlu, the wife of his close associate Mehdi Abrishamchi, as co-leader of the MeK. She would soon divorce her husband and marry Rajavi. Together, they would launch a new "ideological revolution" that would, over time, transform the MeK into a cult group.¹⁶

Relocation to Iraq to Fight for Saddam: 1986–1988

After invading Iran, Saddam Hussein began to supply funds to enable the MeK to extend the reach of the NCRI's European publicity campaign against the IRI as payment for any intelligence that the MeK could offer regarding Iran. In 1986, in exchange for Iran's assistance in securing the release of French hostages held in Lebanon, France attempted to expel the MeK leadership and end the MeK's use of France as its western base. That year, the MeK's leadership cadre accepted an invitation from Saddam to move the group to Iraq, purportedly to be closer to the war then being fought against the IRI but actually to join forces and fight with Saddam's military.¹⁷

Saddam provided the MeK with protection, money, weapons, ammunition, vehicles, tanks, military training, and the use (but not ownership) of land. With these resources, the MeK leadership established new compounds in Iraq and encouraged MeK supporters in

¹⁶ This transformation and the MeK's cultic characteristics are discussed in Appendix B.

¹⁷ The MeK claims that it had no option but to move to Iraq once it was ejected from France. However, France expelled only a few MeK leaders in 1986, and it deported 14 more to Gabon in 1987 (Ibrahim, 1987). Of these, nearly all were allowed to return to France or Spain after the MeK staged hunger strikes for 40 days in front of French embassies throughout Europe and threatened self-immolation ("France Expels Iranians to Gabon," 1987; "Expelled Iranian exiles returning to France," 1988). The MeK leadership justified the move to Iraq by claiming that the group had by then successfully educated the West on the "evils" of the regime in Tehran.

Iran and elsewhere to relocate to Iraq.¹⁸ Approximately 7,000 members, comprising approximately 80 percent of the exiled MeK population, went to those camps. Rajavi named the MeK contingent in Iraq the National Liberation Army (NLA) to portray the MeK as a more legitimate insurrectionist group.

In exchange for his support, the MeK provided Saddam with intelligence on the IRI, interrogation and translation services, and direct military assistance. The MeK launched numerous raids across the border into Iran, clashing with Iranian military forces and the IRGC, sometimes with the assistance of the Iraqi military.

On July 25, 1988, shortly after Khomeini's cease-fire announcement, the MeK launched its largest mission, Operation Eternal Light, hoping to deliver the final blow to the IRI. Rajavi hoped that, through a demonstration of its manpower, the MeK could incite a domestic revolt against the IRI. He ordered the entire MeK contingent in Iraq to invade Iran, assigning each NLA brigade a province to "liberate," anticipating that the Iranian military and public would support the MeK and turn against the IRI. However, the envisaged military and popular support in Iran did not materialize—at least in part because the MeK had allied itself with the instigator of the war and had killed Iranian conscripts—and the operation was crushed by the Iranian Revolutionary Guard Corps. The Operation Eternal Light invasion cost the MeK more than 1,500 NLA lives (approximately a quarter of the MeK contingent living in Iraq) and prompted the Iranian regime to carry out a mass execution of more than 4,000 MeK members and sympathizers living in Iran.¹⁹ Nevertheless (as described in Appendix B), the Rajavi leadership leveraged the quasimilitary character of the NLA and the failure of the mission to consolidate its control over the MeK and to initiate a series of policy changes that continued the transformation of the increasingly insular organization into a cult.

¹⁸ The largest of the compounds was Camp Ashraf, located in Diyala Province, approximately 20 miles from the Iranian border. The camp was named in honor of Masoud's first wife, Ashraf Rabii, who was killed by Iranian troops in Tehran in 1981 (Waldman, 1994).

¹⁹ Waldman, 1994; Taheri, 2008. The MeK claims that the NLA inflicted 55,000 casualties on "Khomeini's forces" and incurred approximately 1,200 dead or missing NLA "martyrs" during Operation Eternal Light (NLA, undated; Salavi, 2001; Shahri, 1997).

Exile in Iraq, 1988–2003

Despite the MeK's many asserted military "successes," these operations failed to undermine the IRI and instead intensified the Iranian public's negative view of the MeK, primarily because of its willingness to kill Iranian conscripts. Although it has not conducted a large-scale military action since 1988, the MeK continued to commit acts of violence in Iran and abroad, aiming at Iranian government or military targets but sometimes injuring or killing bystanders. Some of these attacks have occurred in the United States and Europe. The MeK often asserts that it has been blamed for attacks conducted by unaffiliated or splinter organizations. However, the MeK itself, through its NCRI, claimed responsibility for more than 350 attacks in 2000 and 2001 alone.²⁰

The MeK's service to Saddam continued after the Iran-Iraq War. For years, the group provided security services in the region around its camps. In the aftermath of the first Gulf War, the MeK is widely believed to have assisted Saddam in the violent suppression of the Shia and Kurdish uprisings of 1991.²¹ MeK officials strenuously deny any involvement in the atrocities against the Shia and Kurds, alleging that *they* were attacked by combined Kurdish and Iranian forces and that the MeK did not even defend itself.²² However, the allegations of the group's complicity with Saddam are corroborated by press reports that quote Maryam Rajavi encouraging MeK members to "take the Kurds under your tanks, and save your bullets for the Iranian Revolutionary Guards,"²³ as well as the timing of Saddam's conferring the Rafedeen Medallion—a high honor in the Iraqi military—on Masoud Rajavi. Whatever the truth of the matter, much of the Iraqi public

²⁰ *Lord Alton of Liverpool and Others v Secretary of State for the Home Department*, 2007, para. 190–191.

²¹ Galbraith, 2007; DOS, 2007.

²² Waldman, 1994.

²³ E. Rubin, 2003.

believes that the MeK *did* commit violent acts on Saddam's behalf against Shias and Kurds.²⁴

Recruitment has been a major challenge for the MeK since it fled Iran in 1981. After allying with Saddam and making Iraq its base, the MeK faced an even greater shortfall in volunteers. One recruiting tactic used by the MeK was arranged with the assistance of Saddam's government. Iranian prisoners from the Iran-Iraq War were offered the choice of going to MeK camps and eventually being repatriated or remaining in Iraqi prison camps.²⁵ As a result, hundreds chose to join the MeK; however, they were not repatriated.

The MeK naturally sought out Iranian dissidents, but it also recruited other Iranians using false pretenses. Among the targeted populations were Iranian economic refugees, people with charitable impulses, and MeK family members. Many recruits were enticed through false promises of paid employment, land, assistance in processing asylum requests, free visits to family members, public-health volunteer opportunities, and even marriage. Thus, it is highly likely that many MeK recruits since 1986 were not "volunteers."

Almost all MeK members were obliged to turn over their identity documents to the leadership for "safekeeping." The MeK now claims that these documents were securely held until they were destroyed by coalition bombs during OIF. Currently without passports, most MeK members are effectively stateless. By confiscating identity documents and refusing to legalize the presence of MeK members in Saddam's Iraq, the leadership has kept its members under duress at MeK camps in Iraq by threatening prosecution and incarceration for illegal entry followed by deportation to Iran and the risk of being persecuted or even executed there.

In 1997, the U.S. Secretary of State designated the MeK an FTO pursuant to the Anti-Terrorism and Effective Death Penalty Act of

²⁴ DOS, 2007, p. 264. This is, of course, a primary reason that the GOI wants to expel the MeK.

²⁵ "Prisoners for the Mujaheddin," 1990.

1996.²⁶ Some other Western governments, including the United Kingdom, Canada, Australia, and the European Union, have since listed the MeK either as a terrorist organization or an organization that may not receive donations.²⁷ This designation criminalized all MeK fundraising efforts (as well as those of the NCRI when it was designated an FTO in 2003). In 2001, criminal investigations exposed ongoing money-laundering activities in the United States, the United Kingdom, and Germany. Since then, several MeK members have been arrested and prosecuted for fraudulently soliciting funds for imaginary orphanages and charities and then using the funds to purchase weapons and telecommunication equipment.²⁸

The FBI discovered MeK cells in several U.S. cities. These cells had large numbers of Iranian members, thousands of whom the MeK had helped smuggle into the United States. The 2003 arrest of Maryam Rajavi in Paris in connection with an FBI investigation uncovered evidence of continued illicit financing. Police discovered \$9 million in cash as well as documents indicating that the MeK maintains international bank accounts, some of which contained tens of millions of dollars.²⁹ Former members indicate that the MeK also invests in stocks and owns properties, such as hotels and nightclubs, in Dubai and elsewhere.

Through the NCRI, the MeK responded to its designation as an FTO and other related charges with a public-relations campaign to present itself to the United States and Europe as a legitimate dissident

²⁶ Appendix D provides additional information about the FTO list. The MeK alleges that its designation as an FTO was merely an attempt to reach out to then-IRI President Mohammad Khatami. It is true that the MeK was not included on any U.S. government lists of terrorist organizations, such as the Treasury Department's Specially Designated Global Terrorists list, that preceded the FTO list. However, the MeK was one of the first organizations designated as an FTO when the list was created, and it was added to the Treasury's list along with all other FTOs in 2001 (Cronin, 2003).

²⁷ The MeK does not appear on the terrorist group list maintained by the United Nations because that list pertains only to groups linked to Al Qaeda or the Taliban.

²⁸ Samii, 2001.

²⁹ Higgins and Solomon, 2006.

group.³⁰ This effort (combined with campaign donations) has had some success, though the NCRI grossly overstates its level of support in the West by making such misleading claims as “[t]he majority of members of the US Congress and the parliaments of Great Britain, Italy, Belgium, Luxembourg, Sweden, Norway, the European Parliament and numerous Danish, French, German, Dutch and Swiss parliamentarians declare their support for the NCRI and its President-elect.”³¹

Although many legislatures have indeed signed letters advocating democracy in Iran or even defending the MeK’s opposition to the IRI—actions that have sometimes misled journalists and scholars about the extent of the MeK’s political base—very few legislators in the West actively endorse the MeK or even know much about the group. An analysis requested by the Joint Chiefs of Staff during OIF found that the MeK’s support in Congress was not significant.³² Individual members who appear to view the MeK in a positive light tend to be energetic opponents of the IRI or have significant numbers of Iranian-Americans in their districts. Others are simply misinformed.³³

Following NCRI press conferences in 2002 and 2003 that publicly revealed the IRI’s nuclear program, the MeK enjoyed a resurgence of political support.³⁴ For instance, at a 2005 press conference, President George W. Bush stated that the IRI’s nuclear program had been

³⁰ After DOS added the U.S. branch of the NCRI to the FTO list as a component of the MeK in 2003, the MeK continued its U.S. efforts by creating technically unaffiliated lobbying groups, such as the Iran Policy Committee in the United States and Friends of a Free Iran in Europe, by indirectly funding allegedly “independent” analyses of the MeK by firms such as DLA Piper and Global Security Options, and by “astroturf” campaigning (artificial grassroots campaigns).

³¹ Supporters of the National Council of Resistance of Iran, undated.

³² Interview with Joint Staff officers, February 2008.

³³ In November 2002, 150 members of the U.S. House of Representatives signed a letter requesting the removal of the MeK from the FTO list. However, former Representative Bob Ney, who supported the MeK in the past, and others have worked actively to counter the MeK’s messaging, with the result that many of those who signed the letter have requested that their names be removed.

³⁴ Squassoni, 2003.

uncovered “because a dissident group pointed it out to the world.”³⁵ However, this support ebbed and flowed along with the desire to conduct a regime-change operation in Iran, and current indications are that the burst of interest has largely dissipated.

The MeK claims that it formally rejected the use of violence in 2001. Although there is limited documentary proof of this decision in either English or Farsi, the UK Proscribed Organisations Appeal Commission accepted the MeK’s assertion based on the absence of attacks claimed by or attributed to the group after 2001 (aside from one in 2002 that the MeK quickly recanted). This was a significant change considering that, as previously noted, the MeK claimed responsibility for carrying out more than 350 attacks in 2000 and 2001. For this reason, along with issues having to do with legal process, the UK has since removed the MeK from its list of proscribed organizations.³⁶ In January 2009, the European Union removed the group from its terrorist list for procedural reasons.³⁷

There may have been a change in the status of the MeK’s leadership as well. Ever since the commencement of OIF, Masoud Rajavi has been missing. It is unknown whether he is in hiding or whether he is even alive. In his absence, Maryam Rajavi, the “president-elect” of Iran, according to the NCRI, has become the sole visible leader of the MeK. However, portraits of both Masoud and Maryam Rajavi continue to be displayed in all buildings at Camp Ashraf.

³⁵ Squassoni, 2003. The MeK alleges that the information was based on its own intelligence, but this is in doubt. Suggestions about the true source posit that the United States acquired the information from Israel and arranged for the MeK to present it as its own. Another theory is that Israel delivered the information to the MeK after the Shah’s son refused to transmit it (Parsi, 2007; Dickey, 2005).

³⁶ The UK decision was based on incomplete factual information. Apparently, neither the Proscribed Organisations Appeal Commission nor the court that affirmed the decision were aware of the MeK’s repeated requests to the JIATF to have its weapons returned.

³⁷ “Iran Condemns EU for Delisting Terror Group,” 2009.

Cultic Characteristics of the MeK

The MeK is frequently described as a “cultish” group, but to date, there has been no examination of how its practices relate to cult characteristics defined by experts in the field. This appendix places credible reports about MeK practices into the context of cult theory.

The MeK’s Transition from Popular Organization to Exiled Cult

Although the MeK had become the most popular dissident group in Iran, its failure to overthrow the IRI and its subsequent exile undermined its optimism and openness. In France, Masoud Rajavi dramatically changed the nature of the organization. In 1985, he announced that Maryam Azodanlu, the wife of his close associate Mehdi Abrishamchi and the younger sister of a senior MeK member, would assume the position of MeK co-leader. Rajavi divorced his second wife, the daughter of former Iranian president Abol-Hasan Banisadr, Rajavi’s ally, and announced that Maryam would divorce her husband and marry him. These actions would advance a new “ideological revolution.”¹

The Rajavis claimed that their new revolution was meant to highlight the equality of women, an idea that the IRI found threatening.² Although the MeK did promote women to leadership positions, which

¹ Bruck, 2006.

² It was ironic that Maryam took her new husband’s last name, which is a Western rather than Iranian practice.

constituted a reversal of tradition in Iranian society, the marriage and the subsequent aggrandizement of Masoud Rajavi's leadership role marked the beginning of an organizational transformation into a cult of personality. Initial changes included increased mandated study, enforced communal living arrangements, and imposed supervision of the group's membership in exile throughout Europe. A secondary goal was to purge less committed members. This act was not intended to alienate allied Iranian dissident organizations, but that was the result.

After the MeK moved to Iraq in 1986, the Rajavis created the NLA, which included nearly the entire MeK contingent in Iraq, and they used its militaristic structure to consolidate their control. Following the failure of Operation Eternal Light, the Rajavis initiated a series of policy changes that continued the transformation of the increasingly insular organization into a cult. While rarely admitting total failure, Rajavi implied in his speeches that the operation had not achieved its goals due to insufficient devotion to the overthrow of the IRI among the MeK rank and file, who were instead distracted by sexual interests as a result of their coeducational housing.³ To enforce a new "military" discipline, rank-and-file members were instructed not just to move into gender-segregated housing but also to divorce their spouses, maintain complete celibacy, and even cut off communication with friends and family, both within and beyond MeK compounds. Love for the Rajavis was to replace love for spouses and family. In addition, the Rajavis used funding provided by Saddam to construct self-sufficient camps that included schools, medical clinics, training centers, and prisons (often called "reeducation centers") so that the population had little need for contact with the society beyond its walls.

Application of Cult Theory to the MeK

MeK leaders and supporters vigorously deny that the MeK is a cult. They allege that former MeK members and critics of the MeK are either Iranian agents or their dupes. However, interviews with U.S.

³ Banisadr, 2004, pp. 306–312.

military and civilian officials, information voluntarily furnished by former MeK members at the ARC, and visits to Camp Ashraf suggest that these denials are not credible.

The cult characteristics described in this appendix have been widely reported by former MeK members and by Human Rights Watch.⁴ They have also been substantiated, at least in part, by interviews with JIATF-Ashraf officers and by information volunteered by former MeK members at the ARC.

Authoritarian, Charismatic Leadership

Masoud Rajavi appointed himself and Maryam leader and co-leader of the MeK (and, by extension, of Iran) for life, though the NCRI asserts that it would quickly mount elections upon taking control of Iran. This concept of perpetual leadership is reflected in the MeK chant “Iran-Rajavi, Rajavi-Iran” that has been used since the MeK began its transformation into a cult. Equally reflective of the absolute authority wielded by Rajavi is his informal title *Imam-e Hal* (the present Imam) used by MeK membership.⁵ The egocentric character of Masoud Rajavi’s leadership is also illustrated by his willingness to compare his own marriage to that of the Prophet Muhammad.⁶ In addition, the MeK membership ceremony involves swearing an oath of devotion to the Rajavis on the Koran. Pictures of the Rajavis adorn all MeK buildings; banners with their portraits hang in the streets of Camp Ashraf. Criticism of the Rajavi leadership is not allowed. As the MeK newspaper, the *Mojahed*, declared,

To understand this great revolution . . . is to understand and gain a deep insight into the greatness of our new leadership, mean-

⁴ For example, see Singleton, 2003; Banisadr, 2004, Iran-Interlink, undated, 2008; and Human Rights Watch, 2005. For typical characteristics of cults, see, e.g., Bale, 2001; Lalich, 2004; and Lalich and Langone, undated.

⁵ The title *Imam-e Hal* is similar to that of *Imam-e Zaman*, meaning “Imam of the Age”—a name used by Shias to refer to the revered hidden messiah (Abrahamian, 1992, p. 260).

⁶ When Masoud Rajavi announced his marriage to Maryam Azodanlu, he claimed that the Prophet Mohammad had intentionally caused similar controversy when he married his adopted son’s recently divorced wife (Abrahamian, 1992, p. 252).

ing leadership of Masoud and Maryam. It is to believe in them as well as to show ideological and revolutionary obedience of them [sic].⁷

However, with the commencement of OIF, Masoud Rajavi disappeared. It is unknown whether he is alive or in hiding. Banners announcing his return have appeared from time to time at Camp Ashraf, but Maryam remains the visible leader of the MeK.

Intense Ideological Exploitation and Isolation

The MeK leadership requires members to study MeK ideology and to participate in indoctrination sessions that are characterized by a mix of propaganda and fear tactics. Group members are required to watch films of the Rajavis' speeches and footage of various street demonstrations throughout Europe. The MeK broadcasts from its own radio and television stations. MeK leaders permit group members to listen only to these stations and to read only internal reports and bulletins, such as the MeK-produced *Mojahed* newspaper and other approved texts. Violators are punished. To reduce the appearance of brainwashing, MeK leaders describe these restricted activities as opposition to the IRI or as exercises in military theory.

MeK-sponsored media have capitalized on this isolation by instilling MeK members with a sense of fear and paranoia about the outside world, particularly of Iran and the IRI regime. MeK publications often criticize those who fail to show adequate support for the group or who have left it, labeling them as enemies, traitors, and "Iranian agents."⁸ Members who express a desire to watch television or read books not sanctioned by the leadership have often been classified as "difficult." A visit to the MeK library at Camp Ashraf makes it evident that its purpose is not to expand minds. However, with portraits of American and European writers lining the garden path that leads to the library, the

⁷ *Mojahed*, No. 242, April 12, 1985, quoted in Human Rights Watch, 2005, p. 9.

⁸ Of course, the IRI has attempted to infiltrate the MeK, and some former MeK members may now work for the IRI.

MeK uses the facility to attempt to persuade visitors that the it encourages freedom of thought.

Sexual Control

As a part of the “ideological revolution,” the Rajavis mandated divorce and celibacy. Compulsory divorce required couples to place their wedding rings in a bowl and renounce their affections for one another. (The rules did not apply to the Rajavi marriage, however, nor were MeK leaders required to be celibate.) The MeK denies that these acts were anything but spontaneous and voluntary, claiming, “The reality is that the Mujahideen is based in the territory of a country where . . . family life became impossible” and that every MeK member made the individual, noncompulsory decision to “forgo family life.”⁹ This denial is not credible, particularly when taking into account the MeK’s strict limitations on gender interaction, as described next. Furthermore, Iraqi families would likely disagree with this assessment of prospects for family life even during wartime.

Emotional Isolation

In addition to their geographic and ideological isolation, MeK members in Iraq are severely socially and emotionally isolated, even within their communal living arrangements. Relatives and former spouses are placed in different compounds and are not allowed to see each other. Prior to the U.S. invasion of Iraq in 1991, children were sent to live with foster families in Europe, ostensibly to protect them from the impending invasion, though some returned to Iraq years later. Close friendships are considered “liberal relations” and are strictly forbidden. Members may freely communicate only with their unit commanders, and a commander’s permission is required for any other type of communication. Informants monitor conversations among members. In many cases, MeK members’ families in Iran have been told that their relatives had died or been killed.

⁹ Waldman, 1994; Whewell, 2007; interview with former NCRI representative Alireza Jafarzadeh, June 2008.

Despite the MeK's and NCRI's claim to support gender equality and the placement of women in leadership roles, men and women are kept strictly apart in MeK camps. Housing is segregated by gender, and in other buildings, lines are painted down the middle of hallways, separating them into men's and women's sides. Men and women below the leadership level are prohibited from contact with one another unless they have obtained official case-by-case permission. Shaking hands is prohibited across genders. Even the gas station at Camp Ashraf has separate hours for men and women.

Extreme, Degrading Peer Pressure

The MeK holds daily, weekly, and monthly "sessions" that involve forced public confessions aimed at expelling deviant thoughts and behaviors that are believed to undermine group coherence. MeK members are required to keep daily records of their thoughts and nighttime dreams, particularly sexual thoughts and desires (which are, of course, forbidden), as well as observations about their fellow members. They must submit their journals to their supervisors. During large meetings, members often are forced to read their reports aloud and to make self-critical statements. MeK members are often required to admit to sexual thoughts. In a true *Catch-22* situation, if they do not, they will be considered to have been caught in a lie because such thoughts are considered inevitable.

Deceptive Recruitment

Prior to its exile, the MeK was the largest group to oppose the IRI. The organization enjoyed significant support among the young and educated middle class. At the peak of its popularity, it could call hundreds of thousands of protesters into the streets of cities across Iran on minimal notice. Prospective members were attracted to the MeK's mission, its Marxist-Islamic ideology, and the opportunity to live in coeducational housing and enjoy social debates. However, its ability to recruit was greatly reduced by the IRI's brutal treatment of MeK members; the group's departure from Iran, first to France and then to Iraq; and the MeK's alliance with Saddam, the instigator of the devastating Iran-Iraq War.

By 1987, approximately 7,000 MeK members were in Iraq, which may have included as much as 80 percent of the membership in exile.¹⁰ To add to its numbers, the MeK leadership employed several deceptive recruitment techniques aimed at a range of Iranian subgroups. With the assistance of Saddam's government, Iranian prisoners from the Iran-Iraq War were offered the choice of remaining in Iraqi prison camps or going to MeK camps where they would have the prospect of repatriation. To recruit potential members still living in Iran, the MeK smuggled family members out of the country to visit relatives at camps in Iraq and then prevented their subsequent departure. Others were victims of fraud in human trafficking: The MeK would arrange for Iranians who paid to be smuggled out of Iran to be redirected to MeK camps in Iraq rather than to their intended destinations.

The MeK also targeted Iranians outside of Iran—for example, economic refugees, people with charitable impulses, and MeK family members abroad. Many were enticed not with promises of an opportunity to fight the IRI, but rather through promises of paid employment as translators, assistance in processing asylum requests, free visits to family members, public-health volunteer opportunities, and even marriage.¹¹ All “recruits” were brought into Iraq illegally and then required to hand over their identity documents for “safekeeping,” effectively trapping them at MeK compounds.

These findings suggest that many MeK recruits since 1986 were not true volunteers and have been kept at MeK camps in Iraq under duress. As of June 2004, JIATF estimated that, of the MeK population at Camp Ashraf, only 5 percent had joined prior to the Iranian Revolution and 25 percent had joined at the time of the revolution. A full quarter (approximately 1,500 to 1,800) had been POWs, and

¹⁰ Abrahamian, 1992, p. 250.

¹¹ For example, MeK agents would approach Iranian asylum-seekers as they exited embassies in countries such as Turkey and the United Arab Emirates. Without disclosing their MeK affiliation, the agents would offer assistance in applying for asylum in Western European countries. In such cases, the individual would be given a phone number to call, usually that of a MeK representative who would convince the “recruit” that he or she would receive asylum after a period of months, during which time free room and board with friendly people in Iraq would be provided, and sometimes a job and a spouse as well.

45 percent had arrived at Camp Ashraf after the 1988 move to Iraq. Thus, it is possible that nearly 70 percent of the MeK population may have been recruited through deception and kept at Camp Ashraf against their will.

Forced Labor and Sleep Deprivation

Cults often use long work hours and sleep deprivation as ways to wear down their members and prevent them from identifying with anything other than the group.¹² MeK members often work 16- to 17-hour days and are limited to a few hours' sleep per night, plus an hour-long nap.¹³ To maintain this pace, the MeK leadership mandates continual "make-work" construction and beautification projects and, until OIF, ongoing military training. The results are evident at Camp Ashraf. Built out of the desert, the camp has grand avenues lined with trees and is adorned with an exceptional number of parks, fountains, meeting halls, and monuments, many of which glorify MeK martyrs.

Physical Abuse, Imprisonment, and Lack of Exit Options

Former MeK members claim that punishment was frequently meted out for such offenses as

- expressing or fomenting disagreement with the political/military strategy of the MeK
- listening to foreign radio stations
- sharing individual political views with other members
- failing to attend mandatory meetings
- making personal phone calls
- avoiding participation in military drills
- refusing to participate in the compulsory "ideological divorce"
- having sexual thoughts
- communicating with friends or family

¹² See, for example, a case study on the National Labor Federation in Tourish and Wohlforth, 2000, p. 198.

¹³ Interviews with a DOS official and information volunteered by former MeK members at the ARC, October 2007.

- smoking
- asking to leave the MeK.

Recent accounts recall that punishment for disagreeing with MeK policies ranged from forced written confessions of disloyalty to incarceration in special facilities at Camp Ashraf. Former members report torture and long periods of solitary confinement as punishment for disloyalty.

To prevent MeK members from departing the camps, almost all MeK recruits were obliged to turn over their identity documents to the MeK for “safekeeping.” The MeK now claims that these documents were securely held until they were destroyed by coalition bombs. Although the group was invited into Iraq and given the use of land by Saddam, the MeK never sought legal residence there. When recruits were brought into the country, Iraqi rules regarding alien visits or immigration were intentionally not observed. With Saddam’s complicity, the MeK leadership was then able to threaten recalcitrant members with prosecution for their illegal presence in Iraq, which would mean incarceration in an Iraqi prison for several years, followed by deportation to Iran, where, members were told, they would face certain persecution. By bringing its members into Iraq illegally and then confiscating their identity documents, the MeK was able to trap them.¹⁴

Patterns of Suicide

The MeK extols suicide but, unlike jihadist groups, has not used it in attacks since 1981. Prior to their capture in 2003, all MeK members carried cyanide tablets in leather pouches tied around their necks. MeK assassins were instructed to swallow the cyanide if captured during a mission. Masoud Rajavi reputedly has called all MeK members “living martyrs,” and self-immolation is a popular form of MeK suicide. For example, in 2003, there were approximately 10 self-immolations

¹⁴ Human Rights Watch, 2005, describes these practices in detail. The MeK denies the practices in a rebuttal publication by a support group, Friends of a Free Iran (Brie and Casaca, 2005). However, former MeK members at the ARC corroborate the Human Rights Watch findings. As discussed in Chapter Four, the MeK has slightly modified its exit policy since its consolidation at Camp Ashraf.

(which killed two) in protest of Maryam Rajavi's arrest in Paris. The MeK has also used the threat of immolation as a negotiating tool with the JIATF, with British investigators, and with France. Former members indicate that a small number of MeK members committed suicide because they were prevented from leaving the organization and that suicide was also claimed as the cause of death for recalcitrant members who were tortured to death.

Denial of Cultic Tendencies

The MeK and its apologists deny that the MeK is a cult, instead contending that it is a “deeply democratic organization whose guiding principle on all issues is referendum and discussion until a consensus is reached.”¹⁵ The MeK admits to certain practices—such as divorce and celibacy—but justifies them as necessary for effective military operations and claims that they are voluntarily adopted by the membership. However, the MeK denies many other practices attributed to it by its former members, such as intense indoctrination techniques like “thought reform” (commonly referred to as *brainwashing*)¹⁶ and limiting exit options.

As with all criticism aimed at the group, the MeK blames IRI propaganda for characterizing it as a cult. Certainly, the IRI seeks to discredit the MeK, and this includes publicizing the MeK's cultic characteristics. It is reasonable to assume that some of the IRI's allegations are inaccurate. But the fact that the IRI seeks to discredit the MeK does not imply that all of its criticisms are inherently untrustworthy.

The IRI's campaign has contributed to weakened support for the MeK in Iran. Although it is not currently possible to conduct a scientific survey of Iranians to gauge their opinions about the MeK—and, in the absence of diplomatic or cultural ties, information regarding Iranian perceptions is extremely limited—anecdotal evidence suggests that the MeK's cultic characteristics have contributed to its decline in

¹⁵ Waldman, 1994.

¹⁶ The terms *thought reform* and *brainwashing* describe the psychological process of shifting one's thought patterns in reaction to particular stimuli.

popularity since 1981.¹⁷ An American journalist reports that Iranians whom she interviewed likened the MeK to the Khmer Rouge and the Branch Davidian cult in Waco, Texas, comparisons that have also been made by current and former U.S. officials.¹⁸ Of course, as noted earlier, the MeK's decision to align itself with Saddam against the IRI and to kill Iranian conscripts during the brutal Iran-Iraq War greatly eroded its popular support in Iran. Although the MeK repeatedly claims to be the most influential opposition group in that country, in reality it appears that this once-prominent dissident group can now validly claim only to be highly organized and well (albeit illegally) funded. Indeed, many Iranians observe that, since the MeK's move to Iraq, the group is the only entity less popular in Iran than the IRI itself.

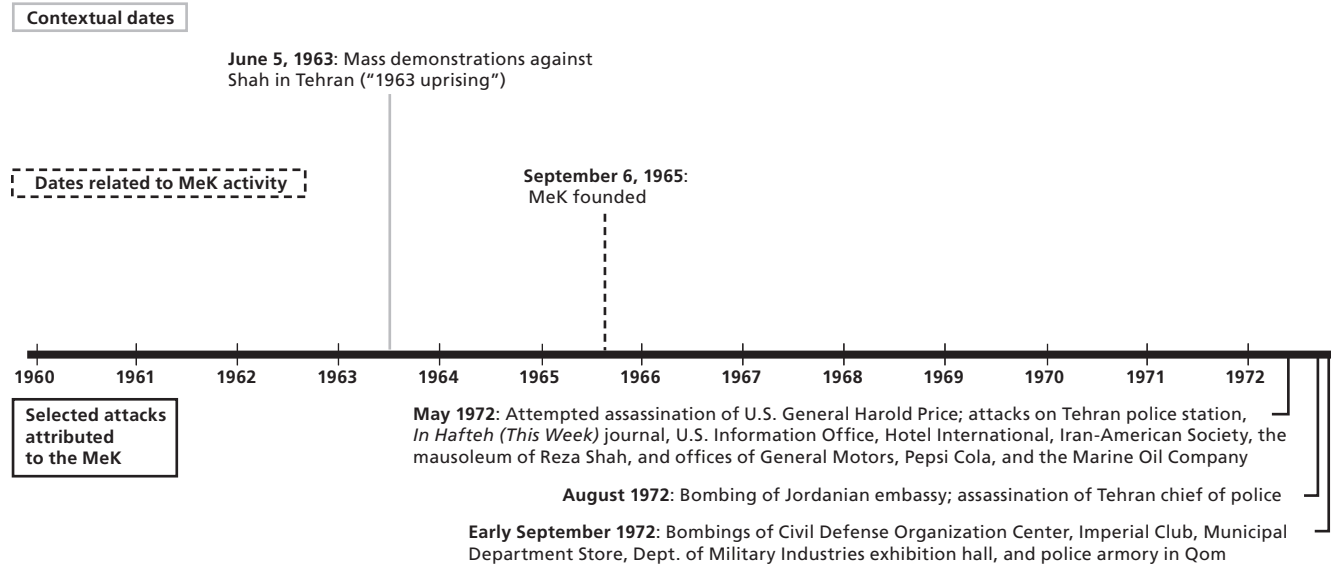
¹⁷ The lack of open communication has resulted in a poor understanding of Iran not only in the United States but in most Western nations as well. To help address this problem, in 2009, RAND published *Understanding Iran* (Green, Wehrey, and Wolf, 2009), a concise, accessible handbook on the IRI intended primarily for U.S. policymakers. As an aid to understanding present-day Iran, it synthesizes existing analyses of the IRI and, most importantly, draws from non-American experts who can offer a different interpretive lens for viewing the seemingly opaque Iranian system.

¹⁸ Slavin, 2007.

Timeline of MeK Activities

This appendix provides a timeline of significant MeK activities from the time of the group's inception through January 1, 2009, as shown in Figure C.1.

Figure C.1
MeK Activities, 1960–2009

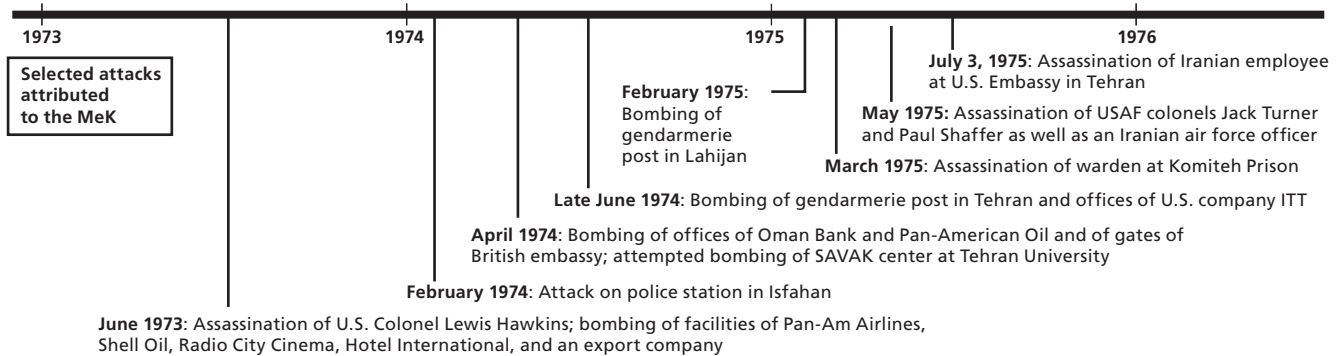


SOURCES: Abrahamian, 1992; "Blasts at Iran Leader's Offices Kill One," 2000; Buchta, 2000; "Iran Slays Killer of U.S. Civilians," 1976; Khodabandeh, 2008; MIPT, 2007a; Porter, 2006; Rubin, 2006; Samii, 2001; Waldman, 1994; Willenson, 1975.

Figure C.1—Continued

Contextual dates

Dates related to MeK activity



NOTE: SAVAK = Iranian Security and Information Organization.

Figure C.1—Continued

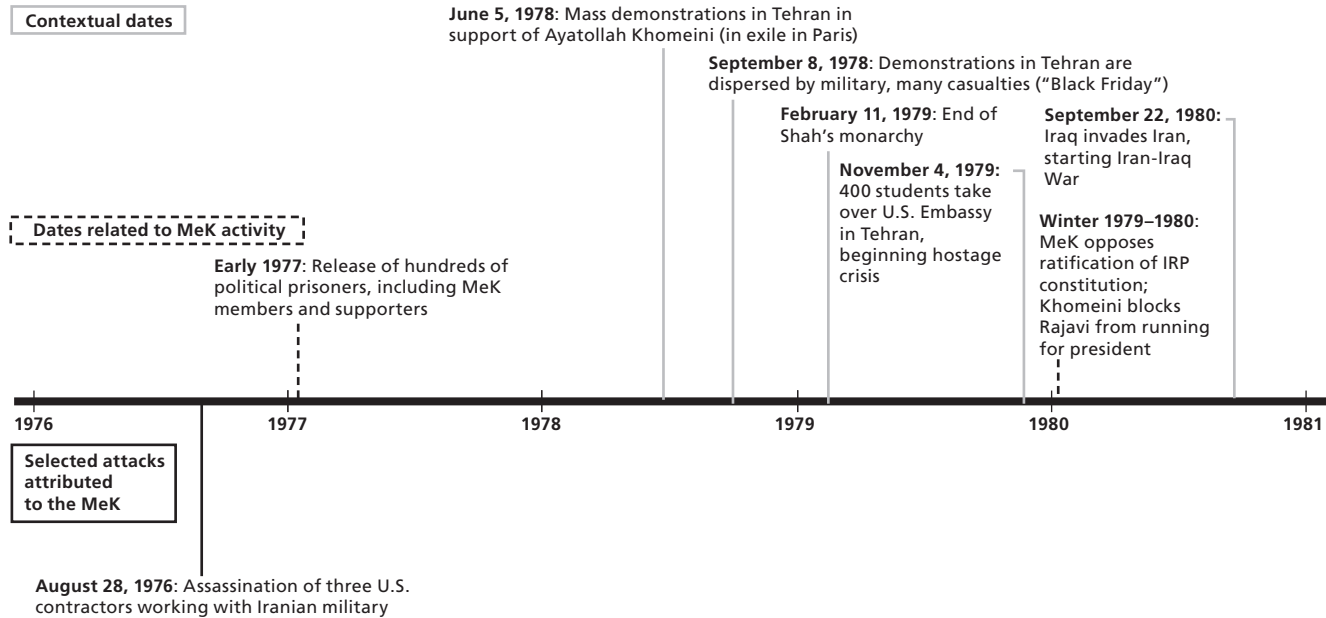


Figure C.1—Continued

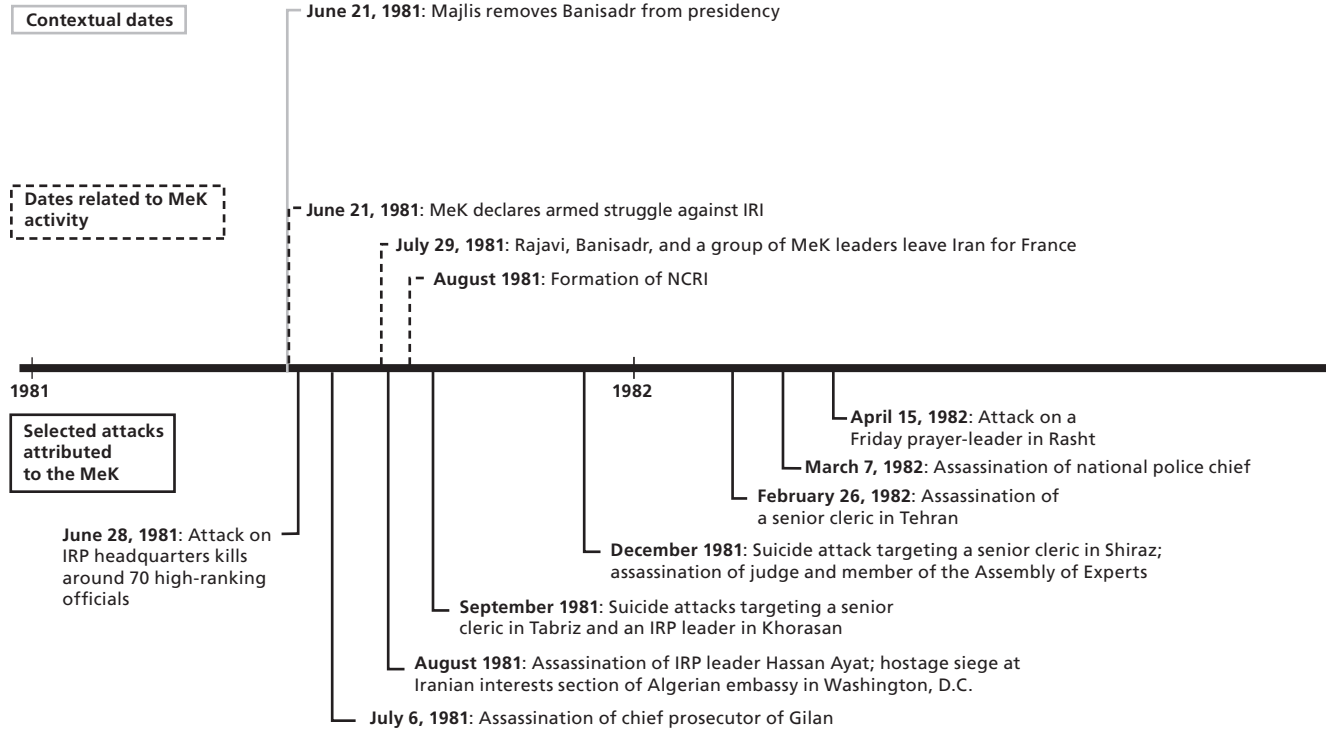


Figure C.1—Continued

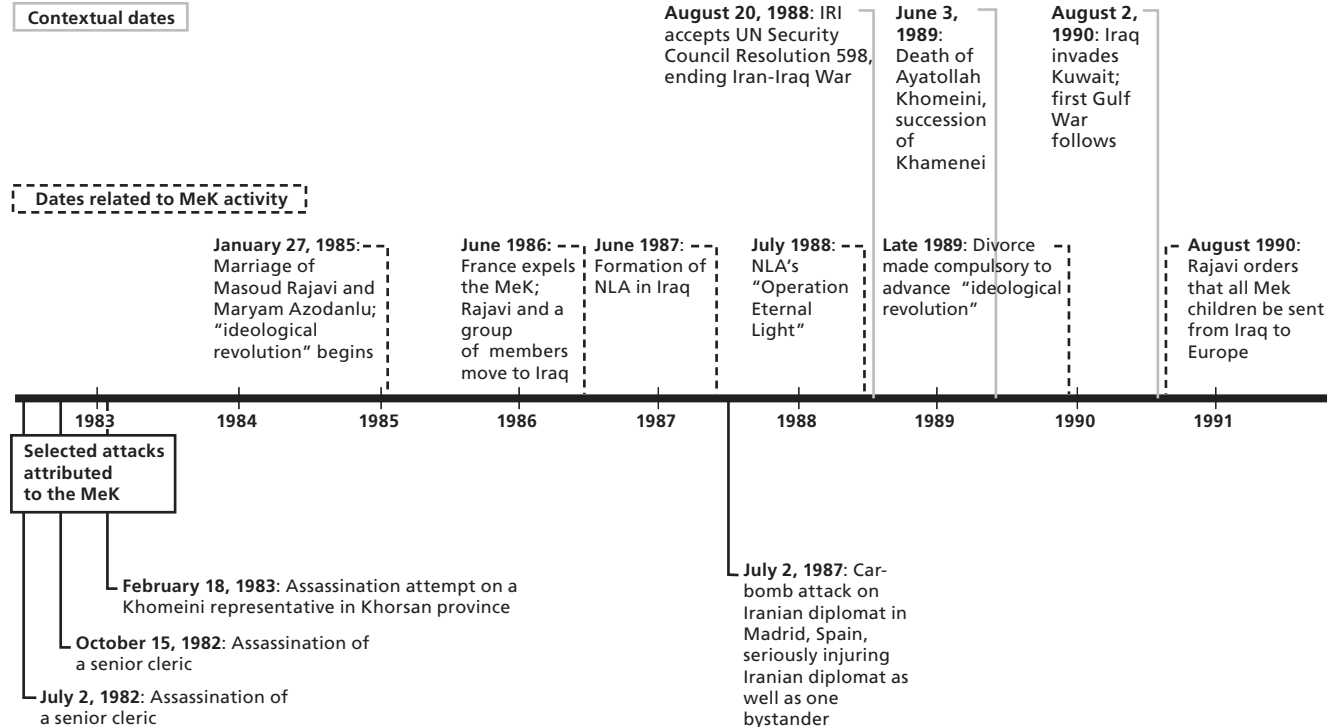


Figure C.1—Continued

Contextual dates

Dates related to MeK activity

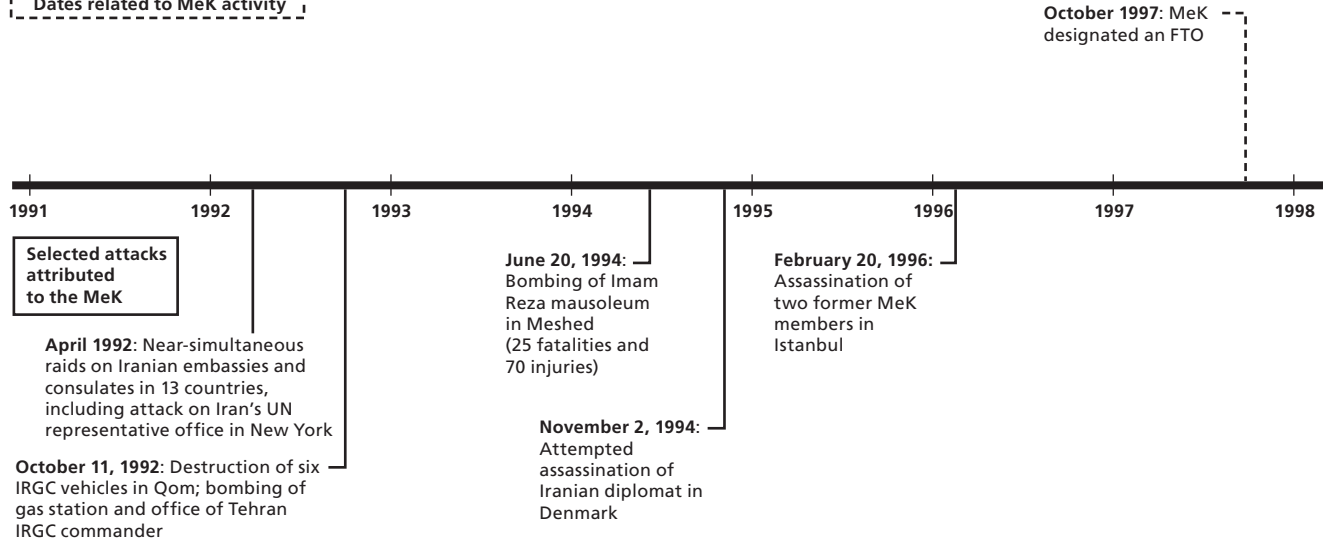


Figure C.1—Continued

Contextual dates

Dates related to MeK activity

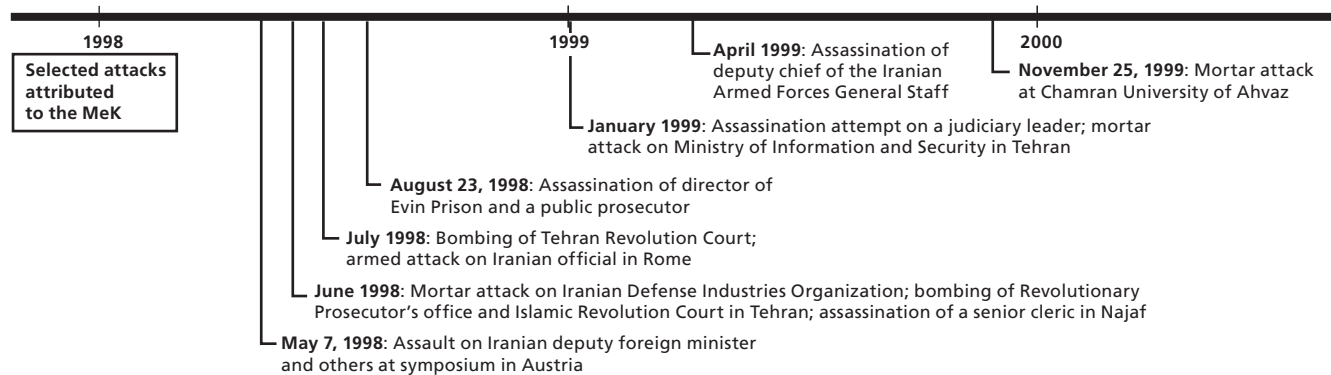


Figure C.1—Continued

Contextual dates

Dates related to MeK activity

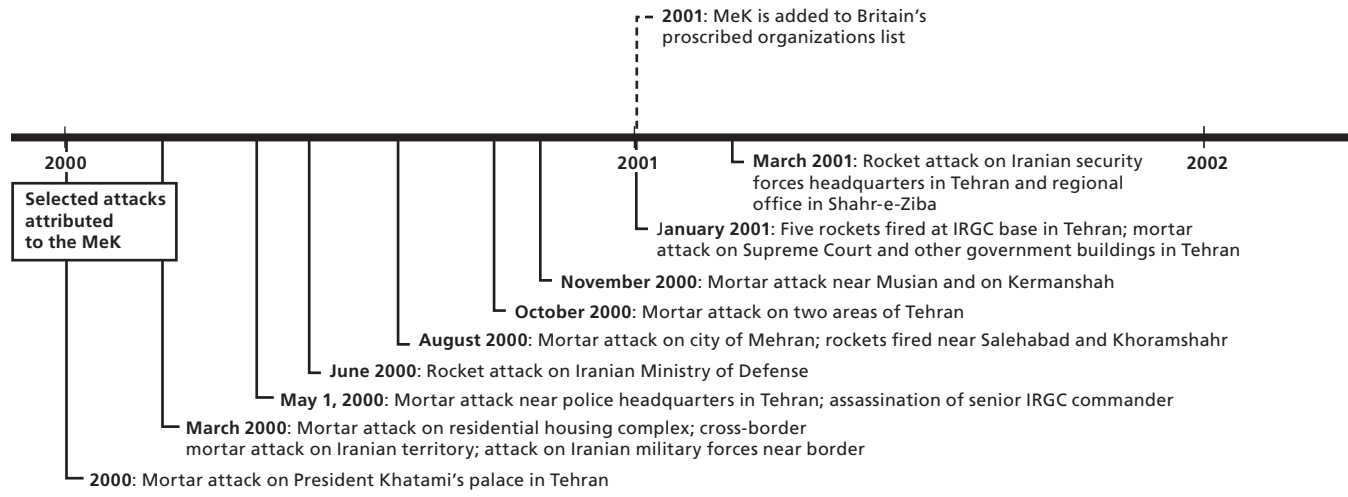


Figure C.1—Continued

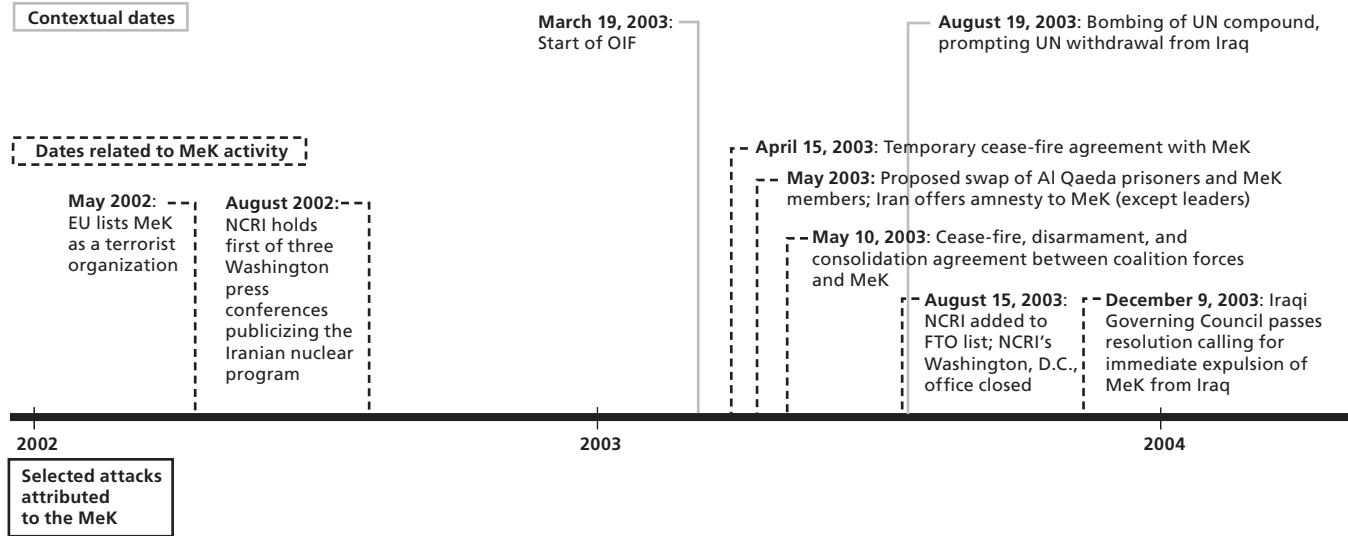
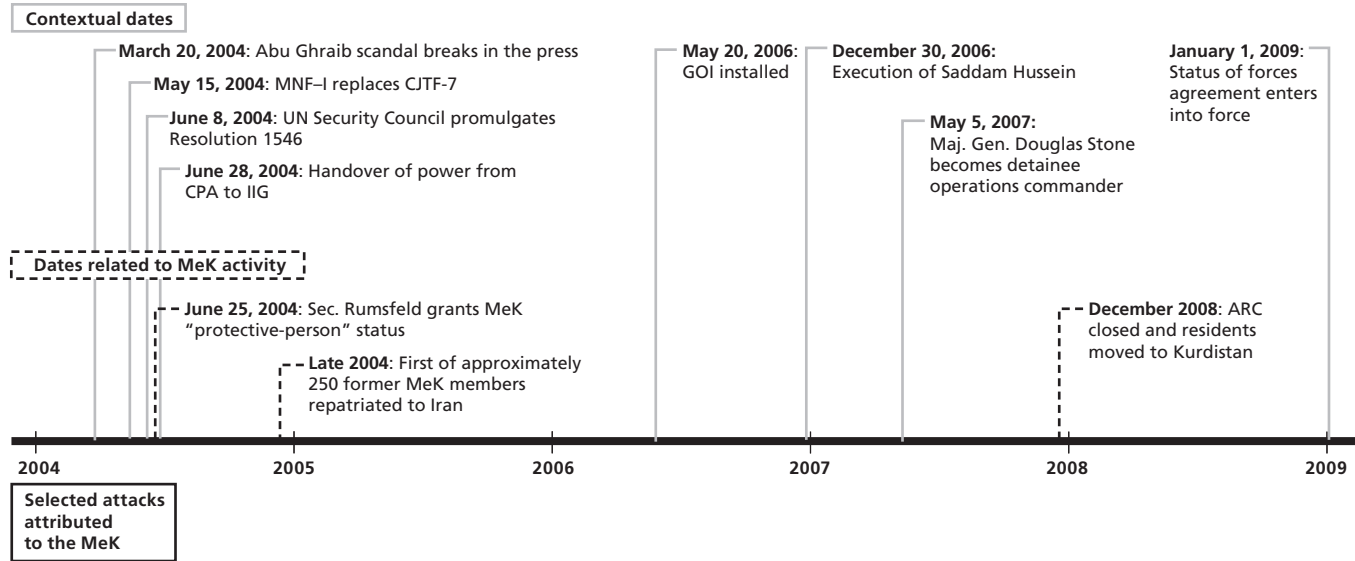


Figure C.1—Continued



What Is a Foreign Terrorist Organization?

Congress created the Foreign Terrorist Organizations List as part of the Antiterrorism and Effective Death Penalty Act of 1996. There are other terrorist lists, such as those for state sponsors of terrorism, specially designated terrorists, and specially designated global terrorists.¹ However, of these, this FTO list is the most widely known, and it differs from the others in that it identifies groups rather than individuals and bars members and representatives of those groups from immigrating to the United States. Moreover, it is a crime to knowingly provide “material support and resources” to an FTO. U.S. financial institutions holding funds belonging to an FTO or its agents must secure the funds and report them to the Office of Foreign Assets Control at the Treasury Department.

To be listed as an FTO, a foreign organization must engage in—or retain the capability and intent to engage in—a terrorist activity or terrorism (as defined by statute) that threatens the security of U.S. nationals or U.S. national security. Designation occurs through an interagency process with public notice in the Federal Register, but the ultimate decision lies with the Secretary of State. Designation lasts two years and may be renewed. The secretary may cancel the designation at any time if circumstances or national security concerns warrant.

When the FTO list was created in 1997, one of the first groups to be put on it was the MeK because of its attacks on U.S. citizens and U.S. companies in Iran during the 1970s, including the assassina-

¹ See DOS, 2003a, for a brief description of the FTO list, its members, and its legal terminology. For a fuller description, see Stock, 2006, or Cronin, 2003.

tions of six U.S. citizens. (The NCRI was added to the FTO list as a MeK alias in 2003.) The MeK has also been added to the terrorist lists of other countries, including the United Kingdom, Canada, Australia, and the European Union. The MeK has mounted legal challenges against its listing; its efforts have been successful in the UK and in the EU.

It should be noted that, while the MeK's FTO designation has shaped policy and media discussions, that designation has no relevance to its status under the Geneva Conventions. However, to the extent that coalition forces were protecting rather than detaining the MeK, applying the Geneva Conventions to the MeK had the effect of immunizing coalition forces from liability for providing material support to terrorists by virtue of the Supremacy Clause of the U.S. Constitution.

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