

Guantanamo: The Omar Khadr Case

Canadian Government Complicit in War Crimes

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Open Letter to Canadian Members of Parliament and Senators on the Omar Khadr Case

Do not let the Harper administration ignore the will of Parliament and disobey the law again

According to Paul Koring of the Globe and Mail (April 28, 2010, A 16), lawyers have been negotiating an arrangement that could lead to Omar Khadr's release and repatriation. But, adds Koring, "agreement from the Canadian government would be critical to any final deal, Mr. Khadr's lawyers said."

In fact the Canadian government—through a majority vote in Parliament on March 23, 2009—has already decided that Omar Khadr should be released and repatriated, so no further 'agreement' is necessary. The Senate of Canada had earlier passed a similar motion for Khadr's release and repatriation. Those decisions of the House of Commons and the Senate (the government of Canada) endorsed the June 2008 recommendation of the Standing Committee on Foreign Affairs, "...that the Government of Canada demand Khadr's release from US custody at Guantanamo Bay...as soon as practical."

Omar Khadr's right to enter Canada is protected by the Canadian Charter of Rights and Freedoms. Subsection 6(1), guarantees, "Every citizen of Canada has the right to enter...Canada." The legal duty of the government, as defined by the Federal Court of Canada in the Abdelrazik case, is clear: "...where a citizen is outside Canada, the Government of Canada has a positive obligation to issue an emergency passport to that citizen to permit him or her to enter Canada..."

In January 2010 the Supreme Court of Canada confirmed that Canada has violated Khadr's rights and that those violations are contributing to his imprisonment in Guantánamo Bay. The Court held that the decision to ask the U.S. to release Khadr was a discretionary matter: issuing the documents that would allow Khadr to return to Canada is not a discretionary matter.

Outside Canada many jurists and human rights specialists have urged the governments of both Canada and the U.S. to comply with the law by releasing and repatriating Omar Khadr. Most recently, two United Nations experts, Manfred Nowak, the Special Rapporteur on Torture and Martin Sheinin, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, have issued joint Urgent Appeals on the Omar Khadr case: to Canada on April 13, 2010 and to the U.S. on April 27, 2010. The office of the Special Rapporteur, while not able to divulge the specific contents which are confidential, confirmed that both Urgent Appeals were based on the

March 2010 submissions by Lawyers Rights Watch Canada that asked the Special Rapporteurs to make two direct requests, one to the Government of the U.S. to release Omar Khadr and one to the Government of Canada to repatriate him.

Any further action or inaction by the Harper administration to delay or deny Omar Khadr's return to Canada—for example, refusal to issue an emergency passport—would constitute a violation of the law and must be dealt with as such.

Please advise what action(s) you intend to take as a Member of Parliament.

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