



ACSJC BRIEFING

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From the Australian Catholic Social Justice Council, the social justice and human rights agency of the Catholic Church in Australia - www.socialjustice.catholic.org.au

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FROM THE SECRETARIAT

Dear

Friends,

Mamdouh Habib and David Hicks are being held in "Camp Delta" at the US military base at Guantanamo Bay in Cuba. Both have been placed in indefinite detention without charge, contrary to provisions of the Third Geneva Convention and the International Covenant on Civil and Political Rights to which Australia and the US are parties.

From available reports, conditions at Guantanamo Bay are inhumane and below fundamental standards of international law. Their detention for well over a year, without charge, with no access to a lawyer or consular assistance, and without being brought before a competent court to determine their legal status, now puts in doubt the level of protection any citizen of Australia can expect by virtue of their nationality.

Over the past month, the US Government has announced the establishment of a military commission. David Hicks is one of six foreign nationals named as eligible to stand trial before it on charges relating to the "war on terrorism". No charges have yet been laid and both Hicks and Habib continue to languish in Camp Delta.

ARBITRARY DETENTION AT CAMP

DELTA: Despite the best efforts of lawyers to have the US courts find this is wrongful detention and to apply the rule of law, the US Federal Court ruled that US jurisdiction does not extend to Guantanamo naval base. Thus, detainees cannot access a criminal trial with all of the rights that were afforded to John Lindh - the only US citizen captured fighting with the Taliban in Afghanistan.

The 650 or so detainees have been held in a legal vacuum that denies basic rights of the Third Geneva Convention or the International Covenant for Civil and Political Rights (e.g. to be notified of charges, receive legal counsel, have their cases heard and the right to appeal decisions). The United Nations Working Group on Arbitrary Detention has stated that detainees are entitled to the guarantees of articles 105 and 106 of the Third Geneva Convention until such time as their legal status is determined before a competent tribunal.

The US has now given an undertaking to establish a military commission before which David Hicks and five others may appear, but the rights of people in Camp Delta have already been violated. They have reportedly been confined for 24 hours a day in small cells in sweltering heat or in solitary confinement in concrete cells, with only two 15-minute exercise periods each week.

The interrogation of detainees has included techniques such as sleep deprivation and other "stress and duress" methods (<http://www.guardian.co.uk/usa/story/0,12271,882002,00.html>). The commander of Camp Delta last week revealed a system of "incentive-based interrogations" offering rewards of more

recreation time, extra food rations to keep in cell cages, or being moved to medium security in return for statements

(http://heraldsun.news.com.au/common/story_page/0,5478,6808197%255E401,00.html). One would have to question whether the use of such conditions to elicit information that could be used as evidence before a military commission amounted to coercion to induce admissions.

THE US ESTABLISHES A MILITARY COMMISSION: David Hicks has been named under a Military Order of President Bush as eligible for trial by a military commission. The commission will afford some guarantees including the presumption of innocence, protection from compulsory testimony, a standard of proof beyond reasonable doubt and representation by a defence counsel. However, it will not offer many of the protections one would expect before a civil court in Australia or the US.

Following some outrage that the commission could impose the death penalty and would not provide a fair trial, a government delegation from the UK, followed by one from Australia negotiated some concessions including protection from the death penalty, legal consultations free of monitoring, no reliance on evidence that would require the exclusion of the accused, and allowing an Australian lawyer as a 'consultant'.

Despite these concessions, the military commission remains flawed. Following are some major concerns based on available information: Protection from the death penalty has not been extended to Mamdouh Habib or other detainees from around 36 countries who are being held at Guantanamo Bay; the commission will not operate under the standard rules of evidence - statements made under reported interrogation methods at Camp Delta and those made by politicians alleging Hick's guilt might be admitted as evidence; and the commission will not be subject to independent judicial review and the accused will have no appeal rights. Additionally, since detainees will face charges relating to criminal conduct as

outlined in President Bush's Military Order, it is possible those exonerated by the commission could still be regarded as "enemy combatants" and remain in detention until the "cessation of hostilities" in this protracted "war on terror".

A FAIR GO AND THE RULE OF LAW: The media coverage regarding David Hicks and Mamdouh Habib - their capture, detention and possible trial before a US military commission - has given rise to strong words and emotions in our community. The recent tragedy of terrorism in the lives of Australians and Americans has made these citizens the subject of much speculation and even condemnation.

But the fact remains that the two Australians and other inmates of Camp Delta have been detained without charge and without the fundamental rights afforded under international law.

Regardless of our view as to whether or not David Hicks and Mamdouh Habib are guilty of terrorist offences, the fact remains they have not yet had their day in court. Australians believe that their fellow citizens are entitled to the protection of the rule of law regardless of the nature of charges laid against them. Messrs Hicks and Habib are entitled to a presumption of innocence and a fair trial. However, should they be afforded their right to be charged and have their cases heard, it is becoming clear that the fairness of the hearings they are likely to receive before a military commission will fall short of that which Australians would expect before a criminal court here or in the US.

The Australian Catholic Social Justice Council is concerned for the wellbeing of the two Australian citizens and other detainees held at Guantanamo Bay and is watching developments in this area.

Further information can be found at:
<http://www.hrw.org/editorials/2003/us032103.htm>
<http://www.amnesty.org.au/airesources/newsletterApr-May2003/camp-x-ray.html>
<http://www.fairgofordavid.org>

- John Ferguson (National Executive Officer)

LATEST PUBLICATIONS

(orders Tel: 02 9956 5811 or email: admin@acsjc.org.au)

NEXT PUBLICATION IN THE "10 STEPS" SERIES: 10 STEPS TOWARDS CHALLENGING RACISM IN AUSTRALIA TODAY and accompanying PRAYER CARD.

OCCASIONAL PAPER: THE LORD HEARS THE CRY OF THE POOR - THE MAGNIFICAT REVISITED.

Catholic Social Justice Series no.48 - Sr Marie Farrell rsm (cost \$5.50 plus postage)

ECUMENICAL SOCIAL JUSTICE SUNDAY KIT: SUBVERTING RACISM

"Subverting Racism" kit, produced by the Anglican Social Responsibilities Network, Uniting Justice Australia & ACSJC, now available (cost: \$5.50 {plus postage: 1 copy \$1.45; 2-3 copies \$2.45})

2003 SOCIAL JUSTICE SUNDAY STATEMENT: A GENEROUS HEART IN THE LOVE OF CHRIST - CHALLENGING RACISM IN AUSTRALIA TODAY.

Free electronic version of the 2003 Statement will be available on the ACSJC website from 17th September. Associated resources including Statement Summary, Liturgy Notes and Teachers' Notes are now available at: http://www.socialjustice.catholic.org.au/Content/issues/a_generous_heart_in_the_love_of_christ_challenging_racism_in_australia_today.html

BRIEFING PAPER: 40th ANNIVERSARY OF PACEM IN TERRIS

Available on the ACSJC website - http://www.socialjustice.catholic.org.au/Content/issues/40th_anniversary_of_pacem_in_terris.html

OCCASIONAL SERIES PAPER: WAR ON IRAQ: IS IT JUST?

Catholic Social Justice Series no.47 - Fr Bruce Duncan (cost \$5.50 plus postage)

SUPPLEMENTARY PAPER TO CSJ Series no.47: THE STRUGGLE TO

DEVELOP A JUST WAR TRADITION IN THE WEST

Supplement by Fr Bruce Duncan available free as HTML or PDF download at http://www.socialjustice.catholic.org.au/Content/publications/documentation/the_struggle_to_develop_a_just_war_tradition_in_the_west.html (PDF link at bottom of page)

(Postage rates for Catholic Social Justice Series Papers: 1 copy \$1; 2-3 copies \$1.45; 4-5 copies \$2.45)

CURRENT ISSUES

See

<http://www.socialjustice.catholic.org.au/content/mediareleases.html>

MEDIA RELEASE - VIGILANCE URGED OVER NEW ASIO LAWS - 3 July 2003

The ACSJC has urged citizens and community leaders to remain alert to the implementation of new ASIO Anti-Terrorism laws that risk undermining fundamental rights and the rule of law. Bishop Christopher Saunders voiced the concern that people who are not suspected of having committed a crime can be detained, held without charge for up to 7 days and interrogated for eight hours at a time. The ACSJC holds particular concerns for vulnerable citizens, particularly people who are young or from cultural minorities, who might be the targets of these new powers. The legislation will be reviewed under a three-year sunset clause and a Parliamentary review.

http://www.socialjustice.catholic.org.au/content/media_releases/2003_07_3_1057838399.html

OTHER ISSUES & RESOURCES

CARITAS AUSTRALIA POLICY BRIEF: SOLOMON ISLANDS INTERVENTION (at:

<http://www.caritas.org.au/ourwork/SIIintervention.pdf>)

REFUGEE SUNDAY ECUMENICAL EDUCATION KIT: GLOBAL PATHWAYS - REFUGEES: TO PROTECT OR REJECT? (available at: <http://www.christmasbowl.org.au/RefSun2003/>) Refugee and Migrants Sunday celebrated on 31 August. Also visit Australian Catholic Migrant and Refugee Office: <http://www.acmro.catholic.org.au/index.htm>

AUSTRALIAN LAWYERS FOR HUMAN RIGHTS: REFUGEE KIT (available at: <http://www.alhr.asn.au/refugeekit/index.html>)

DECADE TO OVERCOME VIOLENCE KIT: GIVE PEACE A HAND - CHURCHES SEEKING RECONCILIATION AND PEACE (available at: <http://www.ncca.org.au/dov/index.asp>)

AUGUST NOTICES

JULY 3 - AUGUST 10: EXHIBITION "IRAQ PRE-POST WAR 2003". An exhibition of photographs by Mathais Heng. Alliance Francaise Gallery, 17 Robe Street St Kilda, Melbourne. (refer: <http://www.alliancefrancaisemelb.asn.au/gallery.html>)

AUGUST 1 - 17: THE PLAY "PURGATORY DOWN UNDER" at The Old Fitzroy Hotel Theatre, Cnr Cathedral & Dowling Streets, Woolloomooloo, Sydney. For bookings contact (02) 9294 4296 (refer: <http://www.oldfitzroy.com.au/tamrocktheatre/current.htm>)

AUGUST 2 & 3: SCREENING OF "MOLLY & MOBARAK" (Film about asylum seekers in a small NSW town) at Brisbane International Film Festival - State Library, Brisbane. Sat. August 2 at 3.45pm / Mon. August 4 at 12.00pm

AUGUST 3: FORUM "WAR ON TERROR IN OUR REGION". 4.00pm St Cuthbert's Church Hall, Darlington Rd. Darlington, WA. Gold coin donation. Contact (08) 9299 6453 (refer: <http://www.active.org.au/perth/calendar/?display=zoom&event=275>)

AUGUST 4 & 9: SCREENING OF "MOLLY & MOBARAK" at Melbourne International Film Festival. Mon. August 4, 9.15pm at Greater Union in Russell St./ Sat. August 9 at Australian Centre for the Moving Image - opposite Flinders St Station, Melbourne - at 1.00pm

AUGUST 5: FREE PUBLIC SEMINAR "WOMEN'S RIGHTS IN POST-TALIBAN AFGHANISTAN". 12.30 to 2.30pm, Centre for Peace and Conflict Studies, Room 114, Mackie Building, Arundel St. Glebe, Sydney. Contact (02) 9351 7686 (refer: <http://www.arts.usyd.edu.au/centres/cpacs/seminars%20rawa.htm>)

AUGUST 7: FORUM "EASTER FAITH". Forum for the Future: An initiative of Catalyst for Renewal Inc., 6.00 to 8.00pm, The Crypt, St Patrick's Church Hill, Sydney. Entry by donation (refer: <http://www.catalyst-for-renewal.com.au/prod04.htm>)

AUGUST 9: HIROSHIMA DAY RALLY & MARCH. Called by NOWaR Alliance, Perth. Assemble at Perth Concert Hall at 1.00pm (refer: <http://www.zopehosting.com/members/nwawa>)

AUGUST 9: HIROSHIMA DAY RALLY & MARCH. Called by the Walk Against the War Coalition, Sydney. Assemble at Sydney Town Hall at 12.00 noon (refer: http://www.nswpeace.org/events/1059538018_24958.html)

AUGUST 12: LECTURE "BIBLICAL FOUNDATIONS OF SOCIAL JUSTICE" by Fr Giovanni Manzone (of the Pontifical Lateran University) at 7.30pm, Adult Education Centre, 3 Keating St. Lidcombe, Sydney. Contact (02) 9634 3660.

AUGUST 15 - 16: CONFERENCE "ISLAM AND THE WEST: The Impact of September 11". Registration Fee \$115. Ibis Hotel, 15 Therry Street, Melbourne, (refer: Monash Univerisy <http://www.arts.monash.edu.au/politics/conference/>)

AUGUST 18 & 19: FUNDRAISING DINNERS SUPPORTING THE REFUGEE ADVOCACY SERVICE of South Australia and Asylum Seekers in Australia. National Convention Centre, Constitution Ave. Canberra. \$100 per ticket. Call (08) 8211 9097 or refer: <http://www.chilout.org/events/index.html> for booking details.

AUGUST 25: SEMINAR "HUMAN RIGHTS IN MIGRATION AND REFUGEE LAW". Registration Fee \$50. 5.30 to 7.30pm at the Law Society, Level 9, 170 Phillip St. Sydney. Contact (02) 9926 0270 or refer: <http://www.alhr.asn.au/events.html>

SEPTEMBER 5 - 6: FORUM "NATIONAL CURRICULUM DEVELOPMENT FOR ELIMINATION OF RACISM AND PROMOTION OF CULTURAL HARMONY" Convened at National Baha'i Working Group on Racial and Cultural Harmony, 107 Derby St. Silverwater, Sydney. Registration fee of \$50. Register on Brisbane numbers ph: (07) 4728 8294 or fx: (07) 4772 1840.

(email news of your forthcoming social justice events to: admin@acsjc.org.au)

JULY NEWS MONITOR

BISHOP WELCOMES WIND-DOWN OF "UNCONSCIONABLE" PACIFIC SOLUTION: The Immigration Minister's decision to resettle in Australia the remaining refugees being held in Pacific processing centres is a welcome "step in the right direction", said Bishops' Committee for Migrants and Refugees Chairman, Bishop Joseph Grech.

ADELAIDE CENTACARE OPTIMISTIC ABOUT FATE OF CHILD DETAINEES: Adelaide's Catholic welfare agency Centacare said it was optimistic about the future of five detainee children whose fate remained in the hands of the Family Court.

NUNS' INSPIRATION LEADS TO MASS PROTEST AT SILO: Hundreds of self-proclaimed citizen weapons inspectors fanned out across the cow pastures of Colorado and Nebraska to carry on the work of pacifist nuns sentenced to prison for an anti-war protest.

HONDURAS CATHOLIC ANTI-LOGGING CAMPAIGNER MURDERED: A 21 year old Caritas Honduras worker and leading anti-deforestation campaigner was assassinated after repeated death threats from powerful logging interests.

VINNIES URGES FAIRER TAX SYSTEM: The St Vincent de Paul Society told the Senate Inquiry into taxation that the Australian Tax System should be structured so as to be consistent with the principle of social justice.

ANOTHER CHRISTIAN'S BLASPHEMY TRIAL COMMENCES IN PAKISTAN: Trial proceedings against Christian schoolteacher Pervaiz Masih began in northeast Pakistan, two years and three months after the high school principal was jailed for alleged blasphemy. Meanwhile the chairwoman of the Justice and Peace Commission of the Major Religious Superiors Leadership Conference in Pakistan said during a visit to the US that the Bush Government should pressure Pakistan to abolish blasphemy laws that discriminate against minority religions.

BRISBANE COMMISSION URGES NO COMPROMISE ON LAND CLEARING: The Catholic Justice and Peace Commission of Brisbane has implored the Prime Minister and the Queensland Premier to remain firm in their commitment to finding a solution to the land clearing problem in Queensland. Catholic farmers responded

to the statement by saying that a ban would only make life harder for Australia's struggling rural sector.

COMMISSION COMMENDS CRICKET LEGEND'S REFUGEE STAND:

Brisbane's Catholic Justice and Peace Commission welcomed the decision of former Australian cricket captain Ian Chappell to take a stand in support of a fairer and more humane policy on refugees.

CARITAS SAYS GLOBALISATION MUST INCLUDE BETTER DEAL FOR POOR:

The 17th General Assembly of Caritas Internationalis concluded with a strong call on those driving globalisation to "work in solidarity with the poor".

VATICAN ASKS ISRAEL TO GET SERIOUS ABOUT PEACE EFFORTS:

Vatican Secretary of State Cardinal Angelo Sodano has urged the Israeli Foreign Minister to speed up peace efforts with the Palestinians.

HONG KONG CATHOLICS PRAY, FAST IN PROTEST AGAINST ANTI-SUBVERSION BILL:

Hundreds of Hong Kong Catholics fasted and prayed before joining tens of thousands of other citizens who called for democratic reforms.

VATICAN URGES UN TO STOP ILLICIT SMALL ARMS TRADING:

The Holy See called on the international community to work towards "a comprehensive, legally binding agreement on international arms trade that will reduce and eventually eradicate the illicit traffic of small arms and light weapons".

COMMISSION SEEKS LINKS WITH CHURCH IN ZIMBABWE:

Brisbane's Catholic Justice and Peace Commission was seeking to establish links with its sister Commission in Zimbabwe so that it can provide support to the Zimbabwean Commission's efforts to challenge growing human rights abuses and injustices in the African nation.

COMMISSION SAYS DON'T PUNISH INNOCENT CHILDREN

ANY MORE: Melbourne's Catholic Commission for Justice, Development and Peace welcomed the decision of the full bench of the Family Court that detention of children is unlawful.

COMMISSION HIGHLIGHTS GOVT ASYLUM SEEKER BLUNDERING:

The Justice, Ecology and Peace Office of the Diocese of Broome asked why the Federal Government went to the trouble of transferring a group of Vietnamese asylum seekers to the Christmas Island offshore processing centre when they had already arrived in Australia and secured the rights of "onshore" asylum seekers.

VATICAN ASKS DEVELOPED COUNTRIES TO TAKE RESPONSIBILITY FOR POOR:

A top Vatican diplomat asked developed countries to take "collective responsibility" for poverty around the world and to tackle the difficulties of poor countries "as if they were internal problems" of their own.

COUNCIL ADVISES REMAINING ALERT TO NEW TERRORISM LEGISLATION:

The Australian Catholic Social Justice Council issued a statement of regret following the passing of the Government's controversial ASIO Legislation Amendment (Terrorism) Bill - see extract above.

VATICAN OFFICIAL TO ADVISE POPE ON GENETICALLY MODIFIED FOOD:

The Vatican's representative to a global agriculture conference in the US said he would observe discussions on food engineering technology to become better informed and to advise Pope John Paul II about its ethical implications.

CATHOLIC HEALTH WANTS GOVT TO MAKE AGED CARE SCHEME FAIRER:

Catholic Health Australia says less well off aged care residents are now subsidising wealthier people who are receiving high care services in aged care homes.

- courtesy Church Resources' CathNews, stories in detail at <http://www.cathnews.com/news/307>

AUGUST SOCIAL JUSTICE CALENDAR

AUGUST 8 MARY MACKILLOP: Mary MacKillop worked to provide education to people who did not have access to it in 19th Century Australia. She challenged the structures of injustice and founded the Josephite Sisters. She was beatified by Pope John Paul II in 1995.

AUGUST 15 REPUBLIC OF KOREA NATIONAL DAY: Divided for half-a-century after war, South and North Korea have for years lived in mutual distrust and enmity across a barbed-wire fence.

Kim Dae-jung, President of South Korea, was awarded the Nobel Peace Prize in 2000 for his efforts towards reunification with North Korea. He offers a message of hope for all who fight against racism and intolerance and who are attempting to cultivate strong, diverse and reconciled communities.

Kim Dae-jung's acceptance speech on website:
<http://www.nobel.se/peace/laureates/2000/dae-jung-lecture.html>

AUGUST 16 TRADITIONAL LAND RETURNED TO GURINDJI PEOPLE: Aboriginal workers on Wave Hill Station which was owned by the British meat company, Vestey, went on strike on August 22, 1966 in protest against the low pay, poor working conditions and abusive treatment they were receiving. They moved to their traditional land at Daguragu (Wattie Creek), resisting all attempts to remove them, defying white law and following their own. On April 19, 1967, the Gurindji people, led by Vincent Lingiari presented a petition to the Governor General seeking justice.

The strike turned into a nine year struggle focused on land rights. On August 16, 1975 Prime Minister Gough Whitlam handed back to Vincent Lingiari the crown lease to 3000 sq km of Gurindji land at Daguragu. Ten years later, after the passage of the Northern Territory Land Rights Act, the Gurindji people gained full rights to their land.

Today, the Lingiari Foundation is a research and development organisation that seeks to be active, vocal and strategic in advancing Indigenous Rights, promoting Reconciliation and developing Indigenous leadership. It is Australia's first national Indigenous-controlled, independent advocacy, research and development organisation.

Lingiari Foundation website:
<http://www.lingiari.com>

AUGUST 26 MV TAMPA REFUSED ENTRY INTO AUSTRALIA'S TERRITORIAL WATERS: Progress in the capacity to live together within the universal human family is closely linked to the growth of a mentality of hospitality. Any person in danger who appears at a frontier has a right to protection. Such an attitude (of hospitality) facilitates the search for common solutions and undercuts the validity of certain positions, sometimes put forward, that would limit acceptance and the granting of the right to asylum to the sole criterion of national interest.

Pontifical Councils Cor Unum and for the Pastoral care of Migrants and Itinerant People (1993) Refugees a Challenge to Solidarity --

On this day in 2001, the Norwegian vessel MV Tampa rescued asylum seekers from a sinking boat. The Australian Government banned the asylum seekers from entering Australian shores and sent troops on to the ship to prevent disembarkation.

As a signatory to the 1951 Convention on the Refugee, Australia has an obligation under international law to process the claims of asylum seekers and to assist in the resettlement of refugees. Refugees are the world's most vulnerable people who have been forced from their homelands because of violence, poverty and persecution. As the "fair-go" nation it is encouraging to see more and more Australians demonstrating a spirit of openness and compassion towards the world's people who are most in need. We urge our elected representatives to abide by the spirit of the 1951 Convention and to demonstrate leadership and compassion.

PRAYER

Lord,

No one is a stranger to you

And no one is ever far from your loving care.

In your kindness watch over refugees and asylum seekers,

Those separated from their loved ones,

Those who are lost,

And those who have been exiled from their homes.

Bring them safely to the place where they long to be,

and help us always to show your kindness to strangers and those in need.

- Adapted from the Opening Prayer of the Mass for Refugees and Exiles

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