

An antidote to government lies about David Hicks

The President versus David Hicks, directed by Curtis Levy and Bentley Dean

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The President versus David Hicks by veteran Australian filmmaker Curtis Levy and co-director Bentley Dean is the first serious documentary about 28-year-old David Hicks and his illegal two-year detention in Guantanamo Bay, Cuba. Hicks is one of two Australians held without charge and in violation of their basic democratic rights in the US military prison. The other is Mamdouh Habib; a 47-year-old married man and father of four children from Sydney. The two men are among an estimated 660 men and boys currently incarcerated at Guantanamo Bay.

David Hicks was detained by the Northern Alliance near Kunduz on December 9, 2001 after the US-led attack on Afghanistan and the collapse of the Taliban regime. Five days later he was handed over to the US military and transferred to a US navy ship where American military and later Australian intelligence officers interrogated him. Denied access to a lawyer or the right to contact family or friends, Hicks, along with hundreds of other war prisoners, was moved, bound and gagged, to Guantanamo Bay, where he has been held since January 2002.

The President versus David Hicks challenges US and Australian government lies that David Hicks is an Al Qaeda terrorist and presents an honest and objective account of the situation facing the young man. Hicks, who was kept in a small cage for over 12 months, is one of several prisoners the US wants to put on trial before a military court on terrorism charges. Even if found not guilty of the still unspecified charges, Hicks can be held indefinitely in Guantanamo Bay on the orders of US Defence Secretary Rumsfeld or President Bush.

The 81-minute film examines Hicks' early childhood years, his work as a former rodeo rider, stockman and horse-trainer and his decision to join the Kosovo Liberation Army and become a Muslim. It explores his ideological training at an Islamic religious school, or madrass, in Pakistan and reviews when and how he arrived in Afghanistan to support the Taliban in the civil war.

Levy and Dean's documentary opens with chilling footage of the Guantanamo Bay prison camp and voice-over extracts from David Hicks' first letter from the jail explaining to his parents where he is. He asks their forgiveness and urges them to do whatever they can to assist. These appeals are followed by a news clip of President Bush proclaiming those in Guantanamo Bay as "bad people" and "killers"—claims slavishly repeated by Australia's Howard government and significant sections of the media.

Hicks' letters, most of which have never been made public before, are skilfully used to refute this crude demonisation. They provide an intimate portrait of the young man—his adventurous spirit, as well as his confusions and mistaken embrace of radical Islam and its reactionary perspective—and some indication of the terrible psychological impact of his detention in Guantanamo Bay.

The film contains several poignant interviews with the young man's family and friends and explores the dogged struggle waged by his parents—Terry and Bev Hicks—to secure access to their son and his eventual release. There is footage of Terry Hicks' visit to the federal parliament in Canberra, one of the many futile attempts by the family over the last 18 months to push the Australian government to defend David's basic legal rights and demand his repatriation.

The film's major focus, however, is Terry Hicks' trip last year to Afghanistan and Pakistan to retrace his son's steps. Terry Hicks, who had never travelled outside Australia before, visits the Islamic religious school in Pakistan that David attended, and then follows his son's route to Afghanistan.

A few days after Terry Hicks left Australia, Washington announced that David would be among the first to be put before a military tribunal. Sitting in an Afghan hotel room watching the US president on television, Terry bluntly notes that the Bush administration has thrown presumption of innocence and other legal principles out the window. In some of the film's most compelling moments, Terry is shown at a bombed-out Al Qaeda military training camp reading one of his son's letters.

The documentary makes clear that David Hicks was not a terrorist but a supporter of the ruling Taliban regime in its civil war against the Northern Alliance, which is not a crime under Australian or international law. It also explains that the origins of the Taliban regime itself lay in the support extended to reactionary Islamic fundamentalist forces by the US in Afghanistan's war against Soviet occupation during the 1980s.

Terry Hicks locates Jon Mohammed, who had just been released from Guantanamo Bay after 15 months detention. In a small poverty-stricken village Mohammed, who was in the cell next to David, provides Terry with the first independent information about his son, and some indication of the hellhole conditions in the prison.

Mohammed, like many of those held in Guantanamo Bay, was not a member of Al Qaeda but had been forcibly conscripted into the Taliban militia during the civil war against the Northern Alliance. Like others captured when the Taliban regime fell, Mohammed was handed over to the US army in exchange for a \$15,000 bounty.

"The fact is that our own people, our own Afghans, handed us over, saying that we were the leaders," Mohammed tells Terry Hicks. "For the sake of money, they would arrest you and say that you are a leader."

Before leaving Afghanistan, Terry Hicks meets Northern Alliance militia members who captured his son. The officers maintain a polite façade, but when they think their comments will not be understood, are foul-mouthed and have little regard for Hicks or the filmmakers. One is left to conclude that they also probably received a US bounty for handing David Hicks over to American soldiers.

The film records Terry Hicks' visit to New York where he meets with US lawyers and stages a protest in a specially erected metal cage on Broadway, to draw attention to his son's plight and the conditions of his detention. In a round table discussion between civil rights lawyer Michael Ratner, Terry Hicks and Stephen Kenny, the Hicks family lawyer, Ratner explains that the Bush administration's treatment of Guantanamo Bay prisoners and its planned military tribunals constitute the framework of a police state.

Under the tribunal system, trials will be conducted behind closed doors. There is no right to a civilian court appeal and the Pentagon is allowed to monitor communications between detainees and their lawyers. Hearsay evidence and coerced confessions are also admissible. Moreover, President Bush, having established the legal framework for the military courts and decided who will serve on them, makes the final decision concerning what happens to defendants brought to trial. The military trials are so obviously designed to secure guilty verdicts that even the Pentagon-appointed military lawyers

assigned to the defendants have publicly denounced the procedures.

The President versus David Hicks carries footage from Guantanamo Bay prison, including the desperate calls of an unseen prisoner informing journalists about a hunger strike in protest over the treatment of detainees. Levy interviews US Army General Miller, who heads the prison camp. Miller refuses to provide any information about David Hicks and advises Levy to contact the Australian government. Another military official explains that prisoners who "cooperate" with their interrogators are given "delicacies" or special food twice a week. These include peanut butter and Kool-Aid.

Levy and Dean's documentary is a deeply moving exposure of the plight of David Hicks and the cruel and illegal nature of the Guantanamo Bay detentions, which contravene the Geneva Conventions on the rights of prisoners of war. The film suggests, however, that Hicks should be afforded the same legal treatment as John Walker Lindh, an American Taliban supporter.

Lindh joined the Taliban militia during the Afghanistan civil war and was captured by the Northern Alliance and handed over to the US army. Badly wounded, he was threatened with death by CIA agents, tortured and held incommunicado for several months in Afghan and US prisons. The so-called legal process he received was a travesty. He was pressured into accepting 20 years in prison for a crime he did not commit; the alternative being indefinite detention. This is not a solution for David Hicks or any other Guantanamo Bay prisoner.

The President versus David Hicks would have been strengthened by the exploration of some of the underlying political and economic factors behind the Bush administration's so-called "war on terror" and Washington's all-embracing attack on democratic rights. This would have demonstrated that David Hicks' plight is part of a broader assault and thus provided a clearer focus for those fighting to secure his release.

While the material on the "war on terror" is limited, *The President versus David Hicks* is nonetheless a powerful and profoundly humane work that highlights the fate of all the detainees in Guantanamo Bay. It deserves the widest audience.

The President versus David Hicks will premiere on Australia's Special Broadcasting Services television network at 8.30 p.m., March 18. It has also been sold to a US cable channel and will be shown in April at New York's Full Frame Film Festival and Canada's Hot Docs Festival.



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