



NEWS RELEASE

Friday, May 23, 2008

BCCLA APPLAUDS SUPREME COURT OF CANADA IN GROUNDBREAKING CONSTITUTIONAL RIGHTS CASE

The Supreme Court of Canada released a judgement today in *Minister of Justice, et al. v. Omar Ahmed Khadr*, unanimously deciding that Canada's complicity in the process at Guantanamo Bay violated Canada's binding obligation under international law. The BCCLA appeared as an intervenor in the case.

Sujit Choudhry, counsel for the BCCLA: "The Supreme Court has unequivocally confirmed that the *Charter* binds Canadian officials when operating abroad, where Canada would also be acting in contravention of its obligations under international human rights law. This has broad significance beyond Mr. Khadr's appeal, and extends to the whole range of ways in which Canada cooperates with foreign governments in the national security context."

Joe Arvay, counsel for the BCCLA: "The principle that the *Charter* applies to the conduct of Canadian officials acting outside of Canada is an extremely important point of constitutional law. In a recent case brought by the BCCLA, the federal government argued that the Charter does not apply to the Canadian armed forces operating in Afghanistan, even when the forces hand over detainees to the Afghanistan government and the detainees are tortured. That view was accepted by the Federal Court of Canada, but we now know that that position is clearly incorrect."

Omar Khadr is a Canadian citizen who has been detained by the United States in Guantanamo Bay since 2002 and has been put on trial in a proceeding before a Military Commission that is a violation of international law. Prior to charges being laid, Canadian officials interviewed Mr. Khadr in Guantanamo Bay and passed on summaries of the information collected to the American government. Omar Khadr was 16 years old the first time he was interrogated by Canadian officials.

Canada's highest court agreed with the BCCLA that by gathering evidence from Mr. Khadr and sharing it with American military authorities for use against Mr. Khadr, Canada's complicity in the proceedings violated Mr. Khadr's *Charter* rights to life, liberty and security of the person. The Supreme Court of Canada also agreed with the BCCLA that the *Charter* places Canada under a duty to disclose to Mr. Khadr evidence that may be relevant to his defense in the proceedings against him in Guantanamo Bay.

Joe Arvay, of Arvay Finlay Barristers, Sujit Choudhry, Faculty of Law, University of Toronto, and Paul Champ of Raven, Cameron, Ballatyne & Yazbeck LLP, represented the BCCLA.

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