

Australian government moves to confiscate book royalties from former Guantánamo prisoner

Richard Phillips
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In a vindictive attempt to intimidate and silence former Guantánamo Bay prisoner David Hicks, the Labor government has instigated legal action to seize all proceeds from his book *Guantanamo: My Journey*. The case is another demonstration that the Labor administration fully endorses the treatment of Hicks and others in the so-called “war on terror”.

Hicks’s 456-page memoir is mostly a harrowing account of his illegal detention and torture in Afghanistan and Guantánamo by the US military, with the complicity of Australia’s Liberal-National coalition government of Prime Minister John Howard.

Hicks was captured in Afghanistan in late 2001 by the Northern Alliance and sold for a bounty to the US military. Falsely denounced as a “terrorist” by Washington, Canberra and the corporate media, the 26-year-old, who had not violated any Australian or American laws, was subjected to beatings, death threats and other forms of abuse by American authorities. He was then transported to Guantánamo and held there illegally for over five years, most of it in solitary confinement (see: “Guantanamo: My Journey—David Hicks exposes torture and government criminality”).

Under conditions of mounting public outrage over his treatment, Hicks was finally repatriated to Australia in May 2007 after he accepted a back-room deal cooked up between the Howard government and Bush administration. The Australian citizen was made an offer he could not refuse: plead guilty to “providing material support to terrorism”—an *ex post facto* charge, i.e., based on a law implemented after he was

captured—or spend the rest of his life in the Guantánamo Bay hell hole.

Now the federal Director of Public Prosecutions (DPP), following a report from the Australian Federal Police, will pursue Hicks in the New South Wales (NSW) Supreme Court on August 3 under the Commonwealth Proceeds of Crime Act. The law allows the government to confiscate earnings made from the “commercial exploitation of the notoriety gained from committing an indictable offense”.

The so-called “indictable offense” is the charge concocted by a US Military Commission while Hicks was held in Guantánamo. The entire Military Commission system violates fundamental legal rights, remains under constitutional challenge in the US, and has been roundly condemned by peak legal bodies in Australia and internationally.

Speaking on behalf of the Gillard government, Home Affairs Minister Brendan O’Connor claimed that neither he nor Attorney-General Robert McClelland had “any direct involvement in the decision” to invoke the Proceeds of Crime Act.

This official denial has no credibility. While the DPP is nominally independent, it is inconceivable that legal action of this political significance would have been initiated without high-level government sanction. Senator George Brandis, the Liberal Party’s shadow attorney-general, has been demanding that the government launch such action against Hicks since Random House published *Guantanamo: My Journey* 10

months ago.

The Howard government's endorsement of Hicks's incarceration in Guantánamo was itself a violation of Australian law and a war crime under the Geneva Conventions. Labor's proceeds of crime case is another attempt to prevent Hicks, and others, from bringing this criminality to light. It also makes clear that Labor defends the illegal actions of the former Bush administration and senior Howard government figures—Attorney-General Philip Ruddock, Foreign Minister Alexander Downer and Prime Minister John Howard.

Hicks's plea deal also involved nine months' solitary confinement in a South Australian high-security jail, along with an agreement not speak to the media for 12 months after his release, and report to police three times a week while observing onerous curfew restrictions.

Since his eventual release, Hicks and his father Terry have constantly demanded an independent investigation into the circumstances surrounding his torture and illegal detention.

These calls have been ignored by the Labor government, as has a formal complaint by David Hicks to the United Nations Human Rights Committee over Canberra's refusal to secure his release from Guantánamo. As a signatory to the International Covenant on Civil and Political Rights, Australia was obliged to make an official response to the September 2010 UN complaint within six months but has not done so.

While David Hicks cannot make any comment on the proceeds of crime case, his father Terry spoke to the *World Socialist Web Site*, bitterly denouncing the legal action.

"I'm very annoyed that they're going ahead with this. It's going to put a lot of pressure on David and he'll suffer once again," he said.

"Where's free speech in all this? It's disgusting. I can't think of any other word to describe it, particularly when the Americans admitted that David never bore

arms against them or broke any American or international laws. And we even had the Howard government admitting that David hadn't broken any Australian laws at time," Hicks said.

"Providing material support for terrorism did not exist as a law, everyone knows this. It was introduced after David was imprisoned in Guantánamo and then applied retrospectively. It was an invented charge.

"We've approached the Labor government for an investigation into the torture and everything else that happened to David and it's completely ignored us. Irrespective of what you think of the individual, if that person has been tortured then your government is obliged to investigate it. Illegal and criminal actions were perpetrated against David and someone has got to be held accountable.

"David is not interested in monetary gain or that sort of thing, it's ridiculous. Everyone knows that [US Vice President Dick] Cheney came over here, a deal was done, and then David was offered a plea bargain. He signed because it was the only way he was going to get out of Guantánamo," Hicks said.

"If this case is allowed to go ahead, David's lawyers should call people like John Howard, Alexander Downer and Philip Ruddock to testify. Howard has written a book, and is making money from it, yet he's responsible for the deaths of hundreds of people. And what about [US Major-General] Geoffrey Miller from Guantánamo, who set up all the torture methods, and then transferred them to Abu Ghraib? He should be made to testify, as well as Bush and Cheney. These are real criminals. Why aren't these people on trial?"



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