



THE **PRESIDENT** VERSUS **DAVID HICKS**



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Introduction

This study guide to accompany *The President versus David Hicks*, a documentary directed by Curtis Levy and Bentley Dean and produced by Ronin Films, has been written for upper secondary and tertiary students. It provides information and suggestions for learning activities in SOSE, Politics, International Studies, Legal Studies, English and Religious Education.

About the Filmmakers

Curtis Levy has been a documentary filmmaker for over thirty years. He decided to make *The President versus David Hicks* after reading the sensational headlines in the media, denouncing David Hicks as a traitor and wondering whether he could possibly be as bad as he was being portrayed. Levy's belief that things are always more complex than they appear underpinned his decision to get to the truth of Hicks' story. Curtis Levy co-directed the film with Bentley Dean, who is also an award-winning director.

Conscious of how Hicks has been demonized by both the US and Australian Governments and the mainstream media, Levy's intention was to humanize David Hicks in the hope that others will become concerned about his legal plight. The documentary *The President*

versus David Hicks was shown on SBS in March 2004 and screened in cinemas in August 2004.

David Hicks—A Biography

The President versus David Hicks traces the story of Australian Taliban fighter, David Hicks. In December 2001, David Hicks was picked up in Afghanistan by the Northern Alliance and handed over to the United States (US) military. Hicks was taken to the American Naval Base in Guantanamo Bay, Cuba for interrogation and has been held there ever since. Labeled an 'unlawful combatant' by the US President George Bush, he is allowed none of the rights of ordinary prisoners of war. David Hicks was one of the first detainees at Guantanamo Bay to be singled out to appear before a military tribunal. For the first two years after Hicks was captured, no charges were laid against him. In 2004 charges were announced and he was given access to a lawyer. The documentary follows the journey made by Terry Hicks, David's father, in his quest to discover how his son ended up fighting for the Taliban and why it is that he is now being held in a US jail for terrorists, locked away from the rest of the world. David Hicks is a man who cannot be seen or heard, a man who is in legal limbo at Guantanamo Bay, yet through his father's quest the audience of *The President versus David Hicks* come to know something of David Hicks and the very human cost of the war on terror.

Using *The President versus David Hicks* in the classroom









These questions and tasks may either be discussed as a class, in small groups, or completed as individual writing tasks.

Before viewing the documentary

Who is David Hicks?
Where is Guantanamo Bay?
What is Camp Delta?

- Alexander Downer
- Daryl Williams
- John Walker Lindh
- Mamdouh Habib

Key Terms

Use dictionaries, your texts and the Internet to record definitions and enhance your understanding of these key concepts:

- Terrorist
- Freedom fighter
- Kosovo Liberation Army
- Taliban
- Northern Alliance
- Al-Qaeda
- Habeas corpus
- Military detention
- Detainee
- Prisoner of war
- Unlawful combatant
- Propaganda
- Interrogation
- Military tribunal
- International law
- Rule of law
- Geneva Convention

Who's Who

The following people play a part in David Hicks' story.

- Terry Hicks
- Bev Hicks
- Stephen Kenny
- Joe Margulies
- Tom Wilner
- Michael Ratner
- Major Michael Mori
- General Miller
- President George W Bush
- Prime Minister John Howard

After viewing the documentary

- What are the central concerns of the documentary? How do you know? What do the central concerns mean for you?
- Were you challenged by the story of the documentary? Why? Why not? What scenes did you find confronting?
- Who do you think the documentary is trying to communicate its messages to?
- Use an atlas to map David Hicks journey from Adelaide to Guantanamo Bay.

Close Analysis

Terry Hicks

'Terry, he's desperate for answers.'

'I saw a photo of you Dad, you looked stressed.'

Terry Hicks' quest for justice reveals a father's love for his son. The documentary takes as its focus Terry Hicks' search for the truth. He is not claiming David is innocent but is insistent that the American Government needs to explain the legal basis of David's custody and produce evidence of his wrongdoing. With David's letters to guide his travels, Terry Hicks embarks on a journey through Pakistan and Afghanistan, retracing his son's journey to detention.

- What does the documentary tell us about Terry Hicks?
- How do the filmmakers portray Terry Hicks?

I try not to think about those letters too much ... I'm never one for throwing out letters. Sometimes I've regretted that ... They took them all. Oh god, what



David Hicks—Freedom Fighter

The restless adolescent Hicks did not appear to be able to settle anywhere and he seemed to have difficulties sustaining a relationship or a job. Whilst training racehorses in Japan the war in Kosovo was being heavily reported and David, disturbed by the images of war and the plight of Muslims, traveled to Kosovo and joined the Kosovo Liberation Army. David Hicks was later asked to join the French Foreign Legion but decided to return to Australia instead and continued to explore his interest in the Islamic faith. In 1999 he travelled to Pakistan to study Islam and later joined the Taliban. The reason David Hicks joined the Kosovo Liberation Army and then later the Taliban is not clear, but whatever his reasons, the world changed whilst he was away. Was David Hicks fighting for freedom from oppression? Or was he simply looking for a place to belong?

was in those letters. What the hell did we do? I'd like to know what they have discovered ... If they've found something, tell us so that we can rest at night ... they won't tell us anything ... they keep saying [it's] an ongoing investigation ... well how long does an investigation go on? Obviously we gave him the wrong advice ... didn't we?

- What do Bev Hicks' comments reveal?
- How has David Hicks' detention affected Terry and Bev Hicks' lives?

David Hicks

'I need your support.'

'I am sorry ...'

'I'm desperate to get home.'

- What does the documentary tell us about David Hicks?
- How do the filmmakers portray David Hicks?
- Why does the documentary return to David Hicks' childhood and adolescence?
- How is our perception of David Hicks shaped by learning of his time spent as a jackeroo, rodeo rider and racehorse trainer in Japan?
- Why do you think the filmmakers portray David Hicks' personal journey in such an honest way?
- What do we learn about David Hicks from his letters to family and friends? Consider the tone of David's letters. Does the tone change during the course of the film? What concerns does he tend to raise over and over again? Do you think the filmmakers have only chosen to use particular letters?

The western world with its technology against the Islamic world with its mythology.

So do not weep upon your brother, do not have fear now for your mother.

To not to laugh for this is best, lest worldly burdens grow upon you and fest.

Lordly King on throne so high to not obey is but to die. Mohammad's food you shall be fed, to disagree so off with your head.

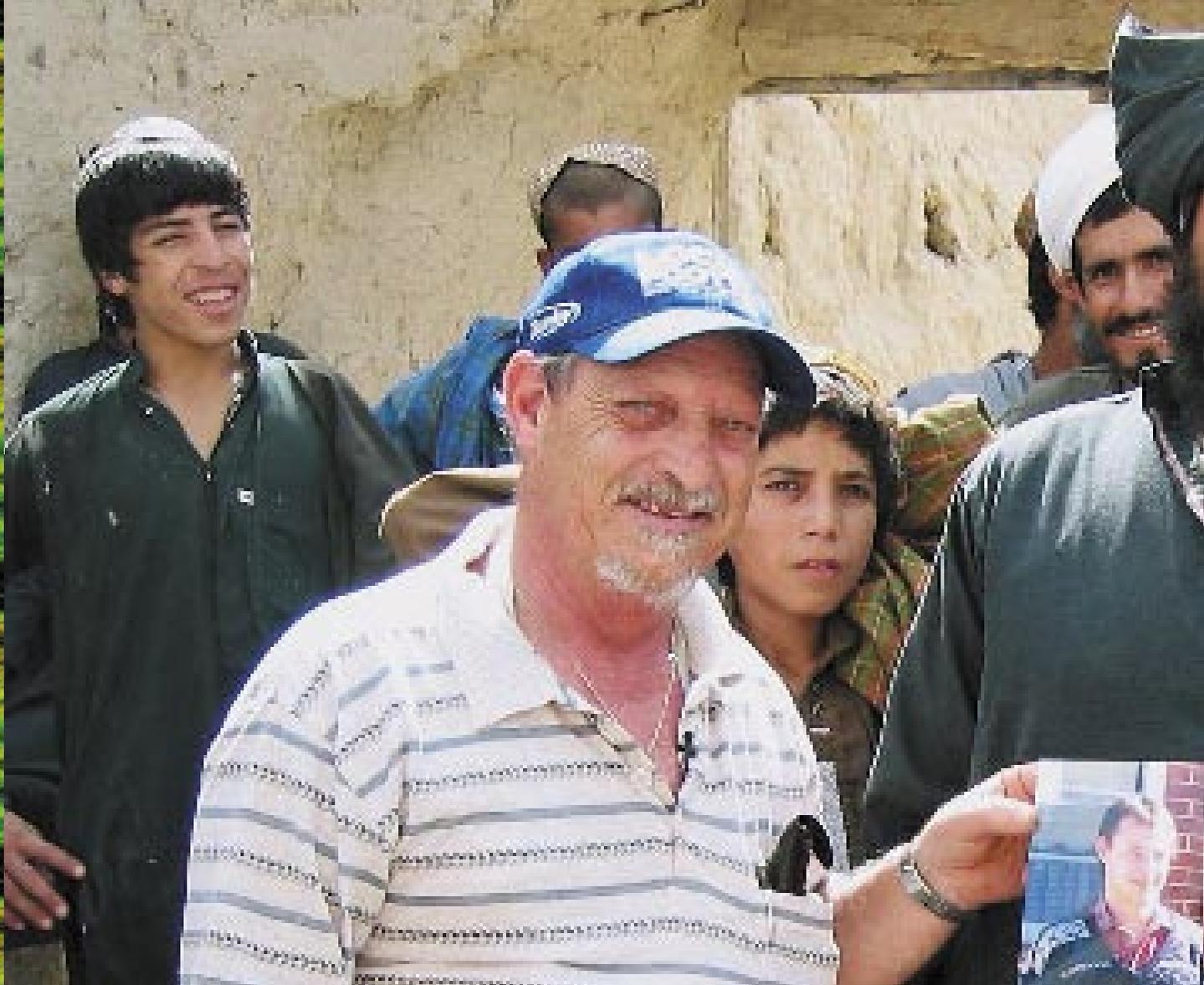
The Muslim world will be the next, to put this earth to its test.

To see the rivers go roaring on, it is here that I do belong.

David Hicks 1998

- 'This is where I belong.' Comment on the significance of the poem that David penned in 1998. Why have the filmmakers chosen to include this? Was David just looking for a cause? How do the filmmakers highlight this idea throughout the film?
- Consider the images of the war in Kosovo that accompany this poem. What do these images suggest about war? What do these images suggest





about the impact of suffering upon certain people? Why do you think the filmmakers have included these images?

- What opinions are expressed in the documentary about the reasons that may have led David to study Islam and join the Taliban?

David Hicks—Unlawful Combatant

In 2004 David Hicks was one of approximately 600 detainees being held at Guantanamo Bay, a US naval base that was converted into a detention camp for 'enemy combatants'. Most of the detainees were seized during the US led campaign against the Taliban government in Afghanistan and against Osama bin Laden's Al-Qaeda network, following the attacks of September 11, 2001 in New York and Washington.

David Hicks was arrested by the Northern Alliance two weeks after the fall of Kabul, handed over to the US military and then transported to Camp Xray (and later moved to Camp Delta) in Cuba. David Hicks has been detained at Guantanamo Bay since January 2002. For more than two years he was not charged

with any offence. Unlike the US Taliban, John Walker Lindh, Hicks was, for more than two years denied access to a civil court hearing. (The Supreme Court in the US has recently ruled that they are able to hear the cases of David Hicks and the other detainees of Guantanamo Bay.) David Hicks is regarded as an 'unlawful combatant' rather than a prisoner of war, denying him the rights of *habeas corpus*.

During his time at Camp Delta Hicks has been detained in a small prison cell. There is a bed, but no chair. For much of his incarceration the lights were on twenty-four hours a day and he was allowed only two fifteen-minute exercise periods per week. US Defence Department officials have confirmed that it has approved up to twenty interrogation techniques to be used at the detention centre, including sleep deprivation, exposure to extreme heat and cold and the use of loud music. The US Defence Department insist that these techniques are not torture and are consistent with international law. Reports on the conditions at Camp Delta vary and it is difficult to ascertain the truth. David Hicks' Pentagon appointed lawyer, Major Michael Mori, has said that Hicks has been well treat-



ed since he took over the case in December 2003.

- What does the documentary reveal about the circumstances of David Hicks' capture by the Northern Alliance?
- Why is David Hicks regarded as an 'unlawful combatant' and not a prisoner of war?
- Research the history of Guantanamo Bay and the US lease of the land.
- Why is David Hicks being detained at Guantanamo Bay?
- What does the documentary reveal about the conditions at Guantanamo Bay?
- What does the documentary reveal about interrogation procedures at Guantanamo Bay?
- The filmmakers take a tour of the naval base at Guantanamo Bay. What do these scenes reveal? How do these scenes influence your opinion of the US military?
- 'Some of the people are good.'

'My main concern is food.'

'Where is Mr Kenny?'

'For god's sake let me go.'

'Sorry you haven't heard from me in a year but it's not within my control.'

- What do David Hicks' letters reveal about his time in detention?

Fear and Propaganda

Producer and co-director of the film, Curtis Levy has said that he became fascinated with David Hicks' story when he watched the way the media portrayed this young man. He felt that the media demonized David Hicks and that images of President George Bush's public descriptions of these detainees were partly to blame. The media is a powerful means of shaping people's opinions and actions and often it allows public figures to garner support to achieve their own agenda. The rhetoric used by President Bush, which has also been adopted by the media, is designed to play on people's fears and some suggest that it has provided a justification for unreasonable behaviour.



'Illegal combatants'
'Bad people'
'These are killers. These are terrorists.'
'Either you are with us or you are with the terrorists.'

The filmmakers constantly intercut the telling of David Hicks' story with images of the President George Bush stridently conveying these ideas about the detainees. How do the filmmakers present the President? How are the audience positioned to view him? What do you think the filmmakers are suggesting about the role the media have played in David Hicks' story?

'A lot of the stuff in the media seems to be crap.'

Both David Hicks and Bev Hicks explain the story behind the infamous photograph of David holding a shoulder-mounted bazooka whilst in Yugoslavia. What does the constant use of this staged photograph reveal about the media?

Bev Hicks shows us her collection of press clippings. She is very aware of the influence the media representations of David have had on the public. Her anger is obvious as she reads out the following headlines:

- 'How Adelaide schoolboy David Hicks became Mohammed and joined bin Laden'
- 'Should we dare to call it treason?'
- 'How the Taliban enlisted Hicks in Adelaide'
- 'The Australian left to rot behind bars'
- 'Innocent until proven guilty never so true'
- 'Renegade'

What are some of the connotations of these headlines? What sort of emotional responses do they evoke in the reader?

Conduct your own investigation into how the media in Australia has portrayed David Hicks.

Justice

How do we tell who is a terrorist? In a democracy we should determine the answer by submitting the matter to review by an impartial court. Before a person is subjected to extended detention we should conduct an investigation to determine whether the evidence warrants the denial of liberty. 'Fair Go for David' is a group that campaigns for justice for David Hicks. They claim to provide press releases to depict the reality of Hicks' situation, rather than as some of the more tabloid type media has portrayed it. The group is also raising funds to pay for David's return to Australia and his legal fees.

'Fair Go for David' seeks that:

- David Hicks be treated in accordance with the

Geneva Conventions.

- The law of *habeas corpus* be applied to David Hicks.
- David Hicks be repatriated to Australia and given a fair civil trial, if charged with any crime/s.
- Any other Australians in a similar situation to David Hicks be entitled to the same rights.

The Bush Administration has argued that foreign 'enemy combatants' have no rights under US law. A number of international institutions and eminent jurists believe that the detention of David Hicks and the other foreign 'detainees' at Guantanamo Bay, is illegal and that their rights have been and continue to be violated. This includes their rights under the Geneva Convention, the Universal Declaration of Human Rights and the Torture Convention.

- Why are David Hicks' lawyer and other jurists taking President George Bush to court?
- Why is the term 'legal limbo' used to describe David Hicks' plight?
- What is the impact of Terry Hicks' protest inside a cage the size of his son's cell?
- In the documentary, Prime Minister John Howard asserts that 'sufficient progress has been made'. Terry Hicks has claimed that by remaining silent the Australian Government is condoning the US decision to detain and interrogate David without charge. What position does the documentary take on John Howard and the Australian Government's response to David Hicks' ongoing detainment?
- Do you think David Hicks deserves access to justice?

Production Values

- Why have the filmmakers chosen to name the documentary *The President versus David Hicks*?
- What expectations did the opening scene create? How were you positioned as a viewer?
- The filmmakers return to these shots at the end of the documentary. Why? To what effect?
- How do images work in a symbolic way to reveal David Hicks' plight?
- Consider the use of different settings and explain what each setting contributes to the telling of David Hicks' story.
- How does music contribute to the telling of David Hicks' story? When was silence used to create meaning? What meaning did it create?
- The documentary makes significant use of David's letters. How do the letters shape the telling of David Hicks' story and influence our perception of David Hicks?
- The filmmakers use the song 'Guajira Guantamera' (1941) written by Jose Fernandez Diaz, which was a banned Cuban anthem about revolution and death. What is the significance of using

this song?

- Consider the sequencing of shots within key scenes. What meaning is conveyed?

Other Activities

- Imagine you are a foreign correspondent. File a story on David Hicks' detention.
- Organize a panel discussion that explores an aspect of David Hicks' story. Work in small groups and ensure every member of the group assumes a relevant persona and argues a given perspective.
- Visit www.fairgofordavid.org/ and view the cartoons that document David Hicks' case. Download one of the cartoons and create an analysis of the cartoon, how it expresses its point of view and its intended impact.
- Should we be prepared to sacrifice normal principles of justice in order to win the fight against terrorism? Or what do you think are the different values displayed by the terrorists who attacked the World Trade Centre, and the US in attacking the Taliban. In both cases thousands of innocent people died.
- Is President George Bush above the law?
- Is David Hicks a scapegoat in the war against the terrorism?
- David Hicks says early in the film, 'I remember you saying two things you don't talk about religion and politics.' His plight is very much mired in both of these. Consider how both religion and politics have led David Hicks to the position he is in today. How is the war on terror inextricably linked to both religion and politics?
- President George Bush asserts 'Non US citizens who plan and or commit mass murder are more than criminal suspects they are unlawful combatants who seek to destroy our country and our way of life.' The documentary then cuts to a shot of a tram, a distinctly Australian image. What do you think the filmmakers are suggesting?
- Research the relationship between Australia and America. You need to consider this issue in light of our foreign policy and alliance with the US. What does our government's response to this issue suggest about the alliance between the two countries?
- Why do you think that both the Australian and US Governments have refused to sign the UN convention against torture?
- David Hicks' mother and his former partner Jodie refused to be filmed for the documentary. Why do you think they refused to participate in the documentary? Are there any gaps in David Hicks' story that you think they could have explained?
- In 1992 Tom Cruise starred in *A Few Good Men* (Rob Reiner). The film is set in Guantanamo Bay. Cruise plays Lt Daniel Kaffee, a US Navy lawyer who has to defend two marines who are accused of murdering a fellow officer. The marines

are expected to plead guilty, and Kaffee, as their defence lawyer is expected to go through the motions of pleading their case. The case becomes complicated when the marines plead not guilty, and Kaffee is forced to defend them. Integrity and justice triumph. Watch the film and then discuss the possibility of such justice existing for David Hicks and the other detainees of Guantanamo Bay.

Going Further

The US has selected David Hicks to be among the first Guantanamo Bay inmates to be tried by a military tribunal. Major Michael Mori, the US Marine Corps lawyer, appointed by the US Military to represent David Hicks, has openly declared that a military tribunal would be biased and unfair, and only concerned with the conviction of the defendant. Under a Military Commission the rules of evidence will not apply, and there is no guarantee David will be freed even if he is found not guilty.

- Use the Internet to investigate:
 - o Major Michael Mori's role in David Hicks' case.
 - o The nature of a military trial.
 - o The varied responses to the military trial.
- Invite a spokesperson from Amnesty International to speak to the class.
- Consider the language of war. Find examples from the media of: the language used to describe the detainees; the language used to justify their imprisonment and the language used to describe the war on terror. What do you notice about this language? How is language being used to fight the war on terrorism? Does the language of the war on terrorism allow injustices to be perpetrated?

Some Web Sites of Interest

- www.fairgofordavid.org/
- www.humanrightsfirst.org
- www.amnesty.org

Monica Byrne and Katy Marriner are teachers at St Columba's College.

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