

# America's Global Gulag: Challenging Wrongful Convictions

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Many thousands of political prisoners languish in America's global gulag. They do so unjustly. War on terror victims increased earlier numbers.

Muslims are mostly affected. They're wrongfully vilified. They're persecuted for their faith and ethnicity. At times it's for their activism, prominence and/or charity. They committed no crimes.

They continue being hunted down, rounded up, detained indefinitely, isolated, denied all rights, convicted on bogus charges, and imprisoned longterm.

Two victims seek redress. They want their convictions overturned. They have every right to demand it.

Both are now free. One is David Hicks. His book titled "[Guantanamo: My Journey](#)" discussed his nightmare.

He's a native Australian. He converted to Islam. He changed his name. He became Muhammed Dawood. He went to Afghanistan.

He was captured by Northern Alliance forces. He was unjustly linked to Al Qaeda. He was sold to US forces for bounty. He was tried in a kangaroo military tribunal. He never had a chance.

He was held at Guantanamo for over five years. He was prisoner number 002. He arrived on January 11, 2002. It was the day the facility opened.

He was accused of being an "unlawful enemy combatant." It's a long defunct WW II relic. It's a term with no legal meaning.

The phrase "unprivileged enemy belligerent" replaced it. Language changed but not intent, lawlessness, or longstanding US viciousness.

Hicks faced gross injustice. The Military Commissions Act (MCA) grants sweeping police state powers. They have no legitimacy whatever. They reflect gross injustice writ large.

MCA says "no court, justice, or judge shall have jurisdiction to hear or consider any claim or cause for action whatsoever...relating to the prosecution, trial, or judgment of a military commission (including) challenges to (their) lawfulness..."

"Any person is punishable...who...aids, abets, counsels, commands...procures," or helps

a foreign enemy, provide “material support” to alleged terrorist groups, engages in spying, or commits other offenses previously handled in civil courts.”

Guilt by accusation suffices. So does hearsay. Coerced confessions became standard practice. Judicial fairness is verboten. It’s denied. International laws afford no protection. Torture became official US policy.

Anyone can be detained indefinitely, charged or uncharged. Speedy trials are denied.

International laws prohibiting torture don’t matter. Nor do US Supreme Court decisions calling coerced confessions inadmissible. Anything goes is policy.

Hicks was wrongfully convicted of providing “material support for terrorism.” It’s a charge with no legal meaning. When abducted, it didn’t exist.

It was invented in 2006. It was done to prosecute others like him. It can’t be applied retroactively. Hick’s plea was involuntary.

In early 2002, he filed the first ever habeas petition. It challenged Washington’s right to detain him without due process of law.

In *Rasul v. Bush* (2004), the Supreme Court rejected indefinite extrajudicial Guantanamo detentions. It ruled they may challenge them in civil court.

In response, Congress enacted the 2005 Detainee Treatment Act. It subverted the ruling.

In June 2006, the Court reacted. In *Hamdan v. Rumsfeld*, it held that federal courts retain jurisdiction over habeas cases.

Military commissions lack “the power to proceed because (their) structures and procedures violate both the Uniform Code of Military Justice and the four Geneva Conventions.”

In response, Congress passed the 2006 Military Commissions Act (MCA). It granted extraordinary unconstitutional powers. Guantanamo detainees lost all rights.

In October 2012, the US Court of Appeals – DC Circuit ruled in *Hamdan v. United States* (*Hamdan II*).

It held that providing material support for terrorism isn’t a war crime. Victims facing this charge can’t be tried in military commissions. Hicks is appealing on two grounds:

(1) Military commission authority had no legitimacy to convict him for material support.

(2) His guilty plea was involuntary. It was obtained under torture. He wants his wrongful conviction reversed. He wants his name cleared.

On May 20, 2007, he was released from Guantanamo. He was imprisoned for seven months in Australia. He partly free.

His sentence was suspended. His ordeal continues. He lacks justifiable redress.

On November 5, he appealed his conviction. He seeks a summary order reversing it. Under *Hamdan II*, he’s entitled to it. His appeal and request are pending.

He speaks openly about what happened. He does so candidly. He wants others to know. Everyone should know about America's dark side.

International, constitutional and US statute laws don't matter. Anything goes is policy. War on humanity rages. Global victims suffer horrifically.

Mainstream media pronounce them guilty by accusation. They ignore them in captivity.

Hicks plea document says he "was the unlawful product of the coercive conditions at Guantanamo Bay."

"A guilty plea induced by the unholy trinity of violence, threats, and improper promises cannot be allowed to stand."

Attorneys Stephen Kenny and Joseph Margulies represent him. They have little faith in military commission justice. It's a "necessary step," they say.

They hope civil action will deliver long denied justice. Hicks wants "formal recognition of (his) innocence."

He wants "wrongs committed against (him) righted." He wants the right to heal. He wants to "put (everything) behind (him) and move on with (his) life."

He and his family look forward to that day. He'll always be wrongfully considered an enemy combatant.

He's vulnerable to rearrest. American authorities can do so if he leaves Australia. US-designated "enemy combatants" have no rights.

Hicks was brutally tortured and abused. He was viciously beaten. Once it continued for 10 hours straight. He was injected with unknown drugs. He was sodomized with a foreign object.

He was subjected to sleep deprivation. He was exposed to extremely cold temperatures. He was blasted with loud music and strobe lights.

It was done to entirely disorient him. He was interrogated nearly every day. He suffered extreme pain. So did others like him. Their crime was being Muslims in the wrong place at the wrong time.

He was sent home to spend months more in an Australian prison. It was that or stay in Guantanamo forever.

He was released in December 2007. A gag order prevented him from speaking publicly for a year.

An agreed on plea bargain required he withdraw any torture charges. He had to renounce any future legal action against Washington.

He wants his wrongful conviction overturned. He wants long denied justice. He deserves that much and more.

Omar Khadr is a Canadian citizen. He was the youngest victim America targeted. On July 27,

2002, US forces abducted him. They did so in Ayub Kheyl, Afghanistan.

He was caught in a gun fight. He was shot twice in the chest. He was blinded in one eye.

He was 15 years old. He was lawlessly detained, interrogated and tortured. He was sent to Guantanamo. He was charged with being an “unlawful enemy combatant.”

He was coerced to admit crimes he never committed. At the time, former Center for Constitutional Rights (CCR) President Michael Ratner called his admission:

“...a ‘show plea.’ He pleaded guilty to crimes he was never charged with and crimes about which there was almost no evidence, except a confession made under torture including threats of gang rape.”

“So why did he do it?” He faced life in prison “even without a trial. He was being tried in a military commission, not a real court.”

He had no right of appeal. He was denied judicial fairness. “Under these circumstances his conviction was almost guaranteed.”

“The Obama administration is trying to” do the impossible. It wants to “save face. (Khadr) was the first trial of a child soldier by a Western power since World War II.”

“Charges and trials of juveniles are utterly illegal. Top that off with torture” coerced confessions. Obama operates as ruthlessly as Bush.

Imagine making a young child look like “a really bad guy and guilty.”

“The Khadr case is one of the most disgusting chapters in a post-9/11 detention system that should have long ago been relegated to a trash bin.”

Khadr’s appealing. He wants his conviction overturned. On November 8, CCR said he’s is falsely charged with “material support for terrorism.” As explained above, no such crime existed at the time of his arrest.

A [CCR statement](#) said the following:

“Since the DC Circuit has already decided not to recognize retroactive convictions for war crimes dreamed up by Congress such as material support, conspiracy, and solicitation, Khadr’s appeal challenging the legality of other congressionally-created war crimes – murder and spying ‘in violation of the law of war’ – should come as no surprise.”

“CCR has long argued that civilians like Omar Khadr who engage in hostilities (whether in self-defense or otherwise) do not violate the laws of war merely because they lack the combat immunity of a soldier.”

“The fact that Khadr and Hicks guilty pleas came after years of severe abuse and torture by the US military serves as an additional reason why their convictions must now be overturned.”

“Until the military commissions system is scrapped for good, challenges to convictions will plague the Obama Administration for years to come.”

He pledged to close Guantanamo. He said so straightaway in office. He could do it with a stroke of his pen. It remains open. Renovating it is planned.

Khadr was Obama's first military commission trial. Francis Boyle calls them "kangaroo courts." They have no legitimacy. They mock judicial fairness. They're too deeply flawed to be fixed.

"The laws of war would permit (Guantanamo detainees) to be prosecuted in either a US Federal District Court organized under Article III of the United States Constitution or in a military court-martial proceeding organized under the Uniform Code of Military Justice. To do otherwise (is) a war crime."

"What is the Obama administration afraid of? An acquittal? There were acquittals at Nuremberg."

Law Professor David Cole said:

"You have to wonder why the Obama administration would want to saddle itself with a process that is deeply tainted by the way the Bush administration sought to use it."

"Surely it would be better in terms of the acceptability of the verdicts around the world, to make a clean break and use the regular courts or the military court-martial system."

According to Marjorie Cohn:

"Military commissions deny the accused basic due process and are not necessary to try terrorism-related offenses. The US civil and military courts, which provide due process protections that comply with the Constitution, can effectively protect classified information through the Classified Information Procedures Act."

In 2002, Khadr was severely wounded. He was hospitalized at Bagram airbase. He requested pain medication. He was refused.

Interrogation began almost immediately. A bag was placed over his head. Dogs were brought in to frighten him.

He wasn't allowed to use the bathroom. He had to urinate on himself. He was brought into interrogation rooms on a stretcher. He was in great pain. Torture made things worse.

Dozens of children were detained like Khadr. They were tortured like adults. Child psychologist Dr. Eric Trupin commented on imprisoning youths, saying:

"The impact of these harsh interrogation techniques on an adolescent (like Khadr), who also has been isolated for almost three years, is potentially catastrophic to his future development."

"Long-term consequences of harsh interrogation techniques are both more pronounced for adolescents and more difficult to remediate or treat even after such interrogations are discontinued, particularly if the victim is uncertain as to whether they will resume."

"It is my opinion, to a reasonable scientific certainty, that (Khadr's) continued subjection to the threat of physical and mental abuse places him at significant risk for

future psychiatric deterioration, which may include irreversible psychiatric symptoms and disorders, such as a psychosis with treatment-resistant hallucinations, paranoid delusions and persistent self-harming attempts."

Hicks, Khadr and numerous others like them bear testimony to longstanding US ruthlessness.

In many respects under Obama, it's worse than ever. His war on humanity at home and abroad explains.

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