

Australia: Howard government knew of Guantánamo detainee's torture complaints

Mike Head
10 December 2007

Court documents have revealed that senior members of the former Howard government, including the prime minister and foreign minister, were given a detailed briefing on Guantánamo Bay detainee Mamdouh Habib's complaints of torture in Egypt as early as mid-2002.

Habib was arrested in Pakistan less than a month after the September 11, 2001, attacks on the US. After being interviewed three times by US, Pakistani and Australian officers in Islamabad, he was taken to Egypt's notorious prisons for six months, where he was interrogated at length, before arriving at Guantánamo Bay in April 2002.

Together with another Australian citizen, David Hicks, Habib was among the hundreds of men rounded up by American, Pakistani and Northern Alliance forces in Afghanistan and Pakistan in 2001-02 and designated "enemy combatants" in violation of the Geneva Conventions. Some were "rendered" to third countries, such as Egypt, for interrogation and torture, before being detained indefinitely without trial at Guantánamo.

The Howard government, backed by the then Labor opposition, supported the Bush administration's criminal practices. It echoed Washington's claims that Habib and Hicks were among "the worst of the worst" and specifically denied any knowledge that the pair had been tortured, or that Habib had even been in Egypt. Senior ministers publicly accused Habib, a father of four, of being a dangerous terrorist and a threat to "the Australian way of life".

After more than three years of detention, Habib was finally released without charge in 2005. Hicks was eventually coerced into pleading guilty in a US military tribunal to a minor charge, and is now being held in an Australian jail until the end of this year.

Habib is currently suing the Australian government for compensation for its involvement in his treatment. He is also suing columnist Piers Akerman for defamation for implying, in a 2005 article in Murdoch's *Daily Telegraph*, that Habib had lied about being tortured. Last year, a jury agreed that Habib had been defamed, and in the second stage of the litigation, New South Wales Supreme Court Justice David McClellan is now hearing evidence on defences and damages. In its defence, Murdoch's Nationwide News is arguing that Akerman's imputations were true and justified.

The hearing, which is still continuing, has seen the release of two sets of material previously suppressed at the behest of the federal government and its police and intelligence agencies for reasons of "national security". The most significant document was made public at the request of Habib's lawyers.

On November 30, Justice McClellan released a welfare report sent to Prime Minister Howard, Foreign Minister Alexander Downer, Australian Federal Police (AFP) chief Mick Keelty, Australian Security Intelligence Organisation (ASIO) director Dennis Richardson and others in late May 2002, just after Australian officials first visited Habib and Hicks at Guantánamo Bay.

The report, marked "secret" and titled *Australian Government Visit to Guantanamo Bay: Welfare Aspects*, states that "[Mr Habib] said he was tortured. Water was dripped on his head and he was administered electric shocks ... Mr Habib said he was trussed upside down and his body beaten. He said he sustained broken ribs, two broken toes and bleeding from his penis."

The document describes how Habib said his "captors made him listen to noises that resembled ... the sound of his wife being raped and children being beaten." He said he was "placed neck-high in water for extended periods of time and not allowed to sleep."

A Foreign Affairs official, Glenda Gauci, two AFP officers and an ASIO agent visited Guantánamo eight days after Habib arrived there from Egypt. At the outset of their interview, Habib told Gauci: "My health is—is finished. I feel I'm dying."

Throughout the interview, and a later one conducted by ASIO officers, Habib urged his interviewers to take his claims of torture in Egypt seriously. Gauci reported back to Howard, Downer, Keelty and Richardson that Habib was obviously ill. He "seemed tired and of yellowish pallor. He had faint bruises on his head caused, he said, from recent falls induced by fainting spells."

Far from investigating Habib's serious allegations, the Howard government repeatedly denied that he had made any complaint, and declared it had no evidence that Habib had been rendered to Egypt. As late as 2005, Downer specifically said he was not sure Habib had been sent to Egypt.

The welfare report lends weight to Habib's testimony, given to the court two days earlier, that he had been beaten with

sticks, kicked and suspended by his wrists from the ceiling for hours at a time, and had been given electric shocks that were so severe he fainted. Habib further testified that he had been drugged during his imprisonment in Pakistan and Egypt, sometimes daily, and that an Australian consular official, who had introduced himself as Alastair Adams, had been present while this occurred in Islamabad.

Official records of Habib's treatment are still being kept from the public. The document released by Justice McClellan features a number of blacked-out passages, including much of the section headed "Treatment by US Authorities," which remain censored for "security reasons".

The report, written by Gauci, stated that Habib and Hicks were being treated well at Guantánamo Bay. Nevertheless, it offered the Howard government advice on media management, noting that letters from Habib and Hicks to their families presented a different picture of life at the US military camp. "We imagine that their families might release the letters to the media," the report said. "In that case, you should note that a number of statements made by the detainees are not consistent with their comments during the interviews and we might need to be prepared to correct them publicly."

In line with that advice, the government consistently insisted that Habib and Hicks were in good health, were being well-treated and that there was no evidence of torture.

As part of its defence, Nationwide News is seeking to discredit Habib, insinuating not only that he lied about being tortured but was indeed a dangerous terrorist with links to Al Qaeda. It has been assisted by ASIO, which has provided other previously secret documents, including transcripts of interviews with Habib. ASIO officers and an ASIO informant have also taken the stand to testify for Nationwide News, which is believed to be unprecedented.

Aspects of these documents and witnesses, however, have raised further questions about the conduct of the "war on terror". An ASIO agent, dubbed Officer 1 to protect his identity, told the court on December 4 that Australian counter-terrorism authorities had no evidence that Habib had engaged in terrorist-related activities in Pakistan and Afghanistan. Officer 1, who interviewed Habib three times in Islamabad, also said he had never identified himself as an ASIO officer to Habib, nor informed Habib of his rights to decline to answer questions.

An ASIO informant, Ibrahim Fraser, testified that Habib had told him in March 2001 that he had met Osama bin Laden, undertaken military training with him and was planning to relocate to Afghanistan. Under cross-examination, Fraser admitted that he had lied in a previous media interview about Habib, had received a laptop from the AFP and had the cost of moving from Sydney to Perth paid by ASIO.

Habib's allegations of torture have been on the public record for three years. They were suppressed for more than two and a half years, before finally being made public when he was allowed to make a sworn statement to a US court in November

2004.

The Bush administration then faced possible civil court action that might have revealed details about its rendition program. In what became a severe embarrassment for the Howard government, Washington suddenly decided to release Habib and thus circumvent any detailed exposure of US involvement in abduction and torture.

Consistent with its backing for the "war on terror," the Labor Party helped the Howard government ride out demands for an investigation. Labor voted with the government to defeat a resolution by Greens and Democrats Senators for a parliamentary inquiry into Habib's treatment. Labor leader Kim Beazley told the media that Habib should not be given any opportunity to present evidence to a Senate committee and "we shouldn't waste a minute on him".

In keeping with Labor's record, the new Rudd government has not said a word about the latest revelations, let alone announced an inquiry into the Habib case and the Howard government's role. The Labor government has also remained silent about Habib's compensation case, despite a Federal Court judge recently urging a settlement in order to avoid a "vast expense" to taxpayers. Last month, just before the federal election, the federal government's barrister, Barry Toomey QC, told Justice Rodney Madgwick: "It would be unrealistic to think the Commonwealth would offer him any money."

Nor has the Labor government reinstated Habib's passport, which was revoked by the Howard government.

Mounting public opposition to the treatment of Habib and Hicks became a significant factor in the defeat of the Howard government. The deepening scepticism in the bogus "war on terrorism" was compounded by the failed witchhunt earlier this year against Indian Muslim doctor Mohammed Haneef.

The Labor government, however, remains fully committed to the so-called anti-terrorist legislation and to shielding the authorities, and the previous government, from scrutiny. Prime Minister Kevin Rudd emphasised last week that Labor's previously promised judicial inquiry into the Haneef case would not be about "raking over the coals" but making "these tough anti-terrorism laws" more effective.



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