

LAWS3305, Nov 28/13
Politics and the Rule of Law in Canada

- * exam: won't be examined on videos; just know important people and events
- * part A and part B; part A = quite a few S/A questions (from a wide choice) then part B = mini essays you can choose from
- *2.5 hours

- you can get 14 years for assisted suicide (helping someone die with dignity), but the government taxes you on tobacco at stores (a product which will most certainly kill you, eventually)
- the current government, despite medical groups advocating assisted suicide, is not in favour of it
- ex: the Cuban Missile Crisis – Kennedy opted to deal with Khrushchev; worked out a detente (the easing of hostile situation) on the situation

Damascus Arkansas

- famous for its nuclear accident
- dropped a socket wrench, which fell the rocket's fuel tank, causing it to leak

Vanity Fair, January 2012

- piece about the Cold War, national security, military industrial complex, shows how we as a people have changed – all has happened so gradually
- written by Todd S. Purdum
- <http://www.vanityfair.com/politics/2012/01/Todd-Purdum-on-National-Security>
- Canada permitted the NSA in the US to spy during a G20 summit conference in 2010 (Snowden)
<http://news.yahoo.com/canada-allowed-widespread-nsa-surveillance-2010-g20-summit-055640207--finance.html>

After Rwanda, our government in Canada has decided that all our foreign affair assets dedicated to Canada's commercial interests around the world; almost wholly withdrawing our peacekeeping and diplomacy around the world.

Guantanamo – a famous judge in Canada has called Guantanamo a “legal black hole”

- at the end, Americans denied Cuba seceded at the Peace Conference in France
- both US presidents, Bush and Obama, consider that they have the ability, because it's a war, undeclared or not, to detain people indefinitely offshore in this territory without court oversight.
- Obama says he has his hands tied when he tries to close down Guantanamo
- but there is no law saying they can't close it down; all it requires is political courage.
- have gang leaders and members of mafia in federal prisons, so what's the problem with holding them in federal prisons?
- Guantanamo is a very dubious place; don't see its history dealt with in American history textbooks, or debated

Canada also has not spoken up about Guantanamo, either for or against. We're complicit, we condone it. When we sent CSIS agents down to interview Omar Khadr in Guantanamo in 2003, we did so with the view to sharing anything we got out of it w/American authorities.

- Guantanamo is a glaring recruitment poster for Al' Qaeda every day it continues

Omar Khadr

- killed an American soldier while he was a teenager, belongs to a notorious family
- Omar was born in Toronto, is Canadian, his father was a fanatic/bad guy and linked in some way to

Bin Laden

- spirited away his son to Afghanistan and raised him in horrible circumstances
- arguably, he was a child soldier – he was going to be their first show trial
- from the very get-go, Canada has refused to acknowledge that he was a child soldier, even though he completely corresponded to criteria of child soldier
- **America wanted to try him as a war criminal**
- July 2002: fire fight on a compound in Afghanistan. In the fire fight, at the very end, an American medic (sergeant) killed by a grenade. Khadr was found in the rubble, air support was ordered.
- suggestion was that Omar was the last man standing and hurled the grenade over his shoulder
- this is why, the soldier testified, he shot him 2x in the back
- the Americans scooped him and gave him medical care
- he was hung by his arms from walls and questioned
- but to the Americans' credit, he was made medically fit
- taken to Guantanamo, sleep-deprived, interrogated
- **soldier said he did not see Omar throw the grenade**
- pled guilty because that was the only way he would get out of Guantanamo and get to Canada
- got 8 years, was to serve the balance in Canada
- Canada dragged its feet, plunked him then in max security – **how was this to rehabilitate him?**
- the Americans indicated that he was a child soldier
- here in Canada, the government was able to surmise a couple things: that most people don't give a damn, that all Khadr's are terrorists and should be dealt with as such
- we don't prosecute people for their parents' bad acts, so why were we dumping on a teenaged kid because his parents were zealots?
- **the Canadian public never really cared about or were given details about the issue; don't care about our presence on the world stage about the issue**
- also a legal ploy: federal lawyers in Canada insisted that the courts mustn't intervene in the exercise of the executive powers by the gov in respect to federal relations
- therefore, Khadr could not be ordered back because his Charter rights were infringed

Those who spoke against Omar Khadr:

David Jones, Canadian's Column in “The Citizen”

- saying Khadr wasn't a victim, that Khadr was the “luckiest teenager in the world” because he killed a top military member and survived
- refers to Omar as a “scorpion”

If you keep someone in prison, how can you expect them to behave better upon release?

Romeo Dallaire, Canadian senator, responded to *The Citizen's* article by saying that Omar did not choose to be in that place, that we should ask ourselves how we allowed this to happen. Said that the solution is to go after the warlords and those who recruit children in the first place. Instead, Canada shirks its international legal obligations.

You Don't Like the Truth: “Four Days Inside Guantanamo”

- documentary on the dynamic – **who's bullying who?**
- video of Omar in Guantanamo, being interrogated by CSIS operatives in Canada
- **Day 1: hope**
- the agents of CSIS seemed to provide Omar with a sense of hope. His body language was full of hope, he was excited to get help. When your interrogators come from your country, you are hopeful that they are there to advocate on your behalf.
- **CSIS only gave the Department of Foreign Affairs select info** – the only member of Foreign

Affairs that was allowed, Jim Gould, was involved in intelligence, so he was allowed only because he dealt w/intelligence

- third person, woman w/CIA, was a liaison officer
- before they went on their trip, they were given instructions on what they could and could not do. Liaison was there as a kind of escort.

- breaking the law in these videos because these detainees were in a “legal blackhole” because they could not apply *habeus corpus* as they had not been charged for anything, did not have a lawyer present

- Omar had a bizarre upbringing where he would go back from Pakistan to Afghanistan to Canada
- he only met his mother in Canada

Day 2: fallout

- see the effect on Omar that CSIS is not there to help him
- CSIS agent only promises to listen to him and talk to the Americans help him
- Omar says he's too scared to tell agent what has changed from the previous day
- In Bagram (US military base in Afghanistan), received terrible treatment. Arrived on a stretcher with one eye blind, a huge wound on his chest, shrapnel all over his body. Was interrogated immediately after, despite his terrible condition.
- **his legal interrogator (Damien M Corsetti)** called himself a friend of Bagram – was involved in these abuses, although he did later admit that Omar was a child (was charged later with prisoner abuse, dereliction of duty, maltreatment, assault and performing an indecent act w/another person)
- Omar on day 2 says that what he told CSIS the previous day was not true

Mamdou Habib, Omar's Cellmate, advised Omar not to tell the agents anything (if you lie, they want more lies, if you tell the truth, they will not believe you)

- Mamdou was dragged away, because the agents listened outside of the cells

The interrogator got very hostile, very quickly; was very presumptuous and prejudiced when he immediately asked whether Omar could speak English. Offered treats, a very infantile way to get Omar to share more information.

What's top-secret about the tapes? Why are portions of them censored?

- Omar is in federal prison, but on what basis? What is the risk?
- Khadr launched an appeal on his entire conviction (tossing out a guilty plea) – still pending
- if this were to be successful, Canada is holding a kid for an offence he'd been cleared of