

Top soldier speaks out on detainee transfers

Battle against Taliban would 'collapse' under ban, Brigadier-General André Deschamps says

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FROM WEDNESDAY'S GLOBE AND MAIL

DECEMBER 19, 2007 AT 4:39 AM EST

A top military commander says in a sworn affidavit Canadian troops would have to quit fighting the Taliban if they could not hand prisoners over to Afghan authorities.

Listing a long series of possible embarrassments and defeats, Brigadier-General André Deschamps outlined what he says would be the dire consequences, including losing the war, should a Federal Court judge rule in favour of a request by human-rights groups to issue an injunction banning the transfer of detainees to Afghan prisons because of the risk of torture or abuse.

"It strikes me as being unduly alarmist," said Alex Neve, secretary-general of Amnesty International Canada, which along with the British Columbia Civil Liberties Association, is seeking a halt to detainee transfers. Mr. Neve said the government seems to have taken an "all or nothing" position by asserting that a ban on transfers "would be so onerous that it would lead to the collapse of the entire mission."

Gen. Deschamps sketches a variety scenarios. Taliban fighters might surrender in droves, he warns, if they knew Canada would release them because it could not either hold them or transfer them. "The insurgents could attack us with impunity knowing that if they fail to win an engagement they would simply have to surrender and wait for release to resume operations," he said in a sworn affidavit.

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The document is part of the Harper government's battle against the injunction.

Gen. Deschamps says such an injunction would result in Canadian Forces retreating to secure bases because they "would not be able to capture individuals who pose a threat to the Canadian Forces, our allies or the [International Security Assistance Force] mission."

In documents filed with the Federal Court, Gen. Deschamps, the chief of staff of Canada's Expeditionary Force Command that runs combat operations in Afghanistan, goes so far as to suggest the Taliban might win the war, at least in Kandahar, if the court were to grant the injunction.

He also warns that Canada's troops would be forced to cease medical treatment of Afghan children and even cancel inspections of Afghan prisons to check on previously transferred detainees. Training the Afghan army and police would also be halted, he said.

"If Canadian Forces were no longer able to transfer detainees, ... this would put the civilian population at great risk as the insurgents would re-assert themselves fully," Gen. Deschamps says.

He is expected to be cross-examined on his affidavit this week.

Amnesty International Canada and the British Columbia Civil Liberties Association say the Harper government is fully aware of the danger of torture and abuse faced by prisoners transferred to Afghan prisons, and that Canada is forbidden under international law, including the Geneva Conventions and its own Constitution, from handing over detainees when it knows they face abuse.

In his six-page affidavit, Gen. Deschamps confirms that Canadian commanders have an obligation not to transfer a detainee if there exists "a reasonable belief that there is a real risk that torture or mistreatment exists."

He also confirms there are options ranging from releasing the detainee to "suspending, on a temporary basis, further transfers." Not included among the options is building a facility or converting the existing cells to accommodate prisoners for more than a few days.

Although Canada is waging its biggest war effort in more than half a century, the 2,500-soldier commitment to Afghanistan has only a limited capacity to hold prisoners temporarily. That is by design. "The Canadian Forces has no capacity or ability to hold detainees other than for transfer purposes," says Gen. Deschamps, an air force general who once commanded the Camp Mirage logistics base in the Gulf.

Although building a NATO detention facility - perhaps on the Kandahar base, which houses more than 10,000 troops - has been repeatedly suggested by international human-rights groups, Canada and most North Atlantic Treaty Organization nations are opposed.

"The long-term, indefinite detention of detainees in such circumstances would be inconsistent with the sovereignty of Afghanistan," Gen. Deschamps says. However, Canada's closest ally, the United States, runs just such a camp for Taliban prisoners in Afghanistan, with the agreement of the Afghan government and with regular inspections by the Red Cross. It was not clear from Gen. Deschamps's affidavit whether the Harper government regards that arrangement as an infringement of Afghan sovereignty.

Mr. Neve said he hoped the Harper government might be persuaded to look at other options; including a jointly run NATO-Afghan prisoner camp where detainees could be properly interrogated while Afghan security forces could be monitored and trained by Canada and other allies.

Despite intensive follow-up inspections, arranged by the Harper government only after The Globe and Mail published harrowing detainee accounts of torture and abuse in Afghan prisons, a significant number of transferred prisoners still say that they have been tortured after transfer.

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