

Presentation at NSW Parliament House 26 November 2008-11-26

Update on the Protection of Camp Ashraf – Iraq

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Thank you all for your attendance and kind attention. I have been asked to present an update on the issue of protection for the PMOI- residents of Camp Ashraf in Iraq.

I will do this through my own experiences, outlining not just the issue and status of Ashraf in factual terms but also in analytical terms in respect of a number of salient impediments and perceived blockages that have been met over the last several months in discussions and meetings with politicians and representatives of organisations who have positions of policy-making responsibility in regard to the issue of Ashraf's protection.

During the last 10 months I have worked with Mohammad Sadeghpour, and others, on a full-time basis as an advocate for the rights of the people of Ashraf (the PMOI) and its umbrella organisation the NCRI. Since August, however, an urgent and immediate threat to Ashraf's safety has emerged.

To summarise this threat – the Iraqi government has stated its intention to try the approximately 75 leaders of the PMOI at Ashraf under Iraqi law, and/or to expel the residents of Ashraf from the camp and deport them back to Iran.

The following quotations exemplify this intent.

An Iraqi government directive issued in July 2008 stated in Article Two: 'The Mojahedin - e Khalq organization which is currently housed at a refugee camp on Iraqi territory will come under the full control of the Iraqi government until it is expelled from Iraq. This organization will be treated according

to the laws of Iraq [as opposed to International Humanitarian Law]. It added in Article three that: 'any cooperation with the terrorist Mojahedin-e Khalq organization by any organization, party, institution or persons, (whether Iraqi or alien) in Iraq, is prohibited and anyone who cooperates with them will be subject to the laws of the war on terrorism and will be referred to the judicial system of Iraq according to those said laws'.

Additionally, The Iraqi Foreign Minister, Hoshyar Zebari was quoted in the state-run Mehr news agency in July 2008 as saying: 'The government of Iraq has decided to expel the terrorist Mujahedin-e-Khalq (Monafeqin) group from Iraqi soil.... The file on the terrorist Monafeqin group will soon be in its final stage, i.e. expulsion from Iraq'. Mehr also wrote that 'Abdal-Aziz al-Hakim, the head of the Supreme Islamic Iraqi Council, stressed the importance of immediately expelling the residents of Ashraf from his country.' This initiative has been driven by those named above, Zebari, Al Hakim as well as Nouri Al Maliki the Iraqi Prime Minister all of whom have close ties to and histories with Tehran's leadership.

Given that the PMOI is under Fatwa, and continues to be attacked relentlessly by the agents of the Iranian regime operating in Iraq it is simply a matter of logic that the consequence of any repatriation of the PMOI to Iran would be the inevitable torture and/or summary execution of its members. This is further supported by the most recent atrocity committed by the Iranian regime, 'murdering', under torture in Evin Prison the long-standing PMOI supporter Abdol-Reza Rajabi whose 2 sons and daughter reside in Camp Ashraf.

As we are aware the Ashrafi's were granted the status of protected persons under the Fourth Geneva Convention by the office of the Commander in Chief of the MNF-Iraq after voluntarily surrendering their arms in 2003 and thereafter

being interrogated thoroughly (some for up to 16 hours) individually by the US State department, CIA and FBI. After this process was completed each individual signed a declaration renouncing violence as a political means. Nevertheless, as the UN mandate comes to an end on 31 December 2008, the situation in Ashraf is ambiguous. The Iraqi government and military are being handed back control of the country province by province, and in its turn Diyala Province which contains Camp Ashraf is to be returned to the Iraqis and its military forces. Of course, the issue with this is that it would give protective custody of the camp and in consequence the Iraqi government the wherewithal to take whatever action it desired with respect to Ashraf's residents, including deportation back to Iran. This would clearly violate the Fourth Geneva Convention's guarantee of 'non-refoulement' under international law.

Having set the scene I would like to continue by highlighting and providing counter-responses to some of the issues that have been raised to me in Australia, London, and Geneva by the UNHCR, a number of politicians, NGOs and legal organisations. These issues serve to obfuscate the real, central humanitarian issue which should and must be to protect the basic human rights of the people at Ashraf.

In summary, I have heard the following:

1. That the threatening statements made by the Iraqi Ministers (mentioned earlier) to expel and return the PMOI to Iran were just 'stupid statements made in the heat of the moment' and will not happen.

In response I would say that this may well not be the case as the previous actions of the Iraqi ministers and their intent

has been clear for some time and in the best case leaves a shadow of threat hanging over the residents of the camp.

2. I have also heard the statement that Ashraf does not have refugee status according to UNHCR processes and procedures, and therefore, the residents do not fall within the legal framework. In addition to this they have not renounced violence or the intent to use violence adequately.

In response I would argue that it is obvious that the Group fall within the framework of international law. In particular I would cite the Geneva conventions and Protocols, The Hague Conventions of 1907, International Humanitarian Law and International Law. Second, as stated the Ashraf residents were comprehensively interrogated and signed the renunciation of violence which in fact led them to be granted the status of protected persons under the Fourth Geneva Convention in the first instance. Notwithstanding this response, I believe that this entire discussion merely confuses and clouds the real issue which is to ensure the safety and protection of the people of Ashraf under IHL and the Fourth Geneva Convention. It should be noted that the right to such protection does not simply cease with the cessation of the UN MNF-I mandate which would in that instance allow the transfer of custody from US-MNF-Iraq to Iraqi forces and facilitate the forced repatriation of the Ashrafi's to Iran. Rather, the Geneva Convention's protected- persons status continues until, for sound legal reasons, it is revoked. Furthermore, as Phil Glendinning's recent report on SBS TV and his presentation a moment ago shows, returning the people of Ashraf to Iran would be extremely perilous and for the Ashrafis would most certainly be tantamount to a death sentence.

3. I have also heard the argument that there is a fear that the PMOI may have weapons cached nearby the camp and

might, therefore, readily re-engage in military or 'so-called' terrorist activities.

In response: Given that I have visited Ashraf and its surrounds in Iraq, I can unequivocally state that this is not remotely likely to be the case. First, to mount any serious military opposition the Mojahedin would require the type of weapons that they voluntarily surrendered in 2003. These included approximately 2600 tanks, armoured vehicles, artillery pieces and other vehicle mounted heavy weapons that are necessary to conduct military operations in the desert. Moreover, these are hardly the types of weapons that are hidden by digging holes in the ground and burying them in the hope of recovering fit and operational equipment some years later. It is therefore absurd to believe that even if anyone had cached such weapons that they would not have been discovered by the MNF troops during the combat phase of the invasion. This observation is drawn from my own experience as an officer in the Australian Regular Army, and most specifically my experience as a combat (Weapons) intelligence officer.

4. It has also been claimed that the PMOI is in a strong financial position being supported financially from its supporter-base outside Iraq and will easily be able to re-arm itself (as the Arabs will sell them weapons).

This is logically and in all ways a nonsensical allegation as from personal experience I know that the people of Ashraf struggle to access basic needs such as food, water, and basic medicines. So, to suggest that they have the money to finance expensive arms acquisitions through a black market is ludicrous.

5. In addition to the claims and misinformation mentioned here other non-humanitarian based arguments have been presented, such as, that the PMOI were involved in actions against the so-called March Arab uprising in the Kurdish areas of Iraq and in support of Sadddam Hussein's war against Iran. These politico-historical arguments and issues, unsubstantiated as they are, have no bearing on the right to protection and life that is afforded the people of Ashraf under international law and on the basis of the moral code of democratic nations.

As Lord Corbett of Castle Vale said to me upon discussing this issue in Westminster (London), "These are not matters that the UN or other governments should have an interest in...The issue at hand is one of basic human rights and protection...Ultimately, he said, the people of Iran must decide on the future of the PMOI and NCRI, not foreign powers, the UNHCR nor anyone else."

6. I heard members of UNHCR's Iraq desk and senior legal counsel for the Asia Bureau suggest that the camp should be broken up, the PMOI organisation and discipline dismantled and the members should cease wearing uniforms in order to demonstrate a more friendly disposition (as well as needing to be processed again as UNHCR do not accept the renunciations of violence completed earlier by the MNF-I to be credible).

On this point I have a very strong response. Again, being a former military officer, with experience in combat as well as intelligence roles. I suggest that in the current situation, where Ashraf is being continually attacked by missiles, bombs (damaging its vital water supply) and the ever present danger of kidnapping when members go on expeditions for food and other basic needs outside the

camp, in a country still suffering the ravages of war, breaking up the camp, dismantling the PMOI organisation and structure would serve only to weaken the Ashrafi people's ability to be protected, morale and access to basic, scarce resources. Furthermore, it would make the Ashrafi's vulnerable to what in military tactical parlance, is termed 'piecemeal defeat in detail'. As there is an obvious and continued threat to Ashraf, and an equally protective strength in the unity of the camp, these actions must not be pursued and protection must continue to be provided by US military forces.

The purpose of sharing these issues and responses with you has been to give you all, some idea of the impediments with which we have been faced in our advocacy in support of the protection of Ashraf and to emphasise the politicised disinformation, poor judgement and illogical positions that cloud the real issue of protection.

Finally, I wish to share some of the key international covenants and legal precedents that support the case for the protection of Ashraf, as well as some of the legal issues and impediments that have been encountered.

The first covenant that supports the case for protection of Ashraf, in any and all circumstances, is the umbrella of IHL based on the principles of the UN Declaration on Human Rights (1948)...we must not forget this as a principle!

The second covenant, as stated already, is the 4th Geneva Convention and its principle of non-refoulement, which should remain in force in spite of the UN MNF's mandate concluding in December. This is also supported by the

fact that the US and Iraq are both signatories to the UN Convention Against Torture, and thus should not allow Ashraf's transfer of control or deportation of its residents when there is a potential for them to be deported to Iran, a place that sanctions and uses torture on a daily basis.

And, finally, The Hague Conventions of 1907, including the Laws of Armed Conflict and the Laws of Occupying Powers which gives rise to the obligations of the US to maintain the protection of Camp Ashraf, even beyond the end of the UN MNF mandate. This position is supported by legal opinions by eminent jurists in the field of International Law such as Eric David the Professor and President of the Free University in Brussels and Steven Schneebaum of Greenburg and Taurig in the USA. In conclusive finality these jurists affirm that only US forces are capable and qualified to protect the PMOI in Ashraf.

Given that the rights of the people of Ashraf have been asserted by Amnesty International, Ban Ki Moon the Secretary General of the UN, the British Parliament in the UK and the eminent jurists quoted above, political obfuscation must not be allowed to prevail over humanitarian concerns, especially the pressing economic ones at this time....We must maintain as much pressure on the US Government and other international bodies as possible to ensure the protection of Ashraf City.

With a new Presidential Administration in the wings whose policy on Iran is expected to be one of engagement, this is all the more significant, though it seems that a means of maintaining US control should be available through the treaty (negotiated but yet to be signed by the US and Iraq) allowing the US to maintain a semi-permanent body

of security Troops and bases in Iraq beyond December up to 2011.

Thank you, Questions.