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## **Omar Khadr Guantánamo military trial condemned**

Amnesty International has condemned the US government's decision to go ahead with the military commission trial of Omar Khadr at the Guantánamo Bay detention centre, describing the move as another violation of human rights by the USA in the name of countering terrorism.

Omar Khadr, a Canadian citizen, was taken into US custody as a 15-year-old in 2002 in Afghanistan, following a fire fight with US forces. He is facing five "war crime" charges, including a murder charge for allegedly throwing a grenade that fatally wounded a US soldier. The trial is due to begin today.

"The USA has turned a deaf ear to the repeated appeals of the international community, including senior UN officials, not to set this dangerous precedent of an unfair trial of an individual accused of alleged 'war crimes' committed when he was a child", said Rob Freer, USA researcher at Amnesty International.

"After eight years of ignoring its human rights obligations, the USA is now set to try Omar Khadr under procedures that fail to meet international fair trial standards", Rob Freer continued. "History will not judge its actions kindly".

On Monday, a military judge ruled that statements made by Omar Khadr during his time in custody would be admissible during the trial, rejecting a defence motion that the statements should be excluded as the product of torture or other ill-treatment.

"It took this military judge about 90 seconds to rule, without explanation, that any statement this young detainee made during that time can be admitted against him." said Amnesty International.

The selection of seven US military officers who will sit as a "jury" on the military commission was completed yesterday and opening arguments in the trial are due today.

Omar Khadr faces the possibility of a life prison sentence if convicted. Even if acquitted he could be returned to indefinite military detention, according to the Manual on Military Commissions released in April this year.

"These military commissions are part of a system of detentions and prosecutions that from the outset have kept the USA on the wrong side of its international human rights obligations", Rob Freer said.

"They should have been abandoned long ago, along with the unlawful Guantánamo detentions of which they became an integral part".

Amnesty International, which has an observer at the Guantánamo proceedings, has opposed the USA's use of

military commissions since former US President George W. Bush initiated them in 2001. The military commissions are in their third incarnation, convened now under the Military Commissions Act (MCA) of 2009, signed into law by US President Barack Obama in October 2009, revising a 2006 version of the MCA.

“Under international law, the USA should have taken full account of Omar Khadr’s age at the time of his arrest, and treated him according to principles of juvenile justice,” Rob Freer said.

“It utterly failed to do so, instead holding him for more than two years virtually incommunicado, subjecting him to repeated interrogations without access to a lawyer or the courts, and is now putting him through a military commission trial that would fail to meet international standards even if it were being applied to accusations against an adult.”

Amnesty International says the commissions lack the independence of the US federal courts and fair trial protections that US nationals accused of identical conduct/crimes would receive. The military commissions deny the right of equality of all persons before the courts and equal protection of the law.

“The military commissions were the wrong choice in 2001 and are wrong now and justice will neither be done nor be seen to be done before them”, continued Rob Freer. “The trial of Omar Khadr for alleged ‘war crimes’ committed when he was a child – something that would not be countenanced by any existing international tribunal – will also set a dangerous precedent.”

## **Background**

Omar Khadr, who was seriously wounded in the incident that led to his detention, was held in the US air base in Bagram, Afghanistan, for several months. There, he was reported to have been forced into painful stress positions, threatened with rape and 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 told his lawyers 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. He was not allowed to meet with a lawyer until November 2004, more than two years after he was first captured.

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.

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.

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 governments of the USA and Canada not to set the dangerous precedent of going forward with this trial.

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, available](#)