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PEOPLE'S MUJAHEDDEEN

U.S. Sees No Basis to Prosecute Iranian Opposition 'Terror' Group Being Held in Iraq

By DOUGLAS JEHL

WASHINGTON, July 26 - A 16-month review by the United States has found no basis to charge members of an Iranian opposition group in Iraq with violations of American law, though the group is listed as a terrorist organization by the United States government, according to senior American officials.

The case of the group, the People's Mujahedeen of Iran, or Mujahedeen Khalq, whose camp was bombed by the United States military in April 2003, has been watched closely as an important test of the Bush administration's policy toward terrorism and toward Iran.

About 3,800 members of the group are being held in de facto American custody in Camp Ashruf, about 60 miles northeast of Baghdad. The group remains on the United States terrorist list, though it is not known to have directed any terrorist acts toward the United States for 25 years. But it does stage attacks against Iran, which has demanded that the Iraqi government either prosecute them or deport them to Iran.

But senior American officials said extensive interviews by officials of the State Department and the Federal Bureau of Investigation had not come up with any basis to bring charges against any members of the group. In a July 21 memorandum, Maj. Gen. Geoffrey D. Miller, the deputy commanding general in Iraq, said its members had now been designated "protected persons" by the United States military, providing them new rights.

The American approach appears to reflect the limits of the government's counterterrorism policy. In the case of the People's Mujahedeen, the United States does not appear to have evidence to charge individual members of the group with acts of terrorism, but it also appears unwilling to surrender its members to their enemy, Iran.

Under the Fourth Geneva Convention, which governs treatment of civilians in wartime, "protected persons" are those who fall under the control of an occupying power or a country involved in the conflict. Among the most significant rights

they are granted are protection against collective punishment and against expulsion.

The formal American determination came after members of the group signed an agreement rejecting violence and terrorism, General Miller said in his July 21 letter, addressed to the "people of Ashraf." That agreement "sends a strong signal and is a powerful first step on the road to your final individual disposition," the general's letter said, according to a copy that was made available to The New York Times.

The State Department said Monday that the determination of the status of group in Iraq did not affect its designation as a terrorist organization. The 3,800 members at Camp Ashraf are still being vetted to determine whether any took part in terrorist activities, said Adam Ereli, the department's deputy spokesman.

But in the memorandum, General Miller struck a warm tone, saying he was "writing to congratulate each individual living in Camp Ashraf" on their status. Senior American officials said it was still possible that some members of the group might be charged with crimes in European countries, but that they did not expect any of them to be charged in American courts.

"A member of a terrorist organization is not necessarily a terrorist," a senior American official said. "To take action against somebody, you have to demonstrate that they have done something."

Muhammad Mohaddessin, a senior official of the People's Mujahedeen, said in a telephone interview from Paris on Monday that the absence of American charges against members of the group, after months in which they have been held, should raise questions about the organization's terrorist designation.

"I think the fact of the matter is that there is no reason for keeping the Mujahedeen on the terrorism list at all," Mr. Mohaddessin said, "because if these thousands of people who are in Iraq are not terrorists - when they all have been screened, and no terrorism link has been found - then really there is no basis whatsoever for accusing the Mujahedeen of being a terrorist organization."

The American military has kept the members confined to their camp since April 2003, when the organization signed an agreement with United States commanders. Their designation as "protected persons" reflects a final determination that they were not involved in acts of belligerence against the American military during the war, American officials said.

The designation would make it all but impossible for members of the group to be extradited to Iran, senior American officials said. In December, the interim Iraqi government ordered that members of the group be expelled, but the move was opposed by the United States, and the directive was never carried out.

Some opponents of Iran, including dozens of members of Congress, have argued that the People's Mujahedeen serves as an effective source of pressure on the Iranian government and should be rewarded, not punished, by the United States.

Nevertheless, Mr. Ereli, the State Department spokesman, said the group "continues to be a designated foreign terrorist organization," a status that was imposed by the Clinton administration.

He said that "we will continue to treat individuals who can be determined to have been involved in terrorist incidents consistent with the laws that apply." But privately, senior American officials noted that it has been more than 25 years since members of the People's Mujahedeen were last believed to have been involved in attacks against the United States, and that most of its recent violent acts were directed at Iran.

In Iran, a government spokesman, Abdollah Ramazanzadeh, said any American move to grant the People's Mujahedeen protected status would undermine the United States' claims to be fighting terrorist groups. "I hope those who claim they are combating terrorism prove the truth and confront the ones who have committed extensive crimes against the Iranian nation," he said.

A senior American official said the United States opposed Iran's request that members of the group be handed over for trial because "we have real questions about the fairness and transparency of justice" there.

Until the American invasion of Iraq last year, the People's Mujahedeen maintained armed camps near the Iranian border that included tanks, artillery and other modern weapons. The group had operated inside Iraq since the late 1980's with the support of the Iraqi government.

The American bombing raids on the camps represented the most aggressive approach by the United States in the handling of the group. It was followed by a gentler approach, including prolonged cease-fire negotiations and a cordial relationship between the group and the American military police units that have guarded the camp, preventing members from leaving except under American military escort.