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Judges seek fair trial for Hicks

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A GROUP of the nation's eminent legal minds, including four former Supreme and Federal Court judges, have warned John Howard that terrorism would destroy civilised society if Australia continued to back the detention and military trial of David Hicks.

Former Federal Court judge Ron Merkel and former NSW Liberal attorney-general and Supreme Court judge John Dowd are among the 76 signatories on an open letter to the Prime Minister arguing that Hicks - who remains in indefinite US detention in Guantanamo Bay, Cuba - is being held illegally and deserves a fair trial.

"Whether or not David Hicks is in fact guilty or innocent is not the issue. The illegality lies in the process of indefinite detention and unfair trial by military commission," the lawyers say.

They argue that the federal Government is complicit with the US in breaking international law and "undermining international legal order", and urge Mr Howard to act or lose the war against terrorism.

"The menace of terrorism is real. However, to meet the danger the world needs not only a military solution, but renewed and sustained commitment to the rule of law and to fundamental principles of human dignity and respect for human rights," says the letter, which is also signed by former Supreme Court judges George Hampel and Tony Pagone. "This is the shared heritage of a civilised world. Unless we are vigilant, terrorism may achieve the destruction of these values. We should not give it such a victory."

The lawyers describe the military commission, set up by US President George W. Bush in the wake of the 2001 September 11 attacks without the approval of Congress, as an "affront to international legal standards".

They claim that the commission denies the right to "an independent and impartial trial" and does not "exclude evidence obtained by coercion, including the use of cruel, inhuman or degrading treatment".

The move by the judicial elders follows a similar revolt by more than 400 European and British parliamentarians earlier this year, which backed a submission to the US Supreme Court in relation to another Guantanamo inmate, Salim Ahmed Hamdan, arguing that the military commission trials contravened international humanitarian and human rights laws.

The letter, written through the Australian branch of the International Commission of Jurists and published by The Weekend Australian today, says Australia must follow the British in condemning the military commission, "a process which expressly has no application to any American citizen".

"The imprisonment at Guantanamo Bay and the unfair trial of David Hicks by military commission are an affront to international standards, indeed all civilised standards," it says.

The US naval base at Guantanamo Bay, where Hicks has been detained at Camp X-Ray

for more than four years after he was captured with Taliban insurgents in Afghanistan in 2001, was set up as a detention centre in the wake the attacks on the US on September 11.

Mr Dowd, ICJ president, said the letter followed a decision by the lawyers to take a stand against the "inherent unfairness of the planned trial".

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