

**Legal Opinion on whether an armed conflict existed between the People's
Mojahedin Organization of Iran (PMOI) / Mujahedin-e Khalq (MeK) and
Iranian armed forces during July-August 1988 and the Nature of the
PMOI/MeK**



20 April 2022

Table of Contents

A. Introduction	p. 3
B. Factual Background	p. 5
C. The Concept of ‘Armed Conflict’ under IHL	p. 7
D. The Designation ‘Terrorist Group’	p. 11
E. Application of the Legal Framework to the Facts	p. 12
F. Conclusions	p. 15
Annex: Qualifications of Author	p. 16

A. Introduction

1. This Legal Opinion, requested by the Defence team, addresses the question of the existence of an armed conflict between the PMOI/MeK and Iranian armed forces during July-August 1988 and the nature of the PMOI/MeK.
2. International Humanitarian Law (IHL) applies to situations of armed conflict, both international armed conflict and non-international armed conflict, but does not apply to situations of internal disturbances or tensions.
3. Whether an armed conflict exists is a question of fact at any given time and different criteria, discussed below, must be assessed in order to conclude whether an armed conflict exists and the categorisation of such conflict.
4. The obligations and rights of ‘fighters’ differ, depending on the categorisation of the conflict as an international armed conflict or a non-international armed conflict.
5. If an armed conflict does not exist, IHL does not apply.
6. This Opinion will first set out the factual background in respect of the formation and development of the PMOI/MeK (Section B). It will then discuss the concept of ‘armed conflict’ and the categorisation of conflicts and explain the criteria which must be fulfilled in each situation (Section C). This Section will also discuss the concept of ‘internal disturbances and tensions’. Section D will discuss the designation of ‘terrorist group’ in respect of the PMOI/MeK. Section E will apply the legal framework to the situation of the PMOI/MeK and Iran during July-August 1988 and Section F will make some conclusions.
7. The section on the factual background will draw on evidence from a number of sources, in particular a report by Amnesty International, entitled *Blood Soaked Secrets* (hereinafter ‘AI Report’). In addition, the Opinion draws on research by the Rand Corporation, (*The Mujahedin-e Khalq in Iraq. A Policy Conundrum*) in respect of background information on the PMOI/MeK.¹ It is difficult to find additional, non-partisan, English-language information on some issues, particularly the level of violence which occurred between the PMOI/MeK and Iranian armed forces, and the relationship of the PMOI/MeK with the NLA. In some instances contradicting facts appear in different sources. In addition to the available information being scarce and, at times, conflicting, the veracity of the available information from Open Sources, such as Wikipedia, cannot always be verified.² IHL provisions and jurisprudence of international criminal tribunals, supported by publications

¹ In respect of reliability of information from NGOs, see James McGann and Mary Johnstone, ‘Public Benefit Organizations. The Power Shift and the NGO Credibility Crisis’, 8(2) *The International Journal of Not-For-Profit Law*, (2005), available at: <https://www.icnl.org/resources/research/ijnl/the-power-shift-and-the-ngo-credibility-crisis>, accessed 27 March 2022. This article states: ‘The problem is that this information can be unsystematic, unreliable, and/or tainted by the interests of those who are disseminating it.’ (np). This article also states that ‘NGOs are hardly neutral on issues of policy formation. Due to their varied nature, NGOs often play the interesting dual role of providing information and acting as an agent of political pressure on the government, leading to potential conflicts of interest.’ (np).

² See C. Sugandhika, S. Ahangama and S. Ahangama, ‘Modelling Wikipedia’s Information Quality using Informativeness, Reliability and Authority,’ 3rd International Conference on Advancements in Computing (ICAC), (2021), pp. 169-174.

of the International Committee of the Red Cross are used in respect of the discussion on the legal framework.

B. Factual Background

8. On September 6, 1965, Mohammad Hanifnejad, Saeid Mohsen and Ali Asghar Badizadegan, founded a new political opposition movement in Iraq that became known as the People's Mojahedin Organization of Iran (PMOI) or the Mujahedin-e-Khalgh (MeK), 'the principal and longest-standing Iranian opposition movement'.³ The group drew on both Islamic principles and Marxism for its ideological framework.⁴ Its main objective was 'replacing the regime of the Shah of Iran, then the mullahs' regime, by a democracy.'⁵
9. The Shah left Iran on 16 January 1979, and on 1 February, Rouhollah Khomeini returned from exile as the leader of the revolution and appointed a provisional government. In March 1979, Iran was declared an Islamic Republic.⁶
10. In 1981, Khomeini's regime imposed a ban on all Iranian opposition groups, including the PMOI/MeK and began a widespread crackdown on all such groups.⁷ In response, the PMOI/MeK called for mass demonstrations, which took place on 20 June 1981. These demonstrations increased the oppression of opposition groups over the coming days.⁸
11. According to the Rand Corporation, on 21st June 1981 the PMOI/MeK announced armed struggle against the Islamic Republic and assassinated a number of senior officials.⁹ However, Amnesty International states that 'many sympathizers of the organization were not armed and did not participate in armed conflict.'¹⁰
12. In Summer 1981, the PMOI/MeK leadership resettled in France. There, they formed the National Council of Resistance (NCRI), a coalition of dissident groups that support democratic regime change in Iran.¹¹ The NCRI was later recognised as an alias for the PMOI/MeK by the government of the United States on its Foreign Terrorist Organizations List in 2003.¹²

³ A primer on the history of the People's Mojahedin Organization of Iran', available at: <https://english.mojahedin.org/a-primer-on-the-history-of-the-peoples-mojahedin-organization-of-iran/>, accessed 8 March 2022.

⁴ Amnesty International, *Blood-Soaked Secrets*, 2017, p. 33.

⁵ European Court of Justice of First Instance, *Organisation des Modjahedines du peuple d'Iran, established in Auvers-sur-Oise (France) v Council of the European Union, represented by M. Vitsentzos and M. Bishop, acting as Agents*, Case T-228/02, 12 December 2006, para. 1, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:62002TJ0228&from=FR>, accessed 25 March 2022.

⁶ Amnesty International, *Blood-Soaked Secrets*, 2017, p. 26.

⁷ 'About the People's Mojahedin Organization of Iran (PMOI/MEK)', available at: <https://english.mojahedin.org/about-the-peoples-mojahedin-organization-of-iran-pmoi-mek/>, accessed 8 March 2022

⁸ Report of an Inquiry Conducted by Geoffrey Robertson QC, *The Massacre of Political Prisoners in Iran*, (Abdorrahman Boroumand Foundation: 2011), pp. 23-24.

⁹ Rand Corporation, *The Mujahedin-e Khalq in Iraq. A Policy Conundrum*, (Library of Congress Cataloging-in-Publication Data, 2009), p. 83. Fig. C1

¹⁰ Amnesty International, *Blood-Soaked Secrets*, 2017, p. 34.

¹¹ Rand Corporation, *The Mujahedin-e Khalq in Iraq. A Policy Conundrum*, (Library of Congress Cataloging-in-Publication Data, 2009), p. 3.

¹² Rand Corporation, *The Mujahedin-e Khalq in Iraq. A Policy Conundrum*, (Library of Congress Cataloging-in-Publication Data, 2009), p. 92.

13. The AI report states that throughout the 1980s, the PMOI/MeK had tens of thousands of members and sympathizers, many of them high school and university students, and professionals.¹³ The Rand Corporation comments that approximately 7,000 people associated with the PMOI/MeK relocated to camps in Iraq, which accounted for 80% of the exiled PMOI/MeK membership.¹⁴
14. The AI report states that the PMOI/MeK created an armed force called the National Liberation Army (NLA) on June 20th 1987.¹⁵ The precise relationship of the PMOI/MeK with the NLA is unclear from the information available, e.g., it is difficult to say, based on the information available, if the NLA took over all military actions from the PMOI/MeK upon its establishment and it became the military wing of a political group (PMOI/MeK) at that point, or if both the NLA and the MPOI/MeK had military capabilities and / or a military role.
15. The last major offensive committed by the PMOI/MeK/NLA against Iran was on 25 July 1988, named Operation ‘Eternal Light’.¹⁶

¹³ Amnesty International, *Blood-Soaked Secrets*, 2017, p. 33. See also J. Pictet, Commentary on the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, ICRC, Geneva, 1952, p. 32.

¹⁴ Rand Corporation, *The Mujahedin-e Khalq in Iraq. A Policy Conundrum*, (Library of Congress Cataloging-in-Publication Data, 2009), p. 3.

¹⁵ Amnesty International, *Blood-Soaked Secrets*, 2017, p. 34. Cohen states that: ‘The NLA units began their operation at the end of 1986 and in the first half of 1987, a long time before the foundation of the army was officially announced’, Ronen A Cohen, ‘The Mojahedin-e Khalq versus the Islamic Republic of Iran: from war to propaganda and the war on propaganda and diplomacy’, 54(6) *Middle Eastern Studies* 2018, pp. 1000-1014, p. 1000.

¹⁶ Amnesty International, *Blood-Soaked Secrets*, 2017, p. 34.

C. The Concept of 'Armed Conflict' under IHL

16. IHL applies to situations of armed conflict. This body of law distinguishes between two types of armed conflicts, i.e., international armed conflicts (IAC) (between two or more opposing States), and non-international armed conflicts (NIAC) (between governmental forces and non-governmental armed groups, or between such groups only).¹⁷
17. An IAC occurs when one or more States have recourse to armed force against another State, regardless of the reasons for, or the intensity of, this confrontation. IHL rules may be applicable even in the absence of open hostilities. In addition, no formal declaration of war or recognition of the situation is required.¹⁸ The generally accepted definition of an IAC is that 'a resort to armed force between States.'¹⁹
18. Additional Protocol I includes armed conflicts in which peoples are fighting against colonial domination, alien occupation, or racist regimes in the exercise of their right to self-determination (wars of national liberation) as IACs.²⁰ However, this Protocol was not ratified by Iran or Iraq at the relevant time.
19. An IAC can also exist when a non-State armed group under the control of one party to the conflict engages in the conflict. Significant discussion has arisen over the requisite level of control a State must have over an armed group in order for a conflict to become 'internationalised'. The International Court of Justice (ICJ) proposed the '**effective control**' test, whereby it stated that it is insufficient that a state participates, even decisively, in the 'financing, organizing, training, supplying and equipping of [an organized armed group], the selection of its military and paramilitary targets, and the planning of the whole of its operation'²¹ of a group for such control to exist such that a conflict becomes internationalised. Instead, the State must have effective control 'of the military or paramilitary operations in the course of which the alleged violations were committed'.²² This approach was later confirmed in the ICJ's '*Bosnian Genocide*' case.²³ The International Criminal Tribunal for the Former Yugoslavia (ICTY) took a different

¹⁷ ICRC, 'How is the Term "Armed Conflict" Defined in International Humanitarian Law?', *International Committee of the Red Cross ICRC Opinion Paper*, March 2008, p. 1.

¹⁸ See Common Article 2, Geneva Conventions 1949.

¹⁹ ICTY, *The Prosecutor v. Dusko Tadić*, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, IT-94-1-A, 2 October 1995, para. 70. While this definition was proposed after the events in the situation before us, it has since been adopted by numerous bodies and is the generally accepted definition of an IAC. See ICRC, 'How is the Term "Armed Conflict" Defined in International Humanitarian Law?', *International Committee of the Red Cross ICRC Opinion Paper*, March 2008, p. 2.

²⁰ Article 1(4) of Additional Protocol I to the Geneva Conventions (1977) states: "armed conflicts in which peoples are fighting against colonial domination and alien occupation and against racist regimes in the exercise of their right of self-determination, as enshrined in the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations".

²¹ ICJ, *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v USA) (Merits)*, Judgment of 27 June 1986, ICJ Reports 1986, para. 115

²² ICJ, *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v USA) (Merits)*, Judgment of 27 June 1986, ICJ Reports 1986, para. 45.

²³ ICJ, *Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro)*, Judgment, 26 February 2007 (Bosnia Genocide case), 2007 ICJ Rep 43, paras 399-400.

approach and formulated the ‘**overall control**’ test, which does not require ‘the issuing of specific orders by the State, or its direction of each individual operation.’²⁴ Rather, the Chamber stated that: ‘Under international law it is by no means necessary that the controlling authorities should plan all the operations of the units dependent on them, choose their targets, or give specific instructions concerning the conduct of military operations and any alleged violations of international humanitarian law. The control required by international law may be deemed to exist when a State (or, in the context of an armed conflict, the Party to the conflict) has a role in organising, coordinating or planning the military actions of the military group, in addition to financing, training and equipping or providing operational support to that group. Acts performed by the group or members thereof may be regarded as acts of de facto State organs regardless of any specific instruction by the controlling State concerning the commission of each of those acts.’²⁵ It is now accepted by the International Committee of the Red Cross (ICRC) that the ‘overall control’ test is the appropriate test to apply when aiming to classify a conflict.²⁶ The International Criminal Court in the *Bemba* case commented that ‘a conflict will only be transformed to an international armed conflict where a second state is involved, directly or indirectly, on an opposing side of the conflict, the Chamber focuses its analysis on whether ... rebels, or any aligned forces, were acting on behalf of a foreign government.’²⁷ In summary, a conflict can become internationalised, and thus the IHL provisions applicable to IACs will apply, if a non-State armed group is under the overall control of the State on whose behalf it fights against another State (or States).²⁸

20. Two different types of NIACs exist, (1) conflict between a non-State armed group and the armed forces of a State and (2) conflict between different non-State armed groups, without any involvement of State forces.
21. Common Article 3 of the Geneva Conventions of 1949 applies to ‘armed conflicts not of an international character occurring in the territory of one of the High Contracting Parties.’²⁹ These include armed conflicts between one or more non-State armed groups and governmental armed forces or between a number (two or more) of non-State armed groups.
22. Additional Protocol II to the Geneva Conventions applies to armed conflicts ‘which take place in the territory of a High Contracting Party between its armed forces and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations and to implement this Protocol’.³⁰
23. Additional Protocol II explicitly states that it does not apply to situations of ‘internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other

²⁴ ICTY, *The Prosecutor v Tadic*, Judgment of the Appeals Chamber, 15 July 1999, para 137.

²⁵ ICTY, *The Prosecutor v Tadic*, Judgment of the Appeals Chamber, 15 July 1999, para 137.

²⁶ The ICRC, *Commentary to Geneva Convention I*, p 148-149, para 409,

²⁷ ICC, *The Prosecutor v Bemba*, ICC-01/05-01/08, *Bemba*, 21 March 2016, para. 654.

²⁸ For a discussion of such ‘internationalised armed conflicts, see K. Macak, *Internationalized Armed Conflicts in International Law*, OUP (2018), pp. 43-47.

²⁹ Common Article 3, Geneva Conventions 1949.

³⁰ Article 1(1), Additional Protocol II to the Geneva Conventions (1977).

acts of a similar nature...³¹ Thus, Additional Protocol II has an explicit threshold requirement for its application. There is no such explicit threshold in respect of Common Article 3. However, according to the ICRC, '[i]n order to distinguish an armed conflict, in the meaning of Common Article 3, from less serious forms of violence, such as internal disturbances and tensions, riots or acts of banditry, the situation must reach a certain threshold of confrontation.'³² The ICRC further states that '[i]t has been generally accepted that the lower threshold found in Article 1(2) of APII, which excludes internal disturbances and tensions from the definition of NIAC, also applies to common Article 3.'³³

24. In order to distinguish an armed conflict from lesser forms of violence, two criteria are used: **intensity and organisation**. According to the ICRC: 'First, the hostilities must reach a minimum level of intensity. This may be the case, for example, when the hostilities are of a collective character or when the government is obliged to use military force against the insurgents, instead of mere police forces. Second, non-governmental groups involved in the conflict must be considered as "parties to the conflict", meaning that they possess organized armed forces. This means for example that these forces must be under a certain command structure and have the capacity to sustain military operations.'³⁴
25. As to the whether an armed group is sufficiently organized, the ICTY non-exhaustively listed the following indicators: 'the existence of a command structure and disciplinary rules and mechanisms within the group; the existence of a headquarters; the fact that the group controls a certain territory; the ability of the group to gain access to weapons, other military equipment, recruits and military training; its ability to plan, coordinate and carry out military operations, including troop movements and logistics; its ability to define a unified military strategy and use military tactics; and its ability to speak with one voice and negotiate and conclude agreements such as cease-fire or peace accords.'³⁵
26. The ICTY also stated, in respect of the intensity criterion, that 'the number, duration and intensity of individual confrontations, the type of weapons and other military equipment used, the number and calibre of munitions fired, the number of persons and types of forces partaking in the fighting, the number of casualties, the extent of material destruction, and the number of civilians fleeing combat zones. The involvement of the UN Security Council may also be a reflection of the intensity of a conflict.'³⁶

³¹ Article 1(2), Additional Protocol II to the Geneva Conventions (1977).

³² ICRC, 'How is the Term "Armed Conflict" Defined in International Humanitarian Law?', *International Committee of the Red Cross ICRC Opinion Paper*, March 2008, p. 3.

³³ ICRC, 'How is the Term "Armed Conflict" Defined in International Humanitarian Law?', *International Committee of the Red Cross ICRC Opinion Paper*, March 2008, p. 3.

³⁴ ICRC, 'How is the Term "Armed Conflict" Defined in International Humanitarian Law?', *International Committee of the Red Cross ICRC Opinion Paper*, March 2008, p. 4.

³⁵ ICTY, *The Prosecutor v. Ramush Haradinaj et al.*, Trial Chamber Judgment, 3 April 2008, Case No. IT-04-84-T, para 60.

³⁶ ICTY, *The Prosecutor v Ramush Haradinaj et al.*, Trial Chamber Judgment, 3 April 2008, Case No. IT-04-84-T, para. 49.

27. The ICC in the Trial Judgment of *Ntaganda* stated that ‘[a]n armed conflict is either international or noninternational in nature and each type requires proof of a different set of facts.’³⁷ The standard of proof required is that of reasonable doubt.³⁸

³⁷ ICC, *The Prosecutor v Ntaganda*, ICC-01/04-02/06, 8 July 2019, para. 702.

³⁸ See Rogier Bartels, ‘The Classification of Armed Conflicts by International Criminal Courts and Tribunals’, 20(4) *International Criminal Law Review*, (2020), pp. 595-668.

D. The designation ‘terrorist group’

28. In the time since the alleged occurrence of the events at issue in the current case the PMOI/MeK were designated as a terrorist group by several States and the European Union. In 1997, the U.S. Secretary of State designated the MeK a Foreign Terrorist Organisation pursuant to the *Anti-Terrorism and Effective Death Penalty Act* of 1996.³⁹ The NCRI was added to the FTO list as a MeK alias in 2003.⁴⁰ Some other States, including the United Kingdom, Canada, Australia, and the European Union, have also listed the MeK either as a terrorist organization or an organization that may not receive donations. The MeK mounted legal challenges against its listing; and was delisted in the UK and in the EU.⁴¹
29. Designation as a terrorist group does not impact on as assessment of whether or not the group has participated / is participating in an armed conflict or are carrying out acts of violence / terrorism. Such labels have no impact on the legal assessment of the existence of an armed conflict or the categorisation of an armed conflict.

³⁹ Rand Corporation, *The Mujahedin-e Khalq in Iraq. A Policy Conundrum*, (Library of Congress Cataloging-in-Publication Data, 2009), pp. 63-64.

⁴⁰ Rand Corporation, *The Mujahedin-e Khalq in Iraq. A Policy Conundrum*, (Library of Congress Cataloging-in-Publication Data, 2009), p. 92.

⁴¹ Rand Corporation, *The Mujahedin-e Khalq in Iraq. A Policy Conundrum*, (Library of Congress Cataloging-in-Publication Data, 2009), p. 92.

E. Application of the Legal Framework to the Facts

30. Using the **overall control test**, on the basis of the information provided, it cannot be proven that the conflict was internationalised. While it has been alleged in some reports that the Iraqi regime provided financial support and resources for the PMOI/MeK,⁴² the level and amount of support of resources is unclear and disputed. While The Rand Corporation suggests Iraqi financial support of the PMOI/MeK, the organisation's website states that '[t]he MEK predicated its installment in Iraq on preserving its independence and the non-interference of Baghdad in the politics and operations of the Iranian Resistance, a condition that was agreed upon in bilateral negotiations with the Iraqi government.'⁴³ In addition, another interview with NCRI members in Stockholm in 2009, underlines that the PMOI/MeK did not financial support from Iran, with Mohammad Mohaddessin, then-NCRI Foreign Affairs Chair, stating: 'From the first day the PMOI went to Iraq until the day Saddam Hussein passed, this was a period of about 16-17 years, PMOI did not get even one dollar from Saddam Hussein. We have all the documents; we even paid for electricity; we paid for water; we paid for every single good which we used. We said from the beginning to the Iraqi government that we only need your land.'⁴⁴
31. There is insufficient unbiased evidence available to prove beyond a reasonable doubt that the Iraqi government was involved in 'organising, coordinating or planning the military actions' of the PMOI/MeK,⁴⁵ or that the PMOI/MeK carried out operations against the Iranian government on behalf of Iraq.⁴⁶
32. In addition, it should be noted that the United States Department of Defense viewed members of the PMOI/MeK as separate from Iraqi armed forces, assigning them status as 'Protected Persons' under Geneva Convention IV in 2004, reflecting that they did not view the PMOI/MeK to be under the control of the Iraqi army.⁴⁷
33. Turning to the possible categorisation of the violence carried out by the PMOI/MeK and NLA against the Iranian armed forces as a NIAC, an assessment of the intensity of the violence and the organisation of the PMOI/MeK must be undertaken.⁴⁸ In this context, it is important to note that it has been reported that on 21st June 1981 the PMOI/MeK announced armed struggle against the Islamic Republic and attacked and killed a number

⁴² Rand Corporation, *The Mujahedin-e Khalq in Iraq. A Policy Conundrum*, (Library of Congress Cataloging-in-Publication Data, 2009), p. 3. It should be noted that Iraq's rationale for supporting the PMOI/MeK has been questioned in the literature – see Ronen A Cohen, 'The Mojahedin-e Khalq versus the Islamic Republic of Iran: from war to propaganda and the war on propaganda and diplomacy', 54(6) *Middle Eastern Studies* 2018, pp. 1000-1014, p. 1000.

⁴³ 'A Primer on the History of the People's Mojahedin Organization of Iran', available at:

<https://english.mojahedin.org/a-primer-on-the-history-of-the-peoples-mojahedin-organization-of-iran/>, accessed 20 April 2022.

⁴⁴ 'NCRI about the relation between PMOI and Saddam Hussein', available at:

<https://www.mynewsdesk.com/se/friends-of-a-free-iran-nordic-branch-sweden/documents/ncri-about-the-relation-between-pmoi-and-saddam-hussein-3188>, accessed 20 April 2022.

⁴⁵ ICTY, *The Prosecutor v Tadic*, Judgment of the Appeals Chamber, 15 July 1999, para 137.

⁴⁶ ICC, *The Prosecutor v Bemba*, ICC-01/05-01/08, *Bemba*, 21 March 2016, para. 654.

⁴⁷ See, generally, Rand Corporation, *The Mujahedin-e Khalq in Iraq. A Policy Conundrum*, (Library of Congress Cataloging-in-Publication Data, 2009).

⁴⁸ ICRC, 'How is the Term "Armed Conflict" Defined in International Humanitarian Law?', *International Committee of the Red Cross ICRC Opinion Paper*, March 2008, p. 4.

of senior officials.⁴⁹ However, this announcement does not, of itself, prove the existence of an armed conflict. Rather, the situation must be assessed on the basis of the application of the relevant legal framework to the facts.

34. The facts available suggest that many PMOI/MeK members were non-violent and were only involved in peaceful demonstrations.⁵⁰ However, a number of attacks were perpetrated in the name of the PMOI/MeK since its foundation in 1965 against Iran. Such acts could be regarded as acts of terrorism, and it should be noted that the US designation of the PMOI/MeK as a terrorist organisation in 1997 was as a result of attacks it has conducted against Iranian targets since its foundation, including, particularly, the assassinations of three U.S. Army officers and three U.S. civilian contractors in Tehran during the 1970s, which were attributed to the MeK.⁵¹ In addition, CORI Research Analysis Report states that '[t]he PMOI have mounted several operations and terrorist attacks against the Iranian government.'⁵² The available information does not indicate that during the early 1980s the PMOI/MeK were sufficiently organised or that their violence reached a level of intensity such that they were engaged in a NIAC with Iran, but rather suggests that they were engaged in a terrorist campaign, given that the violence was, as suggested by the available information, intermittent and unsustainable.
35. On June 20th, 1987, the PMOI/MeK created an armed wing called the National Liberation Army (NLA) upon their move to Iraq. An AI Report describes the NLA as 'a force formed by the People's Mojahedine's Organization of Iran (PMOI), the Baghdad-based opposition group.'⁵³ The designation of 'army' does not necessarily mean that an armed conflict was ongoing. The factors of intensity and organisation of the NLA must be assessed. From the information available, it seems that the nature of the NLA became more organised and the level of violence committed by it became more intense over time.
36. With regard to the organisation of the NLA, Massoud and Maryam Rajavi were recognised as supreme commanders. In addition, the PMOI/MeK established a number of camps upon their relocation to Iraq, including military training camps, illustrating some level of organisation.⁵⁴ However, no precise information of the command and control structure of the NLA or the PMOI/MeK is available. With regard to intensity, while some information is available of a few examples of attacks by the PMOI/MeK/NLA, including Operation

⁴⁹ Rand Corporation, *The Mujahedin-e Khalq in Iraq. A Policy Conundrum*, (Library of Congress Cataloging-in-Publication Data, 2009), p. 83.

⁵⁰ Amnesty International, *Blood-Soaked Secrets*, 2017, p. 2.

⁵¹ Rand Corporation, *The Mujahedin-e Khalq in Iraq. A Policy Conundrum*, (Library of Congress Cataloging-in-Publication Data, 2009), p. 92.

⁵² CORI Research Analysis, 'Information on the People's Mujahedin of Iran (PMOI) including on the three main military operations of National Liberation Army of Iran (NLA), the PMOI military wing, in 1987-1988 during the Iraq-Iran war', available at: <https://www.refworld.org/docid/4ac9c2c52.html>, accessed 25 March 2022.

⁵³ Amnesty International Report 1989, p. 255.

⁵⁴ See Human Rights Watch, *No Exit Human Rights Abuses Inside the MKO Camps*, 2015, available at: <https://www.hrw.org/report/2005/05/18/no-exit/human-rights-abuses-inside-mojahedin-khalq-camps>, accessed 20 March 2022, p. 1.

'The Sun' and Operation '40 Stars',⁵⁵ this information is very sparse on details concerning level of violence, including types of weapons used.⁵⁶ Indeed, it should be noted that even the name of the latter conflict is disputed.⁵⁷ Much of the information available in respect of PMOI/MeK/NLA attacks on Iran is often based on Wikipedia entries, which is maintained by volunteer editors, rather than being a verified source.⁵⁸ With regard to the biased information available on the PMOI/MeK/NLA, Cohen comments that '[t]he NLA's operations had indeed caused damage to the Iranian army but the figures supplied by the Mojahedin organization regarding the scope of casualties were unilateral and tendentious.'⁵⁹

37. The operation on which the most information is available is Operation 'Eternal Light', which the NLA commenced against Iran in July 1988. However, there are contradicting accounts of the dates of this operation.⁶⁰ Information available suggests⁶¹ that the NLA seized Karand and Islamabad-e Gharb and the NLA state that the fighting lasted four days.⁶² However, this information from the NLA is unverified and is potentially biased.

⁵⁵ See CORI Research Analysis, 'Information on the People's Mujahedin of Iran (PMOI) including on the three main military operations of National Liberation Army of Iran (NLA), the PMOI military wing, in 1987-1988 during the Iraq-Iran war', available at: <https://www.refworld.org/docid/4ac9c2c52.html>, accessed 25 March 2022.

⁵⁶ Some information on weaponry was released by the PMOI/MeK, but this is unverified. See Ronen A Cohen, 'The Mojahedin-e Khalq versus the Islamic Republic of Iran: from war to propaganda and the war on propaganda and diplomacy', 54(6) *Middle Eastern Studies*, (2018), pp. 1000-1014, p. 1010. The Council on Foreign Relations, reports the US State Department comments that the MeK were provided with 'heavy military equipment' by Iraq – Council on Foreign Relations, 'Mujahadeen-e-Khalq (MEK)', available at: <https://www.cfr.org/backgrounder/mujahadeen-e-khalq-mek>, accessed 28 March 2021.

⁵⁷ See CORI Research Analysis, 'Information on the People's Mujahedin of Iran (PMOI) including on the three main military operations of National Liberation Army of Iran (NLA), the PMOI military wing, in 1987-1988 during the Iraq-Iran war', available at: <https://www.refworld.org/docid/4ac9c2c52.html>, accessed 25 March 2022, which names this operation, '40 Lanterns/Stars'.

⁵⁸ See C. Sugandhika, S. Ahangama and S. Ahangama, 'Modelling Wikipedia's Information Quality using Informativeness, Reliability and Authority', 3rd International Conference on Advancements in Computing (ICAC), (2021), pp. 169-174.

⁵⁹ Ronen A Cohen, 'The Mojahedin-e Khalq versus the Islamic Republic of Iran: from war to propaganda and the war on propaganda and diplomacy', 54(6) *Middle Eastern Studies*, (2018), pp. 1000-1014, p. 1000.

⁶⁰ See CORI Research Analysis, 'Information on the People's Mujahedin of Iran (PMOI) including on the three main military operations of National Liberation Army of Iran (NLA), the PMOI military wing, in 1987-1988 during the Iraq-Iran war', available at: <https://www.refworld.org/docid/4ac9c2c52.html>, accessed 25 March 2022.

⁶¹ See Dilip Hiro, *The longest war: the Iran-Iraq military conflict*, (Routledge, London, 1990), p. 246.

⁶² National Liberation Army, *The Road to Tehran*, available at: <http://www.iran-e-azad.org/english/nla/lit1.html>, accessed 25 March 2022.

E. Conclusions

38. The lack of unbiased, uncontested and verifiable information available on the relationship between the PMOI/MeK and the Iranian government, and the violence used by the PMOI/MeK make definitive conclusions on the categorisation of conflict challenging. In making conclusions, the standard of proof in respect of the categorisation of conflicts and the related 'control test' of 'beyond reasonable doubt' must be borne in mind.
39. On this basis, it can be concluded, with regard to the information available, that an IAC, in the form of an internationalised conflict, did not take place between the PMOI/MeK/NLA and Iran during the relevant period as it cannot be concluded beyond a reasonable doubt that Iraq had overall control of the group(s).
40. It is difficult to definitively conclude if the establishment of the NLA resulted in the dissolution of the military framework of the PMOI/MeK and if, therefore, the NLA was an actor in its own right engaged in violence against Iran, or if the NLA and the PMOI/MeK can be regarded as a single entity.
41. It is difficult to definitely conclude if the PMOI/MeK or indeed the NLA has sufficient levels of organisation and that the violence which they undertook rose to a requisite level of intensity such that a NIAC existed between the PMOI/MeK and Iran or the NLA and Iran, given the scarcity and / or questionable validity of the information available. The requisite standard of proof in respect of the organisation of the PMOI/MeK and the intensity of the violence used has not been met.

[REDACTED]

[REDACTED]

