International conference in Paris - July 20, 2011

Displacement of Ashraf residents inside Iraq is a prelude to another humanitarian catastrophe

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Governor Howard Dean: People from Ashraf must be moved, not to another location in Iraq which is a death sentence for those 3400 individuals. They must be allowed to go to Europe and Canada, USA and other countries.

Louis Freeh: When the organization was put onto the foreign terrorists’ organization in 1997, I happened to be in the FBI. Nobody ever consulted us, by the way, from the State Department, or asked our opinion whether or not we thought this organization should be on the list.

Prof. Vera Gowlland-debbas: Human rights and all these violations are no longer recognized as part of domestic jurisdiction. It is important to underline that even where international law cannot be enforced, it is very important to reiterate these rights and to use them as one aspect, of course, of the diplomatic and political mechanisms that will put them into implementation.

Garcés: A former president of the International Court of Justice, Mr. Bedjaoui has addressed the United Nations Secretary-General and in a legal opinion explained what are the obligations and possibilities, with a 10-point plan to address the Security Council.

Anne-Marie Lizin (Chair): We are here from different countries, different political tendencies, but we have one common issue which brings us together: the respect for human rights and the rule of law. I’m sure you have followed all these ceremonies of Srebrenica. It was, even at the time of Srebrenica, a massacre happened. It was not very difficult to understand what was the objective against the Muslim people in Srebrenica. And especially against the men. It is urgent to strongly reject a suggestion, of relocating residents of Ashraf within Iraq, and also ... one of the urgent objectives is to provide immediate protection for residents of Ashraf by setting up a UN team in Ashraf on the basis of 24h/7d/W.

3rd report of the Secretary-General pursuant to paragraph 6 of resolution 1936(2010). clauses 49 and 66 is related to Ashraf.

49. UNAMI continues to monitor the humanitarian and human rights situation in Camp New Iraq, formerly known as Camp Ashraf, where some 3,400 members of the People's Mujahedeen Organization of Iran reside. On 7 and 8 April, Iraqi security forces entered the camp and assumed control over the northern side. Violence ensued and 34 residents of the camp died; more than 70 were wounded. On 9 April, the Government of Iraq reiterated its firm determination to close down the camp by the end of 2011. UNAMI and the United Nations High Commissioner for Human Rights called for restraint and urged the Government of Iraq to refrain from the use of force contrary to international law. They also called for a thorough investigation into the incident which remains pending.

66. I am concerned by the loss of life at Camp New Iraq during the violent incident on 7 and 8 April. I urge the Iraqi authorities to refrain from the use of force, and to ensure adequate access for camp residents to goods and services. I also welcome the assurances by the Government of Iraq after the incident that it is committed to finding a peaceful solution which is acceptable to all...To this end, I call upon Member States to help to support and facilitate the implementation of any arrangement that is acceptable to the Government of Iraq and the camp residents.
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On Wednesday, July 20, in an international conference in Paris, a panel of prominent European and U.S. Politicians, together with scholars of international law, discussed the responsibilities of the United States and United Nations regarding Ashraf. They stressed that clerical regime’s relentless attempts to annihilate Ashraf residents have converged activities to find a solution to this humanitarian crisis into an internationally urgent matter. The U.S. Plan for relocating Ashraf residents inside Iraq was rejected in the conference as a plan that would pave the way for another humanitarian catastrophe. The speakers in the conference which was presided over by former speaker of Belgian Senate Ms. Anne-Marie Lizin were: Howard Dean, Leader of Democratic Party 2004-2009; Louis Freeh, Federal Bureau of Investigation Director 1993-2001; Yves Bonnet, honorary Governor and former Chief of the French Counter-terrorism Organization (DST); French members of Parliament Jean-Philippe Maurer, Jean Dionis du Sejour, Abdollatifou Aly ; Judge François Colcombet, founder of the French Committee for a Democratic Iran; Jean-François Legaret, Mayor of 1st district of Paris, and Prominent Jurists Honorable Juan Garces and Vera Goulant-Debas, professor in International Law from University of Geneva and Francoise serves executive director of the International Jurists in Defense of Ashraf.

Maryam Rajavi, Mrs. Maryam Rajavi, President-elect of Iranian Resistance, as the keynote speaker, is on the conference stated: Now that the power struggle at the of the Iranian regime hierarchy has intensified, and the Syrian dictator as the regime’s strategic ally, is on the verge of downfall, the Iranian regime is intent on destroying its organized opposition at any price and in any way possible. Crimes and catastrophes in Ashraf take place under the pretext of Iraqi government’s ‘sovereignty’. How could possibly Ashraf residents be under the protection and responsibility of a government whose Chief of Armed Forces, Prime Minister, Interior Minister, Defence Minister, Minister of Interior Ministry’s Security, and Head of Intelligence are de facto the same man? The Prime Minister that together with his Commander of Ground Forces and other elements, are under judicial prosecution by the Spanish judicial system for committing two massacres in Ashraf. No one can possibly defend the idea that protection of a group of people be trusted in the hands of their murderers. This is illegal, irrational, immoral, inhumane and unacceptable.

In her finishing remarks Maryam Rajavi stated: Yesterday, the United Nations General-Secretary, in his report to the Security Council, voiced his concern for the loss of lives in forcing the residents to leave Iraq authorities the right to refrain from the use of force, and to ensure adequate access for camp residents to goods and services.” He then adds: “I therefore encourage all stakeholders involved to increase their efforts to explore options and seek a consensus solution that ensures respect for Iraq’s sovereignty while also being consistent with international human rights law and humanitarian principles. To this end, I call upon Member States to help to support and facilitate the implementation of any arrangement that is acceptable to the Government of Iraq and camp residents.”

The President-elect of the Iranian Resistance said that Ashraf residents accept all the observations put forward by the Secretary-General, in full harmony with what the UNSC.

At the end Mrs. Rajavi stated: “The key condition to succeed is for the United States to assume responsibility and to pay the minimum price for protection of the lives of innocent and defenseless people with each and every one of whom it has signed a protection agreement until their final disposition.” She outlined the following arrangements as a realistic and feasible solution:

1. Expressing support by the U.S. and the EU for the European Parliament solution for resettlement of Ashraf residents in third countries;
2. Providing and guaranteeing Ashraf protection by U.S., EU and UN, especially the UNCHR and the UNHCR until resettlement of all residents is completed;
3. Permanent positioning of UN observers in Ashraf until the end of resettlement;
4. Investigation over the April 8th crime under the UN auspices to prevent recurrence of the catastrophe;
5. Notifying the Government of Iraq to comply with the UNSC’s call to end use of force and violence, to end antihuman siege and psychological torture, and to move out armed forces from Ashraf.

Howard Dean, The US government is responsible for what happens in Ashraf and we are going to be responsible whether we say we have responsibility or not. Prime Minister Nura Malaki is a war criminal and what happened at Ashraf is a war crime, and the US has an obligation to do something about it. People from Ashraf must be moved, not to another location in Iraq which is a death sentence for those 34,000 individuals. They must be allowed to go to Europe and Canada, USA and other countries. We, the USA military, must ensure their safety as the Iraqi army, which used to be our allies, are now human rights violators we must do that. They must be relocated by the end of the year. We must take them off the terrorist list so there’s no more ridiculous political excuse for not doing what we need to be doing, and we must stand up, and call out the actions of this regime.

Louis Freeh, We love our country, but our country has made serious mistakes in this region, and it is making life-threatening and fatal mistakes with respect to Ashraf and the policy that we’re pursuing.

You know, when the organization was put onto the foreign terrorists’ organization in 1997, I happened to be in the FBI. The FBI, as you probably know, is responsible for counter terrorism investigations outside the United States. And that is one of the responsibilities we have. Nobody ever consulted us, by the way, from the State Department, or asked our opinion whether or not we thought this organization should be on the list. So they must de-list MEK. They must protect the residents of Camp Ashraf by whatever means are necessary. And they must support, more importantly, the freedom organizations and the freedom fighters, particularly the MEK, in the future of all these people who are at risk. We very much urge our State Department to act because not acting is not simply inaction in this case. So this has become a license to kill, a license to commit war crimes.

Yves Bonnet, Having visited Ashraf several times, the first thing to say is that I find personally that Ashraf is fine where it is close enough to the Islamic Republic of Iran to annoy it - I use a vague word that everyone will understand, but of course, if everyone agrees and if the resistance accepts -as it seems to be a precondition to me - it could actually be considered to be moved. But for this move, I think we should ask a number of preconditions.

The first precondition is to acknowledge the rights of Camp Ashraf, their dignity and the dignity of the Iranian resistance. We therefore need effective support for the European plan which was approved by Parliament in Strasbourg, which while not perfect, raises the preconditioned protection of the people there, before moving whether contemplated to Europe or America.

The second thing I would say in closing is that in any movement of the Camp Ashraf, the true place of people of Ashraf, the true place of Resistance of Iran is in Iran and this is where they obviously need to be brought, not to continue the fight, but to restore for a true democracy, for all our sakes and for the stability of the entire Middle East.

Mayor Jean-Francois Legaret, I am sorry not being able to participate in
President-elect of the National Council of Resistance of Iran and Former speaker of Belgium parliament

Maryam Rajavi

Anne-Marie Lizin

parliament

on my way to Ashraf.

The first time I was arrested was in 1982 in my hometown of Kordkoui. More than 50 supporters of the PMOI were executed and hundreds of others trapped in this small town. The second time I was arrested in 1993, imprisoned for 13 years until 2006, and I was horrifically tortured. My last arrest was in 2009 in the border town of Marivan on my way to Ashraf

Sadegh Sistani and Mahine Saremi, two political prisoners recently escaped from Iran. Sadegh Sistani said: Three times I tried to go to Ashraf, without success. During my last attempt, I was arrested. I spent 17 years in prisons of the mullahs. Three months ago, I managed to flee Iran. The first time I was arrested was in 1982 in my hometown of Kordkoui. More than 50 supporters of the PMOI were executed and hundreds of others were trapped in this small town.

Abdoulatifou Aly MP, It is with the intent to annihilate the organized resistance that on 8 April, the Iraqi forces at the orders of the mullahs, have launched an attack against Camp Ashraf. For several months, the French parliamentarians had alerted the Elysee Palace and the Ministry of Foreign Affairs, on the risks of a humanitarian disaster incurred by the civilian population of Camp Ashraf. The tragedy of April 8, unfortunately, has proven them to be right. The French government has a duty to do everything possible to help them and avoid further bloodshed. We must, in particular, act through support to the European Parliament plan.

Jean-Philippe Maurer MP, I speak on behalf of a vast majority of my colleagues, with a concern of ours for many years, that is to say the humanitarian situation of residents of Camp Ashraf.

On the occasion of the ceremonies of July 14, the President of the Republic, Nicolas Sarkozy, said, rightly, that France, the great country that holds values, cannot allow massacre of the innocents. That is an encouragement to thousands of parliamentarians, lawyers, NGOs worldwide, who today, rely on the responsibility of Governments and the UN that Ashraf residents will not suffer from the plight of victims of Srebrenica, which a few days ago we commemorated the sad anniversary.

The 3400 residents of Ashraf are 3400 peaceful resistance activists, 3400 awakened consciences, 3400 mobilized consciences. Well, we tell them: not only you are not alone, but we are with you; our mobilisation is just only beginning.

Jean Dionis du Sejour MP, I would like to make three points here.

First, a condemnation of what happened on April 8, 2011, when 2,500 Iraqi soldiers have forced themselves abruptly into a camp, and it must be said and remembered with horror at the facts. Second thing: how to avoid another April 8, 2011. Madam Professor, you did it very rigorously. Let me give you the advice of a parliamentarian. It is true that our era requires multilateral decisions. It requires a mandate and more than anything a UN mandate. The work must be done first at the United Nations. Third, The United Nations must have a military arm. And here it is necessary that countries who are capable take their responsibilities. I wish and I campaign so that there will be the same path, the same route for Ashraf, an international mandate, first at the UN, then the United States, who are in action in Iraq, would take their responsibilities. Be assured of our support!

Judge François Colcombet, Madam President, I really feel it is an honor to open this session. I represent the French Committee for a Democratic Iran (CFID). For our American friends, Belgian, Spanish, and other friends who do not know all the intricacies of French life, I tell them that this committee was composed of a former minister, Alain Vivien, a senator, Jean-Pierre Michel, and myself, who have been an MP and judge, and of many jurists and French politicians. We are more precisely dedicated to closely monitor the many legal procedures that the Organization of People’s Mojahedin of Iran has gone through. I look to our American friends: the ball is now in their court, since the struggles they are facing now are quite similar to those we had to undertake.

I thank our English friends, who have struggled hard so that the English Parliament omitted your listing, as the European lawyers had required. And finally, before moving on to the floor, I will ask the Chairwoman to play her role, Anne-Marie Lizin, who is honorary president of the Belgian Senate.

François Colcombet

Mayor of 1st district of Paris

Judge François Colcombet, former Judge of the Court of Cassation (CFID)
I was asked to present a legal opinion that I drew up for the people of Ashraf regarding their rights and the obligations of others towards them under International Law. It is very important.

What is this framework all about?
First of all, I would like to underline the protected status of the residents of Ashraf. They are protected – “protected status” is very important because from status flow, as I said, rights and obligations – and they are protected on three counts. They are protected persons under the fourth Geneva Convention. They are protected as long-term resident aliens in Iraq. They are protected as refugees. And also, the camp as a whole has a protected status on the International Law. And what I would like to underline in particular is the responsibility under International Law of all states, in particular the USA, the European Union and the United Nations, since the situation, the rules and the norms that underlie this legal framework are a matter of concern for the international community as a whole. We have seen a development in International Law whereby some fundamental norms – they are fundamental for the interest and the values of the international community as a whole – have been underlined and therefore, they are of concern to every state, and of course, in particular, to the United Nations.

First of all, status of protected persons under the 4th Geneva Convention. I think you’ve heard quite a bit about that. You’ve heard that they were granted by the US Military in 2004 protected status. Now that means, of course, that the 4th Geneva Convention came into play and in particular, the prohibition of individual or mass forcible transfers as well as deportation from the Iraqi territory. The ICC status also reflects the crucial nature of the prohibition of deported persons.

Now, the second type of protective status is of course as resident aliens, and therefore, Under human rights law because Human rights law applies in addition to humanitarian law. Now Under the former Iraqi government, people of Ashraf benefited from certain acquired rights, the right to property and so on and Iraq is a party to the covenant on civil and political rights, as well as the economic social and cultural rights.

The concepts of rule of law and responsibility to protect have now become major aspects of international relations.

The Iraqi government has sought to deny any legal status to Ashraf residents and this is unacceptable.

The crimes that have taken place in Ashraf must be condemned and those who are the perpetrators must be prosecuted in The Hague and imprisoned in the United States or France.

Mr. Garcés. It is with a sense of responsibility, I have to say, that we are making a great effort, you are making a great effort, to prevent massacres at Ashraf, and also to call to responsibility those who have committed crimes in the attacks of 2009 and 2011, and cause the permanent torture that is imposed on all residents.

We are in a situation where the solution depends on many factors - some have already been mentioned - but where the law has also a role to play, first to prevent crimes, and then to punish those responsible and in a manner that it would be impossible to avoid...

The current government of Iraq has sought to deny any right, any legal status to Ashraf residents, and this is unacceptable. Their status is that of protected persons under the 4th Geneva Convention. This Convention was signed by Iraq, by Spain and by more than 100 countries. It gives jurisdiction for prosecuting serious violations to all states that have signed it.

The Spanish court has opened an investigation into the first massacres in July 2009, and it ordered General Al Shemmar, who commanded the troops in July 2009, to come and explain, and to defend the charges and evidences brought against him. He did not come.

There was a second summons. The Iraqi government responded by saying: “We do not recognize the authority of the Spanish court and we will not cooperate.”

The Spanish court said that the Iraqi court had priority: “Provide us with evidence that you have started an investigation”, it said, and from that moment it was the Iraqi court that had to continue the investigation. But as you know, no investigation has been carried out by Iraq so far. So the Spanish court continued its path, and after seeing the evidence gathered on the attack in April, the court agreed to expand the investigation from the general who commanded the troops to a lieutenant-colonel and to an adjutant who attacked the residents and killed several people - up to 35.

Also, since we have evidence that the attack was ordered and agreed by the Prime Minister, the investigation was also extended to the Prime Minister of Iraq.

Of course, the Prime Minister, by its function, has immunity at foreign courts, and this immunity is respected by the Spanish court as long as he remains in office.

Professor Eric David, who, as Professor Gowlland-Debbas has also done, has produced a consultation on the events of April 8, 2011, assessed in the light of international law. Of course, he recalled several times, as has been said, the protected status of political refugees, the status of long-time residents in the territory of Iraq, and recalled the violence perpetrated against the residents of Ashraf since July 2009, both through lethal actions in July and last April, but also by attacks, torture, medical blockade, and ongoing violence perpetrated against civilian populations. These medical blockades have also led to the deaths, for repeatedly refusing care of different members and residents of Ashraf.

The question he posed, which is in line with the questions posed by Professor Gowlland, was to ask: what is the legal nature of the clashes between Iraqi forces and residents of Camp Ashraf, which are therefore considered a civilian population?

He raised the question of whether the clashes that were triggered by Iraqi forces were comparable to an international armed conflict or internal domestic conflict. Under international law, of course, he concluded that it was not, when it comes to the status of PMOI, an armed conflict between the High Contracting Parties. The PMOI cannot be regarded as a state. It was not, either, a non-international armed conflict, because it is not disputed that since 2003 residents of Camp Ashraf have been disarmed under an agreement with the US authorities.

However, he believed that international humanitarian law remained no less applicable in Camp Ashraf and the application of article 45 of the Geneva Convention to the US authorities imposed a special responsibility in the transfer of the responsibility of Camp Ashraf to the Iraqi authorities. A transfer, which, as we saw today, was made under conditions and a commitment by the Iraqi authorities that they would not use the violence they are now made accomplices to. And he ended this opinion by saying that under international law all States undertake and agree today to prosecute the perpetrator of these facts if they are found in the territory.