

Child Soldier Omar Khadr Coerced Into Plea-Bargain

By [Keith Jones](#)

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With Canada's Conservative government acting as their accomplice and in violation of international law, the Obama administration and US military have coerced child soldier Omar Khadr into a plea bargain.

Khadr, who was captured after a firefight in Afghanistan in 2002 when he was just 15 years old, has spent the last eight years in the legal black holes that are the Bagram and Guantanamo Bay detention camps. This summer he became the first person to be dragged before a Military Commission—a special military court where the normal rules governing evidence do not apply.

No sooner did Khadr's trial begin last August, than the military judge ruled that "evidence" obtained from Khadr when he was lying severely wounded in the Bagram prison hospital was "not coerced" and could be used against him in court. Similarly, the judge discounted testimony showing he had been threatened with rape, subject to sleep deprivation, and other "aggressive" interrogation techniques—techniques that his military-appointed lawyer, himself a US colonel, categorized as torture.

Under the plea bargain, Khadr pled guilty to murdering a Delta Special Forces soldier during the firefight and to four other charges: spying, attempted murder, conspiracy and providing material support for terrorism. He also had to declare in open court that he had "voluntarily" agreed to an eight-page, 50-paragraph "stipulation" or statement "of facts," that portrays him as an "alien unprivileged enemy belligerent"—i.e., a war criminal—who was eager to kill Americans and Jews and was fully cognizant of the import of his actions.

In exchange for his guilty plea, the US government has agreed that Khadr will be incarcerated for one year in solitary confinement at Guantanamo Bay, then transferred to Canada, where he was born and his family now resides, to serve out the remainder of a sentence of no more than eight years imprisonment.

When Khadr returns to Canada, he will become subject to that country's more liberal parole laws. It is anticipated, moreover, that his Canadian lawyers will aggressively fight for his early release from prison on multiple grounds. These include that under international law child soldiers are not legally responsible for their actions and therefore not subject to prosecution, that the Military Commission process does not meet basic juridical norms, and that under Canadian law Khadr should be deemed a "young offender," making him subject to more lenient treatment, given his age at the time of his reputed crimes.

The prosecution and conviction of Khadr via plea-bargain is a legal and political travesty.

As a child who became implicated in a military conflict while under the care of his father,

Khadr is by rights a “victim” under international law. And that is before any consideration is given to the abuse that he has suffered at the hands of the US military over the past eight years.

The crimes for which has been convicted are standard practice in the Afghan war or any other military conflict. Those who have prosecuted Khadr—the US government and military—are themselves guilty of horrific war crimes in Afghanistan and Iraq.

In July, Khadr defiantly and courageously rejected a plea bargain, saying it would “give [an] excuse for the government for torturing and abusing me when I was a child.”

But Khadr’s lawyers clearly felt compelled to warn him that under the rules fashioned for the Military Commissions by the Bush and Obama administrations he could expect no justice. If he did not accept a plea bargain, he would effectively be placing himself at the mercy of a US military that had shown it was eager to lock him up for life as part of a vendetta against his father, reportedly a high-ranking Al Qaeda operative.

In an interview Monday, Khadr’s Canadian lawyer, Dennis Edney, declared, “Had Omar refused [the plea bargain offer] he would have faced an unfair trial, based on evidence that would have been inadmissible in any real court and he would have been exposed to life in Guantanamo Bay or even ... worse ... if there is such a place.”

Edney added that Khadr and his lawyers “all feel unhappy, sad—that this process is an absolute sham.”

“International lawyers, international judges, international governments have all said that this Military Commission process ... is just designed to make findings of guilt.

“In our view, it is clear that Omar admitted to things he clearly didn’t do.”

Then in a pointed reference to Canadian authorities’ role in the prosecution and persecution of Khadr, Edney said, “You can’t say this is a fair process and a viable outcome ... We have got to look at why no one came to his rescue.”

It had been rumored for months that the Obama administration was seeking to end the Khadr case with a plea bargain. For Obama, who during the 2008 presidential campaign had claimed that he would shut down Guantanamo Bay and criticized the Military Commissions, it was something of an embarrassment that the first Military Commission trial involved a child soldier.

As the same time, the Obama administration and the military can now hold up Khadr’s coerced guilty plea, claiming that it legitimizes the ordeal to which he has been subjected over the past eight years.

This was the line taken by the chief prosecutor at Kahdr’s trial. Navy Capt. John F. Murphy told reporters Monday after the plea bargain had been presented in court, “Omar Khadr is not a victim. He’s not a child soldier. He’s not a product of any kind of abuse. He’s convicted on his own words.”

In all of this the Canadian government, its national-security apparatus and political establishment, have played an especially shameful role.

Under Liberal and Conservative governments alike, Canada failed to press for Khadr's release from the patently illegal Guantanamo Bay concentration camp. Earlier this year Canada's Supreme Court found that the Canadian government had violated Khadr's fundamental constitutional rights by having members of its national security forces interrogate Khadr at Guantanamo Bay when they knew he had been "softened up" by sleep-deprivation torture.

Canada's current Conservative government enthusiastically supported his prosecution by a Military Commission, repeatedly challenging court rulings that it should seek Khadr's repatriation and publicly declaring its support and confidence in the drumhead courts. Indeed, it effectively signaled that its preference would be for Khadr to be kept in Guantanamo Bay indefinitely.

From all accounts, the Canadian government only agreed to the plea bargain under strong pressure from Washington. Last Friday, US Secretary of State Hillary Clinton called up Canada's Foreign Affairs Minister Lawrence Cannon to insist that Canada facilitate the plea bargain deal by allowing Khadr to complete his sentence in Canada.

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