

Man's Inhumanity to Man...

'Many and sharp the num'rous ills
Inwoven with our frame!
More pointed still we make ourselves
Regret, remorse, and shame!
And Man, whose heav'n-erected face
The smiles of love adorn, -
Man's inhumanity to man
Makes countless thousands mourn! (*Robert Burns 1785*)

Punishment without Trial?

Last Monday, David Hicks' Australian solicitor, David McLeod, told an audience at the University of Technology Sydney about his client's mental state. *"He shows all of the signs and exhibits all of the features of someone who has been in solitary confinement for a very long time. He's in his own little world."*

Sensory deprivation – an innocuous name for a debilitating torture. The use of solitary confinement in prison is not new: wardens at Tasmania's Port Arthur penal settlement once called it "separation". At the Separate Prison, inmates too violent to control were housed in 2m by 2.5m cells. Speaking was forbidden. The prisoners were addressed by number, not name. Masks were placed on prisoners when they were removed from their cells, to prevent them recognising fellow prisoners. To maintain utter silence, guards wore soft slippers and communicated by hand signals.

Isolation, it was then believed, led to reflectiveness. In turn, this led to repentance. As one observer noted on 22 July 1860 in the *Advertiser*, this transformation was *"harrowing in the extreme."*

Today's sensory deprivation is used by the United States to extract information. The state mission of the Pentagon's military intelligence unit, Joint Task Force Guantanamo, is to detain enemy combatants and "gather intelligence in support of the Global War on Terror". According to Colonel Donald Woolfolk, deputy commander of Joint Task Force GTMO in 2002, *"the need to maintain the tightly controlled environment, which has been firmly established to create dependency and trust by the detainee with his interrogator, is of paramount importance."*

To elicit dependency, on 2 December 2002 then secretary of defence Donald Rumsfeld approved for use at Guantanamo, among other coercive techniques, "detention and isolation up to 30 days", "deprivation of light and auditory and literary stimuli", "removal of all comfort items" and permission to "have a hood placed over [the detainee's] head during transportation and questioning."

These coercive methods were not selected by chance. Millions of dollars' worth of Cold War era research – spurred by fears that Communists had discovered the secret to mind control – revealed to US intelligence agencies that isolation lent itself to interrogation extremely well.

US government-funded researchers discovered that a person will lose the ability to reason if cut off from all stimuli for 8 to 12 hours. *"The patient first becomes anxious, then becomes quite anxious, and then begins to hallucinate usually, and*

finally becomes completely disoriented”, then director of the National Institutes of Health Dr Robert Felix reported to the US Congress in 1956. A 1963 CIA interrogation manual incorporating these findings explained: “The deprivation of stimuli induces regression by depriving the subject’s mind of contact with an outer world and thus forcing it upon itself. At the same time, the calculated provision of stimuli during interrogation tends to make the regressed subject view the interrogator as a father-figure. The result, normally, is a strengthening of the subject’s tendencies towards compliance.”

The US Army, according to its latest interrogation field manual, permits “separation” to be used only upon “unlawful enemy combatants.” The technique aids in “decreasing the detainee’s resistance to interrogation” and should be used to “foster a feeling of futility”. At Guantanamo Bay’s Camp Echo, Hicks was kept in a small cell with no natural light for 244 days under 24 hour supervision by military police. He lost 14k from his already wiry frame during this ordeal. Moazzam Begg, one of nine British detainees freed from Guantanamo, spoke with Hicks after his spell in isolation. *“One of the things he said to me is, ‘please, when you get out from here, please tell people that my sanity is at risk here.’ He used to tell me quite often that he felt like banging his head so hard against the walls that he just ends up killing himself.”*

While interrogations have ceased, isolation has continued. Hicks, charged with “material support for terrorism”, is housed in Camp 6, a specially designed windowless deprivation centre that has been described as a “dungeon above the ground”. The cells do not admit natural light or air. As in Echo, Hicks is under constant surveillance by armed military police. They silently watch him eat, sleep and go to the toilet. Speaking to the guards is strictly prohibited.

Hicks’ total isolation- which continues daily in 22 hour stretches – has left its mark. McLeod has visited Hicks in Cuba five times. *“Usually the first day we see him is concentrated on complaints about meals, the amounts of toilet paper he’s been given, lack of access to medical facilities. He’s preoccupied with just the day to day existence.”* Asked if Hicks would be able to aid in his own defence, McLeod noted that Hicks was in fair mental shape compared with other detainees. Still, if left alone to defend himself, “it would be pretty ugly”. It was for this reason that in 1986 the UN Special Rapporteur on Torture, Peter Kooijmans, listed isolation, sensory deprivation and *“being kept in constant uncertainty in terms of space and time”* as conditions that rose to the level of torture. This designation is well deserved. As one Separate Prison observer noted in the Advertiser in 1860 about Port Arthur, *“The punishment inflicted here is said to be of the most unendurable kind. The isolation, the silence, the total separation from all human fellowship and communion, the monotony of the bare white-washed walls makes confinement in the model prison a horrible torture to all confined in it.”*

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A Beacon for Justice?

Hugh Selby adds: Every competent, criminal trial, disciplinary and public inquiry lawyer knows – that the military commission process proposed for David Hicks and other inmates is a sham, a blot upon our legal fundamentals.

It doesn't take five years to prepare a case against a mere "foot soldier" suspect in custody. If there's a provable case against David Hicks, it could have been prepared and run years ago.

Instead, our Government is now hailing as a "robust and thorough" system one which this week failed to persuade a judge that the latest charge against David Hicks of "attempted murder" has any legs. The judge threw it out, just as she and judicial colleagues would have dismissed it without trial had it been pursued years ago in the mainland US courts.

That leaves the charge of "providing material support to a terrorist organisation", a charge which could not be laid against non-US citizens until 2006, that's four years after Hicks was sold in Afghanistan. The charge is "retrospective" – something decent lawyers and decent people have always abhorred. We go about our daily lives with today's law guiding us, not with the task of guessing how the future may judge us by different rules.

Earlier this week, the military prosecutor said he believed Hicks' lawyers were keen to avoid him "ever having to face the facts in a courtroom." Let's be quite clear how misleading that statement is. A military commission is not a courtroom as any of us understand such a place. Furthermore, the so-called facts upon which the prosecutor intends to rely include what you and I would call rumour, gossip, and information extracted under coercion.

There's more than a whiff of tragic incompetence and scapegoating in this saga – tragic because a man has been imprisoned without trial for five years by a "democratic" government. Tragic too because his own "democratic" government found and still finds it convenient to countenance that expedience.

Time has run out for the aberration that politicians' self-advancement must outweigh any notions of upholding both the protections of Australian citizenship and its rule of law. Let there be more light and a stronger flame. Hicks must be brought home now, if not for himself, then for our "spirit of patriotism".

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Michael Otterman is a visiting scholar at the Centre for Peace & Conflict Studies at the University of Sydney. **Hugh Selby** is a practical teacher in the Australian National University's law program.