

Request to Min. MacKay for Investigation into Violation of Geneva Conventions

Written by

Wednesday, 08 July 2009 05:58 - Last Updated Wednesday, 08 July 2009 05:58

Request to Min. MacKay for Investigation into Violation of Geneva Conventions

PEJ News - John McNamer - Thank you for your reply below. Unfortunately, until the questions of torture surrounding the transfer of detainees by Canadian Forces to U.S. authorities during the period 2002-05 are answered, I have no confidence that Canadian Forces have abided by or do abide by the Geneva Conventions. It is one thing to say that one "applies the spirit and principles" of international humanitarian law and quite another thing to actually obey the law.

www.PEJ.org

From: jhnmcnamer@yahoo.ca <jhnmcnamer@yahoo.ca>

Subject: RE: Canada's 'War' role: Where's the integrity?

To: dnd_mdn@forces.gc.ca

Received: Wednesday, July 8, 2009, 3:00 PM

Honourable Peter G. MacKay
Minister of Defence

Thank you for your reply below. Unfortunately, until the questions of torture surrounding the transfer of detainees by Canadian Forces to U.S. authorities during the period 2002-05 are answered, I have no confidence that Canadian Forces have abided by or do abide by the Geneva Conventions.

It is one thing to say that one "applies the spirit and principles" of international humanitarian law and quite another thing to actually obey the law.

I believe the Geneva Conventions were violated by Canadian Forces during the time period 2002-05 and that this can easily be documented with information on the public record as referenced in my earlier correspondences below.

Therefore, I wish to hereby formally request that you, as Minister responsible at

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this time, initiate a public investigation into this allegation and publicly prove or disprove the allegation that Geneva Conventions were violated by Canadian Forces with the transfer of detainees to U.S. authorities. If you can actually demonstrate this allegation to be wrong with specific information showing that Convention requirements were followed, I will gladly acknowledge this and once again have confidence in the integrity of Canadian Forces.

With all due respect,

John McNamer

Cc: MEDIA CONTACTS

--- On **Mon, 7/6/09**, **dnd_mdn@forces.gc.ca** <dnd_mdn@forces.gc.ca> **wrote:**

From: dnd_mdn@forces.gc.ca <dnd_mdn@forces.gc.ca>

Subject: RE: Canada's 'War' role: Where's the integrity?

To: jhnmcnamer@yahoo.ca

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Written by

Wednesday, 08 July 2009 05:58 - Last Updated Wednesday, 08 July 2009 05:58

Received: Monday, July 6, 2009, 1:33 PM

Dear Mr. McNamer:

Thank you for your e-mail of April 22, 2009, concerning the treatment of detainees in Afghanistan.

You may be confident that, as a matter of policy, the Canadian Forces applies the spirit and principles of international humanitarian law, including the Geneva Conventions, in its operations in Afghanistan.

Canadian Forces policies and practices for the handling of detainees in Afghanistan remain consistent with these obligations, and Canadian Forces personnel receive thorough training with regard to their

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obligations under international law.

Thank you again for writing.

Sincerely,

Peter G. MacKay

Minister of National Defence

MCU2009-02278

From: jhnmcnamer@yahoo.ca [mailto:jhnmcnamer@yahoo.ca]

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Written by

Wednesday, 08 July 2009 05:58 - Last Updated Wednesday, 08 July 2009 05:58

Sent: Wednesday, 22, April, 2009 01:21 AM

To: +MCU@MCU@Ottawa-Hull

Subject: Canada's 'War' role: Where's the integrity?

Honourable Minister Peter McKay:

Thank you for your reply (below) to the letter I submitted to the Globe and Mail Jan. 23, and for your indications that you take the provisions of the Geneva Conventions seriously.

I have been closely following the treatment of detainees in Afghanistan for some years and speaking as a veteran -- I was awarded the Bronze Star Medal for my service with the U.S. Army's 4th Infantry Division in Vietnam -- I must tell you I have been shocked and deeply disappointed with Canada's apparent failure to abide by its obligations to follow Geneva Conventions relating to the handling of detainees in Afghanistan.

My concerns arise primarily from two aspects of Canadian Forces policy, neither of which you mentioned in your correspondence:

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1.) Were the Geneva Conventions followed from 2002 to 2005 when Canada handed detainees over to U.S. authorities? It was commonly known at the time and is now well-documented on the public record that U.S. detaining authorities were routinely following practices with respect to handling of detainees that violated the Geneva Conventions, and I would be more than happy to provide you with specific information related to detainee torture, death in custody, consignment to illegal CIA "Black Prisons" in Afghanistan and elsewhere, and extra-legal "extraordinary renditions" to such places as Guantanamo Bay. Top Canadian military and government officials knew or should have known these practices were happening. It is my understanding that by collaborating with U.S. authorities in these violations, Canadian authorities themselves may have violated the Geneva Conventions. This is not an issue to be lightly dismissed, for I wish to remind you that violations of the Geneva Conventions constitute possible war crimes, serious criminal offences under both international law and Canadian domestic law; and,

2.) Have any detainees who were handed over to Afghan authorities by Canada since the implementation of the 2005 agreement you refer to in your correspondence below been subsequently turned over to U.S. authorities by Afghan authorities? It is my understanding that there is nothing in the agreement to prevent such turnovers from happening and I believe that the 2005 agreement could have been used as a cover to allow continued transfer of some detainees to U.S. authorities in secret, and that such detainees may have been and could still be subject to possible rendition, torture and death in those circumstances.

I carried on a prolonged and rather pointless e-mail correspondence throughout most of 2006 with one D. Boily representing DND, wherein I was asking for some reassurances that Canada was following Geneva Conventions in Afghanistan. Virtually all of my questions were 'stonewalled' by your representative at that time, so perhaps you would now be willing to answer a few of my simple questions about basic policy taken verbatim from that earlier correspondence: "... How many detainees or others have Canadian Forces turned over to the U.S. since October 2001? ... What records are kept of people who have been turned over to the U.S. by Canadian Forces in Afghanistan since October 2001 and what tracking has been done of these people after they have been turned over to the U.S.? ... I request that you provide me with Canadian Forces policy about fulfilling their obligation to continue to be responsible for detainees who have been turned over

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to other authorities since 2001. Can you also please provide me with details of visits to and reports about such detainees who have been turned over to another authority since 2001, and the current policy for this under the arrangement signed Dec. 18, 2005?"

In closing Minister McKay, I wish to thank you for your attention to this issue and these specific questions. If Canadians are to have faith in the integrity of this mission and in any future missions, it is absolutely vital that Canada not only abides by its legal obligations under the Geneva Convention, but is also seen to be doing this.

Speaking for myself and other Canadian citizens who are concerned about ongoing revelations about wholesale violations of international human rights laws in connection with the so-called "war on terror", I believe we have a right to have these concerns addressed here in Canada.

JOHN MCNAMER

--- On Thu, 4/16/09, dnd_mdn@forces.gc.ca <dnd_mdn@forces.gc.ca> wrote:

From: dnd_mdn@forces.gc.ca <dnd_mdn@forces.gc.ca>

Subject: RE: Canada's 'War' role: Where's the integrity?

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Written by

Wednesday, 08 July 2009 05:58 - Last Updated Wednesday, 08 July 2009 05:58

To: jhnmcnamer@yahoo.ca

Received: Thursday, April 16, 2009, 11:14 AM

Dear Mr. McNamer:

Thank you for your e-mail concerning the transfer of detainees to Afghan authorities. I appreciate the opportunity to address your concerns.

Please accept my apology for this delay in responding.

Together with its international partners, Canada is contributing to a United Nations Security Council-mandated effort to help Afghanistan rebuild its society,

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institutions, and economy and to provide a secure environment within which development and democracy can flourish.

As Canadian Forces personnel help provide security, they inevitably detain individuals suspected of engaging in insurgent, criminal, or terrorist activities. The standards for handling and transferring these detainees are governed by international law.

If not released, individuals detained by the Canadian Forces are transferred to Afghan authorities under arrangements signed by Canada and Afghanistan in December 2005 and May 2007. These arrangements commit both countries to treating detainees humanely at all times and under all circumstances, in a manner consistent with the rights and protections of the Third Geneva Convention. They stipulate that both Canada and the Afghanistan Independent Human Rights Commission (AIHRC) will have full, unrestricted, and private access to any person transferred by the Canadian Forces to Afghan authorities and to the limited number of detention facilities in which Canadian-transferred detainees can be held. They also provide for visits by the International Committee of the Red Cross and by relevant human rights organizations within the United Nations system.

Canada and Afghanistan have also undertaken a number of initiatives to increase the capacity of the AIHRC and of Afghan investigative, judicial, and correctional institutions. These efforts are consistent with Canada's policy of reinforcing Afghanistan's sovereignty, strengthening governance and the rule of law, and supporting Afghan institution building. For example, Canadian officials:

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- * have undertaken an enhanced regime of monitoring visits to Afghan detention facilities and Canadian-transferred detainees;
- * have worked with Afghan officials to revamp their methods of tracking and documenting detainees transferred by Canada and other allied military forces; and
- * are providing Afghan investigative and correctional authorities with training and ongoing mentoring in such areas as human rights and proper investigative and interviewing techniques.

It is in the context of the formal arrangements between the Canadian and Afghan governments and the ongoing monitoring and capacity-building efforts of Canadian and Afghan officials that the Canadian Forces transfers detainees to Afghan authorities. Each transfer decision is made by considering the facts available to the Canadian Forces commander in Afghanistan and in accordance with Canada's obligations under international law. Our approach to the treatment of detainees is consistent with, and an important part of, Canada's broader and continuing efforts to help Afghanistan build sustainable policing, justice, and correctional systems.

Canada is a leading partner in the community of nations that share the Afghan people's purpose and recognize the moral imperative to help Afghanistan rebuild itself and become a stable and contributing member of the international community. While significant challenges remain, Afghanistan is moving forward with the sustained help of the international community. Canada's work in Afghanistan reflects the high priority this government attaches to human rights, democracy, and the rule of law.

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For more information, I invite you to visit www.canada-afghanistan.gc.ca and http://www.forces.gc.ca/site/newsroom/view_news_e.asp?id=1703#athena

Thank you again for writing to voice your concerns about this very important matter.

Sincerely,

Peter G. MacKay

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Wednesday, 08 July 2009 05:58 - Last Updated Wednesday, 08 July 2009 05:58

Minister of National Defence

MCU2009-00549

From: John McNamer [mailto:jhnmcnamer@yahoo.ca]

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Written by

Wednesday, 08 July 2009 05:58 - Last Updated Wednesday, 08 July 2009 05:58

Sent: January 23, 2009 1:08 PM

To: jhnmcnamer@yahoo.ca

Subject: Canada's 'War' role: Where's the integrity?

From: John McNamer <jhnmcnamer@yahoo.ca>

Subject: Letter to editor: Where's the integrity?

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Written by

Wednesday, 08 July 2009 05:58 - Last Updated Wednesday, 08 July 2009 05:58

Received: Friday, January 23, 2009, 12:25 PM

So it turns out that illegal abuse and torture of detainees have long been routine at U.S. military bases and CIA black prisons in Afghanistan and elsewhere. It's great news that the new president of the U.S. has the courage to admit the wrongdoing and is making it a top priority to return moral and legal integrity to the workings of that government and military.

But also turns out that top Canadian government and military officials have long been willing collaborators in these violations of the Geneva Conventions by handing Afghan detainees over to the U.S. -- and to the illegal torture at Bagram, the black prisons, and the forced renditions to such places as Guantanamo.

The questions of the day are: Will Canadians get our own own 'knight in shining armor' to restore integrity to our process? And why is it that the Globe continues to fail its readers by not reporting on Canada's longstanding subservient role in these reprehensible activities? Whatever happened to journalistic integrity?

-- John McNamer, 443 Tod Crescent, Kamloops, B.C. tel. 250 374-1058