



11350 Random Hills Road, Suite 800, Fairfax, Virginia 22030 Phone (703) 934-6101 Fax (703) 352-3678

fff@fff.org www.fff.org

Omar Khadr: The Guantánamo Files

by Andy Worthington

When is a child not a child? Apparently, when he is [Omar Khadr](#), a 15-year-old Canadian who was shot in the back after a firefight in Afghanistan in July 2002. Omar has been in U.S. custody ever since, first at a prison at Bagram airbase in Afghanistan, and for the last six years in Guantánamo. Disturbingly, he has never received any treatment befitting his status as a juvenile — someone under the age of 18 when the crime he is accused of committing took place — even though the United States is a signatory to the Optional Protocol to the UN Convention on the Rights of the Child (on the involvement of children in armed conflict), which stipulates that juvenile prisoners “require special protection.” The Optional Protocol specifically recognizes “the special needs of those children who are particularly vulnerable to recruitment or use in hostilities”, and requires its signatories to promote “the physical and psychosocial rehabilitation and social reintegration of children who are victims of armed conflict.”

Shamefully, the United States is not the only country to turn its back on the Optional Protocol in the case of Omar Khadr. As his lawyers never tire of pointing out, Omar is the only citizen of a Western country still held at Guantánamo, in part because the Canadian government has persistently failed to exert sufficient pressure on U.S. authorities to secure his return to Canada. This is particularly shocking, because, as well as also being a signatory to the Optional Protocol, the Canadian government has been a pioneer when it comes to the rehabilitation of child soldiers from other countries (Sierra Leone, for example).

Sadly, Canada’s disregard for Omar’s fate stems largely from his family background. His father, who was killed in a firefight in Pakistan in October 2003, was a fundraiser for the mujahideen who had fought the Soviet Union in Afghanistan, and was also close to Osama bin Laden, and he regularly ferried his entire family — his wife, his daughter and his four sons, including Omar — to Afghanistan and Pakistan as they were growing up. Nevertheless, the rules on the treatment of juveniles are clear, and they do not include opt-out clauses based on condemning children for the sins (or perceived sins of their family). In fact, the opposite is true,

as the Protocol's recognition of "the special needs of those children who are particularly vulnerable to recruitment or use in hostilities" demonstrates.

In Canada's defense, it is obviously difficult to secure the release of prisoners, like Omar, who are regarded as so significant by the U.S. administration that they have been put forward for trial by [Military Commission](#) (the much-criticized system of trials for "terror suspects" that was conceived in the Office of Vice President [Dick Cheney](#) in November 2001). Even so, it took the Canadian government many years to fulfill its most basic obligations to Omar, by sending officials to visit him in Guantánamo on "welfare visits."

At first, as was revealed this summer, the Canadians who visited Omar in Guantánamo were largely unconcerned with his welfare. As the result of a decision in May by the Supreme Court of Canada and a decision in June by the Federal Court of Canada, videotapes were [released](#) showing his interrogation by representatives of Canada's Air Force Office of Special Investigations, which visited Omar in February 2003, when he was just 16.

The release of the tapes was a PR disaster for the Canadian government, as they showed Omar displaying his wounds, weeping uncontrollably, and pulling at his hair in despair, while the interrogators remained largely indifferent to his suffering, quizzing him about his father and al-Qaeda, and noting afterwards that his allegations of torture at the U.S. prison in Bagram, which have subsequently been verified by numerous sources, "did not ring true."

The Canadian "welfare visits"

Last week, however, the Canadian government was shown in a more positive light when Michelle Shephard of the [Toronto Star](#) wrote an article drawing on reports of eight "welfare visits" by representatives of the government's Foreign Affairs Department — one in 2006, two in 2007, and five this year — which were made public by Omar's Canadian lawyers, Dennis Edney and Nathan Whitling, as part of their lawsuit against the federal government, and were aimed at forcing the government to demand Omar's repatriation.

As Shephard reported, Omar's "incarceration in 2006 and 2007 was some of the worst he faced," as he was isolated in Camps 5 and 6, modeled on blocks in maximum-security prisons on the U.S. mainland. As a result, his lawyers "worried he was suicidal." Shorn of interaction with other people, and of any kind of emotional, psychiatric or medical support, he had become paranoid, believing that his American lawyers were working for the U.S. government.

He also complained about the quality of the food (a recurring complaint), and about health problems that were not being addressed, including the authorities' refusal to give him sunglasses, even though he is blind in his left eye because of shrapnel, and his vision is "gradually deteriorating in his right eye because of a piece of shrapnel embedded in the eye's membrane," and stated that he "would like to see the interrogators again because they give him books, magazines, crayons, movies etc." Although he also recognized that there was "a risk in meeting

with the interrogators” because “they can exploit information they get out of him,” he regularly referred to the privileges — “whole piles of chips; candies etc.” — that prisoners who were cooperating in their interrogations received.

He also stated that he “feels the guards hate him,” and, in a sign that the lack of psychiatric care was having a profound effect on him, reported that “he sleeps a lot but it is messed up. He sleeps during the day and is awake during the night. He still has nightmares about the events in Afghanistan and his father.” In a sign of the severity of his isolation, a member of staff, whose name was redacted, “suggested that the [Canadian] Prime Minister inquire about Omar’s solitary confinement with President Bush.”

By the time of a visit in August 2007, Omar’s situation had clearly improved, as he had been moved to Camp 4, the only part of the prison with communal facilities, where the privileged prisoners slept five to a room, the doors to their “pods” were open in the daytime, and they were allowed two hours of recreation every day. The visitor noted that Omar had “been sleeping well since he has been doing more activities,” but he still complained of medical neglect, and it was also obvious that he was still not receiving psychiatric support, as he stated that the nightmares were returning, and that they “were identical as before: Captivity, running, trauma of Afghanistan. He dreams of his father as well.”

Throughout the rest of the visits, from November 2007 to June 2008, the reports include examples of a handful of privileges that clearly meant a lot to Omar. He had become an avid reader, for example, and thought that *Harry Potter and the Deathly Hallows* was “the best book he had ever read.” There were also poignant interludes, such as the time that the screens were taken off the perimeter fence during Hurricane Noel, and the prisoners “could see their surroundings, the hills and the ocean.” “I could even see cars moving around, it was great,” Omar said, adding, “This is really a very beautiful place.”

There were also clear examples of his immaturity — pre-trial hearings for his Military Commission proceeding were taking place at this time, but he found them “boring” — and many moments of pointless obstruction on the part of the authorities, such as when he was prohibited from keeping “flexible pens in his cell” (unlike the prisoners who were cooperating in their interrogations), so that he could not “write and draw when he wants to.”

In addition, the visitor in March this year remarked on her inability to understand why he was prevented from having, “inter alia, a pillow, an extra blanket, Velcro shoes, [an] Origami book and sheets, flexible pens and a warm covering for court,” where, it was noted, the room was “freezing cold.” A partial — and stupefying — reply came in April, when the visitor was told that “pillows were only handed out as incentives for detainees being interrogated and that since Mr. Khadr had lawyers and was no longer subject to interrogation, he was not eligible for one.”

Above all, however, what leaps out from the reports is the fact that Omar’s desire for education is not being met by the authorities. Although his Canadian visitors were regularly

bringing him books on English, math and science, he was often struggling to study without supervision. The only classes belatedly provided (for prisoners in Camp 4 only) were basic English (which was useless for Omar) and classes in Arabic and Pashto, but as the visitor in April noted, “Although there is a classroom ... there are currently no teachers.”

What the Guantánamo doctors proposed

But while these are fascinating reports, what has not been remarked upon is another document, filed alongside the reports of the “welfare visits” on the *Star’s* [Omar Khadr](#) page, which serves as a succinct condemnation of the administration’s policies towards juvenile prisoners at Guantánamo — not just Omar, but the 21 other prisoners that the Pentagon’s own records reveal were also juveniles at the time of their capture. Entitled “Recommended Course of Action for Reception and Detention of Individuals Under 18 Years of Age,” this document ([PDF](#)), dated 14 January 2003, was put together by four doctors at Guantánamo, and was clearly an adaptation of an earlier document, as it includes passages deleted or amended by the authors, relating to its specific use at Guantánamo.

The doctors’ document began by noting, “All efforts should be made to keep those in the pediatric age range [those under 18] from undergoing detention at Guantanamo Bay, Cuba,” and pointing out, “People less than age 18 years are emotionally, psychologically, and physically dynamic and complex. If it is determined that they must be detained, then all aspects of their transport, in-processing, and detainment should be specific for this age group.” They added, as a stark warning, “Exposure of pediatric detainees to adult detainees will have a high likelihood of producing physical, emotional, and psychological damage to the pediatric detainee. As such, all activities of the pediatric detainee, prior to and including detention, should be isolated by sight and sound from the adult population of detainees.”

The rest of the seven-page document spells out these requirements in painstaking detail. Several sections are of particular interest: one which explains “Residence Specifications,” and others laying out the educational and nutritional needs of juvenile prisoners. The doctors advised, for example, that juvenile prisoners should be provided with “a primary living space with a minimum space of 20ft by 30ft,” that their beds should have a thick mattress, several sheets and two blankets, that an “open, outside recreation area,” measuring at least 50ft by 50ft, should be “easily accessed from the primary living space area,” and that they “should be allowed to play in the recreation area a minimum 3 hours per day.” That added that, if more than one juvenile is held, “Limited, closely observed interaction ... would likely be allowed.”

When it came to the educational needs of juvenile prisoners, the doctors advised that a “designated educator should be assigned to each pediatric detainee for a minimum of 4-6 hours per day for educational pursuits,” and that, outside these times, a psychiatric technician should be assigned “to assist in socialization and other constructive activities.” They also advised that

interpreters should be available 24 hours a day, and that they should be “present on site to maximize communication and to minimize confusion of the pediatric detainee to his/her circumstances,” and also advised that a pediatrician or family physician, a pediatric psychiatrist/psychologist, a social worker (“experienced with children”), an audiologist, a speech therapist, a development pediatrician, and an occupational/physical therapist might also need to be available, and concluded that all personnel “should refrain from wearing military uniforms and utilize appropriate civilian attire.”

And finally, the doctors advised that a nutritionist “should be available for evaluation of each pediatric patient and implementation of a nutritional plan,” and that a “minimum of three well balanced meals and two snacks should be made available to all paediatric detainees daily in order to facilitate normal growth and development.”

“These are not children”

Clearly, as is demonstrated by Omar’s history in Guantánamo, the doctors’ recommendations were ignored by those higher up the chain of command, despite their obvious enthusiasm for the plans. As they wrote at the very start of the document, under the heading, “Objective,” their assumption was that the “Recommended Course of Action” would become a “SecDef directive” (a directive from Donald Rumsfeld, the Secretary of Defense). Although they noted that their advice regarding educational programs was “more onerous than GCIII [the Geneva Conventions] requires for pediatric detainees fifteen and above,” because “GCIII only pertains to children under the age of fifteen,” they can have had no idea that, with the exception of three Afghans aged between 11 and 14 at the time of capture, who were given some kind of appropriate treatment before their release in January 2004, none of the other juveniles received any benefit from their advice.

As far as the administration was concerned, the age of the Guantánamo prisoners was completely irrelevant. This was confirmed by Donald Rumsfeld at a press conference in May 2003, after the story first broke that juveniles were held at Guantánamo, when he stated, “This constant refrain of ‘the juveniles,’ as though there’s a hundred children in there — these are not children,” and General Richard Myers, the chairman of the Joint Chiefs of Staff, added that they “may be juveniles, but they’re not on the Little League team anywhere. They’re on a major league team, and it’s a terrorist team, and they’re in Guantánamo for a very good reason — for our safety, for your safety.”

Today, as two of the former juveniles — Omar Khadr and the Afghan [Mohamed Jawad](#) — face trials by Military Commission, the administration’s disregard for the Geneva Conventions remains as clear as ever — and its disdain for the Optional Protocol, with its requirement to rehabilitate children caught up in war, is so pronounced that it has never even been mentioned. Instead, the gulf between the doctors’ recommendations and the administration’s actions

demonstrates, with an appalling clarity, what happens when a rogue administration, devoted to unfettered executive power, refuses to be bound by the law.

What makes this conclusion particularly bleak is that Omar, described by the military as “non-radicalized” and a “good kid,” has stated that he is “in Guantánamo because of his family,” and that he “wants to train for a job which will allow him to play a useful role in society by helping others,” but has also “expressed concerns about having spent his formative years (in reference primarily to his time in Guantánamo Bay) surrounded by only adults, some of whom he saw as good and some as bad.” Or, as another military figure put it, “extended detention in Guantánamo [runs] the risk of turning him into a radical.”

Andy Worthington is the author of [The Guantánamo Files: The Stories of the 774 Detainees in America's Illegal Prison](#) (published by Pluto Press). Visit his website at: www.andyworthington.co.uk.

This article was originally published in October 2008.