



CLA

COMMONWEALTH LAWYERS ASSOCIATION

Statement on Calls for the Exoneration of Mr. David Hicks

The Commonwealth Lawyers Association (CLA) is a pan-Commonwealth professional association of lawyers and exists to maintain and promote the rule of law throughout the Commonwealth.

Since 2004, the CLA has submitted a number of amicus briefs to the United States Supreme Court relating to the proper treatment of prisoners and granting of Habeas Corpus for detainees in Guantanamo Bay.

The CLA notes recent media reports calling upon the government of the United States to rescind the conviction of former Guantanamo Bay detainee, Mr. David Hicks.

The CLA recalls Mr. Hicks, an Australian citizen, was captured and detained in Guantanamo Bay in January 2002. He was formally charged in August 2004 for conspiracy, attempted murder and '*aiding the enemy.*' The charges were subsequently dropped after a United States Supreme Court ruled the military tribunals to be unlawful. In 2007, under the new United States Military Commission Act authorising special military trial of enemy combatants, he was retried and pleaded guilty to providing material support for terrorism.

The CLA notes that the United States Senate Committee is considering advice as to whether or not to rescind Mr. Hicks's conviction. In September 2009, at a Senate Armed Services Committee hearing in Washington DC, the US Assistant Attorney General stated that Mr. Hicks should be exonerated. He further questioned whether material support for terrorism or terrorist groups was a violation of the traditional laws-of-war, as it is not mentioned in any of the international treaties defining these offences.

The Law Council of Australia (LCA), together with United States Pentagon, does not believe that material support for terrorism is an offence under the laws-of-war. The CLA supports this view and urges the United States Senate Committee to determine the final status of Mr. Hick's conviction without further delay.

Commonwealth Lawyers Association
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