

David Hicks enters his sixth year of detention at Guantánamo Bay

By Richard Phillips
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Calls for the immediate release of Australian citizen David Hicks from Guantánamo Bay intensified over the Christmas period with concerns increasing about the 31-year-old's deteriorating psychological health.

Hicks was captured by the Northern Alliance among Taliban forces in Afghanistan in December 2001, then sold to the US military which transported him to Guantánamo in early 2002. On January 11, he will enter the sixth year of his detention in the notorious jail, where he has been subjected to various forms of torture and long periods of solitary confinement.

Over the past year, Hicks has become increasingly withdrawn and disoriented. On December 19, he refused to speak with his parents in a long-planned phone call. His father Terry told the media that his son was at "breaking point" and had refused to come to the phone despite two separate calls made that day by the family. Applications for the call were made six months earlier.

"We believe he's too emotionally stressed... He's really struggling, he's just not coping," Terry Hicks said. "For him to do that shows that he's just not right. The emotional stress on him must be terrible."

The most recent conversation Terry Hicks had with David was on July 7, 2006. He said it had been very difficult at that time and his son was virtually unintelligible for the first 30 minutes of the 90-minute phone call. The Hicks family has only spoken with David four times, including during a brief visit to Guantánamo in 2004, since he was incarcerated.

The deterioration of Hicks's mental health, along with that of hundreds of others still held in the Guantánamo hellhole, is the direct result of US military policy, which is aimed at psychologically destroying its prisoners.

More than two years ago, in August 2004, Hicks courageously pleaded not guilty before the Bush administration's Military Commissions on charges of attempted murder, conspiracy and aiding the enemy. The ongoing solitary confinement of Hicks and other measures are designed to break his will in preparation for the revamped military commission trial now being organised by the Pentagon.

Over the past weeks scores of angry letters to newspapers throughout Australia have been published calling for Hicks's immediate release. The *Sydney Morning Herald*, the Melbourne-based *Age* and several rural dailies have published editorials and op-ed comments criticising the Howard government over the issue. More than 6,500 emails have been sent to the *Age* in the past month demanding that Hicks be freed immediately.

A recent Newspann revealed that 91 percent of those surveyed wanted Hicks tried fairly and quickly. Only one in four believed that he would receive a fair trial in Cuba. Seventy percent wanted him repatriated and released as soon as possible.

In another indication of the mounting anger, Peter Vickery, a senior lawyer and special reporter for the International Commission of Jurists in Victoria, published a comment in the *Age*, pointing out that Canberra's abandonment of Hicks and its endorsement of the US military commissions, both new and old, were defined as war crimes by the International Criminal Court (ICC). Vickery said Australia was a signatory to the ICC and therefore Howard government officials could be prosecuted under the Australian Criminal Code.

A few days later, the Anglican Archbishop of Perth Roger Herft used his Christmas message to criticise the Howard government over the continued detention of Hicks. A group of federal coalition MPs has belatedly begun voicing concerns about Hicks's imprisonment.

On December 31, Brigadier Lyn McDade, director of military prosecutions, told the *Sydney Morning Herald* the treatment of the Australian citizen was "abominable". In her first public comment since being appointed in July, McDade said: "I don't care what he's done or alleged to have done. I think he's entitled to a trial and a fair one and he's entitled to be charged and dealt with as quickly as is possible. As is anybody."

Government isolated

Confronted with this mounting opposition and concerned about its implications for the federal election this year, Attorney-General Philip Ruddock and Prime Minister John Howard have suddenly begun feigning "concern" about the length of Hicks's incarceration.

Last week Ruddock told the media that the delay in

putting Hicks on trial was “unreasonable and inappropriate”. Howard declared that Hicks had been kept “far too long” without trial. “I am not happy, not happy at all,” Howard said, “and that unhappiness has been communicated to the (Bush) administration.”

This “concern,” of course, is farcical and deserves to be treated with contempt by all those concerned about the ongoing detention of Hicks and hundreds more in Guantánamo. Their detention without charge or trial represents a major assault on long-standing legal principles and a return to barbaric methods of mediaeval justice.

As soon as Hicks was captured in late 2001, Howard and his cabinet ministers made clear to the White House that it could do whatever it liked with him. The government deliberately prejudiced any trial, claiming Hicks to be an Al Qaeda member and a dangerous terrorist. Government ministers, in league with sections of the media, have spent years demonising the 31-year-old father of two, while attacking critics for being “soft on terrorism”.

The Howard government is the only one in the world to have praised the US military commissions, claiming that such kangaroo courts—which allowed hearsay, evidence extracted under torture, prevented prisoners from cross-examining witness, to name a few violations of legal rights—would have provided a fair trial. Canberra still maintains that the new military commissions being organised by the Bush administration will be fair.

The utter hypocrisy of the government’s claims is exposed by its Catch-22 argument that Hicks cannot be repatriated from Guantánamo because he hasn’t broken any Australian laws and would therefore have to be released on return. In other words, Hicks must be railroaded through an American kangaroo court because he is innocent of any crime under Australian law!

Government assertions that the US will not release prisoners from Guantánamo because they may

represent security risks is another fraud and exposed by even a perfunctory examination of what has happened to the Guantánamo detainees repatriated over the past two years.

On December 16, Associated Press (AP) reported that while the Pentagon describes Guantánamo prisoners “as among the most dangerous, best-trained, vicious killers on the face of the earth,” hundreds have been transferred to their home countries—in the Middle East, Europe and South Asia—and then released.

In fact, of the 245 prisoners repatriated in the past three years, 205 were released immediately or were cleared of charges related to their detention at Guantánamo.

An unnamed senior US State Department official told AP that, contrary to the Howard government’s claims, the Pentagon and the Bush administration “do not ask countries to detain them [repatriated Guantánamo prisoners] on our behalf”.

Howard’s sudden expressions of concern about the length of Hicks’s detention without trial are animated by cynical electoral considerations. With a federal election due later this year, Howard clearly recognises that his government is isolated on the issue and is seeking to squirm out of its sordid record in the ongoing and illegal imprisonment of Hicks.

These considerations were spelt out in an editorial in Saturday’s *Australian* newspaper. The Murdoch-owned newspaper bluntly warned Howard that Hicks’s detention had now “become a lightning rod for discontent ... [with] the potential to backfire on his Government”.

“National security,” it continued, “will undoubtedly be a major issue in this year’s election, as it was in 2004, and it would be unhelpful to say the least if the debate were skewed by one exceptional case.”

But rather than the Hicks case being an “exception”, masses of ordinary people rightly regard it as emblematic of the Howard government’s contempt for basic democratic rights.

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