



September 30, 2015

Vote “NO” on the Conference Report for H.R. 1735, the National Defense Authorization Act for Fiscal Year 2016

NDAA Would Block Closure of the Guantanamo Detention Facility and Continue Indefinite Detention Without Charge or Trial

Dear Representative:

The undersigned human rights, civil liberties, national security, and religious organizations write to strongly urge you to vote “NO” on final passage of the conference report for H.R. 1735, the National Defense Authorization Act for Fiscal Year 2016 (NDAA). The harmful and unwarranted transfer restrictions in the bill could block the closing of the Guantanamo detention facility and continue the practice of indefinite detention without charge or trial. We ask you to vote against final passage of the bill.

The Obama administration, both through its Statement of Administration Policy (SAP) on the NDAA, during House consideration earlier this year, and through recent public statements on Guantanamo transfer restrictions, has threatened to veto the bill over transfer restrictions. In its veto threat based on similar language before the House in June, the administration stated, the NDAA “continues unwarranted restrictions, and imposes additional ones, regarding detainees at Guantanamo Bay.” The administration characterizes the restrictions in the bill as “onerous,” “unwise and unnecessary,” “imped[ing] efforts to responsibly close the facility,” inconsistent “with our national security and our humane treatment policy,” and in violation of “constitutional separation of powers principles,” and “interfere[ing] with a detainee’s right to the writ of habeas corpus.”

The ranking member of the House Armed Services Committee, Adam Smith, stated yesterday that, “The president is going to veto the bill. Everyone keeps telling me, ‘Well he said that before.’ No, read my lips the president is going to veto the bill.” Referencing the Guantanamo transfer restrictions, among other objections, Congressman Smith reiterated the warning of an impending veto today, during testimony before the House Rules Committee.

The conference report would impose the most comprehensive set of obstacles to closing Guantanamo that have ever been included in a conference bill. The bill continues to ban all transfers to the United States. It then effectively reinstates, albeit with a more streamlined rearrangement of the substantive transfer standards, a series of restrictive overseas transfer requirements that a bipartisan majority of Congress rejected and replaced in the NDAA for FY 2014 and FY 2015. The core foreign transfer section (section 1034) does not have any explicit time restriction, raising the question of whether those transfer restrictions would become permanent. In addition, the bill layers on new restrictions, including for the first time, country-specific prohibitions. The bill also includes certain reporting requirements that could impede the willingness of foreign countries to accept detainees for resettlement. While the conference report does provide for the president to submit a plan to close Guantanamo, the bill’s restrictions effectively thwart closure efforts.

The transfer restrictions in the NDAA would further the inhumane continued detention of men at Guantanamo Bay, squander scarce resources, and—according to top national security officials under both the Bush and Obama administrations—make us less safe. We urge you to vote “NO” on the conference report.

Thank you for your attention to this issue, and please call on any of us with any questions.

Sincerely,

American Civil Liberties Union
Amnesty International USA
Appeal for Justice
Bill of Rights Defense Committee
Center for Constitutional Rights
The Center for Victims of Torture
Council on American-Islamic Relations
Defending Dissent Foundation
Friends Committee on National Legislation
Human Rights First
Human Rights Watch
National Association of Criminal Defense Lawyers
National Security Network
Win Without War