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# **Subcommittee on International Human Rights of the Standing Committee on Foreign Affairs and International Development**

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**EVIDENCE**

**Tuesday, December 13, 2011**

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**Chair**

**Mr. Scott Reid**



## Subcommittee on International Human Rights of the Standing Committee on Foreign Affairs and International Development

Tuesday, December 13, 2011

•(1310)

[Translation]

**The Chair (Mr. Scott Reid (Lanark—Frontenac—Lennox and Addington, CPC)):** Welcome to the 16th meeting of the Subcommittee on International Human Rights of the Standing Committee on Foreign Affairs and International Development. Today is Tuesday, December 13, 2011.

[English]

We are continuing our study into Camp Ashraf. We are going to go directly to our witnesses.

We have with us today witnesses from the foreign affairs and international trade department, specifically Barbara Martin, who is the director general of the Middle East and Maghreb bureau, and Michael Walma, who is the director of the international crime and terrorism division.

Welcome.

As well, from Public Safety, we have Michael MacDonald, who is the director general of the national security operations directorate.

I'll just invite our witnesses to begin.

I'm sure you have already discussed the length of time the presentations ought to be. We always encourage people to be as brief as possible because we find that the most fruitful discussions come from the questions and answers, but obviously your facts are out and you're all grown-ups. You've probably all done this before anyway. Why don't I turn things over to you?

Who would like to go first?

Ms. Martin, go ahead, please.

**Ms. Barbara Martin (Director General, Middle East and Maghreb Bureau, Department of Foreign Affairs and International Trade):** Thank you, Mr. Chair.

It's a great pleasure for us to be here today. I will say that I am the only one with a prepared statement, so we will move to questions and answers as soon as I finish.

I'd like to begin by emphasizing the importance the government attaches to the situation at Camp Ashraf. Officials in the Department of Foreign Affairs and International Trade have been following developments in the camp for many years, and we are deeply concerned about the future well-being of the residents. In addition, the Minister of Foreign Affairs has shown a keen interest in the

situation. He has been monitoring the developments closely and has instructed officials to take a number of actions, which I will allude to later in my remarks.

I'd like to start by saying a few words about the MeK so that we have a shared understanding of the context. The Mujahedin e-Khalq, the MeK, or the People's Mujahedin Organization of Iran, the PMOI, was founded by Iranian Marxists in the 1960s to oppose western influence in Iran and to overthrow the shah. After the Iranian revolution in 1979, the MeK's Marxist ideology ran counter to the new regime under Ayatollah Khomeini. Its leadership was executed and the group was driven from Iran.

In 1986, at the height of the Iran-Iraq war, Saddam Hussein welcomed the MeK to Iraq, owing to their shared opposition to the Iranian regime. It established its new headquarters at Camp Ashraf, and the MeK, from there, carried out armed operations against Iran and cooperated with Saddam in suppressing uprisings of Iraqi Kurds and Shiites in southern Iraq. Many of MeK's terrorist attacks, which included assassinations, hostage takings, and hit-and-run raids, were aimed at government buildings in crowded cities where civilians were caught in the crossfire. Included among the MeK's litany of terrorist acts are the near simultaneous attacks in 1992 on Iranian government properties in 13 countries.

Canada was one of those countries, with 40 MeK supporters wielding sticks, crowbars, and mallets in an attack against the Iranian embassy here in Ottawa that left several people wounded. Members of the MeK leadership are widely believed to have used intimidation tactics and false pretenses to recruit new members to the camp, who in turn were forbidden from communicating with family members outside the camp.

The MeK has historically refused to cooperate with the Iraqi government or to allow Iraq to exercise its authority inside the camp. The MeK was added to the U.S.'s list of terrorist entities in 1997 and to Canada's in 2005. In December 2010, the Government of Canada completed its two-year review of terrorist entities listed under the Criminal Code, at which time the Governor in Council, on the recommendation of the Minister of Public Safety, decided that the MeK should remain a listed entity.

The Government of Iraq first announced its intention to close Camp Ashraf two years ago, later deciding on the end of 2011 as the deadline. The decision is based on article 7 of the Iraqi constitution, which prohibits the presence of any terrorist entity in Iraqi territory.

Iraq sees the MeK not just as unconstitutional but also as a threat to its national and regional security. The Government of Iraq contends that no government would agree to allow an organization to remain in its territory against the will and laws of the host state. Despite the international outcry voiced by Camp Ashraf's well-organized Paris-based lobby of international sympathizers, the camp's closure is supported by many Iraqis. These Iraqis are not limited to defected MeK members who understand the harsh living conditions in the camp but also include regular Iraqis who associate the MeK with Saddam Hussein's outlawed Baath Party and who have not forgotten its acts of terrorism against Iraqi Kurds and Shiites.

The Iraqi government has provided repeated assurances that Camp Ashraf residents will not be forcibly transferred to a country in which they would face persecution and that they will be humanely treated in accordance with Iraq's laws, constitution, and international obligations. The April 8, 2011, raid by Iraqi security forces that left 36 members of the camp dead was deeply troubling and completely unacceptable. This episode of recent history must not be repeated. However, in the months since then, the Iraqi government has cooperated with the international community to ensure that the security and humanitarian needs of the camp's residents are met. Since the announcement of the closure, the Iraqi government has demonstrated its willingness to cooperate with EU states, the United States, Iraq's neighbours, and Iran in order to resettle Ashrafi residents outside Iraq.

• (1315)

Some 3,400 people reside at the camp, including families with children. A significant portion of the residents who hold dual nationalities have already left Iraq, including nine of eleven Canadians who were repatriated on November 16 and 17. Canadian embassy staff have experienced the Iraqi government's compliance first-hand and attest to the willingness of the government to facilitate the safe transfer of residents to the airport.

The Government of Iraq has also allowed international organizations such as the United Nations Assistance Mission for Iraq, UNAMI, and the International Committee of the Red Cross to visit the camp on a very regular basis. In fact, UNAMI has been visiting weekly of late. These groups monitor living conditions, facilitate communication with family members, and provide supplies for the residents.

However, some of the camp's residents, including two Canadians, still refuse to leave. The Iraqi government is participating in talks with the United Nations on how to move these remaining residents to another location in Iraq, as an alternative to expelling them from the country.

[Translation]

Many of the remaining residents do wish to leave and are applying for refugee status. They are being assessed on a case by case basis by the United Nations High Commissioner for Refugees. The UNHCR has been working tirelessly with the Iraqi government to process asylum requests. The commission eased an original condition for applicants: they are now required only to renounce violence, rather than the MEK specifically. But with less than a month left, time is

running out, and UNAMI expects that a large number of applicants will not be processed in time.

Recognizing this, the UNHCR has asked the Iraqi government to postpone the closure of the camp to allow sufficient time to process all the applications. In his latest report on the situation in Iraq, UN Secretary-General Ban Ki Moon appealed to the government of Iraq to allow more time and to find neutral space for that processing to be done. He also urged the leadership of camp Ashraf to be flexible and cooperative in finding a lasting solution.

[English]

Canada, the U.S., and the EU have been echoing these requests.

[Translation]

So far, the government of Iraq has refused to grant this extension.

[English]

Canada, through our embassy in Jordan, has followed the developments in Camp Ashraf closely through regular visits over the past few years. While the 11 Canadians in the camp had long denied Canadian offers of consular assistance, they finally expressed their desire to leave in June of this year. Officials from DFAIT and Passport Canada worked together last month to facilitate the repatriation of nine of these Canadian citizens from Camp Ashraf. The remaining two decided to remain in the camp.

Our efforts at Camp Ashraf go beyond simply providing consular assistance. Embassy staff members have made numerous visits to the camp, monitoring the living conditions, listening to concerns expressed by residents, and reporting on key events.

I would add that those visits are made despite the considerable risk to the security of our officials given the security environment in Iraq itself.

The most recent visit was on September 26, and an official from our embassy in Jordan will visit the camp again tomorrow, December 14.

DFAIT officials have used opportunities to raise concerns about the safety of camp residents at the United Nations, with European and American colleagues, with officials from neighbouring states, with Iraqi officials in Baghdad, and with the Iraqi embassy here in Ottawa.

Our ambassador to Iraq, who is based in Amman, raised the issue of the camp with Iraqi officials during a visit at the end of November. Minister Kenney raised it with the Minister of Displacement and Migration during meetings in Geneva earlier this month. Our ambassador to the European Union discussed our concerns with the EU special adviser on Camp Ashraf as well. And I and my officials have met several times with the Iraqi ambassador in the last few weeks alone.

Our concerns are in avoiding the forcible refoulement of Ashrafi residents to a country where they would face harm or persecution, and avoiding the possibility of violence around the camp's closure.

We are discussing—with our allies, UNSC members, the UN Assistance Mission for Iraq, and other UN agencies—the best ways to ensure the residents of Camp Ashraf are in fact safe, including such options as stepped-up monitoring, a protection force, or international human rights observers.

CIDA has played an important role, too. In addition to the \$300 million that Canada provided to Iraq's post-war construction, CIDA has provided support to the International Committee of the Red Cross, as well as to the UNHCR.

In the remaining weeks leading up to the closure, DFAIT officials will continue to urge the Government of Iraq to extend the deadline to allow the UNHCR sufficient time to process refugee claims. We will also seek to ensure that the human rights of camp residents are protected during and after the camp's closure.

We will urge the Government of Iraq to ensure that the camp is closed in a way that respects its obligations under international humanitarian and human rights law, and we will be continuing to monitor this situation closely in coming weeks and months.

Thank you, Mr. Chairman.

• (1320)

**The Chair:** Thank you very much.

Am I correct that this is the only presentation and we'll now go to questions? Okay.

We'll start with the government, and I think we have time for six-minute rounds this time around.

Mr. Sweet, would you like to begin?

**Mr. David Sweet (Ancaster—Dundas—Flamborough—Westdale, CPC):** Thank you very much, Mr. Chair.

Thank you for your testimony.

I take it that before you came here you reviewed the testimony of Colonel Wesley Martin, who is a retired United States military officer and whose testimony had quite a number of differences from what we've heard today.

He stated in his testimony that he was a terrorist expert and worked hand in hand with those people who are in Ashraf. He was fully persuaded, as far as he was concerned, that these folks did not fit the profile of terrorists at all. He mentioned that they had laid down their weapons years ago and had renounced violence then, and that he had always had unfettered access into the camp.

Some of the testimony I've heard here of some of the Ashraf residents refusing people access, etc.... Did you feel, after reviewing his testimony, that there were some inaccuracies in that, that he was not really characterizing the situation the way it actually is on the ground?

**Ms. Barbara Martin:** Thank you.

I'll start, but I'll ask my colleague from Public Safety to comment.

I think Colonel Martin was there during a particular period of time, and of course what we are looking at in terms of the behaviour of the MeK are incidents and situations that have happened over a much greater period of time. He is making his assessments from his

encounters and engagements with the individuals at the camp; however, there are many factors that go into making an assessment as to whether an organization is actually engaged in terrorist activities or not.

But I'd ask my colleague from the Department of Public Safety if he could offer some comments.

• (1325)

**Mr. Michael MacDonald (Director General, National Security Operations Directorate, Public Safety Canada):** Thank you for the question.

I did read the statement. I read it with interest. I respect what the retired colonel was saying. Personally, I have never been on the ground at Camp Ashraf, so I would not speculate or comment on what he sees, or what he saw, or his feelings towards that. I can certainly take some time, now or later, to answer the question of...at least the part about listing a terrorist entity, if you prefer.

**Mr. David Sweet:** No, that's fine. I want to address something else now that came up in his testimony.

We see that today the Iraqi government is responsible for the safety for those in Camp Ashraf. Colonel Martin mentioned that the United States had listed them as protected persons and that they had taken full responsibility for their safety. I was not aware that under international law you could actually renounce that and then hand it over to some other government. Is it consistent with international law that they would be named protected persons by an authority and that then the authority would have the capability of leaving that responsibility to another?

**Ms. Barbara Martin:** Thank you. That's a good question.

In fact, the Geneva conventions define who is a protected person in a situation of armed conflict or foreign occupation. The parties to the conflict are responsible for implementing their obligations in that respect. The U.S., of course, had been the occupying power in Iraq after its engagement in that country. In 2009 it handed over jurisdiction to the Iraqi government, which is why the Iraqi government is now responsible for the protection of the individuals in Camp Ashraf.

**Mr. David Sweet:** Okay.

You mentioned in your testimony that the United Nations High Commissioner for Refugees is not asking them to void any membership in the MeK, but simply to renounce violence. Is there some inconsistency in the way you feel they are being treated in that regard, with the UNHCR simply having them renounce violence? If they're listed in several countries, how are they going to find a country that is willing to take them?

**Ms. Barbara Martin:** The UNHCR is responsible for the resettlement of refugees from countries to third countries: those who have entered from their home country into another country and then are seeking asylum in another country. They have chosen to simply ensure the members of Camp Ashraf renounce violence, not necessarily membership in the MeK.

It is the conduct of violence that is the key criteria for determining a person's intent, not simply the membership in an organization, and therefore we have no difficulty with the UNHCR having done that. They are the ones who do the preliminary screening and then seek countries who would be willing to resettle these individuals at that point.

**Mr. David Sweet:** Are you confident, from the observations in Colonel Martin's testimony, as well as from all other sources, and also from our consular visits that have been going on regularly, that this group of people, particularly with the video that is available for the raid that happened to Camp Ashraf and those who were killed...? I mean, if there were any disposition to violence, they certainly would have used it to defend themselves when they were violently killed. Quite a number of them were killed—almost 40 of them, from what I understand—and quite a number of them were wounded.

Are you satisfied today that they pose no threat and that they have changed their ways entirely from those of the past, which you mentioned in your testimony?

**Ms. Barbara Martin:** I'm not in a position to make an assessment as to whether the individual residents of the camp have in fact renounced violence or not. Certainly, I too was appalled in watching that video; it was a very distressing situation to see unfold. It will be up to the UNHCR and then the authorities of each receiving country to determine on a case-by-case basis the situation with respect to each individual in the camp.

• (1330)

**The Chair:** Thank you, Mr. Sweet. Unfortunately, that uses up your time.

We'll go now to Mr. Marston.

**Mr. Wayne Marston (Hamilton East—Stoney Creek, NDP):** I want to thank you for being here today. This is an extremely serious issue.

Having read the testimony, I would suggest to you, sir, that it's worth going online and watching Colonel Martin. He gave very compelling testimony here. It sounds as though, internationally, there are huge inconsistencies with Britain and other countries delisting the MeK.

It struck me, as I was sitting here listening to Mr. Sweet pose his questions, that the revolutionary army in the United States would have been called a terrorist group by the British crown. At some point, the acts of war and the things that have occurred reach an end point and people move on. Colonel Martin said that these particular people had given up their arms and renounced violence, and he described them as his best allies during the time he was there. I certainly don't mean to minimize the views you've taken in any way.

Tom Ridge of Homeland Security is calling for the delisting. It seems there is an almost endless list of people who believe that at this point in history this group should be delisted. A number of witnesses besides Colonel Martin testified that Iraq's leadership, which will be running the country following the U.S. withdrawal, is heavily influenced by the regime in Iran. The belief is that these people will either be murdered or be moved about in the country to make it easier to destroy them.

I find it very difficult to try to express this, because this is something that's going to occur within a few days. This isn't something that's down the road months away so that as a country we have the luxury of sitting here saying we'll wait to see what happens. I know you work for the leadership of our country, and you give them the best advice you possibly can, but is there not somebody prepared to say they believe that these 3,400 particular individuals, who were granted protection by the American government...? It strikes me as strange that the U.S. government would grant protection to people it truly believed were terrorists. There's a contradiction here.

Should we not, as a country, be calling for the delisting of these people by our country and the U.S.?

**Ms. Barbara Martin:** I have just a couple of points, and then, of course, my colleague from Public Safety is the expert on delisting.

You talk about the inconsistencies, and I think on the surface one could say there was inconsistency among the positions of Canada, the U.S., and a few others and that of some of the Europeans. However, I would point out that the decision among the Europeans to delist was made on the basis of a judicial review because of a procedural issue, in terms of the availability of evidence that was given to the MeK itself. I think European governments are still concerned about the intent and the activities of the group.

Secondly, you talk about acts of war. I'm not sure that attacking people, civilians, is considered justified in any context, even within war. I'm also not so sure that attacking the Iranian embassy in Ottawa is considered an act of war and is justified. So there are—

**Mr. Wayne Marston:** I'd like to respond to that, because we're not talking about people who are in Canada or who are free to express themselves, and I certainly would not agree with anybody in Canada attacking either a civilian or a building or an embassy, but in this camp we're studying there are 3,400 unarmed people who are at the mercy of a government that has already previously attacked them and has supported attacks. It's very clear from the testimony we've heard that these people are at risk of being murdered.

Tom Ridge from Homeland Security would have had available to him in that position all the evidence necessary if he believed they should be sustained on the terrorist list. There was nobody else perhaps in the entire world who would have had the kind of access to information that he would have had. Again, the contradiction I'm talking about here is when persons of that rank in those positions—the colonel from the camp and all of the people who have come to the defence.... Even if they still are worthy of being on a terrorist list, if they're unarmed, they deserve the maximum protection that can be given to them, and we have to find a way.

I don't mean to be critical of you, because you're working from the evidence you have at hand.

The other gentleman, Mr. MacDonald, was going to explain.

• (1335)

**Ms. Barbara Martin:** Actually, could I come back on your point?

**Mr. Wayne Marston:** Sure.

**Ms. Barbara Martin:** Because I think it's very important to keep the issue of delisting separate from the issue of protection.

You asked, why did the United States choose to protect a terrorist organization? It chose to protect those individuals because of its obligations as an occupying power to protect all individuals within that territory. Delisting is a very different issue.

Certainly with respect to the protection, we are urging the Iraqi government to provide an extension to the closure of the camp in order to allow the UNHCR to complete its work to resettle in a safe location those individuals who are in the camp as refugees. We are also urging the Iraqi government to honour its obligations and responsibilities to the camp, and we are encouraging the very regular weekly, as I said earlier, monitoring on the part of the UN organization.

So they're two rather separate issues: the protection and the delisting question.

I'll give the difficult question to my colleague.

**Mr. Wayne Marston:** Thank you.

**Mr. Michael MacDonald:** All right.

Thank you for your comments. In particular, you've raised some points about listing and delisting and some of what our closest international partners have done. I would like to go over this just very quickly. I mean, this is a conversation that we could probably have for about an hour, but I'll make it short.

First and foremost, I think, is that countries around the world, and certainly our closest allies, have listing regimes. Those regimes are flexible. Those regimes meet domestic security needs of that particular country. Those listing regimes may be a joining of domestic and foreign policy initiatives and so on, so why one country lists and why one other country delists is not necessarily congruent to what goes on in Canada.

Listing is typically based on intelligence, as you pointed out, but what's unique about terrorist groups, and certainly a list...we approach the list as a living thing. Terrorist groups ebb and flow through time. They change, they morph, and the individuals within are not always static; therefore, a list as well ought not to be static. That is a concept you find in the Criminal Code, in the listing part of section 83.05, and I think that's an important part.

Now, in our domestic listing regime, there is a mandatory two-year review, which you may be aware of, in which the Minister of Public Safety makes a recommendation to the Governor in Council, who comes to a decision on whether or not the entities that are currently on the list ought to remain listed.

However, there are other ways in our domestic regime whereby an entity can become removed or delisted. One is that the entity can apply to the Minister of Public Safety. I'll note that the MeK has not applied in the Canadian case. They did apply in the U.K., the U.S., and the EU.

**Mr. Wayne Marston:** Sir, can I interrupt you for a second?

We have 3,400 people in a camp in Ashraf, and whether or not they're going to apply, follow formalities, and follow.... They're under risk of their lives....

I see that my time's up. I'm sorry.

**The Chair:** That's okay. I think that was in the nature of a comment rather than a question anyway.

**Mr. Wayne Marston:** Yes.

**The Chair:** I appreciate that.

We'll go now to Mr. Hiebert. Following Mr. Hiebert will be Professor Cotler.

**Mr. Russ Hiebert (South Surrey—White Rock—Cloverdale, CPC):** Thank you.

Having listened to testimony on this issue from a number of different sources over the last months, I have to admit that I'm a little confused. Let me just give you my confusions, and then maybe you can sort them out.

On the one hand, officials like you are telling us about all the things you're doing to monitor, to protect, to provide security, and to take some assurance that the Iraqi government will protect them. Yet on the other hand, we hear testimony that's completely inconsistent with that, in this sense: why should we take the Iraqi government's word for it, when we know from previous testimony that the Iraqi ambassador to the United States said in February of this year that his government would protect Camp Ashraf and its residents, and then in April they were attacked and 36 people were killed?

Why is it that whenever the justification is given for Camp Ashraf and its residents to be listed it starts with how they're a Marxist group founded in 1965, how 40 people attacked the Iranian embassy here in Canada in 1992 with sticks, yet it was only 13 years later that they were listed as a terrorist organization, after that attack, or it was 30 years later that they were listed, or 40 years later, after they were founded...? The sense of incongruity just baffles me. If they were so bad because they were a Marxist group in 1965 and they attacked in 1992, why did it take until 2005 to list them?

We had the colonel here last week responding to all of these allegations.

Mr. MacDonald, you said that you read his statement. Did you read his testimony as well?

• (1340)

**Mr. Michael MacDonald:** Yes, I did.

**Mr. Russ Hiebert:** Okay. So you would have heard him explain how the Marxist group split, how they de-armed in 2003, and how they had no weapons to defend themselves when they were attacked, clearly indicating that they have no munitions. All of these justifications that we've been given for them to be listed as a terrorist organization seem to be addressed by multiple high U.S. officials. I just don't understand why they're still listed.

I guess the big concern I have is that I'm under the impression that as long as they're listed, there are limitations on Canada's ability to bring them into the country as refugees. Maybe somebody can answer that question.

So there are two questions there.

**Mr. Michael MacDonald:** Thank you.

I'll clearly take the first question, and on the second part, I'm certainly not an expert on immigration issues or admissibility under the Immigration and Refugee Protection Act, but I can make some statements.

In terms of the listing, it's important to note that the Criminal Code list was created only in 2002. It came out of Bill C-36, the Anti-Terrorism Act, which followed the events of September 11. So we didn't have the Criminal Code list back in the time when this group was active and was doing things, as other groups were active and doing things. I think that's a key point.

Listing is a process. The process is laid out in the Criminal Code. It's a very rigorous process. When the Criminal Code list was created in 2002, the government of the day had many entities about which it could consider listing. Clearly an administrative process was designed to support those decisions.

Because the process was so robust, with independent counsel review, with Governor in Council review, with the Minister of Public Safety having to come to grounds, and with consultations and so on, the listing that you see today of 44 entities could not be done all at once in 2002 or 2003. You have an administrative process that takes a bit of time.

On the comments you typically hear about the group's activities, those in fact are reflected on what is public in the unclassified version of each listed entity on the Public Safety website. So we often talk about activities, or you'll hear officials talk about activities, of the group; those are only activities that are unclassified and can be released. Any other activities that are classified clearly are a cabinet confidence, which are discussed perhaps when the group is being considered by the Governor in Council. That's why you see testimony from, for example, the retired colonel, who is at more liberty to talk about activities, as opposed to what you see here in Canada, clearly because of Governor in Council and cabinet confidence.

In terms of admissibility, what you're talking about is section 34 admissibility under the Immigration and Refugee Protection Act. It is clearly in the area of Citizenship and Immigration and CBSA to determine who is admissible to Canada or not. Once an entity is listed, if an individual is applying to come to Canada as a refugee, for example, that is one of the factors that is taken into consideration when determining whether or not they present a security risk to Canada. That is very different when it comes to Canadian citizens or permanent residents. Again, this is not my area, but you're correct in saying that it is a consideration factor.

• (1345)

**The Chair:** You have one minute left, Mr. Hiebert.

**Mr. Russ Hiebert:** Maybe Ms. Martin could comment on the assertions she is getting and what she is hearing from the ambassador.

What we're hearing is that Mr. Maliki has stated both to European officials and to an Arabic language magazine—I guess that's the media of choice for the ruling party—that he intends to close the camp unequivocally and that he has certain plans for these individuals. He doesn't come out and say they intend to kill them,

but we know from the previous attacks that that would be consistent with their activity.

What assurances are you getting? Also, what degree of confidence can we place in those assurances when they've demonstrated, by their actions, that their assurances don't mean much? As I pointed out in my other question, they promised to protect them in February, but two months later they were being attacked.

**Ms. Barbara Martin:** There is a whole series of issues in your commentary.

First of all, there are extensive ongoing discussions between the UN, the Iraqi officials, and the camp officials to find a solution: an extension, and possible relocation inside Iraq.

To leap to an assertion that the Iraqi government would deal with them in some way, the presumption being that they would be killed, is a leap too far—and one that has not, frankly, been demonstrated.

I concur that what happened on April 8 was appalling, but investigations need to be undertaken to determine exactly what happened, who precipitated the action, and whether or not this was government policy. The Government of Iraq asserts the residents were throwing stones at them as they were making a simple redeployment of the troops. We actually don't know.

**Mr. Russ Hiebert:** Throwing stones is not much of a defence.

Let me just be clear that the assertions are not being made by me. They come from the former Attorney General of the United States, as well as this colonel who actually has on-the-ground experience. They are telling us that their lives are at risk.

**Ms. Barbara Martin:** We are all concerned about the safety and security of the residents of Camp Ashraf.

In our conversations with the Government of Iraq, they are giving us certain assurances that they will be respecting rights that should accrue to the residents of the camp and the responsibilities they have. Since the incident in April, we have seen a step down in the level of violence.

We've also seen a considerable amount of effort on the part of the UNHCR, UNAMI, and the office of the United Nations Commissioner for Human Rights to engage within the camp and to be monitoring. We are not getting reports of violence coming out of the camp at this time.

**Mr. Russ Hiebert:** Are they using loudspeakers, as the colonel testified, to provide psychological torture, forcing them to maintain sleeplessness and to listen to messages of their impending doom? Are they still being denied access to logistics and medical supplies, after being attacked in April?

**Ms. Barbara Martin:** I read the testimony as well, and I actually asked our officials in Amman; I was there two days ago and I spoke to them. These are the officials who go into the camp. They can't verify that that is true. It doesn't mean it's not taking place, but they could not verify that they had witnessed or seen that when they visited the camp.

**The Chair:** Just to be clear, Ms. Martin, are you saying they can't verify whether it's true or untrue? They simply don't have information one way or the other.

**Ms. Barbara Martin:** That's correct.

**The Chair:** Okay, thank you.

We'll now go to Professor Cotler, please.

**Hon. Irwin Cotler (Mount Royal, Lib.):** Thank you, Mr. Chairman.

I want to thank you for your testimony, Ms. Martin. I'm going to deal only with the issue of protection, not the issue of delisting. That is the imminent issue before us.

In November, the Iraqi embassy in Brussels notified the European Parliament of the vision of the Iraqi government on the issue of Camp Ashraf in a 10-point official document. The European Parliament's response, through its president, was that the document was disingenuous and illegal in its entirety, it amounted to a virtual declaration of war on the UN and the international community, and it was a death warrant for the residents of Ashraf. I'm not going to go into the 10-point official document, only the two points that relate to your testimony.

The first point in your testimony is where you say:

The Iraqi government has demonstrated its willingness to cooperate with EU states, the United States, Iraq's neighbours, and Iran in order to resettle Ashraf residents outside Iraq.

The response by the European Parliament on this point is that the Iraqi government has deliberately ignored the extensive efforts of the UN High Commissioner for Refugees, the UN assistance missions in Iraq, the European Union, and the United States, who have bent over backwards to reach a peaceful solution to the Ashraf issues involving the resettlement of its residents but have been blocked at every turn by the Iraqi government. The document is a blatant effort to set the stage for the massacre of Ashraf residents.

The second point that you mentioned, and with this I'll close, was that the Government of Iraq has also allowed international organizations, such as the UN Assistance Mission for Iraq, UNAMI, and the International Committee of the Red Cross, to visit the camp on a very regular basis to monitor living conditions, to facilitate communications with family members, and to provide supplies for the residents.

This is the response by the president of the European Parliament:

It appears as if the massacre of 47 residents, wounding of more than 1,000 others, the barbaric three-year siege of Ashraf, and the denial of medical facilities causing the painful death of sick and wounded patients, is according to the Iraqi Government an integral part of the principles of human rights enshrined in international law.

They made some reference to that in their document as well.

There appears to be a variance between the European Parliament's assessment of the Iraqi position and your assessment of it in the two references that I mentioned today. Can you comment on that?

• (1350)

**Ms. Barbara Martin:** I confess that I'm not familiar with the European Parliament's views on this. However, I have read the most recent report of the UN Secretary-General on the situation in the camp. The UN has officials who are working with the camp extensively, as I have said before. They visit the camp weekly, monitoring and talking to the residents who are present in the camp.

At no point in the UN Secretary-General's report does he allude to the kinds of things that you are alluding to in that EU report.

**Hon. Irwin Cotler:** May I suggest that as part of the overall assessment of witness testimony and documentary evidence, the position of the European Parliament, as expressed through its president, on the Iraqi position and the dangers thereof to the residents of Camp Ashraf be included in your assessment, along with all other assessments that are being made. I think given the fact that we are faced—from the witness testimony we heard—with an imminent threat to the lives of the residents of Camp Ashraf, we owe it to ourselves to assess evidence from all quarters in order to make the comprehensive evaluation that is needed in this regard.

The one thing that came through in the witness testimony that we heard, and in all the documentary evidence that I have read, is the imminence of the threat and the absence of any credibility to be owed to the Iraqi position.

Indeed, shortly after meetings with senior American officials, such as the Secretary of Defense, Mr. Gates, that was when Camp Ashraf was attacked. This warns us that given Prime Minister al-Maliki's visit with President Obama, which is happening as we meet, there may be the imminence of an attack. If precedence be a guide, it would take place after the meeting with senior American officials, giving the appearance that the Americans sanctioned the attack.

I think these are things that we must bear in mind. We don't want to, I think, find ourselves in a position where we are sorry later for what could have been prevented earlier.

Thank you.

**Ms. Barbara Martin:** I take note of your comment, Mr. Cotler, and I appreciate what you say.

As I said, I did read the commentary of Colonel Martin in that respect. In terms of his speculation as to how the Iraqi government might choose to use the visit in the United States to characterize some future action that we don't know whether they will or will not take, I find that speculative at this stage.

**Hon. Irwin Cotler:** Thank you.

**The Chair:** Are you all done...?

**Hon. Irwin Cotler:** That's fine.

**The Chair:** Thank you very much.

We'll go to Ms. Grewal and then to Mr. Marston.

**Mrs. Nina Grewal (Fleetwood—Port Kells, CPC):** Thank you, Chair.

Thank you very much to our witnesses for your time and your presentations.

I have a number of questions here. Let me start with my first one.

The People's Mujahedin e-Khalq Organization of Iran is a listed entity under our Criminal Code. Are you aware of any terrorist activities by the members of this group in Iraq?

• (1355)

**Ms. Barbara Martin:** I'm not in a position to answer that question. I don't know if my colleague from Public Safety is.

**Mr. Michael MacDonald:** I'm sorry. I'm not in a position either to talk about the on-ground activities that go on in Camp Ashraf or by the group. I'm just simply not the expert on that type of foreign activity.

**Mrs. Nina Grewal:** Does the presence of this organization in Iraq threaten the internal security of Iraq?

**Ms. Barbara Martin:** I would suggest that the nature of the activity at Camp Ashraf.... They live on the camp; it's a community in a camp. What do they do beyond that? Do they enter or exit...? I am simply actually not in a position to say. Iraq seems to think that they do present a threat to them, as well as to regional security, and I think we need to trust them—it is their country.

**Mrs. Nina Grewal:** Iraq contends that allowing Camp Ashraf to remain is effectively interfering in the internal affairs of a neighbouring country. Would you agree with that?

**Ms. Barbara Martin:** I'm not in a position to comment on what activities Iran might be engaged in inside Iraq.

**Mrs. Nina Grewal:** Here is my next question. Since Iraq took responsibility for camp security from the Americans in 2009, there have been reports of violent confrontations and ill treatment by Iraqi security forces against residents of the camp. Is there any truth behind these allegations?

**Ms. Barbara Martin:** I'm not able.... It would take a judicial process to determine the truth behind the allegations, and I simply am not in a position to do that.

**Mrs. Nina Grewal:** I see.

It has been suggested that some residents of the camp have been forced to remain there against their will by the members of the People's Mujahedin e-Khalq Organization. Are you aware of any evidence to back up this claim?

**Ms. Barbara Martin:** We've heard similar rumours, but I don't have evidence to that effect. Certainly with respect to those Canadian citizens who were resident in the camp, the Government of Canada had offered consular assistance to them over an extended period of time. The first time they chose to take advantage of that was in June, and there did not seem to be any problem with their decision to leave the camp at that time.

**Mrs. Nina Grewal:** In your opinion, what can be done about Camp Ashraf and its residents? Are its residents in imminent danger? If so, what can the international community do about it to help these people in their urgent need?

**Ms. Barbara Martin:** I think there is a series of things we are doing, which is continuing to draw attention to the need for the Government of Iraq to respect its responsibilities under international law. In particular, we make these *démarches* with the Government of Iraq and its officials, supporting the UN engagement there, ensuring that they are able to monitor the ongoing situation in the camp, and supporting the work of the UNHCR in assessing the individuals for refugee resettlement as well.

**Mrs. Nina Grewal:** Is there anything you would like to say, Mr. MacDonald?

**Mr. Michael MacDonald:** No. I'm fine.

**Mrs. Nina Grewal:** Do I still have some time, Mr. Chair?

**The Chair:** You do.

**Mrs. Nina Grewal:** I'll pass on my time to Mr. Sweet.

**Mr. David Sweet:** I've exhausted my questions, but certainly if any of the opposition have extra questions that they'd like to capitalize on....

**The Chair:** Mr. Marston, you have, but would you mind if I ask something first?

**Mr. Wayne Marston:** No. Go right ahead, Chair.

**The Chair:** Thank you.

Mr. MacDonald, you mentioned that there are a number of ways of getting off the registration list and that a group can approach a country to request that it be removed from the list. They can approach us.

We haven't been approached by the MeK. Have we made any effort to inform them of the fact that they can approach us?

**Mr. Michael MacDonald:** I'll answer that in a couple of parts. There are actually four ways an entity can be delisted from the Criminal Code list. Three of them are spelled out in the actual Criminal Code.

The first way to be delisted is through the statutory requirement for a two-year review. In the case of the MeK, they were listed in 2005. They went to the 2006, 2008, and 2010 two-year reviews. Now they are obviously up, should they remain on the list, for the 2012 review. There's a statutory requirement with a decision by the Governor in Council.

Next is the one you mentioned, Mr. Reid, which is on application.

Another way would be on an application that is rejected, meaning the entity could move to a judicial review. Under that the court could order, having gone through a process, that the entity be delisted or the court could agree with the decision for it to remain listed.

Of course, there is always the flexibility in our system for a proactive decision by the Governor in Council to delist an entity outside of those other three mechanisms.

Now, on the question of what is or is not public, all these processes are public. The Criminal Code is available. And, no, I'm not aware of any government official reaching out to an entity to tell them or to inform them of this issue.

● (1400)

**The Chair:** All right. That answers my question.

Mr. Marston, go ahead, please.

**Mr. Wayne Marston:** Thank you, Mr. Chair.

With regard to one of the points that I think Mr. MacDonald made, I think spending a lot of time on listing or delisting isn't really helpful in the situation we're in today. Several people who have come before us have said that Mr. Maliki is prepared to murder these people. I'm going to put it in the bluntest of possible terms.

Mr. Cotler just gave a listing of the EU's views and compared those to what we heard about the judicial process—which is, in my opinion, being minimized—about how they were delisted.

Ms. Martin, I was astounded—and I may have heard you wrong, and I want to come back to you to give you the chance to correct me if I am wrong. It seemed to me that in your testimony somehow you said that stone throwing was some kind of justification for armed people murdering people in that camp. I certainly want to give you a chance to correct that, because I may have misunderstood you. I want to give you every opportunity on that, in case someone else might have as well.

**Ms. Barbara Martin:** No, I simply said there needs to be an investigation. There are always multiple sides to any story. I have said several times in my testimony that what I witnessed on the video, what occurred, was shocking and appalling. There is no question. There is a perspective from the Iraqi government that needs to be investigated, and what exactly happened needs to be determined.

**Mr. Wayne Marston:** I'm glad I gave you that opportunity, because it did sound that way to me. I didn't think it was possible, but I wanted to be sure.

I think it was in somebody's testimony here—it may have been in Colonel Martin's, but it has kind of all run together in my mind at this point—that most of the original leadership of the MeK has been executed. Is there any evidence that amongst the people in this camp there are some who were directly involved with international terrorism in any way? Can we name somebody? That inconsistency in the Americans offering them protected persons...if that were the case, it strikes me as very—

**Ms. Barbara Martin:** It's misleading. Regardless of what someone has done, they were offered protected person status, because that was the legal obligation they had.

**Mr. Wayne Marston:** Okay, but could somebody answer the question? Are we aware that any members of that former leadership are in there?

**Mr. Michael MacDonald:** To be honest, and with respect, I think that's a question that we here can't answer. I think that's something for an intelligence or law enforcement agency—

**Mr. Wayne Marston:** From our standpoint, Mr. MacDonald, we're not truly aware of the sources of your information or of how you reach your conclusions, so we're kind of grasping at things. It strikes me again that there is an inconsistency in the reason that group is still listed as a terrorist group. If some of the actual participants who were involved were still there, you could understand to some degree concerns about that. But if we can't answer that, we can't.

**Ms. Barbara Martin:** Perhaps it's important to understand that the actual leadership of the MeK is currently based in Paris. The people who were at Camp Ashraf are the people who happened to be there, but they do not represent the totality of the membership of the MeK. The MeK extends beyond the borders of Camp Ashraf. They were disarmed—they didn't voluntarily give up their arms—in 2003. We're looking at an organization that as a whole extends well beyond the actual circumference of Camp Ashraf alone.

**Mr. Wayne Marston:** Again, that was part of the reason I said maybe it was better that we don't talk about listing or delisting, but instead talk about the 3,400 people who are in the camp. If you're telling me the leadership is outside of the camp, it's almost like that

particular group of people is being held responsible for things well beyond their control.

On the one hand, we have Mr. Maliki who has said very clearly it is his intent to destroy these people. On the other hand, you have the influence coming out of Iran that very clearly wants these people dead. We've had a lot of testimony here, from David Matas and others, that talked about protecting the people so they don't go back to Iran, but as long as there's an Iranian influence over the Iraqi government of Mr. Maliki, they're probably facing as much risk right where they are as they would face if they went to Iran. That's the whole purpose of trying to focus some attention on this particular issue.

● (1405)

**Ms. Barbara Martin:** This goes to the point that in resettling the individuals who are in Camp Ashraf, it's a case-by-case process, where interviews are conducted, histories are taken, and the UNHCR makes its assessments based on its professional role and its mandate.

**Mr. Wayne Marston:** I agree. Colonel Martin made the suggestion that the people could be moved to U.S. camps in the United States; then the process of where they would be dispersed to could be taken care of. But their immediate safety would be ensured that way.

I'm not so sure whether that's an area you would want to comment on at all, but that was his testimony before us.

**Ms. Barbara Martin:** That would be up to the U.S. government to determine whether it wished to do that.

Normally, under refugee situations, you prefer to do the selection on-site. The efforts right now are to get an extension from the Government of Iraq to allow the UNHCR to make those determinations, and then to find countries that are prepared to accept them.

**Mr. Wayne Marston:** Thank you, Mr. Chair.

**The Chair:** Thank you, Mr. Marston.

Normally, we would have a final six-minute round for the Conservatives. We're running out of time, but I will allow a one-off to Mr. Hiebert.

**Mr. Russ Hiebert:** Thank you.

I just wanted to provide one more opportunity for you all to respond to the question I asked earlier.

If they are a terrorist organization, then why are we so concerned about them? Why are we making weekly visits? Why are we repatriating Canadian citizens who are terrorists? Why are we sending UNAMI and the Red Cross? Why are we seeking assurances for their protection if they're a terrorist organization?

**Mr. Michael MacDonald:** It's an excellent question, and I'll make an overall comment.

Under our system of listing, it is not a crime to be a listed terrorist entity. There's no punishment for that. Listing serves many purposes: dealing with the financing of terrorism, placing a prohibition on people dealing with an entity, and letting the public know who the government considers to be a terrorist entity as well as the consequences that flow should you support.... That follows the UN International Convention for the Suppression of the Financing of Terrorism.

So it's very important, and what you're saying...we make the statement that it's not a crime to be listed. It's not a crime to be "a terrorist"; it's the activities you undertake thereafter.

I'll turn to Foreign Affairs.

**Ms. Barbara Martin:** That's an excellent response.

**The Chair:** I might just pursue this a little bit.

There is an analogy that occurs to me with another set of hearings we have under way, and that's the situation in Sri Lanka. At the end of the civil war in Sri Lanka, tens of thousands of people were rounded up into an ever-decreasing area geographically, the Jaffna peninsula. The people who were fighting against the government there were the Tamil Tigers. The people who were trapped in there were just Tamils. Some of them, I'm sure, were Tigers—in fact, I know some of them were—but the majority were just people who were trapped.

This sounds a lot like this situation. These people have been here for a long time. Whatever their individual political alignment may be is an individual question, and we seem to be conflating the status of the organization with the individuality of these people. They're just people, and they're probably going to be dead people pretty soon; that's our worry.

That wasn't really meant to invite comment, but I'll allow any if you have it.

**Ms. Barbara Martin:** I think we understand fully that these are individuals, which is why we have acted from a point of principle. First of all, we've provided assistance and offers of assistance to all those in the camp who are Canadian citizens; there are 11 of them. Two decided to remain.

Our sense of obligation is to press the Government of Iraq to live up to its obligations to protect and ensure the safety of those individuals. UNHCR is approaching each of those individuals as an individual for resettlement. There is a big difference between the sense of obligation and duty for protection and the issue of the listing of the MeK as a terrorist organization. I thought Mr. MacDonald's explanation on that was extremely useful, and it helped to clarify the distinction.

But the humanitarian response and the consular response are offered to people in need on the basis of those individual needs, not on the basis of the listing.

• (1410)

**The Chair:** Thank you.

We thank our witnesses today. We appreciate your testimony.

That concludes this part of the proceedings.

*[Proceedings continue in camera]*

• (1410)

\_\_\_\_\_ (Pause) \_\_\_\_\_

• (1415)

**The Chair:** This is to confirm that we adopted the motion—which I will not read into the record because doing so would take too long—dealing with Camp Ashraf. This motion dealing with Camp Ashraf was adopted unanimously at our in camera meeting.

The meeting is adjourned.







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