

# Prisoner releases expose illegal nature of Guantanamo Bay detentions

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The Bush administration has provided yet another demonstration of the criminal character of its so-called “war against terror” with the release of over 46 Afghan and Pakistan prisoners from Guantanamo Bay in the last two weeks. The detainees, who have been held illegally without charge or access to lawyers or their families, were freed following a series of backroom deals between their respective governments and Washington.

Hundreds of Pakistani Taliban supporters were captured in Afghanistan in late 2001, following the US-led military attack on the country and the collapse of the Islamic fundamentalist regime. Sixty-four of these prisoners were transferred to Guantanamo Bay. Last week’s repatriations, together with earlier releases, now means that there are only three Pakistanis held in the American military prison.

The Pentagon announced the repatriations on September 17, the day before an official US visit by Pakistani President Musharraf. A week later, on September 22, it revealed that 11 Afghan nationals had also been released from Guantanamo Bay, after requests from President Hamid Karzai.

None of those released had been charged with any crime by the US government. Only one was brought before the Pentagon’s so-called Combatant Status Review Tribunal, which ruled that he was not an “enemy combatant”—the pretext under which more than 600 people have been incarcerated in the prison camp since early 2002. In other words, Washington simply decided that scores of the prisoners it previously defined as major threats to American and international security represented no danger at all.

Afghan government spokesman Rafiullah Mojaddedi said that the detainees could “return to their homes,” while an official statement from Karzai’s office

declared that the men had “shown their strong support for the peace-building and reconstruction process of the country and intend to take an active part in it.”

The real reason for the releases, however, has nothing to do with “peace-building” or “reconstruction”. Rather, they have been motivated by the need to bolster US puppet regimes in the region. Pakistani POWs were sent home by Washington as a sop to the Musharraf government, while some press reports have speculated that the Afghan prisoners were freed to shore up Karzai’s prospects in presidential elections on October 9.

Among those repatriated was Naim Kuchi, a Taliban military commander from 1996 to 2001 in Afghanistan’s Logar province, and a leader of the nomadic Kuchi tribe. He was freed a week after the Afghan government released Mawlawi Qalamuddin, a former deputy minister of the Taliban’s religious police.

Early this month, the Karzai government released the last remaining 363 Pakistani POWs it has held since 2001 in an attempt to ease political tensions along the Afghanistan/Pakistan border in the lead-up to the elections.

The release of the Afghan and Pakistani prisoners from Guantanamo Bay also constitutes a damning exposure of the Australian government. For more than two and a half years, Prime Minister John Howard and his ministers have insisted that Australian citizens David Hicks, 29, and Mamdouh Habib, 48, who have been held there for almost three years, cannot be repatriated. This is under conditions where over 200 POWs have been released in the past 18 months, with countries such as Britain, France, Spain, Sweden, Russia, Morocco and Saudi Arabia arranging to repatriate their citizens.

Hicks was taken prisoner in Afghanistan in late 2001. He has recently been arraigned before a US military tribunal and charged with “conspiracy to commit war crimes”, “attempted murder by an unprivileged belligerent”, and “aiding the enemy”.

The young man, one of four prisoners to be tried before the military kangaroo courts in the next few months, has pleaded not guilty to all the charges. Under tribunal laws, hearsay and evidence extracted under duress and other illegal procedures are allowed. Those charged have no right of appeal and, even if found not guilty by the courts, can still be jailed indefinitely by the US military.

The question that must be asked is: why has Hicks been singled out? Scores of Pakistani Taliban supporters released from Guantanamo Bay could just as easily have been accused of the same so-called “crimes” as the Australian is alleged to have committed. The reason lies in the fact that the Howard government decided in late 2001 to use Hicks and fellow-citizen Habib as another justification for its participation in Washington’s illegal “war against terror”.

Since then, rather than request their release, the Howard government has actively collaborated with the Bush administration to ensure they remain incarcerated in Guantanamo Bay. Senior government ministers have publicly claimed that the detention of Hicks and Habib is both “fair” and “legal” and denounced them as dangerous terrorists. Australian officials have stonewalled the Hicks and Habib families and their lawyers and the government has mounted high-level legal action to prevent Freedom of Information access to correspondence between Washington and Canberra on their detentions. These actions, along with the government’s violation of the Geneva Conventions rights of its own citizens, constitute war crimes punishable under Australian law.

Predictably, the Australian media has ignored the repatriation of the Pakistani and Afghan prisoners, concerned that it might politically embarrass the Howard government during the lead-up to the federal election. Likewise, the Labor Party has made no mention of the releases. It has also remained silent about the detention of Hicks and Habib throughout the entire election campaign.

While the Howard government has faced no

challenge over the issue, US military defence lawyers have intensified their campaign against the military tribunals.

On September 20, Major Michael Mori, defence lawyer for Hicks, filed a legal motion demanding that the Bush administration back up its charges against the Australian citizen. Washington has so far refused to provide any concrete details about Hicks’s alleged crimes. Basic information such as who Hicks was planning to murder, and when and how he aided the enemy, has never been provided, making it almost impossible to prepare an adequate legal defence.

Last week Lieutenant-Colonel Sharon Shaffer, who is defending Sudanese citizen Ibrahim Ahmad Mahmoud al-Qosi, a Guantanamo Bay inmate accused of being an Al Qaeda accountant, filed a legal motion demanding the Bush administration drop the military commission system entirely.

Appointed deputy chief judge of the US Air Force, Shaffer said the system was archaic, could not provide a fair trial and called for military court-martial procedures. She pointed out that one major difference between a military commission and a court-martial is that the judge and jury remain separate. Under the Guantanamo Bay system, the military commissioners are both judge and jury and only one of the commissioners is a trained lawyer. Nor is there any appeal process for those convicted.

Shaffer has also filed a motion demanding information from the US government about her client. She wants access to the 14 investigators who interrogated al-Qosi and the 18 linguists who served as translators. Thus far, Washington has provided none of this.



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