

# Lawyers' Rights Watch Canada

*NGO in Special Consultative Status with the Economic and Social Council of the United Nations*

**Organization: Lawyers' Rights Watch Canada**

**Item: United Nations Committee Against Torture 65<sup>th</sup> Session: Canada**

**Date: 20 November 2018**

**Oral Statement from Lawyers' Rights Watch Canada (LRWC) and the International Civil Liberties Group (ICLMG) to the Committee against Torture (Committee) on the review of Canada's compliance with the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention)***

The issues raised in the joint briefing from Lawyers' Rights Watch Canada (LRWC) and the International Civil Liberties Monitoring Group (ICLMG) are critical to fulfillment of Convention goals of non-recurrence and victim rehabilitation and re-integration.

This briefing addresses Canada's failure in the exemplar case of Omar Khadr to provide the full redress required by the Convention. (Articles 12, 13 and 14, General Comment No. 3<sup>1</sup> and the Reparation Guidelines).<sup>2</sup>

Canadian citizen Omar Khadr was captured in Afghanistan by the US at age 15 and imprisoned first in Bagram and then in Guantanamo Bay for more than 10 years and denied all internationally protected rights, including rights guaranteed by the Convention to freedom from torture and ill-treatment and from conviction based on evidence obtained by torture.

Denied Convention remedies, Omar Khadr continues to serve a sentence imposed in violation of the Convention and other international law and is exposed to threats and hatred. .

In 2012, the Committee recommended that Canada "ensure that he receives appropriate redress for human rights violations that the Canadian Supreme Court has ruled he experienced."<sup>3</sup> In July 2017, Canada provided partial redress in the form of a monetary award but continues to contravene Convention duties to ensure full redress through:

1. An investigation to determine the nature and circumstances of Convention violations by Canadian officials and aimed at identifying and holding accountable those responsible; and,
2. public disclosure of the truth; and,
3. a public apology acknowledging the facts, accepting responsibility and restoring the dignity, reputation and rights of the victim.

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<sup>1</sup> UN Committee Against Torture (CAT), *General comment no. 3, 2012: Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: implementation of article 14 by States parties*, 13 December 2012, online: [http://www2.ohchr.org/english/bodies/cat/docs/GC/CAT-C-GC-3\\_en.pdf](http://www2.ohchr.org/english/bodies/cat/docs/GC/CAT-C-GC-3_en.pdf).

<sup>2</sup> UN General Assembly, *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*: resolution / adopted by the General Assembly, 21 March 2006, A/RES/60/147, online: <http://www.refworld.org/docid/4721cb942.html> [accessed 19 November 2018]

<sup>3</sup> UN Committee Against Torture (CAT), *Concluding observations on the sixth periodic report of Canada*, 25 June 2012, CCPR/C/CAN/CO/6, at para. 16

The failure to discover and disclose the truth, acknowledge responsibility and impose accountability, ensures impunity for those responsible and promotes recurrences. It also allows persistent misrepresentations that fuel public hatred and threats against the victim, which in turn prevent full rehabilitation, reintegration and restoration of dignity.

To ensure full redress for Convention violations against Omar Khadr involving acts or omissions of Canadian officials, the Committee is asked to recommend immediate and effective remedial measures by Canada as set out in para. 49 of the joint briefing.