

HUMAN RIGHTS WATCH

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December 14, 2011

Secretary Hillary Rodham Clinton
United States Department of State
Harry S. Truman Building
2201 C Street, NW
Washington, DC 20520
Via Facsimile: (202) 647-2283

Secretary Janet Napolitano
Department of Homeland Security
U.S. Department of Homeland Security
Washington, D.C. 20528
Via Facsimile: (202) 282-9188

Dear Secretaries Clinton and Napolitano:

We are writing to you before the December 31 announced closure of Camp Ashraf (also known as Camp New Iraq) to urge the US government to take proactive steps to prevent further deterioration in the stand-off between the Iraqi government and the leadership of the Mohjahedin-e Khalq (MEK). This confrontation risks becoming violent and a destabilizing factor as the US military leaves the country and Iraq continues its precarious transition to democratic rule.

This is a critical moment for the US government to show concrete support for UN initiatives that could avert a confrontation that could become even more violent than the two previous clashes that have already occurred at Camp Ashraf leading to loss of life on both April 8, 2011 and July 29, 2009, and to help the UN to navigate a resolution to the problem.

On December 5, UN Secretary General Ban Ki-moon called on UN member states to indicate their willingness to accept Camp Ashraf residents for resettlement and on December 6 the UN envoy to Iraq, Martin Kobler, called upon the Iraqi government to extend the December 31 deadline for closing the camp.

We urge you to support both calls publicly. However, if the Government of Iraq insists on keeping the December 31 deadline for

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closing the camp, we also call on you to engage US diplomats in Iraq in coordination with the UN and other diplomatic missions in Iraq to monitor the situation at Camp Ashraf, particularly near and at the time of the deadline, and during any transfer of its residents to other locations in order to try to prevent serious human rights abuses.

We also recommend strong US diplomatic engagement with both the Iraqi government and the MEK leadership to convince each side to allow the UN to move camp residents to a protected location, under UN supervision and where the Office of the UN High Commissioner for Refugees (UNHCR) will be able to screen camp residents privately and individually to determine possible refugee claims or grounds for exclusion from refugee status.

While recognizing that the Iraqi government may choose to close the camp, your engagement will be critically important to ensuring that this is done in a peaceful and orderly way. With respect to the Iraqi government, your intervention would help to ensure that the camp is closed in ways that respect the human rights of the former camp residents, including protecting them from refoulement to Iran, forcible return that could expose them to torture and persecution in Iran. With respect to the MEK leadership, your intervention would help to ensure that they allow camp residents the individual choice to leave the camp, whether or not the conditions of the MEK leadership have been met, and to make choices about their futures, including the individual choice of voluntary repatriation to Iran.

With regard to the UN Secretary General's appeal to UN member states to indicate their willingness to receive Camp Ashraf residents for resettlement, we take note of the fact that the Mojahedin-e Khalq is on the U.S. State Department's list of foreign terrorist organizations (FTO) and therefore its members are considered inadmissible to the United States. Nevertheless, we urge you to consider that certain categories of people in the camp could be admissible to the United States or could be paroled into the country. US leadership in providing tangible support to solving this problem could go a long way in convincing other governments to step forward to help share this burden and avoid serious consequences, including potential loss of life.

There are four categories of people whom we urge the US government to consider allowing to enter the United States. First, we understand that four Camp Ashraf residents are US citizens, and we ask that they be admitted upon request; we urge you to make clear to them, the Iraqi government, and the United Nations that they will be admitted. Second, we urge you to consider admitting immediate family members of these US citizens. Third, we ask that you allow people to enter to whom the US previously issued travel documents. We have unverified information that 55 residents hold US travel documents. Entry into the United States would be without prejudice to any pending extradition requests against them or to any criminal prosecution in the United States. Should you deem admission inappropriate for some of them, we urge you to consider parole as an alternative way to maintain the

integrity of the families and contribute to the overall resettlement of Camp Ashraf residents. The final category of people to admit would be refugees who 1) UNHCR individually recognizes as refugees and refers to the US for resettlement, who (2) do not fall under the Refugee Convention's exclusion clause, who (3) have some tie to the United States, such as a US citizen or lawful permanent resident family member, and who (4) were forced to join or to remain as members of the MEK and as residents of Camp Ashraf against their will.

While we recognize that some residents of the camp may not lodge refugee claims or may be excluded from refugee status, we also believe that many of the camp residents would face persecution in Iran so would qualify as refugees. If UNHCR is given the opportunity to conduct private and confidential interviews with individuals outside the camp it may determine this.

With regard to refugees who may have been forced to join or remain as members of the MEK and as residents of Camp Ashraf against their will, Human Rights Watch has documented abuses by the leadership of the Mojahedin-e Khalq in Camp Ashraf against camp residents, including prolonged incommunicado and solitary confinement, beatings, verbal and psychological abuse, coerced confessions, threats of execution, and torture. We believe there could be a substantial number of the more than 3,200 camp residents who have been held in the camp involuntarily, including people who were coerced to join or to remain with the MEK against their will. Our 2005 report, *No Exit: Human Rights Abuses inside the MKO Camps*, (<http://www.hrw.org/legacy/backgrounders/mena/irano505/irano505.pdf>) included accounts from former Camp Ashraf residents indicating that the camp leadership detained MEK members who requested to leave the organization in solitary, incommunicado confinement.

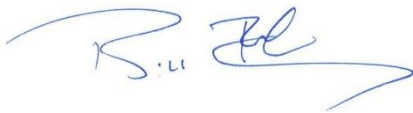
Human Rights Watch takes no position on whether the MEK should continue to be on the State Department's FTO list, but we would, under the present circumstances and in light of the coercive practices of the Camp Ashraf leadership, urge you to waive the admissibility bar for individuals who were forced to join or to remain members of the MEK and in Camp Ashraf under duress. In this regard, we note that INA section 212(a)(3)(B)(i)(V) bars from admission any alien who "is a member of a terrorist organization"—present tense—thus not barring former members. Congress showed its intent not to bar former members by writing in 212(a)(3)(B)(i)(I) that any alien who "has engaged"—past tense—in a terrorist activity is inadmissible. The congressional language does not mention past membership as a bar. Had Congress intended to bar former members of FTOs, it could easily have written 212(a)(3)(B)(i)(V) to bar any alien who "is or has been" a member of a terrorist organization, the language Congress chose in making inadmissible anyone "who is or has been a member of or affiliated with the Communist or any other totalitarian party" in 212(a)(3)(D)(i). Alternatively, we would suggest that you exercise your authority under INA section

212(d)(3)(B)(i) not to apply the bar under 212(a)(3)(B)(iv)(VI) to Camp Ashraf residents, but rather to parole them under section 212(d)(5)(A).

Further, we urge you to announce to the Iraqi government, other governments, and the United Nations that the United States will closely monitor the closing of Camp Ashraf and will cooperate with the UN to facilitate the safe and orderly transfer of its former residents, including by considering paroling some of them or admitting refugees that UNHCR refers to United States for resettlement. Such an announcement by the US government would help greatly to break the impasse that threatens to result in human rights abuses at the end of this month if the camp is closed without provisions being made for the resettlement of its residents. Such a tangible demonstration of support would, at the same time, show international solidarity with Iraq during a time of fragile transition.

Thank you for your consideration of this matter. We would be happy to discuss it with you or your representatives in greater detail.

Sincerely,

A handwritten signature in blue ink, appearing to read 'B. Frelick', with a long horizontal flourish extending to the right.

Bill Frelick
Refugee Program Director

A handwritten signature in blue ink, appearing to read 'Tom Malinowski', with a long horizontal flourish extending to the right.

Tom Malinowski
Washington Office Director

cc: Ambassador Daniel Fried, Special Advisor on Camp Asraf