

David Hicks- Guantanamo Bay

AUSTRALIAN DEMOCRATS ACTION PLAN
DAVID HICKS
ATTORNEY-GENERAL

The Australian Democrats fought hard for justice for David Hicks and has exposed the injustices of the military commission process and the inhumanity of Guantanamo Bay. We oppose the military commission process in the US because it removes the right to a speedy trial, the right to habeas corpus and the right for a detainee to challenge unjust treatment. Unlike other governments, ours failed to stand up for its citizen's basic human and legal rights and in doing so undermined bedrock values of our democracy: including the right to a fair trial, freedom of speech and freedom from torture.

Our Action Plan

While we are glad David Hicks has returned to Australia we want to ensure detainees are treated lawfully and in keeping with Australian democratic values. We propose to:

- Continue to expose the injustices of the military commission process;
- Call for the US Government to close Guantanamo Bay;
- Push for the enactment of a Democrat-initiated Repatriation of Citizens Bill 2007 which would require the prompt repatriation of Australian citizens detained overseas where there is an infringement of their human rights;
- Pressure the Government to enter additional International Transfer of Prisoners arrangements with countries that have poor human rights records where, in some instances, citizens face the death penalty; and
- Speak out against any attempts to pass retrospective domestic laws which may apply to Australian citizens detained and charged abroad.

The Issues

Guantanamo Bay is an affront to rule of law and our civil and human rights.

Its existence is a violation of International Humanitarian Law (IHL).

The four Geneva Conventions and their additional protocols are the core treaties of IHL.

The purpose of the conventions is to limit the barbarity of war and the treaties have



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specific rules for dealing with prisoners of war. Detainees are not Prisoner's of Wars they are treated as illegal combatants, which has allowed the US Government to strip detainees of any legal or human rights.

Among other flaws, Guantanamo allows people to be held indefinitely without charge and without sufficient legal safeguards. There is no way of guaranteeing a fair trial without independent judicial review by civilian courts. Only recently, the Military Commission process ruled out the use of evidence obtained by torture but continues to allow coercion.

The Australian Government is one of the few uncritical supporters of the Military Commission process. They are positive cheerleaders in comparison to the more considered views of our foreign counterparts.

The United Kingdom has called for the closure of Guantanamo Bay on human rights grounds. A UN panel has urged the closure of Guantanamo, while exposing interrogation techniques that amount to torture.

Unlike countries such as the UK, Spain and France, who moved quickly to repatriate their citizens, Australia acted slowly to bring David Hicks home.

The Democrats will continue to be outspoken about the detention of Australian citizens without charge or held in dubious detention facilities in foreign lands that do not uphold basic human rights and oppose the death penalty.