

PLATFORM POSITION PAPER I
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Peace & Freedom Party

While the people of Iran courageously demand that their rights to vote and to associate for the advancement of political beliefs be respected – sometimes at the cost of their lives – Iranian immigrants who have been seeking those rights for their compatriots languish in jail without any legal recourse given the current state of statutory and case law.

People convicted of giving material support to or being members of the Mujahadeen e Khalq (MEK) have no right under American law to challenge the designation of MEK itself as being a Foreign Terrorist Organization (FTO). Only MEK itself can do that. The law provides that when designating a group as an FTO, the government is required to give notice and an opportunity to such an organization to challenge the designation in court.

When the State Department designated MEK as an FTO, it didn't bother to give it notice, let alone an opportunity to be heard before the final decision. MEK took that issue all the way to the U.S. Supreme Court and won. So, the State Department promptly gave them a perfunctory notice to comply with the letter of the Supreme Court's decision and re-designated MEK as an FTO.

MEK at that point did not trust the United States to deal with it fairly and left the country, although this is a truncation of how that process came about, for brevity.

Since the law itself does not allow anybody but the FTO itself to challenge the designation, it is not a defense allowed by statute for individuals charged under the law to contend that MEK is not an FTO to begin with. That is a state of affairs that has been excoriated in dissenting legal opinions by judges on both the right and the left of the political spectrum. The designation of MEK as an FTO is an opinion of the State Department which in and of itself has been challenged at one time by a majority of the House of Representatives who signed a letter asking that the designation be lifted. It is also not a position shared by France and Britain, where the MEK is perfectly legal and operates openly.

But finally, it is a decision which is outrageous based on the record.

I personally engaged in the Freedom of Information Act process with the State Department, FBI, CIA and U.S. Department of Justice and was the recipient for one of my clients who has been convicted of giving material support to the MEK of responses to his Privacy Act requests. The law which defines what an FTO is requires that the organization have violated a series of other laws, any of which triggers the ability of the government to designate it as an FTO. In response to my FOIA and Privacy Act requests, the government was not able to demonstrate that MEK had ever violated any of the laws that would legitimately enable the United States to designate it as an FTO.

As a United States Senator, I would introduce a resolution demanding that the State Department lift its designation of MEK retroactively with a formal recognition that it never possessed any legitimate evidence to charge the group or its members with being an FTO. I would introduce legislation to amend federal law to provide a mechanism for individuals to challenge an FTO designation when they are charged with belonging to or giving material support to such a group, and I would provide that any person already convicted could bring a motion under 18 USC 2255 to challenge their conviction.