

Lawyers' Rights Watch Canada

Organization: Lawyers Rights Watch Canada
Item: Item 3 General Debate
Speaker: Vani Selvarajah
Date: Monday, March 11, 2013
Re: Omar Khadr - Special Rapporteur on Torture, Working Group on Arbitrary Detention

Mr. President;

Lawyers Rights Watch Canada notes with approval calls on states by the Special Rapporteur on Torture to ensure accountability for torture and other prohibited treatment and calls by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism for states to produce disclosure of state involvement in the post 9/11 campaign of the torture of terror suspects.

We cite the Omar Khadr case as an example of the continuing failure by the U.S. and Canada to ensure accountability and provide remedies for victims of state sponsored torture. Omar Khadr, has been arbitrarily imprisoned and denied the protection of law including the Geneva Conventions and the Convention against Torture for over 10 ½ years. He was denied those rights first in Bagram, then in Guantanamo Bay, and since September 2012, in Millhaven prison in Canada. While in U.S. custody, Mr. Khadr was subjected to severe sleep deprivation, enforced stress positions, prolonged solitary confinement, indefinite detention, and other prohibited treatment. He has been denied habeas corpus and access to a properly constituted court to determine his rights.

In October 2011, after nearly a decade of mistreatment and denial of access to legal protection, Mr. Khadr accepted the U.S. offer to cap his imprisonment at eight additional years and allow his return to Canada, in exchange for his confession to five *ex post facto* offences. The plea agreement cannot be considered other than a confession obtained by torture and inadmissible as evidence of guilt.

The Geneva Conventions prohibit sentencing without the judgment of a properly constituted court. The military tribunal that accepted the confession and imposed sentence is not such a court. In October 2012, a U.S. court vacated the conviction of a Guantánamo Bay prisoner for ‘providing material support to terrorism’—one of the charges against Mr. Khadr—on the basis prosecution was prohibited because the offence was created after the alleged acts took place: a principle that applies to all the offences against Khadr. Canadian officials continue to treat Mr. Khadr’s conviction and sentencing as a legitimate basis for his ongoing imprisonment and to ignore the Committee against Torture recommendation that Canada provide “appropriate redress for human rights violations that the Canadian Supreme Court has ruled [Mr. Khadr] experienced.”

We urge Council to call on Canada to provide that redress and to ensure that Mr. Khadr is dealt with in strict accordance with international law.

Thank you.