



Attorney General  
Eric H. Holder Jr  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

12 May 2009

Dear Attorney General,

On behalf of the legal professions in England and Wales, we are writing to encourage you in the strongest possible terms to take urgent action in the Guantanamo Bay cases involving detainees captured by the United States as juveniles.

The UK's legal profession has previously made similar calls, including an amicus brief to the US Federal Court in January 2008, and letters to President Bush and Prime Minister Harper in February 2008.

The cases we are referring to include the young Canadian, Omar Khadr, and an Afghan, Mohammed Jawad, both detained without trial by the United States military since 2002. You will be well aware that Khadr was apprehended when he was 15 years old, and Jawad at the age of 16. Both have spent nearly a third of their lives in US detention. A military commission has already found that Mohammed Jawad was tortured by Afghan authorities before being handed over to the US. We are conscious that numerous organizations and individuals have previously petitioned your government to take action in connection with these special cases.

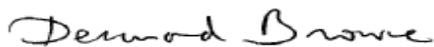
The lengthy detention, and putting on trial for war crimes, of someone who appears to be a “child soldier” is contrary to the special protection to which Khadr and Jawad are entitled by virtue of the Optional Protocol of the UN Convention on the Rights of the Child. In 2007, a formal complaint was made to the administration of George W. Bush in this regard by the UN Special Representative for Children in Armed Conflict, Radhika Coomaraswamy, in connection with the case of Mr. Khadr. We understand that she has recently renewed her call for Mr. Khadr’s release and repatriation to Canada with officials of your department, and likewise called for the release and repatriation of Mr. Jawad. Madame Coomaraswamy’s expression of concern has been echoed by numerous organizations and individuals, including the UN Committee on the Rights of the Child, the French government, the former Chief Prosecutor of the Sierra Leone war crimes tribunal, and a host of scholars, parliamentarians, and jurists, in Canada, the United States, and Europe. We sincerely hope that your administration will not turn a deaf ear to these calls for action, or continue to tolerate breaches of fundamental international standards of conduct in relation to children.

In our judgment, the ad hoc process devised by the United States under the previous administration to try so-called “enemy combatants” is illegitimate and irreparably flawed. It has no basis in international law and contravenes well established laws of war and humanitarian law. Our concern about the unfairness of this regime is underscored by the fact that the military commission is authorized to try only non-US citizens. Prosecution in this system, and indeed any system of military tribunals, is grossly unsuited to meeting the requirement of the Optional Protocol to provide for the rehabilitation and social reintegration of former child soldiers such as Mr. Khadr and Mr. Jawad. Moreover, in view of their prolonged detention into adulthood as so-called “enemy combatants” and -in light of their ages now- the inapplicability of federal laws governing juvenile prosecutions to them, it appears that repatriation to their countries of origin (rather than U.S. domestic prosecution) is the only option available to bring the U.S. into compliance with the Optional Protocol in the disposal of these cases.

We urge the US government now to dispose of the cases of Mr. Khadr and Mr. Jawad, as well as those of other juvenile detainees at Guantanamo Bay, in a manner consistent with U.S. obligations under the Optional Protocol. As we have indicated, in practical terms this means prompt repatriation to their respective home countries to receive the opportunities for rehabilitation and reintegration into society that they have been deprived of for almost seven years. We understand that civil society groups in Canada have developed a comprehensive plan for Mr. Khadr's reintegration that can be monitored and enforced through appropriate provisions of Canadian law. We understand that a similar plan has been developed for Mr. Jawad and that his family eagerly awaits his return to Afghanistan.

We hope that the new US administration will quickly seize on the opportunity afforded by the Guantanamo Bay "child soldier" cases to send a message to the world community that the United States is once again committed to respect for the international rule of law, and to the protection of children unlawfully exploited in connection with armed conflict.

Yours faithfully,



Desmond Browne QC  
Chairman of the Bar of England and Wales



Paul Marsh  
President of the Law Society of England and Wales

Peter Lodder

Peter Lodder QC  
Chair of the Criminal Bar Association of England and Wales

A handwritten signature in black ink, appearing to be 'Mark Muller', written in a cursive style.

Mark Muller QC  
Chair of the Bar Human Rights Committee of England and Wales