

Doing Washington's Bidding: Australia's Treatment of Daniel Duggan

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The increasingly shabby treatment of former US marine Daniel Edmund Duggan by Australian authorities in the service of their US masters has again shown that the Australian passport is not quite worth the material it's printed on.

In January this year, Sydney's Downing Centre Local Court heard that Australian Attorney-General Mark Dreyfus accepted a request from the US before Christmas to extradite Duggan. Duggan is no longer an Australian citizen, but Canberra has often regarded this as irrelevant when it comes to the US-Australian alliance.

In a 2017 [indictment unsealed](#) on December 9, Duggan is accused by prosecutors of using his expertise to train Chinese fighter pilots to land on aircraft carriers along with eight co-conspirators working at a South African flight school. It is also alleged that the US State Department warned him to apply for written authorisation to train a foreign air force in 2008, which is a requirement of the International Traffic in Arms Regulations (ITAR). The allegation here is that he went ahead without securing authorisation, thereby breaching trafficking and arms control laws between 2009 and 2012.

Duggan has been held since October. In the finest traditions of Australian justice, he is being confined in conditions that suggest presumed guilt. His lawyer, Dennis Miralis, has [stated](#) at various points with some exasperation that his client is "presumed innocent under US law". Duggan's wife, Saffrine, [insists](#) that her husband is "a victim of the United States government's political dispute with China."

This presumption has also been sorely tested by Duggan's detention in a two-by-four-metre cell at the Silverwater jail, which also houses convicted terrorists. Miralis can only assume that the New South Wales Department of Directions has been all too willing to follow instructions delivered from on high.

Earlier this month lawyers for Duggan made a submission to the UN Human Rights Committee challenging these conditions. Their submission [argues](#) that the authorities have

failed to protect Duggan from “inhumane and degrading” treatment, failed to segregate him from convicted inmates, violated his right to adequate facilities to enable him to prepare his legal defence, and denied his right to confidential communications.

The submission also references the assessment of a clinical psychologist who visited Duggan in the Silverwater prison. “The psychologist described Mr Duggan’s conditions as ‘extreme’ and ‘inhumane’. He advised that Mr Duggan was at risk of a major depressive disorder.” Another condition causing him even further discomfort is benign prostatic hyperplasia.

Regarded as nothing more than contingent paperwork, citizenship is feeble in prosecutions of Australians by other allied countries. To the contrary, Canberra has often aided and abetted the undermining of citizens’ rights with a snotty “good riddance” attitude, glad to be rid of supposedly bad apples in the cart.

During the poorly conceived “War on Terror”, a tellingly ghastly response to the attacks on the United States on September 11, 2001, Australian citizens found themselves captured, rendered and left to decay in detention. Such names should forever be taught in schools. They include the Egyptian-Australian national Mamdouh Habib, and David Hicks.

Habib’s arrest in October 2001 in Pakistan and subsequent detention for three years on suspicion of having prior knowledge of the September 11 terrorist attacks, was a fantasy encouraged by both US and Australian personnel. Despite the US expressing the view in January 2005 that it would not lay charges against Habib, the Australian Attorney-General and Minister for Foreign Affairs [were still adamant](#) that Habib had prior knowledge of the attacks, had spent time in Afghanistan, and trained with al-Qaida.

Hicks was sent to the purgatory of Guantánamo Bay in January 2002 after being captured in Afghanistan by forces of the Northern Alliance. He then became something of a judicial guinea pig, the victim of a military commission system [initially deemed](#) by the US Supreme Court to be unconstitutional, unfair and illegal.

What was particularly striking here were the instances of premature adjudication and Australian calls that the US authorities do all they could to try and convict Hicks. Prime Minister John Howard [worried](#) that Hicks, were he not to face a military commission trial in the US, would escape charges in Australia. He did not “regard that as a satisfactory outcome, given the severity of the allegations that have been made against him.”

Foreign Minister Alexander Downer [even dared to claim](#) that Hicks be grateful for not having a longer spell in US captivity. “He would have been there for years if it hadn’t been for our intervention.”

The subsequent Plea Agreement reached in March 2007, under which Hicks pleaded guilty for “providing material support for terrorism”, saw him receive a seven-year sentence, most of it suspended. The remaining seven months of the sentence was served in Australia, which the UN Human Rights Committee [held to be](#) a “disproportionate restriction of the right to liberty” in violation of the International Covenant on Civil and Political Rights. The HRC also noted that Hicks “had no other choice than to accept the Plea Agreement that was put to him” were he to escape the human rights violations he faced in Camp X-Ray.

On February 18, 2015, the United States Court of Military Commission Review set aside

Hicks' guilty plea and sentence. The judges [noted](#) that the charge of providing material support for terrorism should be vacated, given the Supreme Court ruling in 2014 that being tried for such an offence by a military commission was an "ex post facto violation".

To crown this appalling resume of achievements is the Australian government's grossly feeble response to Julian Assange's continued persecution at the hands of the US Department of Justice in the United Kingdom. Facing a preposterously broad application of the Extradition Act of 1917, thereby imperilling national security journalism, Australian calls to drop the case have been weak and lukewarm at best. The trend was set by Labor Prime Minister Julia Gillard, whose response to Cablegate in 2010 was to presume Assange was guilty for having breached some regulation, despite failing to identify a single law to that effect.

Given this inglorious record, the Duggan case has an all too familiar feel to it. The training of Chinese pilots by veteran personnel from a Western country would hardly have raised a murmur when relations between Washington and Beijing were less acrimonious. Hicks also found himself in the historical crosshairs, foolishly wishing to throw in his lot with forces that were once the anti-communist darlings of the US intelligence community.

The question here is what Australian citizens can do when providing services for foreign countries. Serving in ultra-nationalist Ukrainian regiments, or moonlighting in the Israeli Defence Force, is unlikely to land you in trouble. But proffering aeronautical expertise in a private capacity while earning some cash on the side? How frightful.

If the fevered assessments from the Australian Security Intelligence Organisation are anything to go by, the only thing missing in Duggan's extradition is the welcome card for the US DOJ. ASIO Chief Mike Burgess, in his [annual threat assessment](#), was eager to justify his agency's bloated budget. "More hostile foreign intelligence services, more spies, more targeting, more harm, more ASIO investigations, more ASIO disruptions. From where I sit, it feels like hand-to-hand combat."

Burgess shows a striking inability to understand why much of this is overegging paranoia. Academics, business figures and bureaucrats, in suggesting he ease up on ASIO's foreign interference and espionage operations, could only offer him "flimsy" justifications, such as "All countries spy on each other" and "We were going to make the information public anyway".

Facing such a jaundiced worldview, Duggan's future is bleak. And now that Australia has willingly committed itself to Armageddon in lock-step with US forces in any conflict with the PRC, Canberra is doing everything it can to be an efficient detainer for its enormous and not always considerate friend.

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