

Father of Australian POW denounces illegal detention at Guantanamo Bay

Richard Phillips
17 April 2002

Terry Hicks, the father of 26-year-old David Hicks currently being held prisoner by the US military at Camp X-Ray, Guantanamo Bay in Cuba, spoke to the World Socialist Web Site last week about his son's detention.

David Hicks was captured by Afghanistan's Northern Alliance during fighting with Taliban forces near Kunduz and handed over to US forces in early December. After being interrogated by US and Australian security and military officials, he was flown to Guantanamo Bay where he has been imprisoned without charge since January.

The Bush administration has refused to classify Hicks or any of the more than 300 Taliban supporters currently held in Cuba, as prisoners of war. Instead, it has invented a new category—"unlawful combatants"—and on this basis denied the prisoners their legal and democratic rights under the Geneva Convention. Hicks and the other prisoners, who are being kept in individual outdoor cages measuring 2.4 by 1.8 metres, have been subjected to systematic interrogation and refused legal representation or access to their families. They could face the death penalty if tried before one of the US government's recently created military tribunals. Normal rules of evidence do not apply in these non-jury bodies and there is no right of appeal to any civil court.

The Howard government in Australia, despite appeals by Terry Hicks and his lawyer Stephen Kenny during the past four months, has supported the Bush administration and refused to take any action to guarantee David Hicks' basic rights or secure his repatriation to Australia. Instead, federal government ministers have endorsed the detention, and, without any evidence, publicly declared Hicks a terrorist. The Australian media, particularly Murdoch-owned publications, has also attempted to demonise Hicks with sensationalist articles portraying him as a traitor and terrorist.

Terry Hicks, together with the families of two British citizens—Shafiq Rasul and Asif Iqbal—also being held in Guantanamo Bay, and lawyers from the US, Britain and Australia have filed a law suit in a US federal court. The lawyers, who have applied for a writ of habeas corpus, want the US Federal Court to order the release of the three detainees from unlawful custody and grant them the right to legal counsel in private and unmonitored discussions with their attorneys. A ruling on the case, which was filed in late February, is yet to be made.

Terry Hicks explained to the WSWWS how he learnt of his son's detention.

Terry Hicks: We first heard about David's capture from ASIO [Australian Security Intelligence Organisation] who visited us in December. We knew David was in Afghanistan so when ASIO arrived, our worst fear was that he was dead. When they said David

had been captured by the Northern Alliance but was fit and well, we were relieved. But once the dust settled a bit and we began reading the newspaper reports about what was really going on we started worrying. Then when we saw the prison conditions in Cuba we started to get very concerned.

It's a zoo with prisoners caged like animals. I've described it as a zoo but it's worse really. At the zoo you can watch the animals pacing up and down but if they don't want to look at you at least they can go into their shelters. David doesn't have any privacy at all. He is constantly being watched.

We've been told they are looking after him properly and feeding him. But how can you believe this? We haven't seen any pictures of him yet, so how can we tell?

Richard Phillips: What did you think about the US government's refusal to classify David as a prisoner of war or allow any legal representation and other rights under the Geneva Convention?

TH: I was surprised but I don't think the Americans really know what to do about David and others like him. They didn't officially declare war on Afghanistan but said it was war on terrorism. Their problem is they can't prove David was a terrorist or bring him under a mercenary charge because he wasn't being paid, either in Afghanistan or with the KLA [Kosovo Liberation Army], and so they've put him in limbo until they make up their minds.

They've called the Taliban terrorists, but it was the government in Afghanistan—Al Qaeda is the terrorist organisation. David was with the Taliban, not Al Qaeda, and was caught after the US went to war against the Taliban and therefore should be classified as a prisoner of war.

It seems that America is making up the law as they go along or when it suits they just act outside the law. Bush introduced a new military law last November that gives him the power to do all sorts of things. There is the Patriot Act, which, as I understand it, allows the government to charge anyone they think is helping terrorists. But how do they classify a terrorist?

I'm beginning to think that America is the real terrorist. Look at what it is doing. Mr Bush has declared that the US will go into Iraq but this is going to create real problems and could lead to serious war, much worse than what happened in Afghanistan.

RP: Could you have imagined making this sort of statement a year ago?

TH: No, never. In the past I would have probably just glanced through things like this in the papers and not thought about it too much. When it comes into your own backyard, you have to start taking an interest and try and read between the lines.

RP: Do you have any more details about the conditions David is

being held under? Have you had any contact?

TH: They've held David for nearly six months and it must be getting harder and harder on him. He is probably being interrogated every day, or every second day or once a week or whatever, and yet he hasn't been charged with anything. Under the normal rules of law, if you can't charge anyone in 72 hours you've got to let them go.

The worrying thing is we don't really know what's going on and have had no contact, apart from two letters. The first, which came through the Red Cross, was written on January 21 but we didn't get it until the end of January or early February. The second letter was dated January 29, postmarked February 28, and we received it on March 15. It went from Cuba to Norfolk in Virginia and was then posted to us. Obviously he is not allowed to tell us much. The letter did confirm receipt of the letters we sent to him and the rest of it was mainly personal family stuff.

RP: Does he know that you have begun legal action in the US to secure his release?

TH: We have told him we have legal representation but have no confirmation of what he knows. It is not clear what is happening, whether our letters are censored or whether they tell him what to write.

RP: Can you comment on the response of the media and the Howard government?

TH: The government has demonised David from the outset. The Defence Minister claimed he was one of the 20 most dangerous people in the world and other ministers have described him as a terrorist. This is ridiculous. Where did they get this information? They haven't even spoken to him. They just swallow what the American government tells them.

When the news first came out about David I had the media all over me. They were shoving microphones in my face, demanding answers to this and that and I just refused to speak to them. So they went round to see his friends, or former friends, made a few wild guesses or just made it up. When I did speak to the papers and gave them information, they just misused it. Maybe if I had spoken to them initially it might have been different, but what they did was designed to sell newspapers and paint David as an evil individual and show that he had to be kept in a cage with no legal rights.

One of the things we were very unhappy about was that the newspaper *Adelaide Advertiser* printed our full address. We didn't think this was legal, but apparently there is nothing to stop them. We had a bad phone call at about 1.30 in the morning after that and have had a couple of crook letters.

The media deliberately misconstrue things because they want to confuse people. But they've got nothing on David and are trying to cover this up. Some people accept what they read, but I think the general public is starting to think and things are turning around in our favour. People are getting sick of hearing Mr Bush declare he is going to do this or blow this group up or attack someone else. I think the Australian public are a bit more intelligent and are not going to swallow this.

RP: You've launched legal action in the US and a support group has been established here to secure David's return to Australia. What's happened with the case and what support have you received?

TH: We haven't heard anything back about the legal action as yet. This is going to be difficult and could be thrown out and we'd have to make an appeal. But we have to keep plugging away.

My workmates have been very supportive. I'm tied up with the local football club and they have been very, very good as well.

Friends, family and relatives have been excellent too and the Fair Go For David Committee has done a lot of work to put pressure on the government.

We've had quite a few letters from around Australia, from Queensland and the Northern Territory. One chap who went through the latter part of World War II wrote and said he was very concerned about the way David was being kept. Everyone knows this is wrong. This was a war situation and David should be classified and kept as a prisoner of war.

RP: Last week the Howard government said it planned to send a delegation to Guantanamo Bay to interrogate David again. What do you make of this?

TH: We've heard this sort of thing before and they've cancelled it twice so we don't know what's going on. Stephen Kenny, our lawyer, has written to the government to allow us to visit David when the Australian government delegation goes to Cuba. We are hoping to get a favourable response, but I have my doubts. We've written to the government so many times. They take forever to reply and have rejected all our requests for legal and family access. Maybe they hope we will just go away. We are supposed to be a democracy, where everyone should have the right to legal representation no matter what your crime.

The government has helped Australians overseas who seem to have done things far worse than what David has been accused of. He is an Australian citizen, we are supposed to be a democratic country so let's extract their digit and do something about it. This is what I have been pushing for all along. But I don't believe they are working hard enough or they're not interested.

RP: Why do you think they've responded in this way?

TH: If we knew why, we might be able to push things along a bit. Obviously it's political. Maybe Howard wants a stronger alliance with the US and is not willing to rattle the chains. Maybe they are worried that if they push too hard Mr Bush will add them to the axis of evil list, like North Korea and others. Whatever the reason, the Howard government is aiding and abetting David's illegal detention and I've been saying this all along.

The other worrying thing is the anti-terrorism legislation the government wants to introduce. This is like the Patriot Act in America, where people can be accused of aiding and abetting terrorism. If they pass that here, and no one seems to be standing up against it, Stephen Kenny, the support group or any member of it could be charged with aiding terrorism. This is real "Big Brother is watching you" and could be used to stymie what we are trying to do.

Civil rights lawyer Stephen Kenny and Terry Hicks will be featured speakers at a public meeting organised by the Fair Go For David support group at the Church of Christ Hall, 69 Prospect Road, Prospect, Adelaide, at 7.30pm on April 24.



To contact the WSWs and the
Socialist Equality Party visit:

wsws.org/contact