

Former Guantánamo prisoner David Hicks speaks with the World Socialist Web Site

Richard Phillips
7 December 2013

In late 2001, David Hicks, a 26-year-old Australian citizen, was captured in Afghanistan by the Northern Alliance, sold to the US military and then illegally transported to Guantánamo Bay. He spent five and a half years incarcerated in the military prison where he was subjected to sleep deprivation, beatings, solitary confinement, and was injected with unknown substances.

Hicks was repatriated to Australia in 2007, after being made an offer he could not refuse—plead guilty to “providing material support for terrorism” or spend the rest of his life in Guantánamo. The plea deal, which included seven months in a high-security South Australian prison, a one-year media gag and other violations of his legal rights, was orchestrated by the Howard government and the Bush administration. Last month Hicks lodged an appeal with the US Court of Military Commission Review to overturn his “terrorism” conviction. It follows last year’s US civil court quashing of the “material support for terrorism” convictions of Salim Hamdan, a former Guantánamo prisoner. Hamdan’s convictions were invalid, the court ruled, because they did not exist when he was captured by the US military in 2001.

Hicks spoke with the World Socialist Web Site last month about his appeal and why he is concerned about the growing attacks on basic legal rights and press freedoms.

WSWS: Why have you decided to appeal?

David Hicks: I believe it’s important that this doesn’t happen again to another Australian. There has to be some accountability and the government should learn from the mistakes made in my case. There should also be some sort of official inquiry into what happened to me. We’ve asked for that on a number of occasions but the government is not interested. People like Bush, Cheney, Howard, Downer and others have to be brought to account.

WSWS: You say “mistakes”.

DH: War crimes. The Australian government hasn’t even responded to action taken to the United Nations three years ago by Professor Ben Saul, head of the Sydney University’s international legal department. He submitted about 90 pages of alleged breaches of the law in my case.

WSWS: Could you explain why you pled guilty in 2007 and what is an Alford Plea?

DH: I’d been in Guantánamo for five and a half years and like everybody else, was tortured during that time. Every single facet of life in Guantánamo is some form of torture and all designed to make you as desperate as possible and to say or do anything to get out. Some were tortured in the most horrific ways, on top of all the other forms of abuse, to sign documents.

After about two years I was offered a 20-year plea deal through my lawyers but they weren’t even told where this was to be served. My lawyers refused and basically told them to get stuffed.

I was eventually charged in 2004, but [Salim] Hamdan, who was charged at the same time, challenged it in the Supreme Court. The charges were ruled invalid—the commission system was basically illegal—and everything fell to pieces. [Australian Prime Minister] John Howard could have taken that opportunity to ask for my repatriation and do it without ‘losing face.’ But he didn’t, and I stayed there for another two years or so.

One of the reasons the US Supreme Court ruled the military commissions illegal was because [US President] Bush didn’t have congressional approval. So they tinkered with a few things, got congressional approval, and the military commissions started up again.

In February 2007 I was charged a second time, which, according to my lawyers meant that I’d have many, many more years in Guantánamo Bay. Howard sent a message through one of his staffers to my military lawyer Michael Mori, which basically said that the Australian government would not repatriate me unless I pled guilty to something.

I was suicidal by that stage. I had a plan and was going to do it. When the pre-trial hearings began and my father was allowed to come I was going to let him know, without saying it openly, that I was going to kill myself.

As I was sitting with my father and my sister, my lawyers ran in very excitedly with a piece of paper. If I signed it and pled guilty to material support for terrorism, I’d spend no

more than 60 more days in Guantánamo, they said.

I was desperate to get out of there but saying guilty to terrorism, a war crime which I've always opposed, was not something I'd do very easily. I thought about it—knowing that the Australian media would never let me forget that I said guilty—and asked my lawyers to see if they could get time served.

My lawyers returned but told me that the offer was a seven-year sentence, with all of it suspended, apart from a maximum of two more months in Guantánamo and seven months to be served in Australia. I was told I could do an Alford Plea. This is complicated but it basically allows you to plead guilty to a crime without admitting guilt.

My detention had become a big political issue for John Howard. The federal elections were scheduled for the end of 2007 but Howard wanted my situation sorted out before the election. So I was sent back to Australia and put in a maximum security jail with a one-year gag order.

But it wasn't just a question of saying guilty. I had to state that I'd never been mistreated in any way by the US military forces or its contractors. But why should this come up if I had not been mistreated by them? I could also be rearrested as an "enemy combatant" anytime I left Australian jurisdiction. Any violation of the gag order meant five years' imprisonment. But it wasn't just a media gag, I couldn't even explain to family and friends about my experiences in Guantánamo.

The deal was worked out when [US vice-president] Dick Cheney met with Howard at the Shangri-La Hotel in Sydney. There was an American staffer in the room recording this at the time and he went public about it in *Harpers Magazine*.

WSWS: Sections of the media have responded to your appeal by suggesting that it's all finished and you should "get on with your life." How do you respond to that?

DH: It's not finished for me. I still live with it physically—from my broken right hand and injured back. I've spent well over \$10,000 on medical expenses since my return to Australia. There have been numerous surgeries to try and correct things. Then there are the psychological issues—the dreams and other things are still vivid and very real.

Due to my lack of education I can only really work with my hands but it's going to be impossible to continue this until retirement age. I don't know how long I'm going to be able to keep it up for but probably only for another 10 years.

But this is not just about me. The Australian government established a precedent and if they can get away with this, if they're not held accountable, then they'll do it to others. In fact, it's already happening.

Many of those supporting me have turned their attention to

Julian Assange because there are so many similarities. The Gillard Labor government claimed that Assange had broken the law and that he was a criminal. The US is trying very hard to get him and if they do, he may not go to Guantánamo but what happened to Bradley Manning shows the type of treatment Assange is likely to receive.

Journalists are now being targeted and this has been stepped up since the Edward Snowden revelations. You see this with the case of David Miranda, Glen Greenwald's partner, who was held under terrorism laws in the UK. This is a dangerous slippery slope.

People say, 'Oh it won't happen to me because I won't go to Afghanistan or get involved in political issues,' but you don't know. It's a dangerous world from what I read.

The government and the media, of course, don't want to talk about the information being revealed. Their response is to demonise the individuals. It's a tactic that works for the government and affects the majority of the population.

WSWS: Do you take confidence from the emergence of whistleblowers like Assange, Manning and Snowden?

DH: Yes. It's amazing, refreshing. It's like a light in the darkness.

WSWS: Washington claims to be fighting for freedom and democracy. What's your comment?

DH: The US does fight for freedom around the world but freedom for it to do as it likes—freedom for the US and nobody else.

The biggest and most pressing issue that all Australians should be concerned about is the Asian pivot, and how our so-called friend is dragging us into serious conflict, the real possibility of war with China, this country's most important economic partner.

Australians should be told about this, at the very least. There should have been a national debate or referendum about whether we wanted US marines stationed in Darwin. Do we want US air bases? Do we want US forces in Perth or anywhere within our jurisdiction?

The US has detailed plans about how to organise a naval blockade on China and is basically issuing orders about what they want Australia to do. People need to be educated about this, and have their say, but it's all being done behind our backs.



To contact the WSWS and the Socialist Equality Party visit:

wsws.org/contact