



November 4, 2015

Vote “NO” on the NDAA Because It Does Not Fix the Guantanamo Provisions

Dear Senator:

The undersigned human rights, civil liberties, national security, and religious organizations write to strongly urge you to vote “NO” on the latest version of the National Defense Authorization Act for Fiscal Year 2016 (NDAA). The harmful and unwarranted transfer restrictions in the current version of the bill will make closing the Guantanamo detention facility much more difficult and continue the practice of indefinite detention without charge or trial. We ask you to vote against the latest version of the bill.

In his Veto Message, President Obama stated that by failing “to remove the unwarranted restrictions on the transfer of detainees...[the NDAA] seeks to impose more onerous [restrictions].” Further, the president made clear that “...the continued operation of this facility weakens our national security by draining resources, damaging our relationships with key allies and partners, and emboldening violent extremists.” Earlier this year, the Obama administration issued a Statement of Administration Policy (SAP) on the NDAA, characterizing the restrictions in the bill as “unwise and unnecessary,” “imped[ing] efforts to responsibly close the facility,” inconsistent “with our national security and our humane treatment policy,” violating “constitutional separation of powers principles,” and “interfer[ing] with a detainee’s right to the writ of habeas corpus.” Despite these admonishments, not a single sentence of the Guantanamo provisions has been changed from the NDAA that the president vetoed last month.

The current version of the NDAA on the floor next week 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 bill does provide for the president to submit a plan to close Guantanamo, its restrictions could effectively thwart closure efforts.

The current 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 this bill or any version of the bill that does not fix the onerous Guantanamo provisions.

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
The Constitution Project
Council on American-Islamic Relations
Defending Dissent Foundation
Friends Committee on National Legislation
Human Rights Watch
Human Rights First
National Association of Criminal Defense Lawyers
National Security Network
Win Without War