



17 July 2012

H.E. Ban Ki-moon  
Secretary General  
United Nations  
New York, NY 10017

ACTION

*Mr. Feltman*

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Dear Secretary General,

On the eve of Security Council session on Iraq, I wish to draw your attention to the developments in camps Ashraf and Liberty during the period between the two sessions of the Council.

To this end, I am sending you the report prepared by the International Committee of In Search of Justice (ISJ) regarding developments related to these two camps in the time period April to July 2012, and request your strict attention and that of Council's members to this report; particularly because our experience over Camp Ashraf during the past 10 years, and especially since last December and after signing the MOU, shows that numerous Iraqi, Iranian and American interests and agents prevent you and the Security Council from receiving first hand and impartial reports.

On May 24, I wrote to you: "I would like to ask you to announce clearly and officially that permitting any intervention by the Iranian regime in the fate of its opponents is forbidden, and neither Mr. Kobler nor anyone else has the right to do so. I strongly support the appointment of a personal representative for investigating the issue of Ashraf and Liberty, the record of UNAMI's actions in the past six months".

On June 12, in a letter regarding the report on Ambassador Kobler's visit to Liberty, I wrote to you: "The report gives the impression that Iraq behaves with understanding and patience and provides enough necessities, but the residents are maximalists who have irrational demands, refrain from talking with Iraqi officials, create crisis, and make trouble for those willing to leave the camp. This is nothing but a fabrication and distortion."

In that same letter I asked you to "appoint a special representative, who is also acceptable to the residents, so that after talking to all the parties, including Ashraf and Liberty residents and their representatives abroad, he can provide a comprehensive and impartial report for you and assess the minimum demands of the residents...so you can pursue a comprehensive and peaceful solution for this crisis."

Developments between the two Council's sessions show that contrary to its previous official letters, the Government of Iraq (GOI) has not adhered to any of its commitments, has violated many provisions of the MOU, and has not fulfilled any of the pledges it has given to the residents through SRSG.

The report well indicates that resuming the transfer from Ashraf to Liberty without providing 'necessary and urgent requirements' by the GOI is dangerous and unwise and could create a big

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European Parliament, ASP 11E205, 60 rue Wiertz, B-1047, Brussels, Belgium

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catastrophe in Liberty for which the UN will be comprehensively responsible. These requirements are: connecting Liberty to Baghdad water network or pumping water from a nearby river; transferring all electricity generators, especially the six big 1.5 megawatt generators; transferring forklifts, utility trucks, vehicles and trailers specially designed for the disabled, and 50 passenger cars (one vehicle for every 40 people); permission for minimum constructions and selling the residents' moveable and immovable assets; as well as your or the Security Council's emphasis on the need for implementation of refugee camps' standards in Camp Liberty and forbidding Iranian regime's intervention in the fate of its dissidents in Ashraf and Liberty. I want to emphasize that all items that the residents ask to be transferred to Camp Liberty are their property, have been paid for or built by them, so their right to their possession and use is undeniable.

As you notice, these requirements are very simple and available, and I ask you that through raising these issues in the Council, you urge the GOI to provide them so the relocation process would be resumed.

I hope that by offering his gratitude to the Government of Iraq, the SRSG does not encourage the GOI to violate the International Law and its commitments toward the residents of Ashraf and Liberty.

Yours sincerely,



Alejo Vidal-Quadras  
Vice-President of the European Parliament  
President, International Committee of In Search of Justice

CC:

Foreign Ministers and Ambassadors of the members of the Security Council

*International Committee of In Search of Justice (ISJ) enjoys the support of over 4,000 parliamentarians throughout the world*



**Ashraf and Liberty**  
**Between two Security Council meetings**  
**(April 2012-July 2012)**

**July 2012**

## **I. Preface**

This report is an attempt to review the situation in camps Ashraf and Liberty in the period between the two Security Council sessions. It has been prepared based on continuous communications of the International Committee *In Search of Justice* (ISJ) with the residents in both camps, their daily reports, UNAMI reports, and meetings and talks with residents' representatives, UN, U.S. government and EU, as well as numerous correspondences with relevant parties.

In ISJ's previous report in April 2012, which had been prepared prior to the previous Security Council session, it was stated in the 'Conclusions':

- *Camp Liberty lacks the minimum necessary humanitarian and human rights requirements. Lack of freedom of movement, lack of access to lawyer, malfunction of the infrastructure such as water, electricity and sewage systems, lack of suitable pathways and not allowing constructions make Camp Liberty an unacceptable place for long stay of several months. This camp should be recognised as a refugee camp where the above facilities are provided for.*
- *With current speed, determination of the residents' refugee status and their resettlement in third countries would be a long process of several years.*
- *The UNSC should back minimal demands of the residents such as improvement of infrastructure, increase of the camp area, access to lawyer and protection against violence, arrest and forcible relocation. It should also oblige the SRSG and the UNAMI to support the above mentioned items and oblige the GoI to implement them.*
- *The UNSC should compel the GoI to refrain from using violence again and ask for the residents' rights to be assured in conformity with humanitarian and human rights law as well as refugee laws.*
- *While underscoring the residents' right to their movable and immovable property which amount to at least \$500 million, the UNSC should call on the GoI to respect that right and to compensate for any loss of property during the transfer.*
- *The UNSC should recognise Camp Liberty as a refugee camp and offer the necessary political, humanitarian and financial aid for expediting the process and to call on the states to accept Ashraf residents.*

Three months later, on the verge of the Council's July session, not only the concerns raised in the previous report have not been alleviated, but they have grown bigger and more dangerous which require strict attention of the Security Council and member states.

## **II. Relocation process**

In the period between the two Security Council sessions, two groups of Ashraf residents moved to Camp Liberty on April 16 and May 4 respectively, amounting the number of residents in Liberty to almost 2,000 which is two-thirds of the whole number of residents. No other group has moved since May 5 (the date of 5<sup>th</sup> group's arrival at Liberty):

1. Concurrent with the Council's previous session, the talks between the Special Representative of the UN Secretary General (SRSG) and the residents for the 4<sup>th</sup> move went on. The residents asked for a document of the executive arrangements for transfer to be signed by the SRSG defining all issues until when the transfer of all residents to Liberty is completed. The talks over this document started in the SRSG's meeting with the residents' representatives in Paris on March 25 after the 3<sup>rd</sup> move. Following the exchange of several proposed drafts, both sides agreed on a common text on April 7. The residents agreed on the transfer of the 4<sup>th</sup> group followed by other groups to Liberty in an orderly manner once the document is signed by the SRSG. The SRSG made signing the document contingent upon the agreement of the Government of Iraq (GoI). Nevertheless, although the residents had relinquished many of their demands that had already been accepted by the SRSG in the April 7 draft, the GOI refused to agree to it; thereby, the document was not signed by the SRSG.

2. In the beginning of talks between the residents' representative and the SRSG, Mrs Maryam Rajavi informed the SRSG in writing on March 26 as follows:

*"If the text that I sent you last night be accepted without any changes and be implemented (the tone, the wording and the sequence of the issues would be of your choice but no changes in the content), Mrs Rajavi would start the initiative to convince all the Ashraf residents to move to Liberty together in one convey (or in any way that you deem practical) immediately following receiving the signed letter, so that even one person would not stay in Ashraf. This could be even prior to end of April".*

3. Despite the fact that the SRSG had not signed the document of the executive arrangements, he asked the residents simultaneous with the Council's session not to make the 4<sup>th</sup> move conditional upon signing the Document. Following a lengthy phone call with the residents' representative from New York on April 9, he wrote to the residents' representative in a letter on April 10:

*"I will announce the fourth move and mention your constructive approach, improved cooperation after initial difficulties" and promised "will try to tackle the generator problem right away. There are good chances it will fly" and "In parallel we are pushing for the document"*

The residents accepted the 4<sup>th</sup> move upon Mrs Rajavi's recommendation without having the said document; however, because of the very poor condition of infrastructures in Liberty, they insisted on taking to Liberty some necessary items including six 1.5 megawatt generators in Ashraf, which were purchased by the residents and their documents are available. According to the SRSG's letter and as the Deputy SRSG and the Iraqi General in charge of the relocation told the residents' representatives, the six generators were accepted to be transferred to CL. While Ashraf engineers were making preparations for their transfer, Iraqi authorities all of a sudden opposed to it and claimed owning them without having any ownership certificates. Moreover, contrary to previous agreement, Iraqi forces did not allow that group to take 10 vehicles with them dissimilar to previous groups. Nonetheless, the fourth group left Ashraf on April 16 despite numerous restrictions.

4. Immediately after the 4<sup>th</sup> move, the GOI and the SRSG started their pressures for the fifth group to move. Some humanitarian needs such as water, electricity and facilities for the disabled were at the core of discussions regarding this group. Please take note of excerpts of dozens of letters in this regard:

- SRSG wrote to the residents' representative in his letter of April 24:
  - *"Most of your concerns were addressed, in particular the humanitarian needs. However I have taken your concerns up once again with the government right now and some of the points look quite encouraging...."*



- *The trailers for the disabled can be transported after inspection, details to be discussed with general Jamil.*
  - *The utility cars for the disabled, e.g. those with the hydraulic platforms can be transported after clearance with general Jamil.*
  - *On the timeline for electricity and water: the GOI commits itself to provide liberty residents with sufficient water and electricity until the time the water and electricity is connected to the net. The government is very keen to do this as soon as possible, first steps have been made. i mentioned that the costs could possibly be refunded out of the revenues of the sales of movable property at Ashraf.*
  - *The generators legally belonging to you could be taken to liberty. this will ease the electricity situation.*
  - *Mr. el Najjar is still taking care of the sale or transport out of the country of the legal movable property.*
- *Ambassador Dan Fried, the special advisor to the U.S. Secretary of State on Ashraf, wrote to the residents' representative on that very day of April 24:  
"This progress, I understand, includes the ability to transport some utility cars and trailers for the disabled; a commitment to connect water and electrical power at Camp Liberty to Iraqi networks, with a commitment to provide water and power until that time; ability to hire up to 100 Iraqi workers to help with loading cargo at Camp Ashraf; agreement in principle to transport some generators; and progress on the sale of legal and movable property. These are all meaningful steps forward. ... I agree with Ambassador Kobler and urge the MEK to agree at once to prepare for and carry out this move, which should take place at once and should be followed by other, regular moves..... My government is aware of and appreciates the cooperation of the MEK thus far in the process of closing camp Ashraf; we have expressed this appreciation before and are prepared to do so again".*
  - *Two days later, he wrote in another letter:  
"As Ambassador Kobler has informed you, many of your concerns have been addressed by General Jamil at Ashraf during his April 26 meeting. In addition, Ambassador Kobler has now written to you, as you requested, to address specifics, including cars and trailers for the disabled".*
  - *Subsequently, the residents' representative wrote to Ambassador Fried on April 27:  
"You can rest assured that the fifth convoy will be organized, completed and depart if General Jamil implements the points you and Ambassador Kobler mentioned in the emails of April 24, 25 and 26, although they are far below the real needs of the residents. Senator Torriceli ensured me on your behalf that the special trailers for paraplegic persons will be transferred from Ashraf. Therefore, we are waiting for the general's consent to implement the points in emails of April 25 and 26 by Mr Kobler.....  
These points include one vehicle for the disabled, one caravan for each disabled (6 for this convoy), containers as many as needed, 75 workers into the camp for assisting with the loading, four generators, one minibus (According to email of April 25) and necessary utility vehicles (According to the letter of April 21).  
As I wrote to you last night, due to your recommendations, Mrs Rajavi postponed the unsettled issues until later in order to expedite departure of the fifth convoy so that they could be discussed and agreed upon without any pressure or rush. Please ask Ambassador Jeffrey and Ambassador Kobler to implicitly explain to the Iraqis that departure of the fifth convoy will be carried out only based on your recommendation and in order to prove that this was done due*

*to the maximum cooperation of the residents who have foregone their minimum legal rights. For the next convoys the issues such as police, armoured vehicles, construction, west wall, vehicles and forklifts, removal of the T-walls which protect the trailers at Liberty and the issue of the movable as well as immovable property of the residents in Ashraf should be resolved. I will later write to you about these issues in more details".*

- Again on May 4, Ambassador Fried wrote to the residents:  
*"I was pleased to hear that Convoy V is almost ready to go (and indeed may have departed Camp Ashraf for Camp Liberty/Hurriya by the time you read this). Despite the concerns you have expressed, you and your associates have continued to proceed with the preparations for this convoy, and I welcome this decision.  
I recognize the difficulties at Camp Liberty, and please understand that the United States follows this closely. We have urged, and will continue to urge, the Iraqi Government to respect its obligations under the MOU and to make this transition process as humane and comfortable as possible. Despite outstanding challenges, which we understand need to be addressed, much progress has been made under the MOU, the provisions of which provide critical protections and guarantees for the residents".*

5. While the residents' minimum humanitarian demands had not been fulfilled, the fifth group of 400 people departed from Ashraf in the evening of May 4 following a very tiresome inspection process and arrived at CL on May 5 morning. Midway, six utility vehicles (3 water tankers, two sewage tankers and one fuel tanker), which were being transferred from Ashraf to Liberty upon the GOI and UNAMI's consent, disappeared. UNAMI monitors, who were accompanying the convoy all the way, were not accessible. After an hour, those trucks returned to Ashraf; Iraqi forces had returned them from the middle of the way. It was very clear that the GOI had ill intents. Thereby, the residents lost their slightest particle of trust in this process. If six utility trucks are to be detoured in a banditry manner without the knowledge of UNAMI monitors, is there any guarantee that the residents' bus won't have the same destiny?

### **III. Relations between the residents and the SRSG**

There have been tensions in the relations between the residents and the SRSG during this period. The residents and their representatives say the SRSG lets the Iranian regime interfere in the residents' fate; something that is their redline. The SRSG publishes biased and partial reports against the residents and in favour of the GOI, does not defend their legitimate demands, and does not use his levers to fulfill minimum requirements of the residents. The SRSG says to be only a facilitator and has no power and authority.

1. After his return from Tehran last April, Faleh Fayaz, Maliki's National Security Advisor, said in his interview with al-Iraqiya state run TV:

*"Mr. Martin Kobler, Special Representative of the UN Secretary General for Iraq, has talked in details with Iraqi and Iranian parties through the Iranian Embassy or other channels communicating with Iran in order to provide the requirements for implementation of the understanding which has been agreed on between him and Iraq to close camp Ashraf and put an end to the presence of this organization on Iraqi territory. Talks included the mechanisms and Iran's role in what has to be done to solve this matter".*

2. Following the 5th move, Mr Martin Kobler visited Tehran on May 6. ISG wrote in its statement of May 9: *"Mr. Kobler told the European sides that the Iranian Ambassador in Iraq had set the PMOI's transfer from Ashraf as the precondition for his visit to Iran."*

Mr Kobler's visit had been scheduled for an earlier date, but it was postponed because of delay in the 5<sup>th</sup> move.

3. National Council of Resistance of Iran (NCRI) announced in its May 11 statement:

*"representatives of the mullahs' Ministry of Intelligence, under the banner of Nejat Association, met with Mr. Martin Kobler, the Special Representative of the Secretary General (SRSG) for Iraq, in Hotel Laleh and demanded the extradition of a group of Ashraf residents to the mullahs' regime.*

*The SRSG also met a number of MOIS agents under the guise of families of Ashraf residents and has discussed the issue of families of Ashraf and Liberty residents with representatives of International Committee of Red Cross in Tehran."*

4. Earlier in last January, Danai-far, Tehran's ambassador to Iraq, had unveiled his talks with SRSG and quoted him as saying that half of Ashraf residents would return to Iran. At that time we asked for SRSG's explanation in this regard, but we got no response. (ISJ statement on January 27)

5. On May 9, ISJ called upon the UN Secretary-General to: *"first, in an unequivocal and clear fashion condemn any engagement of the Iranian regime in the issue of Ashraf and Liberty before the Iranian regime and Iraqi government take advantage of the UN's mechanisms for carrying out another criminal aggression against the Iranian opposition in Iraq, and second, prohibit Mr. Kobler and other UN officials from conducting negotiations and information exchange on this issue with Tehran's officials and this regime's embassy in Baghdad."*

6. In his letters to the SRSG on May 17, 18, 19, 20 and June 14, and in the letter to the UNSG on May 22, the residents' representative asked that the SRSG Kobler should not allow the Iranian regime to meddle in the fate of residents of Ashraf and Liberty and wrote: *"I once again request that you (SRSG) unequivocally declare in a short statement that you will in no circumstances allow the Iranian regime's inclusion in the fate of its opponents in Ashraf and Liberty".* The Ashraf representative postponed meeting with the SRSG until this issue was fulfilled.

7. Since the SRSG refrained from issuing a statement in this regard, the residents' representative wrote him in a letter on May 20: *"In spite of all of the above, and in order to find a way forward and resuming dialogue with you, in particular following your trip to Tehran and what I quoted you from the regime's media in praising you and what I quoted from Falleh Fayaz regarding your work with the Iranian regime on the residents of Ashraf and Liberty in my previous letters, the only thing that I could think of, is that if you would agree and if what I wrote you is serious for you and you are committed to them, I would issue the following statement as the representative of Ashraf residents outside Iraq, persuade the residents towards it and to gain their respect and then after that we talk with each other;"* That would have been a statement emphasizing that the SRSG would



refrain from inclusion of Iranian regime in the dossier of Ashraf and Liberty. Yet, the answer to this too was negative.

8. Another problem with a negative impact on both sides' relations that created many concerns for the residents and their representatives was the reports given by UNAMI and Mr Kobler about the events in Liberty and Mr Kobler's visits to the camp. ISJ analyzed Mr Kobler's May 27 report about his visit to Liberty and wrote in a detailed letter to the UNSG:

*"Briefly, the written or non-written parts of the report give the impression that Iraq behaves with understanding and patience and provides enough necessities, but the residents are maximalists who have irrational demands, refrain from talking with Iraqi officials, create crisis, and make trouble for those willing to leave the camp.*

*This is nothing but a fabrication and distortion. This is the first time I am using such words about a UN official or an official in a democratic state; so far, I have used them only for officials in totalitarian regimes. If you go over what has happened to Ashraf residents over the past six months, and if you just enumerate Mr Kobler's violations of his pledges, and if you just review his unrealistic reports, you wouldn't reprove me".*

*I added "the report of Mr Kobler's visit to Camp Liberty on May 27. Below the report, it states that copies would be distributed to various UN agencies, the U.S. embassy, the EU Delegation, the Government of Iraq (GOI) and others who might be involved in the matter. However, when I asked Liberty representatives about the May 27 visit, I discovered they had received a copy of Mr Kobler's report from their sources inside the Iranian regime".*

9. In his letter of June 15 to Mrs Rajavi, the SRSB wrote about his trip to Tehran:

*"there were no negotiations whatsoever with the Iranian side about the fate of Ashraf or Liberty residents.... I can unequivocally once again confirm also to you, that as SRSB I have not and I will not engage in negotiations with the government of Iran about the fate of the residents of camp Ashraf and camp liberty. I will continue to stress that the principle of non-refoulement will be respected and no one will be involuntarily repatriated to Iran. UNAMI treats the issue of the camp residents as a purely humanitarian matter and firmly objects to politicizing it". He added "I can assure you, that I have not and will not share these reports with the Iranian side, neither in Iraq nor in Iran". He emphasized about his support about humanitarian demands of the residents and asked for a meeting.*

10. While thanking the SRSB, Mrs Rajavi asked him to announce excerpts of the same letter in a public statement or approve that the NCRI issues a statement giving assurances to Ashraf residents and their families and supporters throughout the world in order for them to be assured of the SRSB's goodwill. But he left this demand unanswered too and in his statement of June 23, he refused to explicitly state that he would not involve the Iranian regime in the dossier of Ashraf and Liberty and he contented himself with the following phrases:

*"SRSB Kobler reiterated that the Government of Iraq is the only negotiating partner of UNAMI on the fate of the residents of Camp Ashraf and Camp Hurriya. He will continue to stress that, under the MoU, the principle of non-refoulement will be respected and no one will be involuntarily repatriated".*

*in this statement he added "I would like to thank both the Government of Iraq and the residents for their cooperation... It is important to complete the relocation in the coming weeks. I count on the constructive spirit of all sides. .... SRSB Kobler will continue to urge the Government of Iraq to*

*respond positively to the residents' legitimate and reasonable demands with respect to humanitarian issues, in accordance with international humanitarian and human rights law".*

11. Nevertheless, upon the suggestion of some US dignitaries, Mrs Rajavi met the SRSB on July 1 in presence of a group of American and European observers including the vice-Presidents of the European Parliament and the President of the ISJ.

#### **IV. Requirements for resuming the relocation**

As was pointed out in section II, after repeated promises of the SRSB and the US Secretary of State Advisor about the 4<sup>th</sup> and 5<sup>th</sup> group were not fulfilled, and after the utility vehicles were returned midway, the residents lost all their trust in the GOI and the pledges made by the GOI and the UN.

1. Residents' representative in his letter of May 18, 19, 20 and 22, and Ashraf residents in their joint letter of May 27, articulated the residents' demands for resumption of moving to CL in six points and informed the UNSG, SRSB, US Secretary of State and her special advisor of these points.

2. ISJ supported and confirmed those demands in a letter to the UNSG on May 24 as follows:

- i. The SRSB will not permit any interference of Iranian regime against its opponents in Camp Ashraf and Liberty.*
- ii. All the agreements and commitments related to the fifth convoy, mainly women, will be fulfilled by GOI (6 utility vehicles, 25 trucks to transfer their belongings, 6 special trailers and 3 vehicles of the paraplegic patients).*
- iii. All the provisions of SRSB letters, particularly about the police, 10 passenger cars for every convoy, a precise date for the connection of Liberty to the city water network and power grid, construction, green area and planting of trees will be guaranteed and implemented before any other move.*
- iv. Liberty legal status will be recognized as a refugee camp.*
- v. The UN guarantees selling all Ashraf moveable and immovable properties or transferring moveable properties to another country/ or Iraqi Kurdistan.*
- vi. The US will inspect Camp Ashraf as soon as possible.*

3. We declared in the statement of 4,000 parliamentarians that was announced in the grand gathering in Villepinte-Paris on June 23:

*"the residents' transfer to Liberty will continue upon the fulfillment of their minimum demands articulated in six items.*

*We have explicitly urged the US Government, the European Union and the United Nations to take initiative in order to fulfill these minimum demands and to refrain from resolving the problems at the expense of the residents as has been the case in the past. Any solution based on such an approach would be untenable and would only encourage the Iranian regime and the Iraqi Government to resort to violence and step up the violation of the residents' rights."*

4. Following the SRSB's meeting with Mrs Maryam Rajavi on July 1 in presence of a group of American and European observers, the European and American sides asked the residents in two

separate proposals to agree to the transfer of the 6<sup>th</sup> group after the 10 points, which covered part of the 6-point demands of the residents, are fulfilled. In this regard ISJ wrote:

*"Although the above items do not include many pressing and necessary needs of the residents, they have agreed to completely move to Liberty after the realization of these points, and we think this is the maximum flexibility that they could show. It is now the time for the US, the UN and the Government of Iraq to render their duties. We call on the international community, parliaments, defenders of human rights, civil rights activists and jurists to support these minimum demands. The international community is facing a major test.*

*We would like to emphasize that several important and basic issues such as designation of Camp Liberty as a refugee camp, inspection of camp Ashraf by US forces, and commitment by the UN Secretary General's Special Representative to refrain from giving any roles whatsoever to the Iranian regime to intervene in the destiny of Ashraf residents are important issues that cannot be ignored and are necessary for the security and safety of the residents of Ashraf and Liberty and we will do all that we can to materialize them with the UN, the European Union, the US Government, the parliaments and the public opinion".*

5. Up until the preparation of this report, the GOI has fulfilled only two points of the 10-point proposal of the American delegation and only 1.5 of that of the European delegation.

6. Utility vehicles, special vehicles and trailers for the disabled, forklifts, transfer of passenger cars, construction, water, transfer of main generators (six 1.5megawatt generators), a minimum of construction, the issue of moveable and immovable assets of the residents, which were among the requirements raised by the American delegation for the 6<sup>th</sup> move, remain unresolved.

7. On July 15, part of the remaining belongings of the 4<sup>th</sup> and 5<sup>th</sup> groups of Ashraf residents who had been transferred to Liberty on April 16 and May 4 respectively, were transferred to Camp Liberty on 28 trucks. Inspection and loading of these items that started on July 1, ended on July 15. First, these items were supposed to be transferred to Liberty right after the 5<sup>th</sup> move, meaning May 6; but it was delayed until now.

8. The GOI refused to transfer three vehicles and six trailers specially made for the transport and living of the disabled. This is while the SRSG had written in his letter to the residents on April 24 that the "trailers" and "utility cars for the disabled" can be transferred after "inspection. In their visit to Ashraf on July 13, the US government's representative and the SRSG informed the residents' representatives that the GOI was ready to transfer the utility vehicles for the disabled with the cargo convoy. The GOI representatives informed the residents that those vehicles and trailers could be transferred with the 6<sup>th</sup> and 7<sup>th</sup> convoys, but they should be inspected in a place outside Ashraf for one week in the absence of residents' representatives and UNAMI representatives. These conditions are clearly unacceptable to the residents.

## **V. Legal status of Ashraf and Liberty residents**

Between the two subsequent Security Council meetings, the GoI stressed on various occasions that Ashraf residents had no legal status in Iraq using this as a ground for violation of their rights.

George Bakoos the political adviser of Iraqi Prime Minister reiterated in the European Parliament session on June 19 as well as in his press conference in Baghdad on June 27 that the residents of Ashraf and Liberty have no legal status in Iraq and their presence in Iraq is illegal.

He argued that until June 15, only about 250 of them were recognized as refugees by the UNHCR and this indicated in itself that until now they have had no legal status.

George Bakoos is also the deputy of the committee in charge of Ashraf suppression in the prime minister office. He was in a large delegation from this committee which travelled to Europe in order to provide justifications for suppression and killing in Ashraf and Liberty. A member of this delegation, Sadeq Mohammad Kazem, who was amongst the perpetrators of the two massacres of 2009 and 2011 in Ashraf is under investigation by the Court of Spain. European Parliament barred his entry to the parliament building and two days later he was arrested in France and held in custody for 24 hours charged with committing torture.

Considering the residents as persons without legal status is a gross misrepresentation of the facts because:

Firstly- In its various statements including the ones on 3 December 2011, 1 February, 1 March and 28 March 2012, the UNHCR has underscored that all Ashraf residents are asylum-seekers and 'People of Concern' who now enjoy international rights and protection. This is a defined legal status under international law; therefore, denying this status or the rights stemming from it is a grave violation of that law.

Secondly- All residents of Ashraf and Liberty are protected persons under the Fourth Geneva Convention and there is no way that the GOI can legally disavow or deny this status or remove the protection that this status provides.

It has been underscored in tens of legal opinions by the most prominent international jurists that the present situation of Ashraf residents has been derived from the war in Iraq and therefore until their final disposition the Fourth Geneva Convention will apply to the residents as it was also stipulated in 2004 by the United States and Multi-National Forces-Iraq.

Thirdly- Entry of the residents of Ashraf and Liberty to Iraq and their residence in that country has been legal since the outset; this is an issue that the court of Khalis verified in August and December 2009. Indeed the same court regarded as illegal the GOI's attempt to keep 36 residents imprisoned who had been taken hostage during the attack in 2009.

Furthermore, every sign indicates that although Iraq is not a signatory to the 1951 Geneva Convention, according to Iraqi laws Ashraf residents have enjoyed refugee rights in Iraq since the onset.

This extremely unlawful position of the GoI as well as the very slow progress in the refugee status determination of the residents by the UNHCR testify more than before the necessity of our two demands which were previously raised i.e. refugee status determination for Ashraf residents as a group (*Prima facie*) and recognition of Camp Liberty as a refugee camp.

## **VI. Human Rights standards**

Over the past five months, Camp Liberty has lacked human rights standards in all dimensions:

1. The UNHCR has underscored the necessity of freedom of movement for CL residents in several of its statements including the ones on Sep 13, 2011, February 1, March 1 and 28, 2012, but the GoI has denied them of this right.

2. Liberty Residents have no access to lawyer and since their relocation to CL, neither an Iraqi nor a non-Iraqi lawyer has been allowed to enter the camp.

3. Efforts of the international dignitaries and parliamentarians for visiting Camp Liberty have reached nowhere and GoI has refused to issue them entry visa to Iraq. Even Iraqi personalities have been denied access to the camp.

4. In its report of May 4, the UN Working Group for arbitrary arrests, which is a competent and credible source, specified that Camp Liberty is a prison and has called on the GoI to change the situation:

"...Residents of Liberty hold the status of 'protected persons' under the Fourth Geneva Convention; are asylum seekers; have neither been charged nor tried for any offences.

Conditions in Camp Liberty are synonymous with that of a detention centre as there is no possibility of freedom of movement and interaction with the outside world. There is no free movement and life within the Camp as well rendering residents as detainees or prisoners.

The Working Group believes that there is no legal justification for holding the above mentioned and other individuals in Camp Liberty and such detention lies beyond the pale of domestic and international human rights law (articles 9 of the Universal Declaration of Human Rights (UDHR) and 9 and 10 of the International Covenant on Civil and Political Rights (ICCPR)....."

"The Working Group believes that taking into account all the circumstances of the case, adequate remedy would be immediate release and lifting of all restraints upon the free movement of these persons and enforceable right to compensation in accordance with article 9 (5) of the ICCPR".

5. The type of camp management, the security and military forces inside the camp and the density of the police force with one central police station, five police points in various locations of the camp, several patrols and the presence of armoured vehicles testify that Liberty is a prison.

6. The government camp manager from prime ministry, Sadeq Mohammad Kazem, has ordered shooting at residents in two massacres of 2009 and 2011. In addition, GoI has stationed Captain Ahmad Hossein Khozeir, an agent of Iraqi army intelligence service, in camp Liberty along with a number of plain-clothe agents under his command to harass the residents.

## **VII. Camp Liberty, a refugee camp or a temporary transit location (TTL)?**

Camp Liberty has been named as a Temporary Transit Location (TTL) and its residents have been told that they would be there temporarily. Five months later, not a single person has been resettled in third countries.



1. In the UNHCR practice, there is a difference between a 'refugee camp' and a 'transit camp'. A refugee camp is generally a medium or long-term response to a large-scale influx of refugees and asylum seekers, whereas a transit camp is a temporary stop-over on the way to a durable solution, either voluntary repatriation or third country resettlement. In moving to a transit camp, in fact it is presupposed that a durable solution is already available, for example, that the individuals in question have been accepted by a third State as refugees to be resettled. The transit camp therefore serves limited and short-term purposes.
2. According to Professor Guy Goodwin-Gill, the eminent expert on international refugee law, "Camp Liberty is not an emergency reception centre such as might be set up to cope with a sudden mass influx of refugees, but it is more a refugee camp, than a transit camp. The length of time which people will have to spend there remains uncertain, and no guarantees of onward movement are yet in place. The possibility of long-term residence must therefore be factored in, as must the reality that the refugees will be leaving Ashraf, a settlement which, through their own labour and investment, has provided them with the facilities, resources and services of a modern township.
3. "If third country resettlement opportunities were already in place, then conditions in Camp Liberty ought at least to be equivalent to those in the emergency resettlement centers available to UNHCR in Romania, Slovakia and the Philippines. Given that durable solutions are still being worked out, the likelihood of protracted residence must be taken into account. This means that more must be done to ensure that the refugees are able to enjoy, among others, shelter, space to live and store their belongings, privacy, physical and emotional security, and the chance to live in community with others."
4. Camp Liberty has none of the characteristic of a Temporary Transit Camp. There is no durable solution already available for the asylum seekers, the length of time which people will have to spend there remains uncertain, and no guarantees of onward movement are yet in place.
5. On the contrary, with the current pace of interviews, it would at least take another two years for the UNHCR to finish its interviews, let alone making the determination. Therefore, the prospect for resettlement of all residents, if it ever happens, would be no less than 2 ½ to 3 years.
6. The UNHCR does not consider CL as a refugee camp and thus takes no responsibility about the condition in the camp, lack of respect for human rights, security and protection of the residents as asylum seekers. UNHCR says it is only dealing with the Refugee Status Determination (RSD) process.
7. Accordingly, CL does not have the necessary international protection which refugee camps usually enjoy. The camp is under absolute control of the GoI. UNAMI argues that it has no responsibility about the dismal condition in the camp and Iraq's failure to meet its obligations. UNAMI defines its responsibility merely as monitoring. Indeed, the camp is under the full control of Sadeqh Muhammed Kazem, one of the main perpetrators of the July 2009 and April 2011 massacres working in the suppressing committee in the prime ministry .

#### **"Transit Camp": Justification for inhumane conditions**

8. Here are some examples of restrictions imposed by the Iraqis, partly under the pretext of CL being temporary and only for transit:

- a. After four months, Iraq continues to reject connecting CL to national electricity grid or city water network.
  - b. Iraq has refused allowing residents to make canopy, even denying the residents having shade in the scorching heat of Iraq.
  - c. Iraq has refused allowing residents to do any construction such as walkways. The ground is stony.
  - d. Iraq has refused allowing the residents to transfer their own passenger cars.
  - e. Iraq prevents the disabled from transferring their special cars and trailer under the pretext that this is a temporary camp and they do not need it. They cannot live without these facilities.
9. In order to ensure the protection of the refugees in the camp, UNHCR should formally and immediately classify Liberty as a refugee camp, thereby sending a strong signal regarding its status to the international community at large, including other UN agencies. Because:
  - a. UNHCR is the UN Refugee Agency with statutory responsibility for the international protection of refugees and the residents of Ashraf/Liberty have been recognized as asylums seekers and people of concern;
  - b. The treatment of the refugees in Camp Liberty is inconsistent with relevant international law standards, including restrictions on freedom of movement, restrictions on access to legal advice and representation,
  - c. It is not disputed that there is no prospect in near future for the resettlement of the residents of CL. It is not disputed that GoI does not have the intention to improve the living and security condition. Thus, although the objective is resettlement, it is imperative to improve condition and provide international protection for the refugees until resettlement in third countries;
  - d. Finally, declaring the CL as a refugee camp is the indispensable step that must be taken immediately to end the current agony of the residents and prevent a catastrophe.

### **VIII. The issue of movable and immovable assets of the residents**

1. Over the past 26 years, Ashraf residents have turned Ashraf from a barren piece of land to a modern city equipped with power station and electricity network, two water pumping stations, water treatment and purification systems, roads, a university, a library, a museum, a hospital, a cemetery, a mosque, parks, lake, farms, industrial workshops, sport and leisure facilities and underground shelters for protection against bombings and repeated attacks of the Iranian regime with scud B missiles. There are hundreds of buildings and halls in this city with a surface area of hundreds of thousands square Kilometers as well as almost 100 Kilometers of roads and asphalt routes.
2. On December 21, 2011, Iraqi Prime Minister, Nouri Al- Maliki, described Ashraf as "an Iraqi city and not a camp as it is called in the media". On March 18, 2012 an Iraqi website, Al Esteghame, quoted officials of Diyala Province as saying, "Camp Ashraf is suitable for building an international airport or setting up several agricultural and trade projects to support the province's economy. This Camp is a complete city and it can be used as an administrative unit capable of supplying services to Al-Odheim Township of this province. Its public services are

suitable for creating several strategic projects and strengthening investment opportunities in all sections of the province".

3. All what have been built in Ashraf is the result of the efforts of thousands of residents working day and night on huge investments for 26 years. In early 2009 and before the cruel siege was imposed on Ashraf by Iraqi rulers, there was an average of daily 1500 Iraqi workers and hundreds of technicians who had been employed by Ashraf residents to work in this city. Immovable property in Ashraf, which include infrastructure, establishments, buildings, roads and systems of water, electricity and sewage, have now been estimated to worth 500 million dollars.
4. From the beginning, Ashraf residents reiterated that transferring or selling all their moveable or immovable assets is a necessary condition for leaving Ashraf and closing it. Because aside from the right to property, which needs no explanation and any attempt for depriving them from this right is unacceptably a violation of their fundamental rights, the residents clearly need all the assets they have created in the City of Ashraf for 26 years in order to start their living in Liberty or to cover heavy expenses of resettlement in third countries and start living in those countries.
5. So far the GOI has prevented entry of the merchants to Ashraf. Despite several follow-ups regarding this issue and giving names of different merchants for coming to Ashraf, only one merchant was allowed to enter Ashraf who went to Ashraf on April 20. The residents signed an agreement with him on April 21. However, since then the GOI and the suppression committee has prevented the implementation of the contract in different ways.
6. According to the contract, the merchant had to pay five million dollars on April 26 as down payment. However, despite 9 written letters and 20 telephone conversation from 21 April to June 6 in which the merchant had announced that he would pay the amount, he has refused to make the down payment in the contract that he committed himself to do by making different excuses. It is said that the GoI has forbidden any financial transaction with the PMOI and Ashraf residents as a way to exert pressure on them by pushing them to surrender.
7. The details of this contract and the obstacles created by the GoI were conveyed by the residents' representative to Ambassador Daniel Fried, special advisor to Secretary Clinton, and then to UNAMI officials asking for their intervention to remove the obstacles.
8. In the meantime, the residents have protested to UNAMI several times for barring the entry of merchants to Ashraf. In a letter on May 5, 2012, the residents asked UNAMI to urge the GOI to allow other merchants who are willing to buy Ashraf residents' property, to enter the camp and buy them. The names and other information of 15 Iraqi merchants who were willing to enter Ashraf for purchasing the residents' property was given to UNAMI, but so far, they have not been allowed to enter Ashraf.
9. On May 2, Iraqi forces prevented a merchant by the name of Eskandar from entering Ashraf and returned him. On May 9, Iraqi forces arrested merchant Mostafa Zorab along with two other merchants; they were interrogated, questioned, beaten and insulted by Captain Ahmed. On May 12, five other merchants were returned. On May 13, merchant Fallah Hasan was returned. Residents have informed UNAMI about all these cases but they have received no response. (letters are available)

10. Therefore, on the one hand the GOI obstructs this contract and other contracts to be implemented and on the other hand it pretends to the UN and US government as if the issue of selling Ashraf property is resolved in order to justify not allowing other merchants into Ashraf.
11. At the same time, through governmental offices, the GoI claimed that Ashraf residents' property belong to the government, and also obstructed the implementation of the contract between the resident and the very same merchant with the excuse that the vehicles and property of the residents are illegal whereas the residents' vehicles were inspected by Diyala traffic police from February to May 2012, and it was approved that they belonged to the residents. By the same token, the GoI claims that it owns the generators which were bought by the residents under the US supervision when their forces were responsible for the protection of Ashraf.
12. According to the residents, the GOI even prevented the return of the goods which belonged to various companies and the residents owed to them. By the same token, so far the GoI has prevented transfer of the property to Kurdistan or neighboring countries in order to safeguard or sell them.
13. The residents' efforts to get assistance from the IOM were futile. The IOM announced its readiness to get involved in this issue but they needed UNAMI's request and the GOI's permission, and practically none of them were achieved. Following several requests from Mr. Kobler, he wrote in an email to the IOM representative in Baghdad that he had no objection to the involvement of the IOM for resolving the issue of Ashraf property!
14. It is now clear that there is no will in the GoI to let the residents sell their properties and at the same time, US government and the UN do not help the residents in this regard. This is while without a quick resolve of the movable and immovable assets, evacuation of Ashraf is impossible.

## **IX. Recommendations to the Security Council**

Based on the above points, ISJ urges the Secretary General and his Special Representative to report the Security Council repeated breaches of the Memorandum of Understanding (MOU) by the GoI, to report the minimum requirements needed for the completion of Ashraf residents' relocation to Camp Liberty and the closure of Ashraf asking the Security Council and member states to support these demands. Without these minimum requirements, further relocation to Liberty could cause a lot more disasters for the residents.

With detailed study of what is happening on the ground in Ashraf and Liberty and taking into account the daily reports from both camps, the SRSG and UNAMI reports, remarks by Iraqi officials and having talked to and consulted with the residents' representatives, UN, EU, US government and impartial experts, ISJ stresses on providing the urgent requirements that are needed for resuming the relocation of residents to Liberty and also providing the necessary requirements that must be done after their transfer. ISJ's recommendation to the residents and their representatives is that they do not make the transfer to Liberty contingent on having their necessary requirements, and ask the provisions of those requirements after their transfer to Liberty.

#### **A- Urgent and necessary requirements for resuming the transfer of residents**

- 1- Full implementation of MOU, letters and agreements of SRSG with the residents by the GoI, including SRSG letters of December 28, 2011 and March 15, 2012
- 2- Transfer of all existing power generators in Ashraf to Liberty, specially six 1.5 MW generators.
- 3- Transfer of forklifts and trucks from Ashraf to Liberty including six utility vehicles left over from fifth convoys
- 4- Transfer of specialty designed vehicles and trailers for the disabled.
- 5- Transfer of 50 vehicles to Liberty (one for every 40 residents)
- 6- Permission for construction including sidewalks, ramps, canopies, special facilities for the disabled, and green space.
- 7- Connecting Liberty to Baghdad water network or pumping water from the river or lake adjacent to CL followed by its purification by the residents.
- 8- Allowing businessmen and purchasers to come to Ashraf in order to purchase moveable properties as quickly as possible and pay part of the purchase price before relocation of residents resumes.
- 9- Start of negotiations between the residents' representatives and the GoI or private parties with permission of the GoI to sell immovable properties and sign the required contracts before the relocation and also start of the payments. At least 200 people would remain in Camp Ashraf to protect the properties until their sale ends.
- 10- It is required that the Security Council or the Secretary General underscore the need for imposing refugee camp standards on Liberty and banning the Iranian regime's interference in the fate of its opponents in Ashraf and Liberty.

#### **B- Necessary requirements**

- 1- Declaring Camp Liberty as a refugee camp
- 2- Increasing the camp area until the majority of the residents are transferred outside Iraq
- 3- Freedom of movement
- 4- Access to lawyers
- 5- Expediting refugee status determination of the residents
- 6- Expediting transfer to third countries



## **X. Summary and Conclusion**

- 1- Between two Security Council sessions, in spite of the Secretary General's recommendations in his previous report to the Security Council on March 29, 2012 and the SRSG report to the Council session on April 10, and in spite of recommendations by the European Parliament, US Congress, and other national parliaments, no tangible improvement has been made in Liberty's dire humanitarian situation. With transfer of another 800 people to Liberty during this period, its population has reached 2000 and as a result the humanitarian situation has worsened. This is a clear violation of the MOU.
- 2- In violation of the MOU, Camp Liberty lacks human rights standards and is considered a prison from every aspect. Residents have no freedom of movement and no access to lawyers. The UN Working Group on arbitrary arrests, the most credible international source in this field, has specified in its May 4, 2012 report that Liberty is a prison.
- 3- Camp Liberty manager from the GoI is Col. Sadeq Mohammad Kazem, who ordered firing in both massacres of July 2009 and April 2011 and is wanted by the Spanish court. In spite of extensive psychological and ethical pressures, the residents participated in daily management meetings chaired by Sadeq for the first three months, but reportedly Sadeq only used daily meetings for increasing the restrictions and suppressive measures. Consequently residents stopped participating in meetings chaired by Sadeq since May 2012 but they do participate in meetings chaired by other Iraqis even if Sadeq is present. Between the two Security Council sessions, the GoI dispatched Lt. Ahmad Hossein Khozeir from Iraqi military intelligence service, who was involved in psychological torture and siege against Ashraf residents, along with a team of plainclothes agents to Liberty in order to intensify the suppression of residents.
- 4- Written promises of the SRSG to the residents before the third convoy (March 19), fourth convoy (April 16) and fifth convoy (May 4), including on the police deployment in Liberty, connection of Liberty to the city water network and national grid, sale of movable and immovable properties, transfer of some vehicles to Liberty, minimum construction, transfer of large generators, etc. remain unfulfilled. The fourth and fifth groups went to Liberty upon the insistence and promises of the SRSG and US Secretary of State advisor, that their minimum requirements would be provided after their transfer to Liberty but two and a half months later, these promises remain unfulfilled while they were all within the framework of the MOU and the residents' minimum rights.
- 5- Lacking minimum humanitarian needs such as the connection of Liberty to city water network and power grid, and due to the GoI not allowing purchase of fuel from Iraq's market thus leaving no choice for the residents but to import it from neighbouring countries, the residents have spent about \$20,000 daily on water, electricity and sewage at Liberty, totalling so far to about \$2 million. This is a backbreaking cost for the residents while they are imprisoned in Liberty, the GoI obstructs the sale of their movable and immovable properties and has blocked all their profit-making activities.

- 6- Remarks by the National Security Adviser of the Iraqi Prime Minister on his return from Tehran on April 24 about intensive coordination between SRSG and the Iranian regime on closing Ashraf, and the trip to Tehran of the SRSG after the transfer of the fifth group to Liberty, have caused deep concern about the dimensions of the Iranian regime's involvement in Ashraf and Liberty dossier. Regrettably, the SRSG's refusal to declare that he would not allow any such interference has deepened these concerns.
- 7- Remarks by the US State Department lawyer in the hearing of the US Federal Court of Appeal on May 8, 2012 regarding uncertainty about complete disarmament of Ashraf, provides a dangerous pretext to the GoI and the Iranian regime for attacking Liberty and Ashraf. It is regrettable that 70 days after such destructive remarks, the State Department has not responded to the residents' demand for inspection of Ashraf to ensure that no arms and ammunition exist.
- 8- Five months after the transfer of first group to Liberty, not a single person has been transferred outside Iraq. Less than 30% of the people who have been transferred to Liberty have been interviewed by the UNHCR. There is no clear short term prospect for the transfer of residents to outside Iraq. As such, TTL designation for Liberty is unlawful and unrealistic, and is simply used for justifying suppressive measures and a cruel siege on the camp by the GoI.
- 9- Linking the delisting of the MEK by the State Department to the transfer of residents to Liberty, particularly after the June 1 ruling of the DC Court of Appeal, is totally unacceptable. Relocation of the remaining Ashraf residents to Liberty and evacuation of Ashraf is contingent upon fulfilling the minimum humanitarian requirements. Therefore, its linking to the terror listing is blackmail and intimidation used for forcible evacuation of Ashraf.
- 10- It is regrettable that the SRSG's reports in the period between the two Security Council sessions are biased and one sided. These reports, including May 27, May 31, and June 12, etc ignore breaches of the MOU by the GoI and pretend that the government tries to meet the residents' demands as feasible as they are, but the residents' demands are increasing, shifting and are maximalist ones. This is not consistent with on the ground realities and daily reports from Liberty. The ISJ comparative analysis of the demands of the residents since last December until now, shows not only those demands have not been increased, but the residents have waived many of their initial demands and contented with minimum possible demands.
- 11- The US government has sent representatives to interview with Ashraf residents and accept some of Liberty residents. This is a very positive measure that must be followed by EU countries. However, any attempt to encourage residents to defect from MEK or try to accept "fictitious dissidents" is unconstructive and would jeopardizes the resettlement process.
- 12- ISJ strongly suggests to the Security Council and the Secretary General to support the 10-point requirements for completion of the relocation from Ashraf and the six mid-term recommendations, pressing Iraq to implement them.

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*International Committee of In Search of Justice (ISJ) enjoys the support of over 4,000 parliamentarians throughout the world*

***President of ISJ: Prof. Alejo Vidal-Quadras, Vice-President of the European Parliament***  
*European Parliament, ASP 11205, 60 rue Wiertz, B-1047, Brussels, Belgium;*

*Email: [isjcommittee@gmail.com](mailto:isjcommittee@gmail.com)*