

July 30th, 2017

A Message from the President

By Richard Gregory

As I write this, I am reflecting back on the past month which has been filled with debate and controversy across Canada. It is an interesting time in our country and it is an important time for social workers to reflect on our Code of Ethics and Standards of Practice when contemplating controversial issues.

I am proud to be Canadian. I recognize that much of Canada's history is fraught with examples of discrimination and wrongdoing, but I want to believe that our identity as a country has the potential to be more than our history of colonization and discriminatory practices. I believe that Canada is the best country in the world. This does not mean Canada is perfect – not at all. But we are capable of becoming a place where every person can achieve their maximum potential. To achieve this, we have to work together and we have to go back to some of the basic premises of social work, which are about building relationships, respecting differences, and understanding one another.

Canada Day celebrations saw protests and conflicts as First Nations peoples expressed their frustration with the lack of acknowledgement of the First Peoples and the absence of any understanding that the First Nations people were here for an estimated 13,000 years before Europeans arrived. Although it is true that 'Canada' is 150 years old, it is important to be truthful about the relationship that Canada has had with the First Peoples. I contend that before we can have reconciliation, we must have truth. In order for healing to occur, there needs to be acknowledgement of the horrific treatment that the First Nations peoples experienced as the country of Canada grew. History needs to identify broken promises, cultural genocide, and other atrocities. While we celebrate confederation, we need to recognize that our first Prime Minister was the architect of the Indian Act, which served as the cornerstone for assimilation and cultural genocide. It is imperative that we acknowledge that this country that we have come to celebrate as 'Canada' is on the traditional territories of many First Nations, on land that was taken from them mostly through manipulation, deception and force.

It is also important to recognize that there were Europeans here for over 200 years before Confederation and that the first several years, the relationships between the settlers and the First Nations was more respectful and conciliatory. History tells us that the relationships soured when the Europeans got greedy and egocentric.

I want to continue to celebrate Canada Day – but, more importantly, I believe we need to acknowledge history and build relationships. I believe that this is good social work practice.

It seems like we moved from the Canada Day controversy to the Omar Khadr story. What an explosion of nastiness erupted from this situation! I felt fortunate that I had just attended the Central Alberta Social Work conference a few weeks earlier, where Dennis Edney, Omar's lawyer, was one of the speakers. Mr. Edney was appointed as Foreign Attorney Consultant by the U.S. Pentagon to participate in the legal defense of Omar Khadr at Guantanamo Bay. He committed himself to this case, and working for no fee, he tirelessly defended Omar, searching for justice. As social workers, we should all share in this commitment.

At the base of this controversy was the announcement of a settlement in the law suit that Omar had filed against the Government of Canada. I was very upset with the presentation of 'alternative facts' that was being asserted by some politicians and new reporters.

I have taken the opportunity to do some research on this case, and here is some of what I have learned. Omar Khadr was born in Canada in 1986 in Scarborough, Ontario. Both his parents were Canadian citizens. On July 27, 2002, Omar was 15 when he was captured by U.S. troops following a firefight at a suspected al-Qaeda compound in Afghanistan. This was the beginning of a nightmare of injustice, suffering and abandonment for a teenager who was a child soldier and should never have been pushed into the middle of a war in the first place. Clearly his father should never have put him in this situation. That is tantamount to child abuse. Beyond that, U.S. officials repeatedly violated his human rights through torture, ill-treatment, arbitrary detention and an unfair trial. He was the youngest prisoner and last Western citizen to be held at Guantanamo Bay. When Omar needed his government most, the Canadian government did not offer compassion and assistance. Instead, Canada was punitive, mean and vindictive. For years, Canadians heard from the former Prime Minister and many of his ministers rhetoric about Omar being a terrorist and war criminal. There was no acknowledgment that the accusations towards Omar were dubious, at best, and no mention of the child soldier who deserved understanding and protection.

Ironically, for over 20 years Canada had championed new global standards that laid out protections for child soldiers and led efforts to end the terrible worldwide practice of drawing children into war. Yet when faced with this first example of a Canadian, one of our own children, needing help, Canada abandoned him.

The crux of the controversy is that during the U.S. forces attack on the compound in Afghanistan, U.S. special forces medic, Sgt. Christopher Speer, was killed, and Sgt. Layne Morris lost an eye. The fact that Omar himself was badly wounded, (shot twice in the back), and almost died, or that he too permanently lost vision in his left eye from shrapnel from American grenades, seems to escape media reports. Omar reports that he was refused pain medication for his wounds, that he had his hands tied above a door frame for hours, had cold water thrown on him, had a bag placed over his head and was threatened with military dogs, and forced to carry 5-gallon pails of water to aggravate his shoulder wound. He was not allowed to use a washroom and was forced to urinate on himself. In the early spring of 2003, Omar was told "your life is in my hands" by a military interrogator, who spat on him, tore out some of his hair and threatened to send him to a country that would torture him more thoroughly, making specific reference to a soldier who enjoyed raping prisoners. The interrogation ended with Omar being told he would spend the rest of his life in Guantanamo. Omar was reported to have been kept in solitary confinement for long periods of time; to have been denied adequate medical treatment; to have been subjected to short shackling, and left bound in uncomfortable stress positions until he soiled himself. His lawyers allege that his interrogators "dragged him back and forth in a mixture of his urine and pine oil" and did not provide a change of clothes for two days.

In February 2003, Canadian Foreign Affairs intelligence officer Jim Gould and an official from the Canadian Security Intelligence Service (CSIS) were allowed to interrogate Omar. For three weeks prior to their visit, the U.S. guards deprived Omar of sleep by moving him to a new cell every three hours for 21 days in order to "make him more amenable and willing to talk".

At the end of March 2003, Omar was transferred to solitary confinement in a windowless and empty cell for the month of April. His chief interrogator was Joshua Claus who, following the in-custody death of the wrongly accused detainee known as Dilawar that same year, pleaded guilty to abusing detainees to

extract confessions. When Omar told the Canadians that he had been tortured by the Americans into giving false confessions, the Canadian authorities called him a liar.

In November 2004, following a meeting with his attorneys, Omar was interrogated for four days about what he had discussed with his defense lawyers. During that time, interrogators used "extreme physical force" and refused to allow him to say his daily prayers. During the visit, the lawyers had administered a psychological questionnaire, which they gave to Dr. Eric W. Trupin, an expert in the developmental psychology of juveniles in confinement. Trupin assessed that Omar was suffering from "delusions and hallucinations, suicidal behaviour and intense paranoia", and that his abuse had left him "particularly susceptible to mental coercion", and at moderate to high suicide risk. In April 2005, Omar was given another written psychiatric test by his lawyers, which they gave to Dr. Daryl Matthews, a forensic psychologist for interpretation. Dr. Matthews had been invited to Guantanamo two years earlier by the Pentagon. Matthews concluded that Omar met the "full criteria for a diagnosis of post-traumatic stress disorder". Lawyers' efforts to secure approval by the U.S. for an independent medical examination of Omar were not successful.

Omar's account of the events at the compound were that he had been knocked unconscious by an American grenade blast and did not recall ever throwing any grenades while the firefight went on around him. A Pentagon report written after the firefight, interviewing the soldier who shot Omar, identifies that someone else was alive in the compound when the grenade that killed Sgt. Speer was thrown and that nobody had witnessed Omar throw the grenade. The day after the firefight, a U.S. officer known as Lieutenant Colonel W. wrote in his report that "the person who threw a grenade that killed Sgt. First Class Christopher J. Speer also died in the firefight", implying that the grenade had not been thrown by Omar. It was also suggested that it was possible that the fatal grenade had actually been one of those being thrown into the compound by American troops while the small team searched the interior of the compound. In spite of this, the U.S. was determined to get a confession from Omar.

After eight years of being tortured, Omar finally pleaded guilty to murder and multiple war crimes in October 2010. Omar believed that this was his only option after being told that if he did not plead guilty, he would never leave Guantanamo Bay. Omar agreed to an eight-year sentence with the possibility of a transfer to Canada after a minimum of one year. His conviction and sentence were widely denounced by civil rights groups, as well as by the United Nations.

In 2007, the Federal Court of Appeal ordered the Canadian government to turn over its records related to Omar's time in captivity. Judge Richard Mosley stated it was apparent that Canada had violated international law. The government appealed to the Supreme Court of Canada in 2008. Critics alleged that the refusal to release the classified documents was due to the embarrassment the documents caused the government. On May 23, 2008, the Supreme Court of Canada ruled unanimously that the government had acted illegally, contravening s. 7 of the Charter of Rights and Freedoms, and ordered the videotapes of the interrogation released.

The Supreme Court of Canada condemned the federal government's treatment of Omar in three separate cases, including a 2010 ruling condemning the willingness of Canadian intelligence officers to interview a teenager who had been subjected to days of sleep deprivation - an agonizing and insidious form of torture. The Supreme Court ruled that the Canadian officials violated his rights when they interrogated him in Guantanamo in 2003 and 2004, knowing he was a minor, without legal representation, and had been subjected to torture. This would become the main claim in Omar's \$20-million civil suit.

On September 29, 2012, Omar was repatriated to Canada to serve the remainder of his sentence in Canadian custody. He was initially assigned to a maximum-security facility but was transferred to a medium-security prison in 2014. Pending an appeal of the U.S. conviction, Omar was released on bail in May 2015 after the Alberta Court of Appeal refused to block his release as had been requested by the Canadian government. Prime Minister Stephen Harper said he was “unapologetic about his government's efforts to keep Omar Khadr imprisoned”.

In 2014, Layne Morris (who lost his eye) and Tabitha Speer (the widow of Christopher Speer) filed a wrongful death and injury lawsuit against Omar. In 2015, a Utah judge granted them a \$134 million default judgment after Omar did not respond to the suit. In 2017, Morris and Speer filed an application to make the judgment enforceable in Canada. This case has not yet been heard. At issue here is that the Utah judge relied primarily on Omar's confession to reach the decision, a confession which was made under torture and duress.

Public Safety Minister Ralph Goodale stated that the government had spent nearly 5 million dollars in legal fees unsuccessfully fighting three Omar Khadr cases all the way to the Supreme Court and this cost to taxpayers would continue with “virtually no chance of success,” and the possibility of an even larger payout.

Omar Khadr is not the first to receive a settlement of this type. In 2007, Canadian Maher Arar was given \$10.5 million in compensation, plus legal fees. Prime Minister Stephen Harper formally apologized to Arar for the actions of Canadian officials, which contributed to his detention and torture in Syria. While it is true that the two cases are different, some lawyers argue the precedent of the settlement amount is significant for Omar's case and his lawyers would not likely settle for less.

It is tragic that a U.S. soldier was killed that day, leaving behind a young family, and another soldier was severely wounded. The destruction and death caused by war is devastating. The answer, however, should not be vindictive retaliation against a powerless individual. As social workers, and indeed as Canadians, we need to learn from this, collectively committing that next time, when faced with a child soldier in need, we will respond with help and protection, not abandonment and condemnation. That is not just our professional responsibility, it is our moral obligation as human beings.

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