

Canada's government continues to persecute "child soldier" Omar Khadr

Ed Patrick
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Canada's Conservative government is continuing the decade-long vendetta Canadian and US authorities have mounted against Omar Khadr, the "child soldier" who has been detained at Guantanamo Bay for the past decade.

Today, just 25 years old, the Canadian-born Khadr has long been the only citizen of a Western country still detained at Guantanamo Bay. Now Canada's Conservative government is delaying implementing a plea-bargain agreement under which Ottawa agreed that Khadr would be allowed to return to Canada after serving the first year of an eight-year sentence he received from a U.S. military commission. That Khadr was forced under duress to plead guilty to a series of trumped up charges was itself a travesty, for which successive Liberal and Conservative governments, Canada's Supreme Court and its national security apparatus all bear responsibility.

According to the 2010 plea bargain agreement, Khadr should have been allowed to return to Canada eleven months ago. Earlier this summer, his lawyers asked a Federal Court to force Public Safety Minister Vic Toews to act on Khadr's request he serve out the rest of his sentence in Canada.

Repatriation to Canada would not simply free Khadr from the concentration camp type-conditions at Guantanamo Bay. He would be able to be visited by his family and could petition Canada's courts to overturn his sentence or at least grant him early parole on the grounds that he had been subjected to abuse and was convicted by a military tribunal that does not conform with recognized legal norms.

"The [Canadian] government was involved in the negotiations of the plea agreement," Brydie Bethell, one of Khadr's lawyers, told the *Globe and Mail* after filing the Federal Court motion. "They knew a transfer [to Canada] was part of the deal. And the minister has to make a decision. He has to stop stonewalling,"

"Contrary to his obligations," continued Bethell, "[Toews has] refused to advise about the progress of this matter. ... The assumption is that he's doing nothing."

The response of the Public Security Ministry to the motion filed on Khadr's behalf more than vindicates the charge of

stonewalling. Indeed, it indicates that Canada's Conservative government is now seeking to renege on its commitment that Khadr would be allowed to return to Canada.

"Omar Ahmed Khadr," said Ministry spokeswoman Julie Carmichael, "is a Canadian citizen that has pled guilty to the murder of an American Army medic. A decision must be made on his application in accordance with Canadian law."

It is typical for US and Canadian authorities and the corporate media to refer to the individual, who Khadr is said to have killed during a US attack on an Afghan compound, as a "medic" in order to suggest that he is a terrorist who murdered an unarmed civilian, not a child soldier. In fact, when Sergeant Christopher Speer was killed he was a fully armed combat member of a Delta Force assault team and not acting in the capacity of a medic.

As for Khadr's guilty plea, it was the outcome of 10 years of abuse and a skewed legal process.

Even Canada's highest court has recognized that Khadr was subjected to interrogation techniques, such as sleep deprivation, that constitute torture. Apprehended at the end of a firefight during the US invasion of Afghanistan, the 15 year-old Khadr was under international law a "child soldier" and therefore not legally responsible for his actions. But the US authorities brushed this aside, while convicting Khadr of a series of newly-invented "war crimes" applicable to those the US designates as "enemy combatants." The US military also suppressed contrary evidence that suggested Speer's death might have been the result of friendly-fire or another insurgent. Last but not least, the US military tribunals flout basic judicial norms. For example, they permit both hearsay and coerced evidence. In Khadr's case, the key piece of evidence against him was the confession that the military and CIA had coerced from him.

As justification for its refusal to act on Khadr's request that he be returned to Canada, the Conservative government is claiming that before Toews renders a decision he needs to view videotapes of interviews psychiatrist Michael Welner and military psychiatrist Alan Hopewell conducted with

Khadr prior to his military commission trial.

Welner was a “star” prosecution witness against Khadr at his military commission trial—that is, until the defence was able to expose him as a right-wing Islamphobe.

Welner told the military tribunal, “In my professional opinion, Omar Khadr is at a high risk of dangerousness as a radical jihadist.” He also slandered Khadr as “Al Qaeda royalty” and a “rock star” at Guantanamo Bay.

During cross-examination by the defence, however, it was revealed that Welner’s report was based on the work of Danish psychologist Nicolai Sennels, an unabashed anti-Muslim bigot. Sennels famously wrote a letter to British Prime Minister David Cameron describing the Turkish as inbred and arguing that a “mass movement” should “rise up” to forcibly evacuate Muslims from Europe.

Welner, who has admitted that has not even read Sennels’ book, which is available only in Danish, also defends Israeli settlements in the West Bank as “a buffer zone for Israel, stemming the tide of Islamo-chaos.”

Building on his evident bigotry, Welner essentially equates Khadr’s identification as a Muslim, resentment at being held at Guantanamo Bay, and desire to be reunited with his family as proof that he is a jihadist.

Extreme right-wing commentators such as Sun media’s Ezra Levant have been doing the government’s work by promoting Welner’s claims. These reactionary forces are endeavouring to whip up a climate of fear and bigotry so as to counter the large public sympathy for Khadr’s return and justify his continued incarceration at Guantanamo Bay or, failing that, his imprisonment under onerous conditions in Canada.

The Conservative government’s stance, like the US prosecution of Khadr, is clearly vindictive. Khadr is being punished and brutalized because his father, the late Ahmed Said Khadr, was a “senior associate” of Osama bin-Laden and financier of Al Qaeda, and because Omar was the lone insurgent to survive a gun battle in which a US soldier died.

But the persecution of Khadr also arises from the government’s attempt to undermine constitutional constraints on the power of the state and acclimatize the population to the notion that in “emergencies”, traditional legal prohibitions, such as detention without trial or the prohibition of torture, should not apply.

Canada was the only Western government not to seek repatriation of its citizens held illegally in Guantanamo Bay, and the Harper government supported and went out of its way to commend the military commission process to which Khadr was subjected.

Prior to Khadr’s trial, several lower courts ruled that Canada’s Conservative government had a constitutional duty to seek Khadr’s repatriation. But the government appealed these rulings to the Supreme Court.

Canada’s highest court found that Canadian authorities had violated Omar Khadr’s constitutional rights under Canada’s Charter of Rights and Freedoms and that this violation was ongoing. In particular, the Supreme Court censured the government for the collaboration between Canadian Security and Intelligence Service (CSIS) and Department of Foreign Affairs officials and US agents in interrogating Khadr in 2003 and 2004. These sessions occurred under conditions, as the WSWs noted in 2010, in which Khadr had been “detained indefinitely without charge, had no recourse to legal counsel, and had otherwise been abused. The 2004 interrogation was undertaken although Canadian officials knew Khadr had been ‘softened up’ for their encounter by three weeks of sleep deprivation.”

Yet despite this finding, the Supreme Court reached the chilling conclusion that the federal government ought to have the prerogative to conduct its foreign policy without “second-guessing” by the judiciary and struck down the order to repatriate Khadr. In other words, declared the Supreme Court, national security trumps a citizen’s basic rights.

This instance of the trashing of the rule of law is only one element of the broader turn towards forms of authoritarian rule on the part of Canadian ruling elite—a turn, that as in the US and other advanced capitalist countries, has been justified in the name of the “war on terror”.

This author also recommends:

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Canada’s Supreme Court rules foreign policy trumps citizens’ rights
[19 February 2010]

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Canada reaffirms support for Khadr’s Guantánamo Bay detention and prosecution
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