

Guantánamo prisoner David Hicks incarcerated in high-security Australian jail

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5 June 2007

On May 20, Guantánamo Bay prisoner David Hicks was transferred from America's most infamous jail to the Yatala Labour Prison in South Australia, under a deal concocted by the Howard government and the Bush administration. The arrangement is an attempt to legitimise the discredited and blatantly illegal US military commissions and dissipate mass hostility towards the Howard government over its violation of the Australian citizen's basic legal rights.

Hicks, a 31-year-old father of two, was captured in Afghanistan in late 2001 by the Northern Alliance, sold to the US military for \$US1,000 and transferred to Guantánamo in January 2002. With slavish backing from the Howard government, he was incarcerated by the US military for almost five and a half years in Guantánamo, where he was subjected to torture and protracted periods of solitary confinement aimed at forcing him to admit to various trumped up terrorism charges.

Hicks's transfer to an Australian prison followed a US military "kangaroo court" in March where he was bullied into pleading guilty to "providing material support for a terrorist group". The charge was retrospective, violated the US Constitution and Australian law and, like his incarceration in Guantánamo itself, constituted a war crime under the Geneva Conventions.

Under the transfer arrangements Hicks, who will be released from the high-security prison on December 29, is banned from making any media comment for 12 months. The purpose of this measure is to gag him in the leadup to the next federal election and prevent him from defending himself against ongoing government and media slanders.

While the Howard government and the corporate media now gloatingly characterise Hicks as a "self-confessed terrorist", their claims, along with his guilty plea, have no factual or legal foundation.

Hicks's "admission" would be dismissed by any genuine court on the basis that it was extracted under conditions of brutality and isolation. The only reason he pled guilty at the military commission, and agreed to serve the remaining months of his sentence in an Australian prison, was that he faced the prospect of many more years inside Guantánamo.

Over the past five and half years, the Howard government has cynically used Hicks for its immediate political self-interest. From the outset it seized on his capture in Afghanistan in late 2001 to flag its support for the Bush administration's so-called "war on terror", at the same time denouncing any opponents as being "soft on terrorism".

Howard and senior government ministers demonised Hicks as a "dangerous terrorist" and let it be known in Washington that the administration could do what it liked with him. Foreign Minister Alexander Downer claimed he was a member of Al Qaeda and

deserved harsh retribution.

"We are an ally of the United States and we agree with them. They're perfectly entitled to take very tough action," Downer declared. What happens to Hicks, he continued, "was entirely a matter for the US."

Canberra justified every assault on Hicks's basic rights, including the presumption of innocence and habeas corpus. For the first two years of his imprisonment, it uttered not a word of protest over the denial of his access to lawyers or any direct contact with his parents. Australian officials suppressed Hicks's complaints about abuse and torture at the hands of US interrogators, while the government mounted a high-level legal action to prevent Freedom of Information access to its own correspondence with Washington about Hicks's case.

Overwhelming evidence of US rendition, torture and other violations of prisoners' basic rights, was simply denied. Attorney-General Ruddock even declared that sleep deprivation, to which Hicks had been subjected on a regular basis, was not torture.

Likewise the Howard government hailed the US military commissions as "fair" and passed specific legislation endorsing the kangaroo court system. It has been the only government in the world not to demand the release of its citizens from Guantánamo.

In the face of this reactionary barrage, Terry and Beverly Hicks, David's parents, maintained an indefatigable and courageous struggle to secure the legal rights of their son. Without their efforts, David Hicks would, in all likelihood, still be in Guantánamo.

Terry Hicks spoke at public meetings and demonstrations challenging the government and media lies about his son and explaining the implications of his illegal treatment.

Support groups such as "Fair Go for David" and other organisations began to emerge. As legal action against the Guantánamo Bay prison developed, Terry Hicks visited Pakistan, Afghanistan and the US to assist with the filming of a documentary about his son. Civil rights lawyers, former judges, peak law bodies, playwrights, authors, musicians and thousands of ordinary Australians—in both urban and rural centres—started to find their voices.

This movement, which merged with the mounting hostility to the US-led invasion of Iraq, rapidly grew in the aftermath of the June 2006 US Supreme Court ruling that found that the military commissions were illegal and violated the American Constitution. Major Michael Mori, David Hicks's military defence lawyer, was accorded celebrity status, appearing on Australian national television and radio, and addressing public meetings of thousands in cities across the country.

Demands for the repatriation of Hicks gradually extended into the government's own constituency. According to one survey, 67 percent

of Liberal Party voters who were questioned wanted Hicks repatriated.

Even more concerning for Canberra was last December's ruling by the Federal Court that it would hear arguments in favor of forcing the government to formally ask the US government for Hicks's release. This was followed in February by a report from senior barristers, legal experts and former judges outlining the case for war crimes prosecutions against the government over its role in the incarceration of Hicks and its support for the blatantly illegal military commissions.

Under these conditions, and facing a federal election later this year, the Howard government's attitude to Hicks suddenly transformed.

Instead of denouncing him, senior government ministers began expressing official concerns about the delays in Hicks being charged and brought before a military commission. Howard even told journalists that he was "angry" over Hicks's lengthy detention and wanted a "speedy resolution".

For its part, the Bush administration, recognising the mounting pressure on its loyal international ally, eventually responded, bringing forward Hicks's military commission hearing. The process culminated in the Guantánamo plea-bargain, in which Hicks was pressured with an offer he could not refuse, and his transfer to Australia.

Having secured the final arrangements for Hicks's transfer to Australian custody, the Howard government dropped its poll-driven "concerns". Believing that it had effectively removed Hicks and the "Free David" movement from the public debate, the government reverted to type, with Foreign Minister Alexander Downer denouncing the Australian as a hardened terrorist and a dangerous man.

Likewise, US authorities claimed that Hicks was still a security risk and theatrically refused to allow the charter jet carrying him back to Australia to overfly American airspace. The flight was shrouded in secrecy until it landed at an Australian military base, with no journalists or photographers allowed near the jet when it landed. Hicks was whisked off to Yatala's high security isolation wing.

Labor predictably came forward to back the Howard government. Acting South Australian Labor state premier Kevin Foley claimed Hicks to be a "self-confessed cheerleader for Al Qaeda" and called on the federal government to impose a control order when he is released next year. At the same time the South Australian government announced it would pass legislation preventing Hicks from earning anything from any future book or television deals.

As Terry Hicks commented: "When it suited them, it was let's get David out of Guantánamo, he's been suffering, let's fight for him and everything else. Now David's back, how things change. I think they should look at the charge sheet, because what they say to the public is different to what he's been charged with."

Claims from the political establishment that Hicks is dangerous are laughable. As John Altenburg, former chief of the US Office of Military Commissions told an ABC journalist last year, "[T]here was nothing special about [Hicks] in that clearly he was but a foot soldier, not a leader or a planner ... [F]or people wanting to see the worst of the worst, this was not going to be it."

Guantánamo military spokesman Rick Haupt echoed this assessment a few days before Hicks's repatriation, telling ABC radio that, despite the fact that, as part of the military commission deal, Hicks was obliged to agree to further interrogations before he left, US military intelligence was simply not interested. "There's no real value that we see in asking him any more questions," he said.

As well as demonising Hicks, both the government and corporate

media have been attempting to rewrite the historical record. Attorney-General Ruddock claimed on ABC-TV's "Insiders" that during the five years of Hicks's detention, the government had made "continuous representations" to the US over its "concerns".

Several op-ed commentators in Murdoch's daily newspapers have tried to present the issue as an unfortunate "publicity" problem for Canberra, claiming primary responsibility lay with the Pentagon's bureaucratic stonewalling. Other media outlets have attempted to whip up hostility against Hicks, alleging he had cost Australian taxpayers millions of dollars.

Nine Network's "Sixty Minutes" featured a lengthy interview with Jodie Sparrow, Hicks's former wife, and his two children, Bonnie and Terry, during which journalist Tara Brown tried to turn them against Hicks.

Brown's efforts failed abysmally. Sparrow told the show that her former husband had a "heart of gold" and she wanted her children to give him another chance. Bonnie Hicks, 14, told Brown that she thought her father should be released immediately from Yatala Prison. Two days later the *Daily Telegraph*, Murdoch's Sydney daily, responded with a vindictive column denouncing Sparrow for refusing to condemn Hicks.

Sparrow's comments, however, are simply one expression of the sentiments of hundreds of thousands of ordinary Australians who no longer believe the Howard government's slander and who are deeply concerned about the assault on Hicks's basic democratic rights. Notwithstanding Canberra's desperate manoeuvres, it has not been able to remove the issue from the political debate in the lead-up to the federal election.

While Hicks is scheduled to be released from the South Australian prison in late December, nothing has changed for the more than 380 still languishing in the US hellhole. They should be freed immediately and provided compensation and immediate medical help and counselling. Such are the conditions facing Guantánamo prisoners that on Thursday a 34-year-old Saudi Arabian prisoner Abd al-Rahman al-Amari committed suicide, the fourth to take his life in the jail since 2006.

Those still in Guantánamo now face a new round of attacks from the Bush administration. Under the Military Commissions Act, which was passed by the US Congress with Democratic Party support last year, Guantánamo prisoners have been stripped of the habeas corpus right to challenge their unlawful prison in a civil court. The Bush administration has also moved to dismiss all pending military commission trials in order to change the rules governing defence attorney-prisoner procedures. If Washington's demands are implemented, lawyers will only be allowed to visit their Guantánamo clients three times and the government will have the right to read all communications between prisoners and their attorneys.

As the *World Socialist Web Site* has insisted from the outset, the real criminals are the leading operatives in the Bush administration and the Howard government. Their actions are clearly defined war crimes under the Geneva Conventions, for which they should be charged and prosecuted.



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