

Howard government blocks release of Australians from Guantanamo Bay

Richard Phillips
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The Howard government has been accused by the *New York Times* of blocking the release of two Australians imprisoned by the US military at Guantanamo Bay, Cuba. The two men, 27-year-old David Hicks and 46-year-old Mamdouh Habib, together with the more than 660 prisoners from 42 countries, are incarcerated at the concentration camp style jail without charge and denied all access to lawyers and their families.

The *New York Times* story, entitled “A Drifter’s Odyssey From the Outback to Guantanamo” and published on May 4, focused on the plight of David Hicks, who was captured in Afghanistan in late 2001 during the US-led assault on that country.

Citing unnamed Australian senior police and intelligence officers, the newspaper reported that the Bush administration “no longer wants” Hicks and had “asked the Australian government to take custody of him and prosecute him”. The Howard government, however, had refused to take Hicks because there was “no evidence that he has violated Australian law.”

Australian Foreign Minister Alexander Downer immediately claimed the report was untrue and Prime Minister Howard, who had just concluded a visit to President Bush’s Texas ranch, refused to discuss the issue. He told a press conference in New York on May 5 that he did not canvas the detention of the Australian citizens at Guantanamo Bay with the US president.

“[T]here was no need and it was not appropriate that the matter be discussed yesterday,” Howard declared. Discussions between Australia’s attorney-general and his US counterpart, he said, were “relatively precise ... but I can’t tell you why ... [and] I’m not and I can’t give a running commentary.”

Notwithstanding the official denials the *Times* story substantiates allegations made by the Hicks and Habib families and their Australian lawyers that one of their main obstacles in securing release of the two men is the Howard government.

This was confirmed by Michael Ratner, president of the Washington-based Center for Constitutional Rights. Ratner, who has been involved in US legal action to secure release of Guantanamo Bay prisoners, told the Australian media that Hicks and Habib were facing a cruel legal limbo. Abandoned by the Australian government but unlikely to be brought before any US court or military tribunal because they had committed

no crime, the US could hold the two Australians indefinitely, he said.

Whether they are freed or not, Ratner explained, “will be up to the Australian government” which was in a “powerful position to get what it wants from the US”. To ask for Hicks and Habib’s freedom “would be a minor thing” for the Howard government, he said.

But Howard and his ministers, who describe the illegal detentions at Guantanamo Bay as “appropriate” and “humane”, have their own reasons for refusing to repatriate the two Australians.

Firstly, the Howard government has no regard for civil liberties and due process and is using the “war against terrorism” to advance its own assault on basic democratic rights. This includes boosting secret intelligence and police powers and military spending and opening the way for Australian Defence Forces to be used against any domestic opposition.

Secondly, Howard and his ministers know full well that Hicks and Habib cannot be charged or prosecuted under any existing Australian legislation. In fact, after more than 18 months of questioning by the US military and several interrogations by Australian intelligence officers there is not a shred of evidence that Hicks and Habib are connected with Al Qaeda or in any way associated with the September 11 terrorist attacks.

Hicks travelled to Afghanistan in September 2001 and was caught up in the civil war between the Northern Alliance and the Taliban regime. He was captured by the Northern Alliance in late 2001.

Mamdouh Habib, a contract cleaner with a wife and four children in Australia, was captured by Pakistani police whilst travelling on a bus from Quetta to Karachi on October 5, 2001, two days before the onset of the US-led assault on Afghanistan. He had left his home in Sydney in late July of that year with the aim of finding an Islamic school in Pakistan for his children. With the full knowledge of Australian intelligence, he was jailed in Pakistan before being transported to Egypt where he was held incommunicado for five months. He was then transferred to Afghanistan and within weeks dispatched to Guantanamo Bay.

Four days after the *New York Times* article, Australian

Attorney-General Daryl Williams told Melbourne's *Age* newspaper that "no decision" had been made as to whether Hicks and Habib would be charged under Australian law. This would depend, he said, "on what the US does" and whether they were brought before US military tribunals.

Williams declared: "We're in new territory—no question about it. It's a difficult issue—not one you've got a precedent for. The rules are being made as we go." This extraordinary admission further demonstrates that as well as providing troops for the US-led assault on Afghanistan and Iraq, Williams and the Howard government have signed on to the Bush administration's entire assault on basic rights and international legal precedents.

As Williams was issuing this *carte blanche*, the US military freed up to 20 Guantanamo Bay prisoners, returning them to Afghanistan, Pakistan and Saudi Arabia. US officials refused to give exact numbers or details of those repatriated but the releases came after increasingly strident protests from at least eight countries, including Russia, Saudi Arabia, Kuwait, Sweden and Pakistan.

Comments from two freed Afghans—Mohammad Tahir and Rostum Shah—and Shah Mohammad in Pakistan over the last week provide additional evidence that scores of detainees have no links whatsoever with Al Qaeda or any other terrorist organisations.

"I'm angry that the Americans waited until we were in Guantanamo to interrogate us," 28-year-old Mohammad Tahir told Associated Press in Kabul. "Had they questioned us here in Afghanistan, it would have saved us a lot of trouble. They could have realised a lot sooner that I was innocent."

Twenty-two-year-old Rostum Shah said that the US military interrogated him two or three times a week demanding to know whether he was connected with the Taliban regime. "All the time they asked us, 'Where are you from? Are you Taliban? Were you in Pakistan? Why were you captured with the Taliban?' They said: 'If you're innocent, then why did you go to fight against your own people?'"

Both men told the US military that they had no agreement with the Taliban regime but had been dragooned into the Afghanistan army.

As Shah explained: "The Taliban forced us to fight. They took us away from our houses and told us it was our responsibility to fight." He was sent from the southern province of Helmand to fight in Bamiyan region. Tahir, who was also dispatched to Bamiyan, said that the Taliban demanded one man from each family in his village in central Ghor province.

Tahir and Shah were captured in late 2001 by Hezb-e-Wahadat, a Shiite Muslim faction composed of mainly ethnic Hazaras opposed to the Taliban, and held for four months. They were then handed over to the US military, which jailed them in Kandahar for another four months before sending them to Guantanamo Bay.

"When they took us to Guantanamo, they didn't tell us how

long we'd be there," Shah said. "We didn't know when we'd be released. We didn't even know why they brought us there."

Tahir and Shah have received no apology or official acknowledgment of their innocence from the US but were flown back to Bagram Air Base, the US military headquarters in Afghanistan, in early May. Each received a blue sports bag containing a jacket, underwear, tennis shoes and a bottle of shampoo. They were handed over to Kabul police, who released them.

Shah Mohammad, a 23-year-old former baker from Pakistan's North West Frontier, told newspapers after his release, that conditions were so bad in Guantanamo Bay that most of the prisoners were "in a critical condition mentally and have become mentally deranged". He said that Jehan Wali, one of the Pakistanis freed with him, was so disturbed by his treatment that "he had not spoken to anyone for the past eight months."

An estimated 54 Pakistanis are still being held at Guantanamo Bay. According to Mohammad, who was captured in Mazar-e-Sharif in November 2001, most of them were sold to the US by warlords affiliated with the Northern Alliance. He said the US military treated them like "animals"; for the first month at the Guantanamo Bay military prison they were not allowed to talk to each other and the *adan* (Muslim call to prayer) was banned.

"For several months prisoners were tortured frequently. Later after the Red Cross intervened, the torture was limited to interrogation sessions and the bans on *adan* and talking to each other were lifted. The American government, without any proof or justification, kept me imprisoned for 18 months. The US should compensate me for this loss of my freedom," Muhammad told the Pakistani media.



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