

PRESS RELEASE

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Statement of Canadian Parliamentarians and Professors of Law in Support of Reversing U.S. Court Precedent

Ottawa / August 23, 2007 — A coalition of Canadian parliamentarians and professors of law are filing a brief in the latest U.S. Supreme Court appeal sparked by the detentions at Guantánamo Bay. The appeal concerns provisions of the U.S. Military Commissions Act that deny detainees the right to challenge promptly their detention before a U.S. civil court. Thirty parliamentarians and sixty-one professors signed on to the “friend of the court” brief supporting the detainees’ right to challenge their confinement.

The case before the U.S. Supreme Court raises issues of particular concern to the Canadian lawmakers and law professors who lent their names to the court filing. They expressed a strong interest in promoting a consistent application of international law by allied nations, including the United States, and in assuring treatment of Canadian citizens that meets internationally-recognized standards. One of the detainees affected by this appeal, Omar Khadr, is a Canadian citizen who has been detained at Guantánamo Bay since 2002, when he was only 15 years old. Khadr presently is in proceedings before the U.S. Military Commission.

The brief argues that Guantánamo detainees are entitled to fundamental due process, and to treatment and trial procedures different from those they are now receiving. Specifically, the brief urges the Supreme Court to construe U.S. obligations toward alien detainees in a manner consistent with international legal standards. “The U.S. government’s effort to restrict review available to Guantánamo detainees violates minimum standards of treatment under international law,” said Professor Craig Forcese of the University of Ottawa, who assisted in the preparation of the brief. “International law establishes a ground floor for humane treatment, but many of these detainees have been left in the basement.”

The brief also argues that the Military Commissions Act violates international law by restricting non-citizen detainees’ meaningful access to any independent and impartial tribunal to challenge their detention. “By discriminating against non-U.S. citizens in a matter unrelated to immigration law, the U.S. Military Commissions Act violates widely recognized international law,” said Professor Audrey Macklin of the University of Toronto, who also helped prepare the brief, “and a Canadian citizen, who was a minor at the time of capture, is quite literally the poster child for this discrimination.”

Once officially filed, copies of the brief will be made available at:
<http://aix1.uottawa.ca/~cforcese/other/amicus0807.pdf>.