

# Australian government persecutes released Guantánamo prisoner

**Richard Phillips**  
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After two weeks of stalling by the US and Australian governments, Guantánamo Bay detainee Mamdouh Habib was finally released without charge and reunited with his family late last month. He is, however, still being treated like a criminal.

The Bush administration maintains that the 49-year-old father of four is an “enemy combatant” and refused to allow him to enter the US. The Howard government declared Habib to be a “person of interest” who must remain under constant scrutiny by police and intelligence organisations.

Accompanied by his American lawyer Joseph Margulies, Habib returned to Sydney in a private jet chartered by the Australian government on January 28. He appeared to have lost weight during his illegal three-and-a-half year incarceration.

Habib, an Australian citizen, was originally detained in Pakistan in October 2001. Following interrogations by Pakistani, American and Australian intelligence officials he was sent, on US orders, to Egypt for six months where he was held incommunicado and tortured. In May 2002, he was transferred to Afghanistan and then Guantánamo Bay where he remained, without charge or access to his family or a lawyer, for almost three years.

Rather than oppose these blatant violations of democratic rights, the Howard government, having slavishly embraced Washington’s so-called “war on terror”, made clear to the Bush administration that it could do whatever it liked with Habib and David Hicks, another Australian still incarcerated in Guantánamo. Howard government ministers consistently defamed Habib and Hicks as “terrorists”, while denying mounting evidence that US authorities abused the two Australians and other prisoners in Guantánamo.

Official notification that Habib would be freed came on January 11, a few days after a US court released an affidavit from the Australian citizen explaining how US authorities illegally transferred him from Pakistan to an Egyptian jail. The statement provided a detailed account of his abuse in Egypt and how he had been forced to sign various “confessions”. He also revealed that Australian authorities had witnessed him being physically abused by American interrogators in Pakistan.

Two days after Habib’s return to Australia, Stephen Hopper, his Australian lawyer, and Margulies, a respected American civil rights attorney, told the local media that the former contract cleaner and coffee shop owner would need extensive specialist treatment.

Margulies said Habib was considering legal action but warned that his client had developed “chronic medical conditions” as a result of his illegal detention as well as “some emotional and psychological conditions that will require even more time [from which to recover]”.

Hopper called for an independent inquiry into the Australian

government’s role in the arrest and detention of Habib. “I’d support any body, whether national or international, as long it was fully independent and its terms of reference were broad enough to look at the whole gambit of issues, including torture, unlawful detention and the Australian government’s complicity in all this,” he said.

Habib was tormented right up until his release and kept shackled for eight hours in a holding area before leaving the military prison. He was even told by a US official that he was being sent back to Egypt.

Likewise, the Howard government is maintaining a campaign of harassment, attempting to intimidate Habib, and throw up a political smokescreen to divert attention from its collaboration in his detention and abuse.

Prime Minister Howard and Attorney General Philip Ruddock, while publicly acknowledging that he cannot be charged or prosecuted with any crime, continue to insist that he is an Al Qaeda supporter and dangerous. Along with other basic democratic rights repudiated as part of the “war on terror”, the Howard government has replaced the presumption of innocence with a new category—free but permanently under suspicion.

Ruddock has made clear that Habib will be refused a passport and subjected to permanent surveillance by the Australian Federal Police, the Australian Security Intelligence Organisation and other agencies. Government officials also have been “back grounding” journalists, feeding them gossip and unsubstantiated allegations against Habib and his family.

The attorney general has also threatened to charge the former Guantánamo detainee under the Proceeds of Crime Act if he receives payment for any media interview or book about his experiences.

The legislation, which was originally introduced to seize drug money and other illegal earnings from convicted criminals, was amended last year, with Australian Labor Party support, to include anyone detained overseas on terrorism allegations. This law applies, irrespective of whether the individual had been formally arrested, charged or found guilty of terrorist-related charges.

In other words, the amendments were specifically designed to prevent Habib, and others such as Hicks, from explaining their story to the widest audience.

Attempting to justify Canberra’s ongoing persecution of Habib, Ruddock claimed on Tuesday that the government was acting to “protect the safety” of Australians. “[I]f there is a view formed that there are matters of intelligence or security” relating to Habib, he told the Australian Broadcasting Corporation, the government was obliged to act. Ruddock claimed that Habib had “admitted that he was in Afghanistan” and that “a number of people who participated in Al Qaeda training have said that Habib was there”.

As Ruddock knows full well, visiting Afghanistan is not a crime and Habib has repudiated all statements made to his interrogators during detention, because Egyptian torturers forced “confessions” from him. Evidence extracted by torture would be rejected by any genuine court of law.

Likewise, unsubstantiated hearsay evidence, whether from anonymous Guantánamo Bay prisoners or any other detainees, is worthless, and would be thrown out of court. Moreover, all the so-called “evidence” assembled against Habib was not enough for US military authorities to charge him with a single offence, even under the kangaroo-court style provisions of its military tribunals.

Ruddock’s contemptible insinuations have nothing to do with preventing terrorism but are aimed at covering up the Howard government’s blatant violations of Habib’s basic rights and its involvement in his illegal detention, actions defined as war crimes under the Geneva Conventions and the Australian Crimes Act.

Predictably, the Murdoch media and various right-wing commentators have joined the Howard government in attempting to stir up a witchhunt to encourage and justify future provocations against Habib and his family.

Murdoch’s Sydney tabloid, the *Daily Telegraph*, for example, has maintained a constant stream of malicious stories against Habib since his return. Ignoring appeals from Margulies and Hopper for Habib to be left alone to recover from his three-year ordeal, the newspaper on January 31 published an article by Lillian Saleh claiming that Habib was “in hiding”. The story concluded with an appeal for readers to phone the newspaper if they knew where he was.

In the same issue, Ricky Sutton, the *Telegraph’s* news editor denounced calls for Habib to be compensated for his illegal detention as “another slap in the face for the public”. The former contract cleaner was “shady”, he claimed. And the evidence to substantiate this defamation? “There’s no smoke without fire,” Sutton declared.

The next day Habib’s photograph was splashed across the *Telegraph’s* front page, after its cameramen and journalists tracked him down with his family while they were visiting Bill Morrison, a former defence minister in the Whitlam Labor government. The newspaper editorialised against compensation for Habib, falsely stating he had “no documentation” when arrested in Pakistan and had been “found with the enemy”.

A day later the paper published another editorial suggesting that Habib supported terrorism and arrogantly demanding that he “provide his fellow citizens with some assurances as to the honesty of his intentions”.

*Telegraph* writer Piers Akerman brushed aside concerns about Habib’s legal rights, claiming that those opposing his treatment were supporters of the Taliban regime and Saddam Hussein. Habib’s detention, Akerman declared, was legitimate because the Geneva Conventions were now “outdated” and did not apply because the Australian citizen was an “enemy combatant”.

Another commentator, Ted Lapkin writing in the *Sydney Morning Herald* on February 1, claimed Habib had been released because the evidence against him was from classified sources and could compromise US intelligence if presented in a court.

A court case, Lapkin claimed, could “provide al-Qaeda with priceless information,” including the eavesdropping capabilities of American satellites or expose deep cover agents. “[I]f the criminal prosecution of Habib would pose an intolerable threat to national security, then it is little wonder that the Americans chose to cut him loose rather than charge him.”

Lapkin, who is a crude propagandist for the so-called war on terror, was forced to admit that he had “no access to any classified intelligence material relating to Habib” and could not prove that he had committed any crime.

Lapkin has impeccable qualifications for manufacturing such unsubstantiated innuendo. He was a former Israeli military intelligence officer, worked for the Republican Party machine in Florida and was communications director for Republican Congressman Rick Lazio before taking up residence in Australia. He is now an associate editor of the *Review*, a pro-Zionist Australia/Israel publication.

Despite this vicious campaign, an increasing number of voices are being raised against the Howard government over its treatment of Habib.

Former defence minister Morrison responded to the *Telegraph* witchhunt by bluntly denouncing the Howard government and the Labor Party.

In a comment headlined “After three years of hell give this man his life back,” Morrison said Habib and Hicks had been “hung out to dry” by the Australian government, foreign minister, prime minister, attorney general and the Labor Party. “I think it is an appalling reflection of the sort of society we have got, on the sort of government we have got.... I’m equally critical of the Labor Party. They’re just devoid of principle ...”

In a carefully-worded comment in the *Sydney Morning Herald* on February 1, senior Sydney barristers Ian Barker and Robert Toner accused Ruddock of failing his duty to “resist abuse of liberties bestowed by law”. Although Habib’s release after three years without charge had “thrown the Australian Government into a tail-spin,” they said, nothing suggested that the attorney general “has the slightest problems with events at Guantánamo or Abu Ghraib.”

Law Council of Australia president John North denounced government suggestions that it could use the Proceeds of Crime laws against Habib, describing them as a “blatant attempt to curb someone’s right of free speech”.

North told the *Sun Herald* last Sunday that Mamdouh Habib “has endured over three years of appalling deprivation while the most powerful nation in the world endeavoured to build a terrorist case against him. They failed. If we allow our government to pursue individuals in this way, then the time will come when everybody’s freedom could be compromised.”

Such comments reflect broader concerns among ordinary people that Habib and Hicks have been unfairly treated and that basic democratic principles have been flagrantly trampled on by the US and Australian government. The reaction of Howard, Ruddock and their media allies is to intensify their vicious campaign against Habib and, in the name of the “war on terrorism”, make further inroads into fundamental democratic rights.



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