

US releases Mamdouh Habib and four British prisoners from Guantánamo Bay

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The Bush administration announced on January 11 that over coming weeks it will release four British and one Australian detainee from its Guantánamo Bay prison. The detainees—British citizens Moazzam Begg, 36, Martin Mubanga, 32, Richard Belmar, 25, and Feroz Abbasi, 24, and 48-year-old Australian Mamdouh Habib—have been imprisoned for almost three years at the American military prison camp.

None of the men were charged with any offence and cannot be jailed when returned to their home countries. Once freed, they are expected to launch damages lawsuits, compensation claims and other legal action over their illegal imprisonment and treatment.

Habib, Begg and Mubanga have stated in letters or legal documents that they were physically and psychologically abused at the jail. Habib was first arrested in Pakistan in October 2001, where he was beaten by US military interrogators. Then, under American direction, he was sent to Egypt where he was held for over six months and tortured. He was transferred back to the US military in Afghanistan and then Guantánamo Bay in May 2002.

In a brief statement announcing the releases, Washington claimed to retain “security concerns” about the five detainees, but said the British and Australian governments had agreed to “take responsibility” and would “work to prevent [the men] from engaging in or otherwise supporting terrorist activities in the future”.

Notwithstanding these so-called “security concerns”, which are a pretext for further state harassment, the sudden release of the men underlines the illegal and arbitrary nature of the Bush administration’s detentions under the “war on terror”.

After three years of constant interrogations, torture and other abuse, Washington has decided to release the men because it has no evidence to charge, let alone convict, them in its “kangaroo court”-style military commissions at Guantánamo Bay.

From the outset, Washington claimed that these and other Guantánamo Bay detainees were dangerous terrorists and could not be freed. Habib was accused of having prior knowledge of the September 11 attacks on the US, helping to train the hijackers and even planning to hijack a plane himself.

Six months ago, the Bush administration told British and Australian government officials that Habib, Begg and Abbasi would be among a batch of nine detainees who would be charged and brought before military tribunals. But a combination of increasing legal action against the detentions, mounting evidence of torture and abuse of prisoners, and backroom appeals by the British government, which faces a national election this year, led to Washington’s release announcement on January 11.

The decision is a major political embarrassment for the Australian government. Late on Tuesday night an exasperated Phillip Ruddock, the Australian attorney general, called a press conference to reveal that Habib would be freed. Ruddock said the Howard government was “disappointed at the way in which this matter has been handled and we’d be very foolish to say otherwise... [I]t didn’t occur in the way in which we would have

expected.”

The attorney general told the media that the Australian government had “consistently urged” the US to bring charges against Habib or release him, and “repeatedly impressed on the US our desire to see his case dealt with expeditiously and fairly”. The next day, a tetchy Prime Minister John Howard said the “process took too long and we have made that known in plain terms to the United States”.

These claims are ludicrous and contemptible. And they can be refuted by a cursory examination of the record.

Rather than urge Washington to “charge or release” Habib, the Howard government provided the US with a blank cheque to do what it liked with Habib and 29-year-old David Hicks, the other Australian citizen currently imprisoned by the US military. Hicks, who was captured by Northern Alliance forces and handed over to the US military in December 2001, has been incarcerated in Guantánamo Bay since January 12, 2002.

The Howard government has wholeheartedly embraced Washington’s so-called war on terror and publicly defended its violations of democratic rights in Guantánamo Bay and elsewhere. It has blocked Freedom of Information access to government documents by Hicks and Habib family lawyers and the media, and now has the dubious distinction of being the only government in the world that has refused to demand the repatriation of its citizens from Guantánamo Bay.

The Howard government has not just failed to defend the basic rights of Mamdouh Habib and Hicks, but is deeply complicit in their illegal detention.

Habib was seized 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 a return air ticket to Sydney and had planned to fly back within days.

Australian government and media reports claimed that he had been captured leaving Afghanistan. In fact, 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. An outspoken man, he was seized by Pakistani police after he attempted to defend the rights of two arrested German bus passengers. The German citizens were released a few weeks later, after negotiations between the German and Pakistani governments. The Howard government made no attempt to secure Habib’s release from Pakistani authorities.

Two weeks prior to his detention, Australian Security and Intelligence Organisation (ASIO) and Australian Federal Police (AFP) officers conducted an eight-hour raid on Habib’s home in Sydney, seizing various items and terrifying his wife and four children. Details about his trip to Pakistan and other information gathered in this raid were no doubt handed over to US intelligence, which passed it on to Pakistani authorities. From the time he was arrested, Habib was prevented from making contact with his family or a lawyer.

In late 2001, Australian Department of Foreign Affairs and Trade officials first told Habib’s wife that they had not been able to gain access

to him, but later admitted that ASIO officers had interrogated her husband in Pakistan.

In May 2002, Foreign Minister Alexander Downer told the National Press Club that he had no sympathy for Habib and that the Australian government would do nothing to secure his legal rights. Attorney General Daryl Williams told the media that the US treatment of Mamdouh Habib was “appropriate”. Williams admitted that Australian intelligence officers would interrogate Habib in Afghanistan, prior to his transfer to Guantánamo Bay. Although no lawyer would be present, Williams continued, Habib “was not being denied any of his rights” because none of the information could be used in an Australian court.

Instead of demanding legal and family access and other basic rights for Habib and Hicks, the Australian government has continuously alleged that they were hardened terrorists. At the same time, it has continued to insist that the two men were in good health and treated well in Guantánamo Bay. It refused to investigate the mounting evidence that Habib had been tortured in Egypt.

In December 2003, Ruddock told a Sydney Law Society dinner that Australians could not expect to commit offences in other countries and then “forum shop” for a favourable jurisdiction in which to be heard and expect to come back to Australia. “There seems to be a fundamental misunderstanding about what we can do for our nationals overseas who’ve committed offences,” he said.

A month later, in January 2004, Ruddock declared that repatriation of Habib and Hicks from Guantánamo Bay would “represent a very significant weakening of our position” and “send a message that Australia is soft on terrorists”.

When asked by journalists whether serious weight loss by Hicks was caused by physical and psychological abuse in Guantánamo Bay, Ruddock cynically declared: “When we inquired about [his weight loss] what we ascertained was that he’d been doing what a lot of Australians do, he’d been on a diet and a fitness regime. And maybe some people want some advice from him as to how it works.”

Howard and Ruddock’s disappointment with the release of Habib is genuine. On the basis of assurances from Washington, they believed that Habib would be charged, placed before a military court and sentenced to a lengthy jail term. They no doubt hoped that this would ensure that Habib’s statements on his torture and mistreatment would be ignored or forgotten.

On January 5, a few days before the Bush administration announced that he would be repatriated, the US District Court in Washington released an affidavit detailing the torture and abuse of Habib. It was submitted to the court last November by Habib’s American lawyer Joe Margulies.

The document not only describes where and how Habib was physically and psychologically abused, but that Australian officials were present during the interrogations in Pakistan and witnessed him being physically assaulted and placed on a plane to Egypt.

One Australian official reportedly watched US guards forcibly subdue Habib while one of his attackers posed for “trophy photographs” with his foot on Habib’s neck and then bundled him into a plane to Egypt.

The affidavit explains that in Egypt he remained handcuffed, and was regularly kicked, punched and beaten with a stick, rammed with an electric cattle prod and subjected to water torture. He was threatened with assault by German shepherd dogs and told by his jailers that they could induce the dogs to sexually assault him.

Habib was often suspended from hooks on a wall, his feet on a drum connected to an electric charge: “The action of Mr Habib dancing on the drum forced it to rotate, and his feet constantly slipped, leaving him suspended by only the hooks on the wall. Eventually, Mr Habib was forced to raise his legs, leaving him to hang by his outstretched arms until he could stand it no longer and, exhausted, dropped his legs back on to the electrified drum. This ingenious cruelty lasted until Mr Habib finally

fainted.”

Subjected to this sadistic brutality, Habib agreed to his Egyptian interrogators’ demands, signing a number of “confessions”. These were then used to “prove” he was a terrorist and justify his transfer back to Afghanistan and incarceration in Guantánamo Bay in May 2002.

According to legal experts, Habib’s vivid description of his treatment in Egypt is one of the most detailed accounts to date of the illegal practice of “extraordinary rendition”, a method whereby the CIA “outsources” torture to other countries. It is expected to form the basis of legal action in the US against the Bush administration.

Former Pakistan Interior Minister Faisal Saleh Hayat admitted last year to SBS television’s “Dateline” program in Australia that his department handed Habib over to US officials. Damaging questions are now being raised about the Australian government’s knowledge and involvement in Habib’s rendition. Amnesty International and the Victorian Law Institute are demanding a public investigation into all aspects of his three-year detention.

The Howard government is currently involved in discussions with Washington over the mechanics of Habib’s repatriation. While Ruddock has admitted that Habib cannot be prosecuted under Australian law, the minister has made clear that the government intends to maintain constant state surveillance of him.

Ruddock told the ABC’s “7.30 Report” on Wednesday that the US considered Habib an enemy combatant and that “if further information were to become known which suggests that offences have occurred, then charges will be brought”.

Habib was “a person of security concern,” he said, and “competent authorities will do what is appropriate in relation to him”. In other words, the Howard government plans to establish ongoing monitoring and harassment of Habib and his family.

NSW Labor Premier Bob Carr immediately endorsed these threats. Carr told a press conference on Wednesday that he had spoken about the issue with Ruddock and NSW Police Commissioner Ken Moroney. “The federal attorney general says he [Habib] will remain a person of interest to the federal police,” Carr said. “We will cooperate with the federal police in surveillance of any person of interest.”

Habib’s lawyer, Stephen Hopper, told the media that Ruddock’s comments were defamatory and that he would investigate every possible action “to redress the wrongs against my client and his family”. This could include legal action for crimes against humanity, compensation for Habib, or a defamation suit against the Howard government. “There’s a whole range of options open to us but we will leave no stone unturned,” he declared.

Habib’s wife, Maha, told the media that the Howard government’s threats were outrageous. She dismissed suggestions that the government should issue an apology. “To apologise or not is not going to make any difference. The glass has been broken, they have breached our human rights and they are the criminals.”

Stephen Kenny and Major Michael Mori, lawyers for David Hicks, have called for the immediate release of their client. Mori said it would be a travesty and legal double-standard if Hicks were not freed at the same time as Habib.



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