

URGENT ACTION

KHADR TRIAL POSTPONED AFTER LAWYER COLLAPSES

On 12 August the military commission trial of Omar Khadr was postponed for at least 30 days after his military lawyer collapsed in court. Amnesty International considers that this delay presents the US authorities with an opportunity to abandon this trial once and for all.

Omar Khadr's military commission trial began on 12 August but came to an abrupt halt the same day when his military lawyer, Lieutenant Colonel Jon Jackson, collapsed while cross-examining a witness. He was later transferred to the US mainland for treatment for complications from recent surgery. He is now on "convalescent leave".

Pre-trial proceedings in the case had been completed on 9 August with the military judge, US Army Colonel Patrick Parrish, ruling against the defence on almost every issue. On 8 August, Colonel Patrick Parrish took approximately 90 seconds to rule that all statements made by Omar Khadr in US military custody could be admitted into evidence against him by the prosecution. The defence had argued that such statements should be ruled inadmissible because they were the product of torture or other ill-treatment. Admitting evidence obtained as the result of torture or other cruel, inhuman or degrading treatment would violate the international human rights obligations of the USA, including under the UN Convention against Torture and the International Covenant on Civil and Political Rights.

On 10 and 11 August, seven US military officers were selected to sit as a "jury" for Omar Khadr's trial. They were sent back to their bases after the trial was postponed, with the order not to read any media coverage of the proceedings. It is not clear whether, if and when the trial resumes, a new panel will be selected.

Amnesty International, which had an observer at last week's proceedings, believes that all military commission trials for Guantánamo detainees should be abandoned as they fail to meet international fair trial standards. The commissions lack the independence of the US federal courts and deny the right of equality of all persons before the courts and equal protection of the law.

PLEASE WRITE IMMEDIATELY in English or your own language:

- Urging the US authorities to abandon the military commission trial against Omar Khadr once and for all;
- Calling on them to release him and repatriate him to Canada, or else try him in a civilian court in accordance with international standards;
- Calling on Canadian authorities to seek Omar Khadr's repatriation immediately.

PLEASE SEND APPEALS BEFORE 28 SEPTEMBER 2010 TO:

President
Barack Obama
The White House
Office of the President
1600 Pennsylvania Avenue NW
Washington DC 20500, USA
Fax: +1 202 456 2461
Email via: www.whitehouse.gov/contact
Salutation: Dear President Obama

General Counsel of the Department
of Defense
Jeh Johnson
1400 Defense Pentagon
Washington DC 20301-1400
USA
Email: jeh.johnson@osd.mil
Salutation: Dear Mr. Johnson

Prime Minister
Stephen Harper
Office of the Prime Minister
80 Wellington Street
Ottawa, Canada K1A 0A2
Fax: 001 613 941 6900
Email: pm@pm.gc.ca or
Harper.S@parl.gc.ca
Salutation: Dear Prime Minister

Also send copies to diplomatic representatives accredited to your country. Please check with your section office if sending appeals after the above date. This is the Third update of UA 154/10. Further information: www.amnesty.org/en/library/asset/AMR51/067/2010/en

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Additional Information

Omar Khadr, then 15 years old, was taken into US military custody on 27 July 2002 after a firefight at a compound in Afghanistan in which a US soldier received fatal injuries. Omar Khadr himself was seriously injured during the air and ground assault of the compound by US forces, shot twice in the back and blinded in one eye. He was held in Bagram air base for three months during which time, among other things, he has alleged that his injuries were exploited during interrogation, and that he was threatened, hooded, and confronted with barking dogs.

He was transferred to Guantánamo shortly after he turned 16, where he claims the abusive interrogations continued. For three weeks in 2004, he was subjected to the sleep deprivation technique known as the "frequent flyer" program. Omar Khadr has also alleged that his interrogators shackled him in painful positions, threatened to send him to Egypt or Syria for torture, and used him as a "human mop" after he urinated on the floor during one interrogation session.

Instead of being recognized as a child and treated accordingly, as international law requires, Omar Khadr was designated an "enemy combatant" and denied access to a court to challenge the lawfulness of his detention. He was not allowed to meet with a lawyer until November 2004, more than two years after he was first captured.

Omar Khadr was first charged for a military commission trial in 2005. However, the system of military commissions initiated by President George W. Bush was found unlawful by the US Supreme Court in 2006. They were replaced by a close version authorized under the Military Commissions Act (MCA) of 2006. Omar Khadr is currently charged under the MCA of 2009, an amended version of the 2006 MCA signed into law by President Barack Obama in October 2009. Omar Khadr faces the possibility of a life prison sentence if convicted. Even if acquitted he could be returned to indefinite military detention (see <http://www.amnesty.org/en/library/info/AMR51/036/2010/en>).

The UN Committee on the Rights of the Child, as part of its review of US compliance with the Optional Protocol to the Convention of the Rights of the Child on the involvement of children in armed conflict, has called on the USA not to try before a military tribunal anyone detained as a child in any armed conflict. On 26 May 2010, UNICEF called for an end to the military commission trial of Omar Khadr. The UN Secretary-General's Special Representative for children and armed conflict has called on the USA not to set the dangerous precedent of going forward with Omar Khadr's military commission trial, and has called on the US and Canadian authorities to work together to resolve the case in a more appropriate manner.

Canada's Supreme Court ruled in January that the Canadian government should provide a remedy for Omar Khadr for having interrogated him while he was in unlawful detention in Guantánamo, knowing he had been subject to treatment inconsistent with his rights, and then providing the USA with the statements obtained in a manner that contributed to his continued unlawful detention. However, the only action the Canadian government is known to have taken was to request assurances from the US government that statements or evidence obtained by Canadian officials would not be used in military commission or any other proceedings. The US government has failed to provide those assurances.

Amnesty International considers that no one under 18 years old should ever have been transferred to Guantánamo, and that no Guantánamo detainee, let alone one who was a child at the time of his alleged crime, should be subject to a military commission trial.

See also, USA: Denying human rights, failing justice: Omar Khadr's military commission trial set to start at Guantánamo, 11 August 2010, <http://www.amnesty.org/en/library/info/AMR51/069/2010/en>

Further Information on UA: 154/10 Index: AMR 04/003/2010 Issue Date: 17 August 2010

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