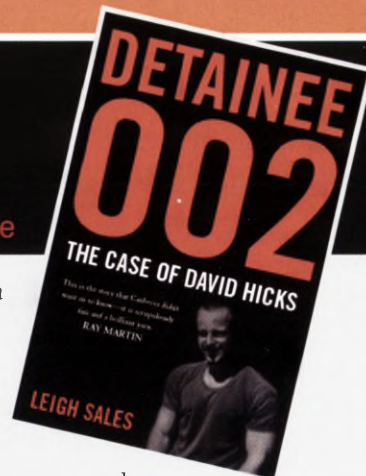


DETAINEE 002: The case of David Hicks by Leigh Sales

Melbourne University Press, 2007

By Seth Tenkate



The comments in *The Australian* are correct. As a work of journalism, *Detainee 002* is well-documented and balanced – giving both the Australian government and those who argue for detainees' human rights equal space – and, at the end of the day, a great read. However, far from validating the chastising editorial in *The Australian's* editorial in May, the evidence presented by Sales justifies the joint-GetUp/Lawyers Alliance campaign.

Two days after the first comments in *The Australian*, editor-at-large, Paul Kelly, stated with reference to *Detainee 002* in a further editorial that the Hicks saga will remain a contested issue in Australia's struggle against Islamist terrorism.⁶ There is no mention of justice.

But in the words of Julian Burnside QC, it raises a situation where 'Jail without trial and based on secret evidence is passed off as necessary to preserve democracy; the abandonment of an Australian citizen in Guantanamo Bay is fudged as a prelude to a fair trial on a retrospective charge and hearsay evidence obtained by coercion'.⁷

Sales's conclusion is damning:

'The end result of the Hicks case is an outcome that will always lack credibility. That does not serve Hicks ... It does not serve members of the Australian public ... The process sidetracked Major Mori's career. It devastated the Hicks family. It drained the resources of the Attorney-General's Department in Canberra and the Australian Embassy in Washington. It damaged the reputation of the United States. It did not insulate Australians from terrorism.'⁸

Ray Martin's comments on the front cover are apt: 'This is the story that Canberra didn't want us to know – it is scrupulously fair and a brilliant yarn.'⁹

Did Australian officials labour tirelessly on Hicks' behalf? Sales says yes. However, they were shackled by Howard government policy and could do little for him.

'By mid-January 2002 the Australian government's mind was made up on Hicks. Although he had not been charged with anything, government ministers portrayed him as a dangerous terrorist.'¹⁰ ■

Notes: 1 See release at http://www.lawyersalliance.com.au/documents/hicksjointrelease_200507.pdf. 2 'Terror's Tourist', *The Australian*, 21 May 2007, p9. 3 Sales, Leigh, *Detainee 002: The Case of David Hicks*, Melbourne University Press, 2007. 4 *Ibid*, p54. 5 Sales, *op cit*, p9. 6 'Hicks case is not a black and white matter', *The Australian*, 23 May 2007. 7 Lalor, Peter, 'Menzies would shun Howard: top lawyer', *The Australian*, 24 May 2007, p6. 8 Sales, *op cit*, pp238-9. 9 Sales, *op cit*, cover. 10 Sales, *op cit*, pp53-4.

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On Sunday 20 May, David Hicks was returned to Australia after spending five-and-a-half years in Guantanamo Bay as an alleged – and then confessed – terrorism supporter.

That day, Amnesty International, GetUp, Uniting Justice and the Australian Lawyers Alliance issued a joint media release, stating that, although happy to see Hicks home, they remained concerned that fundamental questions about his treatment in Guantanamo Bay and the Australian government's response to his situation needed to be addressed.¹

On Monday 21 May, *The Australian* newspaper ran a leader opinion piece called 'Terror's Tourist'. It admitted that it was 'regrettable that it took so long to bring Hicks to justice', but went on to say '[a]ctivists such as GetUp executive director Brett Solomon and Australian Lawyers Alliance chief executive Eva Scheerlinck ... would be advised to study the information already in the public domain, including ... Leigh Sales's balanced and well-researched book which documents that far from abandoning Hicks, Australian officials laboured tirelessly on his behalf from the time that his incarceration was first brought to their attention in December 2001.'²

Leigh Sales is the ABC's national security correspondent, and took up her post as Washington correspondent in 2001 at the height of the USA's build-up for the war on terror. During her four years in the US, Sales covered Hicks's story, visited Guantanamo Bay twice, and won a Walkey Award for her coverage of the first Military Commissions that Hicks faced in 2005.

Sales says the central question in her book is whether the treatment of Hicks and others furthered the goals of the 'war on terror', and at the same time, preserved the legal and human rights that distinguish democratic societies.³ Her own conclusion is that the answer is 'no'.

Detainee 002 covers David Hicks's early life in Adelaide as well as several years spent travelling, including the four weeks he trained with the Kosovo Liberation Army. Sales follows Hicks's conversion to Islam, and the time he spent with the Taliban before his capture.

Sales charts the establishment of Guantanamo Bay and the Military Commissions, and makes a disturbing study of the torture within the system, and the official approval of it.

She also looks at the Australian experience compared with the British at Guantanamo, noting that, from the start, the Australian government had no sympathy for Hicks. UK officials, by contrast, spoke of the need for due process and the protection of their nationals' human rights.⁴

Sales's view is balanced. Although discomfited, on her first visit to Guantanamo Bay, by the thought that she might be looking at the people who planned September 11, she was equally disturbed that she might not be; no evidence had yet been presented against the detainees.⁵