



The Law Society of  
Upper Canada | Barreau  
du Haut-Canada

November 6, 2008

The Right Honourable Stephen J. Harper  
Prime Minister of Canada  
Office of the Prime Minister  
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Ottawa, Ontario  
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Office of the Treasurer

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Dear Prime Minister:

I am writing on behalf of the Law Society of Upper Canada, the governing body of lawyers and paralegals in Ontario. The Law Society continues to be gravely concerned about the situation of the Canadian citizen Omar Khadr, the only citizen of a western nation currently being held at Guantanamo Bay.

We refer to the Supreme Court of Canada's significant, unanimous judgment of May 23, 2008 in the *Khadr* case. The Court held, at paragraph [24], "The violations of human rights identified by the United States Supreme Court are sufficient to permit us to conclude that the regime providing for the detention and trial of Mr. Khadr at the time of the CSIS interviews constituted a clear violation of fundamental human rights protected by international law."

In addition, on May 16<sup>th</sup>, the Supreme Court issued judgment in the case of *R. v. D.B.*, in which the court held that, "young people are entitled to a presumption of diminished moral blameworthiness or culpability flowing from the fact that, because of their age, they have heightened vulnerability, less maturity and a reduced capacity for moral judgment". The fact that Mr Khadr was 15 at the time of his capture has not been reflected in the manner of his treatment.

The Law Society of Upper Canada regards adherence to the rule of law and due process as fundamental principles that are the right of every Canadian citizen, regardless of the character or circumstances of the citizen. While we appreciate that your government has been providing Mr Khadr with consular assistance, we believe that the best means of ensuring that Mr Khadr is treated in accordance with the above-mentioned principles would be for the government to request that he be returned to Canada, where he can be tried by a regularly constituted court affording all the judicial guarantees recognized as

indispensable by civilized peoples, as required by Common Article 3 of the Geneva Conventions.

Now that there is a President-elect of the United States who is on the record as being opposed to the operation of the prison at Guantanamo Bay, we believe this would be an opportune moment to raise this issue.

We would be most appreciative of the opportunity to meet with you or your staff to discuss this matter further, and would be pleased to offer any assistance or advice regarding the appropriate approach to this matter.

Yours sincerely,

A handwritten signature in black ink, appearing to read "W. A. Derry Millar". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

W. A. Derry Millar  
Treasurer

cc: The Honourable Robert Nicholson, Minister of Justice and Attorney General for  
Canada  
The Honourable Lawrence Cannon, Minister of Foreign Affairs