



PARLIAMENT OF AUSTRALIA
HOUSE OF REPRESENTATIVES
THE SENATE

Speaker Representative Nancy Pelosi
United States Congress
235 Cannon House Office Building
Washington, D.C. 20515-0508

By fax: 0011 1 (202) 225-8259

1 February 2007

Dear Madam Speaker,

As members of the Australian Parliament, we ask that members of the United States Congress take steps to bring about the return to Australia of Australian citizen, David Hicks – a detainee held at Guantanamo Bay for more than 5 years – for prosecution here.

We are not satisfied that the recently announced rules for Guantanamo Bay detainee trials will afford David Hicks (or other detainees) a fair hearing, consistent with international legal standards and Australian law. For example, Military Commission rules that permit hearsay evidence and evidence obtained by coercion and that restrict access to certain evidence, violate essential guarantees of independence and impartiality.

We understand there was significant opposition in Congress to the Military Commissions Act 2006 in part because it denies rights, including resort to *habeas corpus*, to non US citizens and does not adequately guard against mistreatment of prisoners.

We share Judiciary Committee Chairman Senator Leahy's concerns that, "Not only would the military commissions legislation before us immunize those who violated international law and stomped on basic American values, but it would allow them then to use the evidence obtained in violation of basic principles of fairness and justice" (September 28 2006).

We believe that the denial of justice in David Hicks' case erodes values and principles shared by Australia and the United States of America. We are also concerned that the ongoing absence of justice in David Hicks' case is serving to undermine international efforts to combat terrorism.

According to Australian psychiatrists, David Hicks is exhibiting signs of mental illness. This is not surprising because we understand that for much of the past 5 years he has

been held in solitary confinement. Article 110 of the Third Geneva Convention which is recognised in section 268.99 of the Australian Criminal Code, entitles David Hicks to immediate repatriation to Australia, pending trial before a properly constituted court of law.

We ask you and your colleagues to insist, perhaps by way of resolution in the Congress, that David Hicks be immediately repatriated to Australia. Expert legal commentary is that the allegations against David Hicks can be considered under Australian criminal law. The issue of custody pending a trial would be considered by a properly constituted court. Be assured also that our anti-terrorism laws make provision for strict control orders to be imposed on terrorism suspects.

The return of David Hicks to Australia would be entirely consistent with the precedent established by the return of the British subjects held in similar circumstances. But failing return, we ask that David Hicks be immediately put to trial before a properly constituted United States criminal court.

Current arrangements are unjust and contrary to principles that our respective parliaments have for centuries nurtured and cherished. Those principles provide a shining example to those who would seek to destroy or degrade our cherished heritage through arbitrary acts of violence.

We trust that the United States Congress will share our concern and we thank you in anticipation of your response to this representation.

Yours sincerely,

The undersigned

Adams, Dick - Member for Lyons, ALP

Albanese, Anthony - Member for Grayndler, Shadow Minister for Infrastructure & Water; Manager of Opposition Business in the House, ALP

Allison, Lyn - Senator for Victoria, Leader, Australian Democrats

Andren, Peter - Member for Calare, Independent

Bartlett, Andrew - Senator for Queensland, Deputy Leader, Senate Whip, Australian Democrats

Beazley, Kim - Member for Brand, ALP

Bevis, Arch - Member for Brisbane, Shadow Minister for Homeland Security; Territories, ALP

Bird, Sharon - Member for Cunningham, ALP

Bowen, Chris - Member for Prospect, Assistant Treasurer, Revenue & Competition Policy, ALP

Brown, Bob - Senator for Tasmania, Leader, Australian Greens

Brown, Carol - Senator for Tasmania, ALP

Burke, Anna - Member for Chisholm, ALP

Burke, Tony - Member for Watson, Shadow Minister for Immigration, Integration & Citizenship, ALP

Byrne, Anthony - Member for Holt, Parliamentary Secretary for Foreign Affairs, ALP

Campbell, George - Senator for New South Wales, Senate Whip, ALP

Carr, Kim - Senator for Victoria, Shadow Minister for Industry, Innovation, Science & Research, ALP

Conroy, Stephen - Senator for Victoria, Deputy Labor Senate Leader, Shadow Minister for Communications & Information Technology, ALP

Corcoran, Ann - Member for Isaacs, ALP

Crean, Simon - Member for Hotham, Shadow Minister for Trade & Regional Development, ALP

Crossin, Trish - Senator for Northern Territory, ALP

Edwards, Graham - Member for Cowan, Shadow Parliamentary Secretary for Defence and Veterans Affairs, ALP

Elliot, Justine - Member for Richmond, ALP

Ellis, Annette - Member for Canberra, ALP

Ellis, Kate - Member for Adelaide, ALP

Emerson, Craig - Member for Rankin, Shadow Minister for Service Economy, Small Business & Independent Contractors, ALP

Evans, Chris - Senator for Western Australia, Federal Labor Leader in the Senate, Shadow Minister for National Development, Resources & Energy, ALP

Faulkner, John - Senator for New South Wales, ALP

Ferguson, Laurie - Member for Reid, Shadow Minister for Multicultural Affairs, Urban Development & Consumer Affairs, ALP

Ferguson, Martin - Member for Batman, Shadow Minister for Transport, Roads & Tourism, ALP

Fitzgibbon, Joel - Member for Hunter, Shadow Minister for Defence, ALP

Forshaw, Michael - Senator for New South Wales, ALP

Garrett, Peter - Member for Kingsford Smith, Shadow Minister for Climate Change, Environment & Heritage, Arts, ALP

Georganas, Steve - Member for Hindmarsh, ALP

George, Jennie - Member for Throsby, Shadow Parliamentary Secretary for Environment and Heritage, ALP

Gibbons, Steve - Member for Bendigo, ALP

Gillard, Julia - Member for Lalor, Deputy Leader, Employment & Industrial Relations, Social Inclusion, ALP

Grierson, Sharon - Member for Newcastle, ALP

Griffin, Alan - Member for Bruce, Shadow Minister Veterans Affairs, Defence Science & Personnel, Special Minister of State, ALP

Hall, Jill - Member for Shortland, Opposition Whip in the House of Representatives, ALP

Hatton, Michael - Member for Blaxland, ALP

Hayes, Chris - Member for Werriwa, ALP

Hoare, Kelly - Member for Charlton, ALP

Hogg, John - Senator for Queensland, Deputy President and Chair of Committees in the Senate, ALP

Hurley, Annette - Senator for South Australia, ALP

Hutchins, Steve - Senator for New South Wales, ALP

Irwin, Julia - Member for Fowler, ALP

Jenkins, Harry - Member for Scullin, ALP

Joyce, Barnaby - Senator for Queensland, Nationals

Kerr, Duncan - Member for Denison, ALP

King, Catherine - Member for Ballarat, ALP, Shadow Parliamentary Secretary for Treasury

Kirk, Linda - Senator for South Australia, Deputy Senate Whip, ALP

Lawrence, Carmen - Member for Fremantle, Junior National President, ALP

Livermore, Kirsten - Member for Capricornia, Shadow Parliamentary Secretary for Education, ALP

Ludwig, Joe - Senator for Queensland, Shadow Minister for Justice & Customs, Manager of Opposition Business in the Senate, ALP

Lundy, Kate - Senator for Australian Capital Territory, Shadow Minister for Local Government, Sport, Recreation & Health Promotion, ALP

Macklin, Jenny - Member for Jagajaga, Shadow Minister for Families & Community Services, Indigenous Affairs & Reconciliation, ALP

Marshall, Gavin - Senator for Victoria, ALP

McClelland, Robert - Member for Barton, Shadow Minister for Foreign Affairs, ALP

McEwen, Anne - Senator for South Australia, ALP

McLucas, Jan - Senator for Queensland, Shadow Minister for Ageing, Disabilities and Carers, ALP

McMullan, Bob - Member for Fraser, Federal/State Relations, International Development Assistance, ALP

Melham, Daryl - Member for Banks, ALP

Milne, Christine - Senator for Tasmania, Greens

Moore, Claire - Senator for Queensland, ALP

Murphy, John - Member for Lowe, Shadow Parliamentary Secretary to the Leader of the Opposition, ALP

Murray, Andrew - Senator for Western Australia, Democrats

Nettle, Kerry - Senator for New South Wales, Greens

O'Brien, Kerry - Senator for Tasmania, Shadow Minister for Primary Industries, Fisheries & Forestry, ALP

O'Connor, Brendan - Member for Gorton, Parliamentary Secretary for Industrial Relations, ALP

O'Connor, Gavan - Member for Corio, ALP

Owens, Julie - Member for Parramatta, ALP

Plibersek, Tanya - Member for Sydney, Shadow Minister for Human Services, Housing, Youth and Women, ALP

Polley, Helen - Senator for Tasmania, ALP

Price, Roger - Member for Chifley, Chief Opposition Whip, ALP

Quick, Harry - Member for Franklin, ALP

Ripoll, Bernie - Member for Oxley, Shadow Parliamentary Secretary for Industry & Innovation, ALP

Roxon, Nicola - Member for Gellibrand, Shadow Minister for Health, ALP

Rudd, Kevin - Member for Griffith, Federal Labor Leader, ALP

Sawford, Rodney - Member for Port Adelaide, ALP

Sercombe, Bob - Member for Maribyrnong, ALP

Sherry, Nick - Senator for Tasmania, Shadow Minister for Superannuation & Intergenerational Finance, Banking & Financial Services, ALP

Siewert, Rachel - Senator for Western Australia, Greens

Smith, Stephen - Member for Perth, Shadow Minister for Education & Training, ALP

Snowdon, Warren - Member for Lingiari, Shadow Parliamentary Secretary for Northern Australia and Indigenous Affairs, ALP

Stephens, Ursula - Senator for New South Wales, Parliamentary Secretary to the Leader of the Opposition (Social and Community Affairs), ALP

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Stott Despoja - Natasha, Senator for South Australia, Democrats

Swan, Wayne - Member for Lilley, Shadow Treasurer, ALP

Tanner, Lindsay - Member for Melbourne, Shadow Minister for Finance, ALP

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Webber, Ruth - Senator for Western Australia, Deputy Senate Whip, ALP

Wilkie, Kim - Member for Swan, ALP

Windsor, Tony - Member for New England, Independent

Wong, Penny - Senator for South Australia, Shadow Minister for Public Administration & Accountability, Corporate Governance & Responsibility, Workforce Participation, ALP

Wortley, Dana - Senator for South Australia, ALP