

Conflicting Objectives:  
An Analysis of the U.S. State  
Department's Assessment  
Of the Mujahedin-e Khalq

Prepared by ExecutiveAction LLP



## Foreword

*By*

*Richard R. Schoeberl*

The U.S. faces a myriad of potential terrorist threats and the challenge of mitigating these threats. In an effort to address foreign terrorist threats, the State Department is tasked to identify and evaluate organizations and entities that engage in terrorist activity or have the capability and intent to engage in such activity and compile the Foreign Terrorist Organization (FTO) list. While this list has proven to be a useful counterterrorism tool, it is not immune to political influence. This report demonstrates clearly that the Mujahedin-e-Khalq's (MeK) designation was part of a political strategy and not based solely on evidence of terrorist activity.

The MeK, also known as The People's Mojahedin Organization of Iran (PMOI) was initially designated as an FTO in 1997 as a tactic to open up dialogue with the Iranian government. Assistant Secretary of State for Near Eastern Affairs during the Clinton administration Martin Indyk admitted as much in a 2002 interview with Newsweek magazine: "[There] was White House interest in opening up a dialogue with the Iranian government. Top Administration officials saw cracking down on the [MEK], which the Iranians had made clear they saw as a menace, as one way to do so."

The MeK's on-going listing continues to be attributable to political reasons. The MeK does not possess the capability or intent to engage in terrorism and does not threaten U.S. national security or the security of U.S. citizens anywhere in the world. In fact, the MeK ceased its military campaign against the Iranian government in 2001 and voluntarily handed over its arms to U.S. forces in 2003, well before the State Department's required two-year period of review. In June 2004, then Defense Secretary Donald Rumsfeld designated MeK members as civilian 'protected persons' under the terms of the Fourth Geneva Convention. This designation would not have been made if there was any indication that it retained the intent to engage in acts of terrorism. For six years, the MeK at Camp Ashraf, Iraq was under the protection of coalition forces, a responsibility they transferred to the Iraqi government in early 2009.

The MeK has attracted national support from the U.S. Congress, the media and the public at large. Like official U.S. policy, the MeK shares a common objective; support democratic change in Iran that would bring human rights protection and freedom for its citizens. I concur with those who have concluded that the MeK's removal from the FTO list would show Western support for the Iranian people and their desire for freedom. Delisting the MeK would strengthen America's hand in its complex relationship with Tehran and would be of material assistance in achieving U.S. regional and international goals of combating terrorism and halting the spread of nuclear weapons. The MeK has provided accurate intelligence to the U.S. regarding Iran's nuclear weapons program.

This Information has helped the U.S. further its goal to combat terrorism and the spread of nuclear weapons. The MeK also has widespread global support. The United Kingdom (UK) and European Union (EU) removed the MeK from their terrorist lists in 2008 and 2009 respectively, based on both classified and unclassified data.

Based on my experience as a Unit Chief in the Counterterrorism Division of the Federal Bureau of Investigation, there are ample grounds to conclude that the MeK should be removed from the FTO list. I join with the members of the U.S. Congress, the European Union, the British Parliament, together with U.S. military officers who have previously served in Camp Ashraf, and countless Iranian-Americans calling for the removal of the MeK from the FTO list. The Secretary of State should heed the findings of the Court of Appeals for the District of Columbia (July 2010) and re-examine the MeK's continued designation and provide them due process rather than relying on classified data that can't be verified or challenged. If that process is completed in an impartial and objective manner and consistent with the Court's instructions, then it would lead to delisting the MEK. The FTO list is an important tool in combating terrorism and designations should not be subject to political influence or callous expediency on the part of policy makers.

*Richard R. Schoeberl has over 15 years of counterintelligence, terrorism, and law enforcement experience. Mr. Schoeberl is a former Federal Bureau of Investigation (FBI) agent where his experience ranged from service as a field agent to leadership responsibilities in executive positions at FBI Headquarters and the National Counterterrorism Center where he provided oversight to the United States international counterterrorism effort. Mr. Schoeberl held collateral duties in the FBI as an FBI Certified Instructor and a member of the FBI SWAT (Special Weapons And Tactics) program. Mr. Schoeberl is an author and a terrorism and law enforcement media contributor for the Fox News channel, Sky News, al-Jazeera Television and al-Arabiya Television.*

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## 1.0 Executive Summary

This report analyzes the U.S. State Department's objectivity in assessing the Peoples Mojahedin Organization of Iran, also known as PMOI or MeK, to determine if it was engaged in terrorism and the conflicting policies at the Department that biased its view toward the group.

When the United States enacted the Anti-Terrorism and Effective Death Penalty Act (AEDPA) in 1996 to counter a rise in global terrorism, it failed to consider the potential for conflicts of interest within the State Department when evaluating the record of a potential terrorist group.

The new law directed the Secretary of State to analyze entities to determine if they engaged in terrorism and, if so, to designate them as FTOs. Once listed, FTO members are prohibited from entering the U.S., the assets of the organization in the U.S. can be frozen, and those who willingly and knowingly give support to an FTO can be criminally prosecuted.

The law originally required the Secretary of State to review FTOs every two years (changed to five years in 2004) to determine if substantial changes had occurred to warrant an organization's removal from the list. The review process was included in the law to encourage FTOs to modify their behavior in order to be removed from the list.

The AEDPA assumed assessments of entities conducted by the State Department would be impartial and fair-minded. But a review of the MeK's record and decisions by the State Department to maintain the organization on the FTO list, reveals a failure by the Department to give fair consideration to the organization's record based on factual grounds.

In 2009, the State Department declined to revoke the MeK's designation as a FTO despite substantial evidence of a change in circumstances that demonstrate the group has not engaged in military operations since 2001 and has rejected violence and terrorism. The Department said it was appropriate to keep the group as a FTO because of the group's capability and intent to engage in terrorism, but provided no credible evidence to support its judgment.

At the same time the State Department has been required to review the MeK's record, it has been involved in negotiations with Iran in pursuit of a policy of rapprochement or seeking to curry favor with the country's leaders to gain their support for a U.S. policy objective.

The revocation of the MeK from the FTO would be viewed by Tehran as confrontational and likely cause them to break off negotiations as a demonstration of their displeasure. Wanting to avoid such a consequence, the State Department has repeatedly failed to objectively assess the MeK's record and politically redesignated the group as a FTO in contradiction of available evidence.

Since the Iranian revolution three decades ago, a top priority for Tehran has been the elimination of the MeK, which opposes its repressive policies and supports the establishment of a democratic secular government in Iran.

Every time the U.S. has approached the Iranian government for assistance, the price to gain its support has been to undercut the MeK's authority and credibility. When faced with sacrificing U.S. policy objectives or the MeK, the State Department has chosen the latter. As a result, the MeK has been politically exiled to the FTO list, despite evidence that it should have long ago been delisted.

To maintain the MeK as a FTO and thereby avoid disruptions to U.S.-Iranian relations, the State Department has produced inaccurate, biased reports rather than review impartially the organization's record as required by law.

Maintaining the MeK on the FTO list to support America's foreign policy objectives is a gross abuse of authority by the State Department and directly violates the AEDPA, which allows the Secretary of State to only place groups on the FTO list that engage in terrorism – and not as a bargaining chip to promote U.S. relations with another country.

Note: The Mujahedin-e Khalq (MeK) is Farsi for the People's Mojahedin Organization of Iran (PMOI). For this document, all PMOI references to the group were changed to MeK for consistency.

## 2.0 2008 MeK Petition

On July 15, 2008, the MeK petitioned the Secretary of State to revoke its 2003 FTO redesignation, citing a change in circumstances in the group's behavior. In response to the petition, the Secretary of State, as required by law, conducted a new assessment of the MeK's record to determine if it had engaged in terrorism or terrorist activities and whether it retained the capability to intent to do so.<sup>1</sup>

To be removed from the FTO, an organization "must provide evidence in [its] petition that the relevant circumstances . . . are sufficiently different from the circumstances that were the basis for its designation such that a revocation with respect to the organization is warranted."<sup>2</sup>

Terrorism includes "hijacking, sabotage, kidnapping, assassination, and the use of explosives, firearms, or biological, chemical or nuclear weapons with intent to endanger people or property, or a threat or conspiracy to do any of the foregoing."<sup>3</sup>

To engage in terrorist activity involves, among other acts, the solicitation of funds or providing material support for terrorist activities.<sup>4</sup> Terrorism is defined as "premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents."

In its 2008 petition, the MeK listed the following changes in circumstances since 2003 (when the MeK was previously redesignated a FTO) to warrant its revocation from the list:

- Ceased its military campaign against the Iranian regime and disbanded its military units in Iran (2001).
- Voluntarily handed over its arms to U.S. forces in Iraq (2003).
- Disbanded its military units and disarmed MeK members at Camp Ashraf, Iraq (2003).
- Formally rejected violence and terrorism (2004).
- Cooperated with U.S. officials at Camp Ashraf (2003 - present).

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<sup>1</sup> In 2004 the Anti-Terrorism and Effective Death Penalty Act was modified. Previously, the Secretary of State was required to review the record of the FTOs every two years to determine if there had been a change in circumstances to warrant the removal of groups from the FTO. The updated law requires the Secretary to review the record of the FTOs every five years. At anytime during the five-year period, a FTO may petition the Secretary of State to review its record, believing a change of circumstances warrant its removal. If the Secretary of State decides to keep a group on the FTO, a period of two years must pass before the group can again petition the Secretary of State. This implies the period of review extends for two years and not five years.

<sup>2</sup> United States Court of Appeals for the District of Columbia Circuit. *People's Mojahedin Organization of Iran v. U.S. Department of State*. July 16, 2010.

<sup>3</sup> § 1182(a)(3)(B)(iii).

<sup>4</sup> 22 U.S.C. § 2656f(d)(2).



- Shared intelligence with the international community and the U.S. government regarding Iran’s nuclear program and its support for terrorism (2002 - present).
- Obtained a “protected person” status under the Fourth Geneva Convention for all MeK personnel. The designation was made after a multi-U.S. government agency investigation concluded the MeK members were not combatants and had not committed any crime under U.S. laws (2004).
- Obtained a delisting as a terrorist organization from the United Kingdom, following an appeal adjudicated by the Proscribed Organizations Appeal Commission (POAC) and reaffirmed by the Court of Appeal (2008).
- Obtained a delisting from the European Union, by the European Court of First Instance (2009).

Despite these substantial and verifiable changes of circumstances, on January 12, 2009, the U.S. Secretary of State denied the MeK’s petition for revocation as a FTO, claiming the changes were insufficient to warrant the removal of the organization from the list.

## **2.1 U.S. Court of Appeals**

On February 11, 2009, the MeK filed a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit, arguing its FTO designation should be revoked based on a lack of substantial support for the State Department’s decision. The MeK also stated in its appeal that the Secretary of State had failed to comply with due process requirements.

In August 2009, the State Department made available to the MeK a redacted, non-classified version of the Administrative Record, upon which the Secretary relied to make an assessment of the MeK’s record.

On July 16, 2010, the Court ruled the Secretary of State failed to accord the MeK due process protection while underscoring the fact that a strict application of the statute required a revocation of the designation. The Court nevertheless remanded the Secretary’s denial of the MeK’s petition for revocation of its designation as a FTO.<sup>5</sup>

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<sup>5</sup> United States Court of Appeals for the District of Columbia Circuit. *People’s Mojahedin Organization of Iran v. U.S. Department of State*. July 16, 2010.

### **3.0 2008 Administrative Record**

The redacted, non-classified (public version) 2008 Administrative Record compiled by the State Department to respond to the MeK's petition for revocation of its designation as a FTO is a mere 20-page document with 46 pages of supporting exhibits, some of which are fully classified.<sup>6</sup>

While about half the 20-page summary is redacted, it is possible to evaluate the approach of its authors in assessing issues regarding the MeK. In an objective analysis, one could imagine an analysis of each change of circumstance listed by the MeK. Evidence, both pro and con, would then be delineated and a discussion would follow, concluding with an opinion on the acceptance or rejection of the MeK's declared change in circumstance.

Such a method, however, was not employed by the State Department. Instead, the Administrative Record is a one-sided, polemical review of the MeK's record. Minimal effort was made to weigh evidence, assess the veracity of issues, provide contradictory material, and then formulate conclusions based on the available evidence.

The Administrative Record readily dismissed the significance of a 144-page, comprehensive, independent assessment of the MeK by the UK court (which carefully considered both non-classified and classified evidence) that concluded the organization is not concerned with terrorism, as well as an investigation by multiple U.S. government agencies that determined MeK members at Camp Ashraf had not committed any crimes under U.S. law.

In the end, rather than a fair and honest analysis of evidence regarding the MeK's activities, the Administrative Record appears to be a politically crafted document designed to support a pre-conceived decision to maintain the group on the FTO list.

#### **3.1 Does Not Engage in Terrorism**

The public portion of the Administrative Record contains no evidence or allegation of a terrorist act by the MeK since 2001. Instead, the document largely reiterates false charges against the group that are almost 40 years old and various political allegations, all of which are irrelevant to the statutory requirements.

By law, the State Department is supposed to assess the MeK's changes of circumstances over the previous two years (or five years). The early allegations should have no bearing on the decision and serve only to bias readers against the MeK.

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<sup>6</sup> The classified version of Administrative Record was completed in 2008 and the non-classified, redacted version of the document was not made available until October 27, 2009.

One of the documents in the Administrative Record's appendix is a threat assessment of the MeK by the U.S. Intelligence Community (IC). According to the document, "The Community has not attributed any terrorist attacks to the MeK since 1999 ...."<sup>7</sup>

The IC's evaluation is supported by the State Department, which concluded in its 2007 Country Report that the MeK had not engaged in any terrorist activity after 2001.<sup>8</sup>

Based on the assessments by the IC and State Department, there is no dissenting view that the MeK has not engaged in any terrorist activity for at least nine years – far beyond the two (or five years) required by law.

### 3.2 Classified Information

As noted above, for an organization to be removed from the FTO, it must not only not engage in terrorism or terrorist activities, but also must not retain the capability and intent to do so.

The State Department refused to remove the MeK in 2003 from the FTO list, claiming the group still retained the capability and intent to engage in terrorism or terrorist activities. The Department offered this same justification when it denied the MeK's petition for revocation on January 12, 2009.

According to the State Department, evidence to support the Department's conclusion is not contained in the redacted, unclassified Administrative Record, but in the classified record.<sup>9</sup>

While the MeK does not have access to this information, it strongly contends the material must be unsubstantive.

Acts of terrorism are not abstract concepts. While sources and supporting evidence could be deemed necessary to classify for a terrorist incident, the same is not true for a general description of an event or action. For example, it would not be necessary to classify information stating an entity had developed plans for a terrorist attack, recruited new members, obtained weapons, or distributed literature condoning terrorist violence, whereas the source(s) and potential supporting evidence for the allegations could be viewed as important to classify.

The fact that there is no reference in the non-classified 2008 Administrative Record summary of any terrorist incident infers there is also no reference in the classified record – a conclusion

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<sup>7</sup> "Unclassified (Public Version) – Supplemental Administrative Record. People's Mojahedin Organization of Iran v. U.S. Department of State. October 7, 2009.

<sup>8</sup> *Country Reports on Terrorism*. U.S. State Department. April 30, 2008.

<sup>9</sup> In a hearing before the U.S. Court of Appeals, District of Columbia, PMOI v Secretary of State on January 12, 2010, Judge Tatel asked counsel for the State Department whether it was "arguing on behalf of the Secretary of State that the unclassified portion of the administration record provides substantial support for her decision?" Counsel replied, "We are not ...." Counsel during the hearing later stated, "...I can confirm that in this case [MeK appeal] the classified information is key."

supported by the U.S. Intelligence Community's assessment of the MeK in which it stated the group had not engaged in any attacks at least since 1999.

This same logic applies to the MeK's capability and intent to engage in terrorism. The non-classified 2008 Administrative Record summary contains no evidence to support the State Department's claim that the group retained a capability and intent to engage in terrorism.

If such evidence did exist, a general description of the activity should have been included in the non-classified summary. But because no such information was provided, it implies the classified record also does not contain any credible evidence.

The English courts reviewed classified material when they adjudicated the MeK appeal to be removed from the UK's terrorist list. The classified information examined by the English courts is believed to be very similar to the classified information reviewed by the Secretary of State and, in fact, contained information supplied by the State Department.

After assessing the classified record, the English Court of Appeal concluded the material actually "reinforced" its judgment that the MeK was not concerned in terrorism.

### 3.3 Capability and Intent

Although the Administrative Record offered no specific evidence to support the State Department's claim that the MeK retained a "limited" capability and intent to engage in terrorism or terrorist activity, it listed two allegations the Department may view as supporting evidence.

One allegation contends the MeK "developed possible plans to attack the international zone in Baghdad, Iraq." The plan involved a "possible suicide vehicle-borne improvised explosive device." The State Department acknowledged in the Record that the source of information and veracity of the alleged incident are unknown.<sup>10</sup> The second allegation contends the MeK had "trained females at Camp Ashraf in Iraq to perform suicide attacks in Karbala."

That the MeK would consider mounting an attack in the international zone in Baghdad or a suicide strike in Karbala is implausible on their face. Camp Ashraf is surrounded by a perimeter fence, with strategically placed towers manned with fulltime guards. MeK members can leave the compound only under escort.<sup>11</sup> From 2003 to January 2009, the U.S. military maintained a

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<sup>10</sup> United States Court of Appeals for the District of Columbia Circuit. *People's Mojahedin Organization of Iran v. U.S. Department of State*. July 16, 2010.

<sup>11</sup> Lt. Col. Julie S. Norman, Joint Inter Agency Task Force commander, wrote on August 24, 2006: "Various investigative agencies of the United States have visited Ashraf and interviewed MeK members who were subsequently released from control and recognized as protected persons under the Fourth Geneva Convention and protected by the MNFL. Any movement outside of Ashraf has always been under escort of U.S. Forces." Cited originally in *Iran: Foreign Policy Challenges and Choices: Empowering the Democratic Opposition*, DLA Piper Rudnick Gray Cary US LLP & GlobalOptions Inc., February 2006, pp. 103-104.

Forward Operating Base (FOB) called Grizzly within the Camp that monitored MeK activities 24/7. Throughout this period, the military conducted numerous unannounced and impromptu inspections of all facilities, including residential units. At no time was any evidence uncovered of any wrongdoing or any involvement in terrorism by the MeK.

It is absurd to believe unarmed MeK members could somehow breach the security and carry out the alleged attacks.

Since the Iranian Revolution, the MeK has been singularly opposed to the ruling mullahs and has not conducted any military operations against non-Iranian targets or against targets outside Iran. An attack in the international zone or Karbala would have accomplished nothing in regard to regime change in Iran, while undermining the group's international support and its declared policy of nonviolence. In short, the alleged attacks would have been physically implausible to accomplish and highly counter-productive for the group in every possible way. Thus, they are not credible.

The Kabala allegation first surfaced in Iran's state controlled media as a propaganda ploy to undercut support for the MeK in 2007.<sup>12</sup> Somehow the allegation made its way into the classified record and then was declassified and included in the non-classified Administrative Record of the MeK. (Interestingly, the allegation was reprinted by Tehran's media after the D.C. Court of Appeals announced its opinion on the MeK's appeal that discussed the incident, this time citing the U.S. Department of State as the source of the information.)

The false allegation against the MeK reiterated by the State Department is not unique. In 2006, Colonel Wesley M. Martin described an event at Camp Ashraf that also was conceived by Iranian propagandists and later repeated by the State Department:

On October 12, 2006, I received information that questioned activities were going on at the University compound, [C]amp Ashraf specifically. The information came through the State Department from Europe that the MeK was assembling up to 1,500 Iraqis at the compound, supported by the MeK. I conducted a visit of the compound and found no foundation to the information we received. On site, we went into every building on the compound and I spoke with several people. The compound [was] being used to house Iraqi workers because of the attacks on the roads. Rather than travel back and forth every day, they stay[ed] on Ashraf during the week...."<sup>13</sup>

After thoroughly inspecting Camp Ashraf, Colonel Martin concluded:

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<sup>12</sup> Mehr News Agency. September 12, 2007.

<sup>13</sup> Amicus Brief of Colonel Gary Morsch, M.D., and Major General Paul E. Vallely (Ret.) in support of the petitioner, in the United States Court of Appeals for the District of Columbia Circuit, People's Mojahedin Organization of Iran v. United States Department of State and Hillary Rodham Clinton, in her capacity as Secretary of State. September 23, 2009, p. 8.

It appears that normally about 80 people [Iraqis] live on the compound. This night [when the inspections occurred] the number was down significantly because the next day was their holy day and many had taken the trip home. On site I took a rough count of beds and found possibly 150 with only 80 having blankets and personal effects on them. We looked in the lounge area and the kitchen. The eating utensils did not number more than a two hundred (sic) sets. The MeK opened every door we asked and even pointed out some that we did not see at first.<sup>14</sup>

As in the Karbala incident, the information from the State Department on Iraqis massing at Camp Ashraf was inaccurate and had not been properly vetted.

### 3.4 Valid Evidence

This section compares the scant “evidence” offered by the State Department on the intent and capability of the MeK to engage in terrorism or terrorist activity with widely published terrorist incidents. Typically the groups have developed plans to mount attacks, conducted surveillance, trained recruits, and acquired weapons to implement their plans.

As an example, in June 2006, the Royal Mounted Canadian Police (RMCP) arrested members of a Canadian jihadist cell, dubbed the “Toronto 18,” which plotted attacks against a nuclear power plant, the Canadian Security Intelligence Service (CSIS), Canadian Parliament in Ottawa, stock exchange, sports stadium, electrical grid, and a military base.<sup>15</sup>

The jihadists built a remote controlled detonator and planned to construct multiple vehicle bombs with ammonium nitrate, which would be detonated by remote control, over three consecutive days.<sup>16</sup>

During the arrests, the RMCP seized three van-loads of documents, including a bomb-making manual, shopping list of bomb ingredients, camouflage uniforms, and a semi-automatic rifle.

The group sought to recruit new members by passing out jihadist literature. They organized training sessions for new recruits, requiring them to participate in military-style exercises and to learn how to shoot weapons.

Members of the jihadist cell attempted to penetrate the perimeter security of the Pickering nuclear site and cultivated relationships with individuals who had access to radiological gauges, which could be used to spread radiological material.<sup>17</sup>

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<sup>14</sup> Ibid.

<sup>15</sup> “It Comes Down to These Four.” *Maclean’s*. June 9, 2008.

<sup>16</sup> “Terror Accused Pleads Guilty.” *Toronto Star*. May 11, 2010.

Leaders of the “Toronto 18” regularly viewed jihadist websites and exchanged emails with other extremists.

At the time of the arrests, members of the jihadist cell were clearly engaged in terrorist activity and had a capability and intent to engage in terrorism.

The MeK, by comparison, has not been involved in any military operations since it renounced violence and disbanded its military units in 2001. There is no evidence the MeK has conducted surveillance of potential targets, held meetings to plan attacks, or developed a capability to conduct attacks. The MeK has not procured bomb-making manuals or developed shopping lists of bomb ingredients. It has not constructed remote detonators or sought to obtain weapons.

The MeK has not recruited members to carryout strikes or pass out literature that advocates violent attacks. The organization’s leaders do not support a violent extremist ideology nor are they aligned with groups that condone terrorist attacks.

Indeed, according to U.S. Army officers at Camp Ashraf, the MeK has been involved in exposing terrorist groups supported by Iran.<sup>18</sup>

What the MeK has been engaged in since 2001 are political and social activities both within and outside Iran. The group has focused on organizing, mobilizing, and supporting pro-democratic protests and demonstrations by various sectors against the repressive Iranian regime. It has organized marches and strikes against the Iranian government and mounted publicity campaigns to communicate to the public the atrocities committed by the theocratic rulers.

The MeK and the NCRI have organized hundreds of rallies, demonstrations, and seminars. The NCRI’s President-Elect, Mrs. Maryam Rajavi, has addressed dozens of parliaments, meetings, conferences, and conventions.

In June 2008, some 70,000 people assembled at a gathering near Paris to demonstrate their support for the MeK and NCRI. The event was sponsored by more than 600 parliamentarians from many countries.

In June 2010, NCRI-sponsored another event in a Paris suburb that attracted nearly 100,000 people. Parliamentary delegations from more than 22 countries, representing 3,500 lawmakers, voiced their support for the MeK and its members in Camp Ashraf.

Today, the MeK is viewed as one of the leading groups of the Iranian Resistance, which is recognized internationally as a political movement seeking to replace Iran’s leaders with a democratic, secular government.

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<sup>17</sup> “Are Suspected Terrorists in the ‘Toronto 18’ the Same as Members of the ‘Toronto 1?’” *Canada Free Press*. March 25, 2008.

<sup>18</sup> “Special Report: The Iran Connection.” *U.S. News & World Report*. November 14, 2004.

The State Department disregarded evidence demonstrating the MeK is now involved in political activities. It provided no evidence in the non-classified Administrative Record to support its claim that the MeK is engaged in “limited” terrorist activity and the two unclassified allegations in the document that may have been offered as supporting evidence to show the MeK is engaged in “limited” terrorist activity both lack credibility and are irrational, and would appear to be unvetted intelligence chatter that should not have been included in the document.

### **3.5 Biased and Inaccurate Information**

The 2008 Administrative Record prepared by the State Department in response to the MeK’s petition for its revocation from the FTO presents information about the organization that is highly prejudicial and inaccurate. Below are two examples:

#### Two MeKs, Not One

On the first page of the Administrative Record, the State Department lists a series of terrorist attacks against U.S. personnel and property that it alleges the MeK was responsible, including:

- Killing several U.S. military personnel and civilians working on a defense project in Tehran.
- In 1972, setting off bombs in Tehran at the U.S. Information Service office.
- In 1973, assassinating the deputy chief of the U.S. military Mission in Tehran.
- Bombing several Western businesses, including Shell Oil.
- In 1974, setting off bombs in Tehran at the offices of U.S. companies to protest the visit of then U.S. Secretary of State Kissinger.
- In 1975, the MeK assassinated two U.S. officers who were members of the U.S. Military Assistance Advisory Group in Tehran.
- In 1976, the MeK assassinated two U.S. citizens who were employees of Rockwell International in Tehran.
- In 1979, killing of an American Texaco executive.

The MeK that functions today is not the same group that mounted these terrorist acts. Detailed authoritative documentation has been provided to the State Department to explain why the MeK could not have been the perpetrator of these acts, yet the Department continues to assert the group’s guilt.

Among the information to refute the allegations is documentation by CUNY Distinguished Professor Ervand Abrahamian, an Armenian-Iranian and one of the leading experts on the MeK and Iran. Prof. Abrahamian received his M.A. at Oxford University and his Ph.D. at Columbia



University. He is the author of six scholarly books on Iran, including *The Iranian Mojahedin* (1989), which is a highly reliable reference on the MeK's activities during the 1970s.

Abrahamian's book provides details on the major split in the MeK organization prior to the attacks listed by the State Department against U.S. personnel and property.

In early 1971, before the MeK undertook any military operations, SAVAK, Iran's intelligence agency under the Pahlavi monarchy, arrested dozens of MeK members, including its founders and the entire leadership committee. This is a fact and not supposition that can be readily dismissed out of hand by the State Department.

The initial roundup of the MeK members, according to Abrahamian, happened on August 17, 1971.<sup>19</sup> James A. Bill, Professor of Government and Associate Director of the Center for Middle Eastern Studies at the University of Texas at Austin, said the arrests occurred a short time earlier. "In early April," he wrote, "another fifty young persons [MeK members] accused of plotting 'anti-state activities' were arrested by government security forces."<sup>20</sup>

SAVAK interrogated the MeK members and, with the information it collected, made a second round of arrests, detaining an additional 150-160 people, which comprised the top four to five layers of the organization. After the arrests, the Pahlavi monarchy conducted open military tribunals of the MeK members, which were widely reported by the media and propelled the obscure organization into the political limelight.

The military tribunals put a human face to the public's discontent with the monarchy's brutal rule. Overnight, the MeK became the preeminent dissident organization, but in name only. With no chain of command in place, the MeK had, for all practical purposes, ceased to exist except in the prisons where the remaining leaders were incarcerated.

Dissidents sought to join the MeK or established their own groups, such as the Mahdaviyan Group (*Goruh-e Mahdaviyan*) in Isfahan, the Group of True Shiis (*Gorub-e Shi'iyān-e Rastin*) in Hamadan, and The People's Cry Will Not be Silenced (*Faryad-e Khalq Khamush Nashodani Hast*) in Tabriz. The latter group allegedly murdered four SAVAK agents and robbed a government bank.

The remaining isolated cells of low-ranking MeK members floundered and were directionless. In the vacuum, a new group of leaders arose to take control of the remnants and make it their own. The new leaders were Marxists and did not share the doctrine of the original MeK who were – and continue to be today – secular Islamists.

The new leaders ceased holding group prayers and replaced terms such as "brother" with "comrade." A verse from the Quran was removed from the MeK's insignia. The Marxist leaders purged members who did not support their doctrine and issued a *Manifesto Explaining the*

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<sup>19</sup> "The Iranian Mojahedin." Ervand Abrahamian. Yale University Press. 1989.

<sup>20</sup> *The Eagle has Landed*. James A. Bill. Yale University Press. 1986, p. 190.

*Ideological Position of the People's Mojahedin*, which declared Marxism – not Islam – as the true revolutionary philosophy.

The original MeK group had formulated a strategy of armed struggle that targeted the Iranian police and SAVAK. The Marxist MeK, in contrast, supported a broad, militant anti-imperialist strategy that included attacks on Americans and western corporations.

The terrorist strikes attributed by the State Department to the current MeK were instigated by the Marxist MeK or anonymous groups using the MeK banner.<sup>21</sup>

The roundup of the original MeK members and the subsequent takeover of the organization by the Marxists is carefully documented by Abrahamian in three chapters of his book – “The Great Schism,” “The Manifesto (1975), and “*Two Mojahedin* (1975-8). [Emphasis added]

While less significant issues discussed by Abrahamian may be in disagreement, the truncation of the MeK leadership and the emergence of a transformed group under Marxist leadership using the same name is fact. There were two MeK.

Despite separate leadership structures, both with the MeK name, the State Department holds the original imprisoned leaders (who later were released in 1979 and rebuilt the MeK under the original doctrine and represent the current organization) responsible for the attacks on U.S. personnel and property conducted by the Marxist “MeK” group.

Doing so is intellectually dishonest and would be no different from holding the current Christian Democratic Party of Germany under the leadership of Chancellor Angela Merkel responsible for atrocities committed by the Third Reich under the leadership of Adolf Hitler.

But, of course, the State Department does not view the world in such simplistic ways. It examines political parties and issues in a highly sophisticated manner, finding meaning in nuance and tone. To do otherwise is ludicrous.

But when it comes analyzing the MeK, the State Department avoids distinctions between the two groups with the same MeK name, just as SAVAK made no distinction between the two groups for political reasons.

Under pressure from original MeK members, including Massoud Rajavi, who was in prison at the time and later became the group's leader, the Marxist MeK finally changed its name in 1978 to “The Combat Organization on the Road for the Emancipation of the Working Class” or Peykar Organization.

The Revolutionary Guard executed 12 Peykar members in August 1981. The leaders of the group were captured months later, along with their “organizational documents, typewriters, duplicating machines, Chinese weapons, anti-tank ammunition and rockets, Egyptian and

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<sup>21</sup> “The Iranian Mojahedin.” Ervand Abrahamian. Yale University Press. 1989, p. 165.

Pakistani machineguns and pistols, and Egyptian-made bombs and chemical weapons.”<sup>22</sup> The Revolutionary Guards uncovered ten Peykar hideouts and arrested 70 additional members in May 1982, effectively shutting down the organization.<sup>23</sup>

The Marxist MeK usurped the MeK name because it was popular among dissidents and the public at large. But the Marxist MeK was a different organization, with different leaders, and a different doctrine. It is not the same organization as the secular Islamic MeK and to assert that they are one and the same is factually inaccurate. And to blame the original MeK for the terrorist attacks by the Marxist group in the 1970s on U.S. personnel and property is fallacious and pejorative.

### Pro-Democratic Islamic, Not Marxist

The State Department, in the 2008 Administrative Record, described the MeK as a “Marxist-Islamic organization.” (The Department’s 2005 Country Report on Terrorism stated “The MeK philosophy mixes Marxism and Islam.”<sup>24</sup>)

The Marxist label by the State Department echoes back to 1985, when the U.S. sought assistance from Iran to free seven American hostages in Lebanon. For its help, Iran demanded the U.S. make an official announcement describing the MeK as Marxist. Richard Murphy, Assistant Secretary of State for Near Eastern Affairs, soon thereafter provided testimony before a Congressional committee branding the MeK a Marxist organization.<sup>25</sup>

Iran’s strategy to vilify the MeK as Marxist was previously employed by SAVAK to undercut the organization’s public support. Marxists are atheists. Iranians, like other Muslim nations, are very devout and most are predisposed to look unfavorably on godless people and organizations. Labeling the MeK as Marxists besmirches their reputation and casts them as antithetical to the pious ruling clerics, an evil to be avoided.

Massoud Rajavi, the MeK’s historical leader, was interviewed in 1981 by *Time* magazine about Khomeini’s propaganda campaign against the organization. “Every high school student knows that believing in God, Jesus Christ, and Muhammad is incompatible with the philosophy of Marxism....But for dictators like Khomeini, ‘Islamic Marxist’ is a very profitable phrase to use against any opposition,” Rajavi said. “If Jesus Christ and Muhammad were alive and protesting against Khomeini, he would call them Marxists, too.”<sup>26</sup>

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<sup>22</sup> “Capture of ‘Left-Wing’ Terrorist Groups.” Security Forces Announcement. BBC Summary of World Broadcasts. November 11, 1981.

<sup>23</sup> “More Hideouts of Armed Opposition Group Discovered in Iran.” Xinhua. May 13, 1982.

<sup>24</sup> *Country Reports on Terrorism*. U.S. State Department. April 27, 2005.

<sup>25</sup> *The Tower Commission Report*. The New York Times Company. February 1987, p. 360.

<sup>26</sup> “We are on the Offensive.” *Time Magazine*. September 13, 1981.

While the founders of the MeK studied Marxist literature, as well the writings of Max Weber, Immanuel Kant, René Descartes, and other philosophers, economists, and sociologists, they vehemently denied the label “Marxist.”<sup>27</sup> As explained by Prof. Abrahamian:

Although the group studied Marxist economics, it tended to avoid Marxist philosophy. As one of the early members later stated, the group intentionally shunned Marxist philosophy in order to protect its religious susceptibilities.<sup>28</sup>

The MeK organization, created in 1965, was named after the Mujahedin Constitutionalists, who battled Mohammad Ali Shah after he overthrew the democratically elected government in a coup d'état in 1908. A peaceful revolution in 1905-06 had culminated in the country's first constitution, adapted from Belgium's constitution, which established a parliamentary system of government. The Mujahedin Constitutionalists led a popular revolt against the Shah that culminated in his defeat and the reestablishment of a National Assembly.

Early members of the MeK supported the Liberation Movement, created in Iran in 1961 to promote “freedom of thought, expression, and association.”<sup>29</sup> The group advocated the reimplementing of Iran's 1906 constitution.

For two years the Liberation Movement was allowed to hold meetings and publish materials. In 1963, a group of clerics led by Ayatollah Khomeini openly denounced Mohammad Reza Shah, igniting protests against the monarchy in Iran's major cities, in what has become known as the June Uprising. The Shah unleashed the police who killed hundreds, possibly thousands, of demonstrators. Leaders of the Liberation Movement were jailed and the organization was shut down.

Two years after the uprising, the MeK was founded by three young engineers who were former members of the Liberation Movement. They convened discussion groups and developed a new strategy to bring democracy to Iran. But before the strategy could be implemented, the entire leadership infrastructure was arrested.

For all practical purposes, the MeK lay dormant throughout the 1970s, its leaders imprisoned until the Shah fled Iran into exile.

Ayatollah Khomeini and the Revolutionary Guards stole the revolution and installed a theological government, which the MeK opposed. Abol-Hassan Banisadr, the first elected president of Iran, was impeached by the ruling clerics and he joined with the MeK in the national struggle for freedom and a non-theocratic constitution.

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<sup>27</sup> “The Leftist Challenge: The Mojadedin-e Khalq and the Tudah Party.” *Journal of South Asian and Middle Eastern Studies* XIII, 1 and 2 (Fall/Winter 1989), p. 29-51. Citation in 1994 State Department report, “People's Mojahedin of Iran.”

<sup>28</sup> *The Iranian Mojahedin*. Ervand Abrahamian. Yale University Press. 1989, p. 89.

<sup>29</sup> *Iran Between Two Revolutions*. Ervand Abrahamian. Princeton University Press. 1982, p. 460.

At its peak during the revolution, the MeK attracted crowds of 500,000 people. Despite its popularity, the coalition forces were unable to prevail. Defeated, they retreated to Paris and formed a parliament-in-exile and political coalition called the National Council of Resistance of Iran (NCRI), which included the MeK as a member.

The MeK, NCRI, and other groups seek to replace the Iranian regime with a democratic, pluralist, secular system of government. They believe democracy is the best path for the advancement and progress of the country and elections and popular vote are the sole criterion of legitimacy for elected officials. They support gender equality and the elimination of discrimination against religious and ethnic minorities.

The reason many members of the U.S. Congress have given support to the MeK and NCRI as early as 1985 is that they recognize these groups are pro-democratic and pro-freedom.

The U.S. State Department has not always viewed the MeK as Marxist. In 1981, former U.S. Undersecretary of State George Ball criticized the press for describing the MeK as Marxist. “The sloppy press habit of dismissing the Mujahedeen as ‘leftists’ badly confuses the program,” Ball told the *Washington Post*. “Massoud Rajavi . . . is the leader of the movement. Its intention is to replace the current backward Islamic regime with a modernized Shiite Islam drawing its egalitarian principals from Koranic sources rather than Marx.”<sup>30</sup>

To accept the MeK as Marxist one has to neglect the organization’s roots going back to the Mujahedin Constitutionalists and Liberation Movement, disavow the schism in the organization during the 1970s, and reject the published record of declarations and spoken words by the MeK proclaiming its support for democracy and a secular Islamic government for Iran.

Yet the State Department continues to misbrand the MeK as Marxist, revealing a lack of objectivity and impartiality in its assessment of the organization.

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<sup>30</sup> “Iran’s Bleak Future.” *Washington Post*. August 19, 1981.

#### 4.0 Independent Assessment

The United Kingdom, unlike the U.S., created an independent tribunal to review petitions for revocation from its foreign terrorist list (Proscribed List) that were denied by the Secretary of State. When the tribunal reviewed the MeK's record, it concluded the organization was not concerned with terrorism and directed authorities to remove it from the list.

The tribunal, called the Proscribed Organizations Appeal Commission (POAC), consists of three members, one of whom must have held or holds a high judicial office. When an appeal is accepted for review, a Special Advocate is appointed to cross-examine witnesses and make written submissions.

In 2001, then-Secretary of State for the Home Department Jack Straw placed about 40 groups on the new terrorism list, including the MeK.

In June 2006, 35 British Parliamentarians, including former Home Secretary Lord Waddington, former Solicitor General Lord Archer, former Advocate General of the Court of First Instance of the European Communities, Lord Slynn of Hadley, former President of the Parliamentary Assembly of the Council of Europe, Lord Russell Johnston, and 16 Members of the House of Commons, made an application to the Secretary of State for the deproscription of the MeK from the terrorism list.

The submission was rejected by the Home Department and the applicants filed an appeal four months later with POAC, arguing the Secretary had failed to produce any evidence to demonstrate the MeK was involved in terrorism.

The POAC appeal was adjudicated by Sir Harry Ognall, a "former High Court judge from Yorkshire renowned for his buff, no-nonsense approach,"<sup>31</sup> and two highly respected barristers, Ms. Lindsay Boswell QC and Mr. Stuart Catchpole QC.

Open hearings to consider the appeal were held on July 23-31, 2007. Three days were set aside for closed hearings to consider classified material. An official with the British Foreign Office presented oral testimony and was cross-examined on the classified information by the judges and the Special Advocate. The tribunal examined 15 volumes of classified and non-classified evidence.

On November 30, 2007, POAC released its judgment, stating that "having carefully considered all the material before us [classified and non-classified information], we have concluded that the decision" to keep the MeK on the list of terrorist organizations "was flawed and must be set aside."

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<sup>31</sup> "Law: Britain May Lift Ban on Iran's Opposition." *Telegraph*. September 27, 2007.

The POAC declared the MeK was not an organization that “is concerned in terrorism.”<sup>32</sup> It further stated the Home Secretary’s decision to keep the MeK on the terrorist list was “perverse.”

#### 4.1 Key Findings

The POAC reviewed performed an “intense and detailed scrutiny” of the relevant materials regarding the MeK and developed conclusions based on the material as a whole “looking for the picture or patterns that emerge[d].” Its judgment on the MeK appeal is 144 pages.

Based on its review, the Commission said the only conclusions that a decision-maker could reasonably come to are:

- “With the possible exception of the single questioned incident in May 2002, the MeK has not engaged in terrorist acts in Iran or elsewhere since August 2001.”<sup>33</sup>
- “Even if the MeK had a military command structure at some point within Iran, the material demonstrates that such structure had ceased to exist by (at the latest) the end of 2002.”<sup>34</sup>
- “There is no material which indicates that the MeK has obtained or sought to obtain arms or otherwise reconstruct any military capability despite their capacity to do so after May 2003.”<sup>35</sup>
- “[T]here is no material to suggest that the MeK has sought to recruit or train members for military or terrorist action.”<sup>36</sup>

“In short,” POAC concluded, “there is no evidence that the MeK has at any time since 2003 sought to re-create any form of structure that was capable of carrying out or supporting terrorist acts. There is no evidence of any attempt to ‘prepare’ for terrorism. There is no evidence of any encouragement to others to commit acts of terrorism. Nor is there any material that affords any grounds for a belief that the MeK was ‘otherwise concerned in terrorism’ at the time of the decision in September 2006.”<sup>37</sup> (The date when the Home Secretary announced his refusal to deproscribe the MeK from the terrorism list.)

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<sup>32</sup> Open Determination. Lord Alton of Liverpool & Others v. Secretary of State for the Home Department. Proscribed Organizations Appeal Commission. November 30, 2007, p. 139.

<sup>33</sup> Ibid, p. 138.

<sup>34</sup> Ibid.

<sup>35</sup> Ibid.

<sup>36</sup> Ibid.

<sup>37</sup> Ibid.

## 5.0 UK Court of Appeal Upholds POAC's Ruling

On November 30, 2007, the UK Home Secretary sought permission to appeal the POAC's ruling to deproscribe the MeK from the UK's terrorism list. The "leave to" appeal was adjudicated by the English Court of Appeal, presided over by Lord Chief Justice of England and Wales.

On May 7, 2008, the Court upheld POAC's decree and ruled against the Home Secretary's leave to appeal.

The Home Secretary argued that even though the MeK had not engaged in terrorism since 2003, it retained the capability and intent to do so. (This is the same argument offered by the U.S. State Department.) The Court rejected this argument and concluded:

We agree with POAC that an organization that has no capacity to carry on terrorist activities and is taking no steps to acquire such capacity or otherwise promote or encourage activities cannot be said to be 'concerned in terrorism' simply because its leaders have the contingent intention [as asserted by the Foreign Secretary] to resort to terrorism in the future. The nexus between such an organization and the commission of terrorist activities is too remote to fall within the description of 'concerned in terrorism.'<sup>38</sup>

The court stated, to the extent the MeK has supporters in Iran, at least since 2002, "they have been directed to social protest, finance and intelligence gathering activities which would not fall within the definition of 'terrorism,'" as defined by British law.<sup>39</sup>

The Court elaborated on the difference between tactically ceasing activities and ceasing activities to pursue other tactics:

An organization that has temporarily ceased from terrorist activities for tactical reasons is to be contrasted with an organization that has decided to attempt to achieve its aims by other than violent means. The latter cannot be said to be 'concerned with terrorism,' even if the possibility exists that it might decide to revert to terrorism in the future.<sup>40</sup>

The Court's judgment made reference to the classified record on the MeK:

Closed material was also available to the applicant [Home Secretary]. We have considered that material. It has reinforced our conclusion that the applicant could not reasonably have formed the view when the decision letter was written in 2006 that the MeK intended in future to revert to terrorism.

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<sup>38</sup> Approved Judgment. *The Secretary of State for the Home Department v. Lord Alton of Liverpool and Others*. Supreme Court of Judicature, Court of Appeal. May 23, 2008, p. 16.

<sup>39</sup> Ibid.

<sup>40</sup> Ibid.



At the end of its judgment, the Court scolded the actions of the Home Secretary, who sought to maintain the MeK on the terrorism list:

It is a matter for comment and for regret that the decision-making process in this case has signally fallen short of the standards which our public law sets and which those affected by public decisions have come to expect.<sup>41</sup>

In June 2008, the MeK was officially removed from the UK's Proscribed Organizations list.

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<sup>41</sup> Ibid.

## 6.0 MeK a Sacrificial Pawn

When the MeK's record was reviewed impartially and without consideration of political issues in the UK, it was found to be neither engaged in terrorism nor did it retain a capability or intent to do so.

In the U.S., the MeK has always had its record reviewed by the State Department in a political context. Every time the Department was required to assess the MeK's activities to determine if it should be on the FTO list, the Secretary of State was either seeking a favor from Iran's leaders or pursuing a policy of rapprochement.

At these junctures, had the State Department revoked the MeK's designation as a FTO, it would likely have disrupted the negotiations, derailing the Department's agenda. Given the options, the Department repeatedly sacrificed the MeK to achieve its policy objectives.

Below are the U.S. policies in play during the periods when the State Department was required to objectively review the MeK's record.

### 1997

The MeK was first designated a FTO by the Secretary of State in October 1997. The day after the announcement, the *Los Angeles Times* published an article, quoting a senior Clinton Administration official who stated the decision to place the MeK on the FTO list "was intended as a goodwill gesture to Tehran and its newly elected moderate president, Mohammad Khatami."<sup>42</sup>

This explanation was reaffirmed by Assistant Secretary of State Martin Indyk in his memoir, "Innocent Abroad; An Intimate Account of American Peace Diplomacy in the Middle East." In his book, Mr. Indyk explained, "We hoped it [designating the MeK] would be perceived in Tehran as a goodwill gesture."<sup>43</sup>

Mr. Indyk noted in his memoir that an Iranian news agency reported the U.S. announcement to place the MeK on the FTO list as a "little victory for Iran."<sup>44</sup> But former Iranian President Hashemi Rafsanjani viewed the concession as insufficient and complained the MeK was still allowed to lobby Congress and raise funds in the U.S.<sup>45</sup>

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<sup>42</sup> "U.S. Designates 30 Groups as Terrorists." *Los Angeles Times*. October 9, 1997.

<sup>43</sup> "Innocent Abroad; An Intimate Account of American Peace Diplomacy in the Middle East." Martin Indyk. Simon & Schuster. 2009.

<sup>44</sup> Ibid.

<sup>45</sup> "U.S. Designates 30 Groups as Terrorists." *Los Angeles Times*. October 9, 1997.

This was not the first time the State Department had sacrificed the MeK to placate the Iranian regime. In July 1985, the Department demonized the MeK in Congressional testimony presented by Assistant Secretary of State for Near Eastern Affairs Richard Murphy. Mr. Murphy branded the MeK during a hearing as “Marxist” and “engaged in anti-U.S. and anti-Western terrorism.”<sup>46</sup>

Behind closed doors, the White House was secretly negotiating with Iran to gain its assistance to free seven American hostages held in Lebanon. For its help, Iran demanded the U.S. take eight actions, one of which was to issue “an official announcement terming the Mojahedin-e Khalq Organization terrorist and Marxist.”<sup>47</sup> Mr. Murphy’s testimony was America’s response to Iran’s demand.

While the State Department saw no problem in listing the MeK as a FTO, U.S. Congressional members widely objected. A majority of House members issued a declaration in 1998 describing the MeK as a legitimate resistance movement and called for its revocation from the FTO list.<sup>48</sup>

## 1999

In October 1999, the MeK’s initial two-year designation as a FTO was set to expire, requiring a reassessment of its record by the State Department. Months earlier, President Clinton had sent a letter to President Khatami, seeking assistance to bring to justice the Iranian Revolutionary Guard Corps members, as well as members of Lebanese and Saudi Hezbollah, who the U.S. believed were directly involved in the planning and execution of the 1996 truck bombing of the Khobar Towers military complex in Saudi Arabia.

On October 7, the news media reported that Iran had rebuffed President Clinton’s request for assistance. The following day, the State Department relisted the MeK as a FTO. A week later, on October 14, Assistant Secretary Indyk publicly stated that the Clinton Administration had renewed its “offer of unconditional dialogue with the Iranian government.”<sup>49</sup> As evidence of America’s good faith effort, he said the State Department had “redesignated the MEK as a foreign terrorist organization.”<sup>50</sup> He said the Department had also “for the first time, listed the National Council of Resistance (NCR) as an alias of the MEK.” Indyk explained, “Such designations have the effect of making it illegal to provide financial support to these

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<sup>45</sup> “Innocent Abroad; An Intimate Account of American Peace Diplomacy in the Middle East.” Martin Indyk. Simon & Schuster. 2009.

<sup>46</sup> “Developments in the Middle East, July 1985.” House Foreign Affairs Subcommittee on Europe and the Middle East. July 24, 1985.

<sup>47</sup> “The Tower Commission Report.” The New York Times Company. February 1987, p. 360.

<sup>48</sup> Members of U.S. Congress Back Iranian Exiles. Reuters. September 16, 1998. Also see “Iran Still an ‘Outlaw.’” *The Washington Times*. September 16, 1998.

<sup>49</sup> “Text of Remarks Given by Martin S. Indyk, Assistant Secretary for Near Eastern Affairs.” Federal News Service. October 14, 1999.

<sup>50</sup> Ibid.

organizations.”<sup>51</sup> Asked why the Department had added the NCRI to the FTO list, Mr. Indyk replied, “The Iranian government had brought this to our attention.”<sup>52</sup>

Placing the MeK on the FTO was but one element of a concerted policy the Clinton Administration hoped would lead to the reestablishment of normal relations with Iran’s ruling clerics. Mr. Indyk alluded to the policy in a statement after the U.S. suffered a setback in its attempt to influence internal politics of Tehran.

By offering unilateral concessions to President Khatami, the Clinton Administration hoped to strengthen his hand in an internal power struggle with hardliners. If successful, the Administration believed Khatami would be in a position to normalize relations with the U.S.

When this strategy seemed to fail, Mr. Indyk said officials in the State Department “discussed whether a continuation of *our policy of unilateral gestures* could make a difference” in Iran’s leadership.<sup>53</sup> [Emphasis added].

Despite misgivings, the Administration made a decision to continue the strategy. In the months following, the State Department “made a forthright apology for the U.S. role in the 1953 coup, announced the lifting of sanctions on imports of goods and carpets from Iran and the export of spare parts for Iran’s aging Boeing fleet, and offered to settle the outstanding legal claims on Iranian assets frozen in U.S. bank accounts since the revolution.”<sup>54</sup>

Had the State Department removed the MeK from the FTO in 1999, the action would have been at odds with the Clinton Administration’s policy of unilateral concessions. Given this reality, it is difficult to believe the State Department undertook an honest, even-handed assessment of the MeK’s record.

## 2001

In the fall of 2001, the State Department’s full attention was focused on al Qaeda, in response to its attacks on the World Trade Center and the Pentagon.

Behind the scenes, the U.S. military was collaborating with Iran in Afghanistan. According to military sources, “the U.S.-Iranian dialogue ... began in late September and flowed through two channels....What the Americans were after was for an Iranian elite unit to cross into

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<sup>51</sup> “U.S. Extends Restrictions on Iranian Opposition.” Reuters. October 14, 1999.

<sup>52</sup> Ibid.

<sup>53</sup> “Innocent Abroad; An Intimate Account of American Peace Diplomacy in the Middle East.” Martin Indyk. Simon & Schuster. 2009.

<sup>54</sup> Ibid.

Afghanistan, infiltrate Herat, and form insurrectionary cells to rise up against their Taliban masters when the Northern Alliance attacked the city.”<sup>55</sup>

During this period, Iran reportedly sent a message through backchannel communications to Hillary Mann, Director for Iran, Afghanistan and Persian Gulf Affairs at the National Security Council, expressing an interest in unconditional talks with the U.S.<sup>56</sup>

Had the State Department taken the MeK off the FTO list in October, when its listing was set to expire, it would have disrupted the potential military operations against the Taliban and al Qaeda in Afghanistan, and undermined any potential breakthrough in U.S. relations with Iran. Given these stakes, was it possible for the State Department to review the MeK’s record without bias?

## 2003

In 2003, the MeK again was thrust into the center of U.S.-Iranian relations in the months leading up to the Iraq War. In January 2003, two senior officials – Zalmay Khalilzad from the White House and Ryan C. Crocker from the State Department – met with high-ranking Iranians about the pending conflict. As a bargaining chip to entice Iran to stay out of the war, the U.S. offered to bomb MeK camps in Iraq.<sup>57</sup>

“A more concrete commitment to attack the camps was later relayed to Tehran through British officials,” the *Washington Post* reported.<sup>58</sup>

In late March and early April 2003, multinational forces repeatedly bombarded MeK camps in northern Iraq, killing about 50 people.<sup>59</sup>

Prior to the initiation of hostilities, the MeK had declared its neutrality – the same as it had during the first Persian Gulf War – and consolidated its forces into several camps, hoping to avoid any involvement in the conflict. Following is a description of the U.S. deal struck with Iran to attack the camps as reported by the *Wall Street Journal*:

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

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<sup>55</sup> “Iranian Special Forces Reportedly Fight Alongside US in Battle for Herat.” Foreign Broadcast Information Service. November 16, 2001.

<sup>56</sup> “Fall 2001: Iran Offers Diplomatic Relations with U.S.” *Esquire*. October 18, 2007.

<sup>57</sup> “One Step Forward, Direction Uncertain.” *Washington Post*. April 18, 2003.

<sup>58</sup> *Ibid*.

<sup>59</sup> “Law: Britain May Lift Ban on Iran’s Opposition.” *Telegraph*. September 27, 2007.

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

Eliminating the MeK's Iraqi base of operations, from which the group has mounted hit-and-run operations along the border and violent terrorist attacks in Tehran for decades, has long been a major Iranian goal.<sup>60</sup>

In August 2003, the MeK was again thrown to the wolves, when the U.S. Representative office of the National Council of Resistance in Iran (NCRI) was shut down by the U.S. State, Treasury, and Justice Departments, which asserted the organization was a political arm of the MeK. State Department acting spokesman Tom Casey claimed the decision to shutter the NCRI office had no connection with U.S. policy toward Iran.

But weeks earlier, the news media reported the U.S. was in negotiations with Iran for the extradition of al Qaeda prisoners captured during the war. Before Iran would act, it sought a "gesture" from the U.S. Following is a description of events by *USA Today*:

The Iranian official, who has direct knowledge of the negotiations between Iran and the United States, suggested that Iran might be willing to comply with U.S. requests to extradite the prisoners to their home countries, such as Egypt and Saudi Arabia . . . But for now, the Iranian government is refusing to do that because it says the Bush administration has failed to rein in a violent exile group called the Mujahedin el-Khalq (MEK).<sup>61</sup>

The Iranian official said the government of Iran might be willing to change its position. "We will reciprocate," he offered, "any gesture on the part of the United States."<sup>62</sup> On August 14, 2003, the NCRI office was closed down and on the following day Iranian Foreign Minister Kamal Kharrazi praised the action of the United States, stating it was "a positive step that conforms to its international responsibilities."<sup>63</sup>

In early October, when the State Department relisted the MeK on the FTO, U.S. negotiations had stalled with Tehran to expel the al Qaeda operatives. In the weeks that followed, both President Bush and U.S. Deputy Undersecretary of State Richard Armitage delivered major public statements on Iran. They reaffirmed the U.S. position that it was "prepared to engage in limited discussions with the government of Iran" and urged Iran to provide intelligence on al

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<sup>60</sup> "U.S. Bombs Iranian Fighters on Iraqi Side of the Border." *Wall Street Journal*. April 15, 2003.

<sup>61</sup> "Iran Might Swap Terrorists from Help from U.S." *USA Today*. August 4, 2003.

<sup>62</sup> Ibid.

<sup>63</sup> "Iran Praises U.S. Closure of Dissident Group's Offices as Positive Step." Associated Press. August 16, 2003.

Qaeda members that it claimed to have in custody as an “an important step in U.S.-Iranian relations.”<sup>64</sup>

Taking the MeK off the FTO list would have greatly displeased the Iranian clerics and likely ended any chance to gain their assistance in expelling the al Qaeda operatives.

In 2004, Congress amended the Anti-Terrorism and Effective Death Penalty Act, altering the process for listing/delisting FTOs. Rather than redesignate groups or let designations lapse after two years, groups would remain on the list once designated for five years. FTOs can file a petition for review at any time. But once filed, a period of two years must transpire from the resolution of the petition until another petition can be submitted. If five years go by without a petition for revocation, the Secretary of State is required to conduct a new review of the designated group to assess whether a revocation is warranted.

## 2008

The MeK filed a petition for review with the U.S. Secretary of State for its revocation from the FTO on July 15, 2008. Dell Dailey, the top State Department Counterterrorism official, pushed to delist the MeK, according to the *New York Times*.<sup>65</sup> But he was overruled by Secretary Condoleezza Rice, who rejected the petition on January 12, 2009, eight days before Barack Obama was scheduled to be sworn in as president.

Prior to the November election, Mr. Obama had called for “direct tough diplomacy with Iran, without preconditions.”<sup>66</sup> President Mahmoud Ahmadinejad had responded in interviews that the U.S. Administration would first have to withdraw its troops from Iraq and its objections to Iran’s nuclear program before negotiations could take place.<sup>67</sup>

President Ahmadinejad sent a congratulatory letter to President-elect Obama after the election and the following day Iran test-fired a two-stage, solid-fuel rocket with a range of 1,200 miles – a provocative message given its timing.

A week later, Mojtaba Samareh Hashemi, a top advisor to President Ahmadinejad, told the *Washington Post*, “The U.S. must prove that their policies have changed and are now based upon respecting the rights of the Iranian nation and mutual respect.”<sup>68</sup>

While the Bush Administration technically remained in power until Obama’s inauguration, it is unlikely a major foreign policy decision would have been undertaken without consulting the new

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<sup>64</sup> “U.S. Policy and Iran.” Testimony by Undersecretary of State Richard Armitage. U.S. Senate Foreign Relations Committee. October 29, 2003. <http://www.scoop.co.nz/stories/WO0310/S00300.htm>

<sup>65</sup> “Iranian Dissidents’ Fate in Iraq Shows Limits of U.S. Sway.” *The New York Times*. August 2, 2009.

<sup>66</sup> “Facing Obama, Iran Suddenly Hedges on Talks.” *Washington Post*. November 13, 2008.

<sup>67</sup> Ibid.

<sup>68</sup> Ibid.

president. Hillary Clinton was named Secretary of State on December 1, 2008, but she had no authority or staff to properly assess the MeK and the politics regarding its relisting or revocation as a FTO.

Had the Bush Administration taken the MeK off the FTO list, it would have been viewed by Iran as a confrontational signal by the new administration, likely sidelining hopes for negotiations before they could even begin. Prior to starting his term of office, president-elect Barack Obama would have been thrown into a foreign policy controversy, distracting attention from pressing domestic issues.

It is unrealistic to believe under these circumstances that the State Department, without any consideration of the political consequences, objectively reviewed the MeK's record. Not surprisingly, the MeK was redesignated a FTO, thereby avoiding a political donnybrook during the transfer of power from the Bush Administration to the new president.

The MeK was again sacrificed by the State Department in violation of the AEDPA, which gives authority to the Secretary of State to designate groups as FTOs only if they engage in terrorist activity and not because it is politically expedient to support political objectives.



## 7.0 EU Lawmakers Urge U.S. to Remove MeK from FTO List

In addition to the UK, many other countries support the revocation of the MeK as a FTO. The European Parliament passed a resolution on November 25, 2010, urging the United States remove the MeK from the FTO list.

The resolution was sponsored by Alejo Vidal-Quadras, Stephen Hughes, Kristiina Ojula, Soren Bo Sondergaard, and Struan Stevenson. A parliament official said the passage of the resolution by the 736-seat Parliament was near unanimous.<sup>69</sup> The document stated:

Whereas several relatives of [Camp] Ashraf have been sentenced to death by the Iranian regime after returning from visits to their families in Ashraf,

Whereas the Iraqi Government has failed to respect the EP resolution [April 24, 2009 regarding 3400 MeK members at Camp Ashraf] and is continuing a merciless siege of the Camp,

Whereas the residents are still being subjected to external pressures under the pretext that the MeK remains on the U.S. blacklist,

Whereas in July 2010 the U.S. Appeals Court in Washington ruled in favor of the MeK and urged the State Department to review its decision to maintain them on the U.S. terrorist blacklist,

Whereas U.S. and U.N. forces have withdrawn from Ashraf and residents are now vulnerable to attack,

[The EU declaration] calls on the High Representative of the Union for Foreign Affairs and Security Policy to urge the USA to follow the EU by removing the MeK from its blacklist and to urge the U.N. to provide urgent protection for Ashraf.

### Congressional Letter

Many members of U.S. House of Representatives also disagree with the MeK's placement on the FTO list. House Resolution 1431 has 112 bi-partisan cosponsors and "invites the Secretary of State, in coalition with British and European allies, to remove the MeK from the State Department's list of Foreign Terrorist Organizations."<sup>70</sup>

<sup>69</sup> "EU Urges U.S. to Remove Iran Group From Terror List." *The Wall Street Journal*. November 25, 2010.

<sup>70</sup> <http://thomas.loc.gov/cgi-bin/query/z?c111:H.RES.1431>:

## 8.0 Conclusion

The State Department has failed repeatedly to impartially assess the MeK's record when determining whether the organization should be removed from the FTO list, as required by law. The MeK is unique on the FTO list because of its central position in U.S.-Iranian relations.

Unlike in the United Kingdom, the MeK cannot appeal decisions made by the State Department to an independent third-party tribunal to ensure a review of its record is fair-minded and unbiased and not influenced by conflicting foreign policy objectives. While the AEDPA envisioned judicial remedy for a designated organization, the statute, as written, gives enormous deference to the Secretary of State such that it is impossible for the Federal Court of Appeal to make an independent determination.

Nearly ten years have elapsed since the MeK renounced violence and refocused its efforts on organizing, mobilizing, and supporting pro-democratic protests against the ruling mullahs in Iran, and still it remains on the FTO list.

The 2008 Administrative Record upon which the Secretary of State assessed the MeK's recent petition for revocation from the FTO list is a polemical document designed to preserve the status quo rather than a scholarly examination of the facts in the case, as was presented by the UK independent tribunal in its 144-page judgment.

When the State Department denied the MeK's petition for revocation from the FTO list in 2009, it claimed the organization still retained a limited capability and intent to engage in terrorism or terrorist activity. But no credible evidence was presented to support this claim.

The two alleged incidents included in the Administrative Record are implausible and one of them has clear links to Iranian propaganda. The alleged incidents are antithetical to the MeK's interests and thus without a rational foundation. The incidents were not properly vetted and should never have been placed in the Administrative Record.

That the alleged attacks were included in the Record reflects an absence of credible evidence to support the Department's denial of the MeK's petition for revocation from the FTO list and is an attempt to demonize the organization in order to keep it on the FTO list.

The MeK has not retained a capability or intent to engage in terrorism. There is no evidence the MeK has conducted surveillance of potential targets, held meetings to plan attacks, or developed a capability to carry them out. It has not procured any bomb-making manuals or developed shopping lists of bomb ingredients. It has not conducted remote detonators or sought to obtain weapons.

The MeK has not recruited and trained members to mount strikes. It has not passed out literature that advocates the use of violence. Its leaders do not support an extremist ideology nor are they aligned with any group that condones violence.

This assessment of the MeK is supported by the UK's independent tribunal, which carefully reviewed these issues. It declared "there is no evidence that the MeK has at any time since 2003 sought to re-create any form of structure that was capable of carrying out or supporting terrorist acts. There is no evidence of any attempt to 'prepare' for terrorism. There is no evidence of any encouragement to others to commit acts of terrorism. Nor is there any material that affords any grounds for a belief that the MeK was 'otherwise concerned with terrorism' ...."<sup>71</sup>

The Court of Appeal reaffirmed the tribunal's conclusions and scolded the actions of the Home Secretary to maintain the MeK on the UK's terrorism list, stating "It is a matter for comment and for regret that the decision-making process in this case has signally fallen short of the standards which our public law sets and which those affected by public decision have come to expect."<sup>72</sup>

The same words could be applied to the State Department, which has repeatedly bargained away the reputation and resources of the MeK. Time and again, the Department failed to honestly review the MeK's record to determine if its revocation from the FTO list is warranted. And not until its activities are objectively assessed can there be justice for the group.

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<sup>71</sup> Open Determination. Lord Alton of Liverpool & Others v. Secretary of State for the Home Department. Proscribed Organizations Appeal Commission. November 30, 2007. P. 139.

<sup>72</sup> Approved Judgment. The Secretary of State for the Home Department v. Lord Alton of Liverpool and Others. Supreme Court of Judicature, Court of Appeal. May 23, 2008.