
amnesty international

USA: Child 'enemy combatants' among cases as military commission proceedings resume at Guantánamo

13 August 2008

AI Index: AMR 51/093/2008

Following the completion last week of the first military commission trial at Guantánamo (of Yemeni detainee Salim Hamdan), pre-trial proceedings are due at the US naval base in three other cases this week. Amnesty International has an observer at the proceedings.

The cases of Omar Khadr and Mohammed Jawad are before military judges on 13 and 14 August. Both were children when they were taken into US custody in Afghanistan in July and December 2002 respectively, following incidents in which grenades were thrown at US soldiers. Omar Khadr, a Canadian national, was 15, while Afghan national Mohammed Jawad was aged 16 or 17. Their years in US detention have been an affront to human rights principles, including standards governing the treatment of children in custody, as Amnesty International has detailed in reports on both cases, the latest of which (on Jawad) it is issuing today.

Mohammed Jawad and Omar Khadr face the possibility of life prison sentences if convicted. Like others facing trial under the Military Commissions Act (MCA), even if they were acquitted, they could be returned to indefinite military detention as "enemy combatants". Omar Khadr's trial is due to begin in October 2008. Mohammed Jawad's trial date has not yet been set.

In June 2008, the UN Committee on the Rights of the Child called on the USA not to subject those taken into custody as children to trial by military commission, and to ensure that their allegations of ill-treatment are investigated. Both Jawad and Khadr have been subjected to ill-treatment in detention, including via Guantánamo's "frequent flyer program", incorporating prolonged "sleep disruption" via repeated cell moves designed to disorient detainees.

Amnesty International's new report on Mohammed Jawad details his recently emerged allegations that he was subjected to isolation, hooding, sleep deprivation, stress positions, cruel use of restraints, and physical assaults during his initial detention in the US air base in Bagram in Afghanistan. The report also details his time in Guantánamo, and provides an overview of the evolution and authorization of the coercive interrogation techniques and detention conditions at Guantánamo, to which both he and Khadr have been subjected.

The other detainee facing a pre-trial hearing is Ali Hamza al-Bahlul, a Yemeni national, on 15 August. He was charged under the Military Order signed by President Bush in November 2001. That earlier system of military commissions was ruled unlawful by the US Supreme Court in 2006. The legislative response to that ruling, the MCA, authorizes a revised military commission system that is only a marginal improvement on its predecessor.

These proceedings cannot be divorced from the backdrop against which they are occurring. This backdrop is one of practices pursued in the absence of independent judicial oversight that have systematically violated international law. The treatment of detainees has been highly and deliberately coercive, and the military commissions have been tailored to be able to tolerate unlawful government conduct and admit information obtained under such conduct. Meanwhile, there has been a general level of impunity for human rights violations.

Military commissions under the MCA do not meet international fair trial standards. Amnesty International continues to call for the Guantánamo detainees to be charged for trial in US federal civilian courts or released, and for the Guantánamo detention facility to be closed.

Selected Amnesty International reports on trials under the Military Commissions Act

- USA: From ill-treatment to unfair trial. The case of Mohammed Jawad, child ‘enemy combatant’, 13 August 2008, <http://www.amnesty.org/en/library/info/AMR51/091/2008/en>.
- USA: Back to the bigger picture: Salim Hamdan sentenced after first military commission trial at Guantánamo, 8 August 2008, <http://www.amnesty.org/en/library/info/AMR51/090/2008/en>.
- USA: Trial and error - a reflection on the first week of the first military commission trial at Guantánamo, 30 July 2008, <http://www.amnesty.org/en/library/info/AMR51/084/2008/en>.
- USA: Double standards and second-class justice: Federal judge clears way for first military commission trial, 18 July 2008, <http://www.amnesty.org/en/library/info/AMR51/082/2008/en>.
- USA: Guantánamo: Day two of military judge questioning 9/11 accused about self-representation, 11 July 2008, <http://www.amnesty.org/en/library/info/AMR51/077/2008/en>.
- USA: 9/11 defendants warned on lack of access to classified information and other disadvantages of self-representation, 10 July 2008, <http://www.amnesty.org/en/library/info/AMR51/076/2008/en>.
- USA: Guantánamo: Military judge to question capital defendants on decision to represent themselves, 8 July 2008, <http://www.amnesty.org/en/library/info/AMR51/074/2008/en>.
- USA: Capital charges sworn against another Guantánamo detainee tortured in secret CIA custody, 2 July 2008, <http://www.amnesty.org/en/library/info/AMR51/071/2008/en>.
- USA: Update on the Guantánamo military commission hearings in the cases of two child ‘enemy combatants’, 20 June 2008, <http://www.amnesty.org/en/library/info/AMR51/066/2008/en>.
- USA: The show trial begins: Five former secret detainees arraigned at Guantánamo, 6 June 2008, <http://www.amnesty.org/en/library/info/AMR51/056/2008/en>.
- USA / Canada: Omar Khadr is ‘salvageable’, military commissions are not, 5 June 2008, <http://www.amnesty.org/en/library/info/AMR51/055/2008/en>.
- USA: Way of life, way of death: Capital charges referred against five former secret detainees, 20 May 2008, <http://www.amnesty.org/en/library/info/AMR51/041/2008/en>.
- USA: Where is the accountability? Health concern as charges against Mohamed al-Qahtani dismissed, 20 May 2008, <http://www.amnesty.org/en/library/info/AMR51/042/2008/en>.
- USA: Omar Khadr’s trial by military commission a step closer. Canada must act, 12 May 2008, <http://www.amnesty.org/en/library/info/AMR51/038/2008/en>.
- USA: In whose best interests? Omar Khadr, child ‘enemy combatant’ facing trial by military commission, April 2008, <http://www.amnesty.org/en/library/info/AMR51/028/2008/en>.
- Disturbing appearance of Mohammed Jawad, child ‘enemy combatant’, at Guantánamo military commission hearing, 13 March 2008, <http://www.amnesty.org/en/library/info/AMR51/019/2008/en>.
- USA: Impunity and injustice in the ‘war on terror’: From torture in secret detention to execution after unfair trial? 12 February 2008, <http://www.amnesty.org/en/library/info/AMR51/012/2008/en>.
- USA: A tool of injustice. Salim Hamdan again before a military commission, 5 December 2007, <http://www.amnesty.org/en/library/info/AMR51/189/2007/en>.
- USA: Abandon military commissions, close Guantánamo, 4 July 2007, <http://www.amnesty.org/en/library/info/AMR51/118/2007/en>.
- USA: Another day in Guantánamo: David Hicks sentenced by military commission..., 2 April 2007, <http://www.amnesty.org/en/library/info/AMR51/055/2007/en>.
- USA: David Hicks pleads guilty on one count: AI observer attends arraignment at Guantánamo, 27 March 2007, <http://www.amnesty.org/en/library/info/AMR51/052/2007/en>.
- USA: Military commissions, like CSRTs, threaten to whitewash detainee abuse, 23 March 2007, <http://www.amnesty.org/en/library/info/AMR51/046/2007/en>.
- USA: Justice delayed *and* justice denied? Trials under the Military Commissions Act, 22 March 2007, <http://www.amnesty.org/en/library/info/AMR51/044/2007/en>.

INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 0DW, UNITED KINGDOM
