

# Australia Is in the Middle Of the Iraq Torture Scandal

by Allen Douglas

For the second time within a month, the Australian government is beset with allegations that it has carried out, covered up, and/or condoned torture against defenseless human beings.

The first scandal broke on May 13, when the government's own Human Rights and Equal Opportunity Commission (HREOC) issued a report, showing that the government had committed severe abuse against the children of asylum-seekers whom it had locked up behind barbed wire for years at a time, under appalling conditions (See "Australia Tortures Children in Camps," *EIR*, May 28). In response, Prime Minister Howard and top ministers of his government stated that they had no intention of changing the government's procedures, since that would "send the wrong signal."

The second scandal, which is still raging, broke a mere two weeks later, when Parliamentary hearings revealed that Australian military officers attached to the Coalition Provisional Authority, had been aware of the torture at the infamous Abu Ghraib prison for many months. Although they had bombarded Canberra with reports on the matter, not only did the Australian government not do anything, it staunchly maintained that senior government officials, including Defense Minister Robert Hill, Foreign Affairs Minister Alexander Downer, and Prime Minister John Howard himself, only learned of the torture when pictures surfaced in the world's news media in late April.

However, a review of some 20 hours of hearings on the subject in the Australian Parliament in late May and early June, combined with Australian press reportage and other material in the public domain, demonstrates that the only conceivable way that the Australian government could not have been aware of what was taking place in Abu Ghraib, was if it *did not wish to know*. Even in that event, Australia is still culpable of violating the Geneva Convention, as well as the Nuremberg Principles respecting "knew or should have known."

Australia was and still is a combatant on the ground in Iraq, and its vaunted Special Air Service (SAS) forces have captured dozens of prisoners, as has its HMAS Kanimbla, which is in charge of the naval blockade of Iraq; these prisoners are Australia's responsibility under international law. The Australian government is fully aware of that, as shown by its demand for a letter from the United States in 2002, to absolve

it from responsibility for any prisoners captured by Australian troops in Afghanistan, who were then turned over to the United States. Though such a claimed absolution is highly dubious, a recent frenzied search by the Australian government has failed to produce any such letter with respect to Iraq.

In addition to the documented evidence of child torture in Australian internment camps, and what is surfacing about Australia's role in Abu Ghraib, more and more evidence is emerging that the Australian government not only allowed two of its citizens to disappear into the hellhole of Guantanamo Bay for the last two years, but that it was aware that those Australian citizens were being tortured, and did not lift a finger to stop it.

To that list of crimes, one must add the Howard government's passage of a series of Nazi-modeled "anti-terrorist" laws, without parallel even in Cheney's United States or Blair's Britain (See *EIR*, May 7). Its Anti-Terrorism Bill 2004, which will come up for passage in Parliament on June 15, explicitly authorizes, by name and under Australian law, President Bush's executive order which established secret military tribunals and the Guantanamo Bay regime. Still another law to come up June 15, the National Security Information (Criminal Proceedings) Bill, will authorize the government to use secret evidence in terrorism, espionage or treason trials, to which the defense will have no access, and thus no ability to confront, nor cross-examine.

In the matter of Abu Ghraib, compare the facts on the ground, which show the constant involvement of Australian military personnel at the center of discussions over torture at Abu Ghraib, to the torrent of lies which the Australian government has issued about that reality, including its almost-preposterous claim that no Australian Cabinet official was aware of the abuse until late April.

## The Facts

The International Committee of the Red Cross (ICRC) began complaining to the "coalition of the willing" about prisoner abuse no later than May 2003. On July 23, Amnesty International presented a report to a military delegation of the coalition, documenting at least one specific case of torture in Abu Ghraib, which it also released at a press conference in Baghdad.

In late August/early September, Secretary of Defense

Rumsfeld sent the commander of the U.S. military prison at Guantanamo Bay (“Gitmo,” as the U.S. military calls it), Gen. Geoffrey Miller, to Iraq for 10 days, to “Gitmo-ize” interrogation procedures there. The new torture regime, along with an increasing volume of complaints by ICRC, Iraqis, and others, intensified discussion on the applicability of the Geneva Convention to Abu Ghraib and other U.S.-run Iraqi prisons.

Beginning in September at the latest, no fewer than seven Australian military lawyers began a series of visits to Abu Ghraib. According to testimony to the Australian Parliament, Col. Mike Kelly, one of Australia’s two senior lawyers in Iraq, visited Abu Ghraib “numerous times” as a liaison to ICRC. Another Australian lawyer, Major George O’Kane, was attached to the legal office of the coalition’s commander in Iraq, Lt. Gen. Ricardo Sanchez.

In October, the ICRC issued a report which documented beatings, forced nudity, prolonged handcuffing in uncomfortable positions, and other clear violations of the Geneva Convention. Major O’Kane was detailed to liaise with the ICRC, and to prepare a response to its report, claiming that the Geneva Convention should not apply at Abu Ghraib. O’Kane visited the prison at least five times, while another five Australian lawyers visited the prison at least once each. O’Kane provided a copy of the October ICRC report to Australia’s other senior military lawyer, Lt. Col. Paul Muggleton.

On Nov. 28, the Iraqi Provisional Governing Council’s Minister for Human Rights, Abdel Basat Turki, reported to Muggleton about abuse in Abu Ghraib. Turki later resigned from his post, because his complaints of severe prisoner abuse were ignored by the coalition. Both Australia’s Foreign Affairs department and Attorney General received a copy of Muggleton’s report on the meeting. As the visits to Abu Ghraib and numerous discussions with the ICRC continued, a series of increasingly-alarmed weekly situation reports (“sit-reps”) flooded back to Canberra, to four departments of government: Defense, Foreign Affairs, the Attorney General, and the office of the Prime Minister and Cabinet (PM&C); although the latter—it is claimed—beginning only at the end of March. On December 24, O’Kane’s letter was signed by Abu Ghraib commanding officer Gen. Janis Karpinski.

The letter argued that, “where absolute military security so requires, security internees will not obtain full Geneva Convention protection,” while claiming they would be treated “humanely.” The letter also stated that ICRC visits to the prison would cease. In February, as the scandal neared a public breaking point in the United States, Lt. Col. Muggleton gave senior representatives of Australia’s Defense and Foreign Affairs departments detailed reports on the abuse at Abu Ghraib, and on the sacking of the prison’s commander, General Karpinski, for allowing the torture.

## The Lies

The Abu Ghraib scandal first began to break in Australia on May 11th, when Defense Minister Robert Hill told Parlia-

ment that no Australian personnel knew about “matters of abuse” until a CNN report of January of this year. After initial Senate hearings, which established that Major O’Kane had visited Abu Ghraib 5 times between August and January, Defense Force chief Gen. Peter Cosgrove and Defense Department Secretary Ric Smith issued a statement on May 28, in which they claimed, incredibly, that: “No Defense personnel were aware of the allegations of abuse or serious mistreatment (of detainees) before the public report of the US investigations in January 2004.” Since they had to account for Major O’Kane, the two stated that O’Kane’s recollection was that “he heard about the seriousness of this issue about the same time [as] the CNN media reporting in late January. As part of his work in the coalition headquarters, Major O’Kane worked on a response to the first October 2003 (Red Cross) report. It is understood from Major O’Kane that the October 2003 report raised general concerns about detainee conditions and treatment, but no mention of abuse.”

On Sunday, May 30, Prime Minister Howard appeared on Channel 7 TV, and stated that “I’m told by Defense that Major O’Kane has told Defense that the October report did not contain references to abuse but rather to poor conditions. In no way are we trying to cover up.” Ignoring Australia’s Geneva Convention responsibilities, Howard also claimed that “We don’t have anything to hide about it, because no Australians have been involved in the mistreatment of prisoners.” However, under stiff questioning in Parliament two days later by the opposition Australian Labor Party (ALP), Cosgrove and Smith were forced to acknowledge their initial statement was wrong. Smith admitted that Major O’Kane had seen Red Cross reports of October and November, documenting severe abuse. However, they said, attempting to shunt the blame onto O’Kane, “While it might have been Major O’Kane’s understanding that the October working paper raised general concerns about detainees’ conditions and treatment, this is not an understanding that we would have shared or endorsed,” acknowledging that the allegations were “serious by any standard.” Cosgrove refused to let O’Kane appear before Parliament, even though he was back in Canberra by this time, claiming that he was “too junior an officer.”

Howard, meanwhile, left for the United States to meet Bush on a U.S.-Australia Free Trade Agreement, where he released a statement claiming that the abuse scandal was merely “a plain case of very bad communications.”

Even the nation’s media was incredulous. The *Herald Sun* of June 3 noted, “A stream of reports warning of serious allegations of abuse in Iraqi prisons went to four government agencies, including the Prime Minister’s Department. Despite regular warnings to dozens of bureaucrats, diplomats, and military officers from November last year, none apparently sent the reports up the chain to their ministers.” The *Adelaide Advertiser* exclaimed the following day, “Dozens of officials and military officers were aware of concerns from October onwards, but we are led to believe that not one recognized the

importance of the information and the fact it was a time bomb.”

Howard, meanwhile, was talking out of both sides of his mouth. He claimed, on the one side, that he “would have acted on the scandal if told,” while, on the other, said that since no Australians had been involved in the abuse, there was no obligation to take the matter up with the United States. “I think we have discharged all of our moral responsibilities,” he whined.

It must be remembered, that the February ICRC report charged that the *coalition forces had tortured numbers of detainees to death.* (See *EIR*, May 21) And still, no one in the Australian government saw fit to even to inquire about the matter.

The Australian government has been caught red-handed in a web of lies and sophistry, and is terrified that the scandal will hurt it in the Federal election expected in August. This hysteria shone through in a TV appearance by Foreign Minister Alexander Downer on June 8. Downer, who has a fetish for wearing fishnet stockings, almost popped a garter in response to a question on the matter: “I mean, to suggest that somehow Australia is culpable in this whole exercise because an Australian major, which is a very junior officer, was involved in some assistance with the drafting or the full drafting of a letter . . . That doesn’t mean Australia somehow is culpable in the Abu Ghraib atrocities, which seems to be the extrapolation of this . . . I think that is quite a preposterous sort of proposition. If the government is involved in a cover-up, then the Government therefore *ipso facto* must have known about the atrocities. How could the government have known about the atrocities? . . . I don’t believe for a minute those officers saw that sort of abuse taking place in the Abu Ghraib prison. I don’t think for a minute Australians would ever condone these sorts of abuses, and officers in our military are trained, and you’re talking of legal officers here, who understand the Geneva Conventions.”

## Two Australians in Guantanamo

Perhaps the best answer to Downer’s bluster, is found in his government’s attitude toward two of its own citizens, David Hicks and Mamdouh Habib, who have been kept at Guantanamo Bay for the past two years as “disappeared persons,” with no charges filed against them. If Downer’s government is prepared to acquiesce in the mistreatment or even torture of two Australians, why would they lift a finger for Iraqis? And evidence is now emerging, in part as a by-product of the Abu Ghraib scandal surfacing in Australia, that both Australians were tortured, at Guantanamo and in Egypt beforehand (in the case of Habib), or while being held by U.S. forces in Afghanistan before being sent to Guantanamo, in the case of Hicks. The Australian government, in both cases, heard complaints of the torture, but chose to ignore them. As recently as May 20, Howard said that Hicks had not claimed mistreatment, and that, even if he had, “We do

have to take those allegations with a grain of salt. These allegations that Hicks and Habib have been ill-treated have only come since the stories of American abuse have surfaced. We didn’t hear anything about them last year, or the year before.”

In the same parliamentary hearings which turned up the evidence of Australian military lawyers being aware of the Abu Ghraib torture, one of Howard’s own officials proved him a liar. Given the notoriety of these cases in Australia, it is impossible that Howard could merely have been mistaken. Department of Foreign Affairs official Ian Kemich revealed that both men, during their Guantanamo imprisonment, had in fact complained to Australian officials of serious abuse. Hicks, who had been picked up in Afghanistan as an Al-Qaeda sympathizer, told Australian intelligence officials that he had been beaten in late 2001 by U.S. forces in Afghanistan. His account was corroborated by Taliban supporter Shah Mohammed, who was Hicks’ cellmate in a Northern Alliance prison in December 2002, when he saw him tied up and beaten with bare fists by U.S. soldiers.

Habib’s account, also corroborated by a cellmate, was even more serious. Habib said that the Australian high commissioner in Pakistan had authorized his transfer to Egypt, where he had been extensively tortured, including with electroshock. (U.S. intelligence is known to use “third countries” for interrogation, to avoid the Geneva Convention.) When he arrived at Guantanamo, he complained to his cellmate, Terek Derghoul, about being constantly dizzy and unable to walk right.

Derghoul, who was released from Guantanamo in March, said he spent almost three months in a cage alongside Habib, and saw him beaten by anti-riot soldiers and sprayed with mace. Habib himself told an Australian consular official who visited him in Guantanamo in November 2003, that his detention was “torture,” and that he had been humiliated. Derghoul also said that Habib is covered in a tropical rash and has sharply deteriorated, both physically and mentally. “He kept repeating to himself, ‘They have killed my family,’” Derghoul recounted. “Any letters he received, he thought they were fakes.” Habib’s wife, Maha, told Australia’s Channel 7 TV, “He thinks we are dead. God knows what they have done to him.”

Under pressure about the matter in Australia, Howard raised the two cases with President Bush during his U.S. trip; Bush assured him that Hicks and Habib would both be tried before military commissions in August. Habib’s lawyer, Stephen Hopper, charged that the military commission would be a “show trial,” because the evidence had been obtained “under duress” (torture), and was unreliable. “It’s about time the Government came clean about who signed the authorization to send him, an Australian citizen, to Egypt. And I never thought I would see the day when the Australian Government would aid and abet the torture and abuse of an Australian citizen on this scale.”