

Australia: Labor government makes out-of-court settlement with former Guantánamo prisoner over torture allegations

Richard Phillips
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Damning new testimony has been released confirming that Australian intelligence, police and foreign affairs officials witnessed the rendition and torture of former Guantánamo prisoner and Australian citizen, Mamdouh Habib.

The sworn evidence follows an out of court settlement finalised in December between Habib and the federal Labor government of Prime Minister Julia Gillard. The testimony is believed to have played a major role in the government's decision.

The settlement is the culmination of five years of legal action by the Australian citizen. It involves a payment to Habib in exchange for absolving the government of liability for its complicity in the illegal detention, extraordinary rendition and acts of torture committed against him by officials from the United States, Pakistan and Egypt between 2001 and 2005.

While the compensation payment amount cannot be made public, Habib has told the media that he will use the money to launch an international lawsuit against the US and Egyptian governments.

The out of court deal is a sudden legal reversal by the Labor government, which, like its predecessor, the former Liberal-National government of Prime Minister John Howard, has fought tooth and nail to circumvent Habib's case and cover up Canberra's involvement in the detention of Habib and of fellow Australian Guantánamo detainee David Hicks. (See: "Australian court allows Guantánamo torture compensation case to proceed")

Habib was seized by Pakistani police in October 2001, just after the September 11 terror attacks in the United States. Illegally detained and interrogated for three weeks in Pakistan, he was "rendered" to Egypt,

where he was tortured and threatened with death. Seven months later, in April 2002, he was transferred to the US-controlled Bagram airbase in Afghanistan, and a month later to Guantánamo Bay in Cuba. He was finally released and repatriated to Australia, without charge, in January 2005.

From the outset, the Howard government insisted that Australian security and foreign affairs officials had no involvement in Habib's "extraordinary rendition" or in his barbaric treatment.

Prior to Habib's release in 2005, government ministers publicly claimed that he was a "dangerous Islamic terrorist". Then Attorney General Phillip Ruddock insisted that US authorities had "enough evidence" to put Habib on trial in Guantánamo.

Habib's legal case alleged that he was subjected to electric shocks, beatings, the removal of fingernails, forcible injection of drugs, water-boarding, sleep deprivation, pepper spray, threats of sexual assault and other forms of torture, and that Australian Security and Intelligence Organisation (ASIO) and Australian Federal Police officers, as well as members of Australia's Department of Foreign Affairs and Trade (DFAT), were present during some of this abuse.

The federal Labor government has refused to make any detailed comment on its out-of court deal, but extracts of testimony from Habib's legal case, which were published in last weekend's *Australian*, are damning.

ASIO and DFAT officials claimed they had no contact with Habib in Egypt, but two of Habib's witness statements—one by a former Egyptian military intelligence officer and the other by a prisoner—demolish their claims.

The former Egyptian military intelligence officer, who has said he would testify in court if given protection, worked at the Cairo prison where Habib and other so-called terror suspects were incarcerated.

He states: “During Habib’s presence some of the Australian officials attended many times... The same official who attended the first time used to come with them... Habib was tortured a lot and all the time, as the foreign intelligence wanted quick and fast information.”

The other statement is from Pakistani-Saudi national Muhammad Saad Iqbal Madni, who was detained in Egypt with Habib and then transferred to Guantánamo. Kidnapped in Indonesia by the CIA and then rendered to Egypt, Madni was falsely accused of being an Al Qaeda member and tortured. He was released without charge from Guantánamo in August 2009.

Madni testifies that he heard “Mamdouh Habib screaming in pain during his interrogation” and that he was told by prison officers that the Australian was very sick and possibly dying.

He also states: “Egyptian, Australian, Israeli (Mossad) and US intelligence agencies were involved in my interrogations ... The Egyptian interrogator told me that the Australian intelligence organisation wanted to ask me questions about Mamdouh Habib... An officer ... asked me questions like ‘How did you know or where did you meet Mamdouh Habib?’”

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Prime Minister Gillard has refused to make any detailed comment on the settlement but has announced an inquiry by the Inspector-General of Security and Intelligence (IGIS), a so-called intelligence and security agency “watch-dog”. The inquiry’s remit is to investigate “the actions of relevant Australian agencies” regarding Habib, but it will be held in secret, with no detailed evidence publicly revealed.

The final IGIS report will be presented to the relevant federal government minister who will decide what, if anything, is publicly reported. In other words, Labor has established a secret investigation aimed at whitewashing the Australian government’s illegal treatment of Habib.

Questioned by the media late last week about the out of court settlement, Gillard declared that the decision was “in the best interest of Australian taxpayers.” No

doubt she was advised that Habib’s evidence was irrefutable and the government would face a multi-million dollar payout.

Gillard’s principal reason, however, was to shut down the Habib case in order to protect senior figures in the former Howard government and others implicated in the Australian citizen’s barbaric treatment. Those involved in this filthy affair have violated Geneva Conventions and international and Australian human rights laws, and should be put on trial for war crimes.



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