

THE VARSITY

It's time to repatriate Omar Khadr



Khadr is entering his seventh year in U.S. custody, and the Canadian government no longer has an excuse to leave him at Guantanamo Bay

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Imagine spending your 16th birthday detained by U.S. forces in Afghanistan, facing interrogation with a bag over your head while dogs bark and ice water is poured over you.

Before your seventeenth birthday, you are transferred to Guantanamo Bay and subjected to techniques that the UN and the Federal Court of Canada describe as torture. The only Canadian officials who visit are there to interrogate you. To prepare for their visits, you are subjected to three weeks of sleep deprivation to make you “more amenable and willing to talk.”

Your 18th birthday passes. And then your 19th, 20th and 21st. On Friday, September 19th, Omar Khadr turned 22, marking the grim anniversary of his sixth year detained by the United States without trial. The week before, his trial—set to begin Oct. 8—was postponed yet again due to the prosecution’s failure to turn over important evidence and witnesses to the defence.

By now, Omar’s story is familiar. He was detained by U.S. forces in 2002, at the age of 15, following a firefight in Afghanistan in which he was shot four times, twice in the back. Alleged to have thrown a grenade that killed an American soldier, he faces charges before the widely condemned U.S. Military Commissions, making him the first child to be charged with war crimes in the modern era. Even if Omar is acquitted, the U.S. claims he could be detained indefinitely.

The UK, Australia, Belgium, Denmark, France, Germany, Russia, Spain and Sweden have repatriated their citizens from Guantanamo Bay. The U.S. won’t allow its own citizens to be held there either. Canada is the only Western country that still allows one of its own to languish in a place Amnesty International calls “the gulag of our times.”

The Prime Minister has not asked for Omar’s repatriation. He says that Canada has received assurances that Omar has been treated humanely, and that Omar must face his charges through Guantanamo’s judicial process. Unfortunately, these claims do not hold water.

Omar has a right to be treated humanely.

Omar’s alleged mistreatment at Guantanamo includes being handcuffed in stress positions, threatened with

rape and violence, subjected to sleep deprivation and denied medical treatment. At age 16, he describes urinating on himself after being held in a stress position for 10 hours. He was then dipped in pine oil and used as a human mop.

This summer, the Supreme Court of Canada unanimously found that the conditions under which Omar was being detained “constituted a clear violation of fundamental human rights protected by international law.” Canada’s participation breached our own obligations under the Charter and the Geneva Conventions. Following that decision, the Federal Court reviewed documents the U.S. chose to share with Canada, and concluded that Omar’s treatment violated the UN Convention Against Torture.

Both courts found that Canada knew of these abuses while they were occurring.

Omar has a right to a fair trial.

Harper maintains that Omar must face a judicial process. Let’s be clear: a “judicial process” is not something that happens inside the “legal black hole” of Guantanamo Bay.

Omar spent 27 months in Guantanamo before he ever saw a lawyer, and five years before he was allowed to make a phone call to his mother. No charges were laid against him until 2005. Six years have now passed, and no one knows when this “trial” will ever occur. None of the basic rules guaranteeing a fair trial apply at Guantanamo Bay. Last year, 64 Canadian law professors wrote to the Prime Minister advising him that the Military Commissions, under which Omar is being tried, do not provide for a fair trial.

Omar can be repatriated.

The U.S. has never refused a request from a Western country to repatriate its citizens from Guantanamo Bay. Repatriation does not mean ignoring the charges Omar faces. If the evidence warrants, he could be tried in Canada. Indeed, most countries who repatriated their nationals conducted full investigations into their cases. Being tough on national security does not mean being weak on fundamental human rights.

The current elections in Canada and the U.S. present an opportunity to change course. Both U.S. presidential candidates have vowed to close Guantanamo Bay; even Senator McCain said he would send Omar home if Ottawa asked. In Canada, all four opposition leaders have called for repatriation. This makes Stephen Harper the only candidate for national office in North America who thinks justice can be found in Guantanamo Bay.

It’s time to raise our voices.

As law students outraged by the ongoing breaches of Omar’s basic human rights and by our government’s shameful complicity and inaction, we decided to form a group called the Omar Khadr Project. Law students at schools across the country are joining us.

We’re also joining forces with a broad coalition called Bring Omar Home, which is organizing a Week of Action from October 5–11. The first event will be a rally on Sunday Oct. 5, starting at 1pm at the U.S. Consulate.

Get involved, and raise your voice. It’s time for Canada to act. It is time to bring Omar home.

Tony Navaneelan, Kate Oja and Judith Rae are law students and members of the Omar Khadr Project, part of the International Human Rights Program (IHRP) at the University of Toronto’s Faculty of Law. Earlier this year, the IHRP’s human rights clinic successfully intervened in the case of “Canada (Justice) v. Khadr” before the Supreme Court of Canada. For more information, visit www.omarkhadrproject.com and www.bringomarhome.ca.