Oz Torture Victim David Hicks wins case against Government

by jess *Tuesday, Jul 24 2012, 3:17am*
international / prose / post

> David Hicks, Guantanamo Bay torture victim and sacrificial political lamb of the gutless Howard Government has today won his case against the government over profiting from the "proceeds of crime."

David Hicks

The 'cave-in' by the DPP reflects the lack of substantial charges the government had against Mr Hicks.

Today's legal failure opens the door for further action against the Federal Government for a variety of misdeeds and horrendous abuses Mr Hicks suffered while he was being used as a political pawn by cynical politicians of the day, chief among them the PM, John Howard.

It is cold comfort for a torture victim to win a case that should never have been pursued in the first instance but considering the criminal depths to which the USA has plummeted -- President's that boast of personal "kill lists" -- Hicks could have been extra-judicially murdered; 'we came, we got it wrong, but we killed them all anyway cos we're American and we do what we like'.

All power to Mr Hicks for his perseverance and character in withstanding the brutal treatment meted out to him by the mass murdering, torturing, resource thieving, criminal Americans.

The USA remains the world's leading civilian killing therefore criminal terrorist nation.

> **Australia debarked once again as US tells its lapdog to heel**
> by Richard Ackland
>
> Is Julian Assange to Julia Gillard what David Hicks was to John Howard? In other words, will Assange be the patsy that a lapdog nation offers to its great and powerful friend, in the same way Howard victimised Hicks as the poster boy for terrorism?
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> If this is to be the case, then there are important lessons to be considered.
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> The Howard government's meddling and manipulation of the Hicks case, in co-operation

with the Bush administration, ultimately created a critical backlash once the public on home soil began to smell a rat.

A special plea arrangement was rushed to conclusion. After more than five years at Guantanamo Bay and having been overcharged with a litany of offences, Hicks grabbed what was on offer, a guilty plea to a single charge of ''material support for terrorism''.

The ultimate ignominy transpired this week when the Commonwealth Director of Public Prosecutions withdrew his prosecution of Hicks under the Proceeds of Crime Act.

The proceedings sought to restrain further publication of the book Guantanamo: My Journey and an order for recovery of the proceeds of the book's sale.

The last person on the parapet shouting and pouring boiling oil on Hicks's head has been the Coalition's shadow attorney-general, Senator George Brandis. He was given chest-beating space in the Murdoch press to advance his ill-conceived legal thesis that Hicks must be charged.

Apparently, he was not across the common law or section 84 of the Evidence Act, both of which say that an admission of guilt cannot be put to a court if it was procured by ''violent, oppressive, inhuman or degrading conduct''.

The statement put out on Tuesday by the DPP was an attempt at face saving. It claimed that Hicks's lawyers served new evidence not previously available to the police or the prosecutors.

Maybe no one at the Commonwealth DPP has read Hicks's book, which detailed his mistreatment, the denial of assistance by the Australian government and the fact that he faced the prospect of staying in Guantanamo forever, even if he was successful before a military commission.

Any ''new'' evidence would have been an elaboration of what was already available.

The last sentence of the DPP's statement said: ''I reached the view that this office was not in a position to discharge the onus placed upon it to satisfy the court that the admissions should be relied upon and decided that these proceedings should not continue.''

In other words, Hicks's admission of guilt is unreliable.

There is also another consideration. Not only was Hicks's admission forced by torture but the charge itself is a fabrication. Never has ''material support for terrorism'' (or MST) been a war crime in the entire history of the world - until it was manufactured by the US Congress in the Military Commission Act of 2006.

This was after Hicks had allegedly materially supported terrorism by ''engaging in combat'' against US forces in Afghanistan.

For the US to make opposition to Americans in a war zone a war crime and to apply it retrospectively is beyond the norms of anything previously considered in international law.

The issue of whether material support for terrorism is a valid war crime is awaiting an outcome from the US Court of Appeals for the District of Columbia circuit in the Hamdan case. The decision is imminent.

Maybe its very imminence is a factor that weighed on the prosecutor's mind back home. If all of a sudden the offence to which Hicks pleaded guilty was found to be invalid by a US court, his prosecution under the proceeds of crime legislation would be left looking pretty silly.

We've seen this late minute scuttling of prosecutions before. In 2005 a DC District Court judge, Joyce Hens Green, was on the verge of releasing her judgment discussing Mamdouh Habib's torture.

Someone in the US government, probably people for the Vice-President, Dick Cheney, tipped off Howard & Co and there was a sudden change of tack.

Australia successfully sought Habib's repatriation just before the court decision was announced.

Meanwhile, Julian Assange's affairs drag on interminably.

If somehow Assange were to be snaffled by the Americans, the parallels with Hicks's circumstances would soon be evident. He would have a long period of incarceration and be massively overcharged, as has been the situation with Bradley Manning.

This is designed to break the accused, to get them to plead to something, even if they are guilty of nothing.

Again, the Australian government has been spectacularly unhelpful, and meets any request for information from Assange's lawyers with a pile of self-evident non-answers. The latest request came from Assange's Australian lawyer, Julian Burnside, QC, who sought from the Attorney-General what the government knew about FBI and grand jury investigations into his client.

None of the questions were answered directly. We need only refer to redacted emails between the Departments of Foreign Affairs and Attorney-General, released under freedom of information, to see why. They provide the government's stock template responses whenever the issue of a US espionage trial is raised. The preconceived answer is this:

''Any discussion which might be taking place between US and Swedish officials concerning Mr Assange are a matter for the United States and Sweden in the context of the bilateral relationship between those two countries. It would be inappropriate for me to make any comment on the matter.''

Sound familiar?

http://tinyurl.com/cjhyrnu

http://tinyurl.com/cosufum

Jungle Drum Prose/Poetry. http://jungledrum.lingama.net/news/story-9.html