

THE CONSTITUTION PROJECT



Safeguarding Liberty, Justice & the Rule of Law

U.S. Bill Authorizing Indefinite Detention of Immigrants Raises Serious Constitutional Concerns

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WASHINGTON - Today, The Constitution Project (TCP) reacted with criticism to the “Keep Our Communities Safe Act of 2011” (H.R. 1932) as marked up by the House Judiciary Committee. TCP is disappointed that the Committee failed to remove language that would expand the use of mandatory detention and permit indefinite detention for many immigrants, including asylum seekers. TCP finds particularly troubling provisions of the bill that would: 1) authorize the indefinite detention of immigrants who have been ordered removed but cannot be deported because no country will accept them; and 2) authorize the detention of many noncitizens throughout their removal proceedings, regardless of how long those proceedings might take.

TCP is concerned about the increasing reliance on and excessive length of immigration detention already taking place. According to TCP Senior Counsel Mason Clutter, “While we recognize that immigration detention under certain circumstances serves legitimate public purposes, too many non-citizens are being held unnecessarily in custodial detention. This bill would amplify this problem.”

These concerns are consistent with [*Recommendations for Reforming our Immigration Detention System and Promoting Access to Counsel in Immigration Proceedings*](#), a 2009 report issued by TCP’s Liberty and Security Committee. The Committee, an ideologically diverse group of prominent Americans, concluded in its report that Congress should seek to streamline immigration detention policies and make them consistent with constitutional principles rather than ignoring them. The report also highlighted the Committee’s concerns about the increasing reliance on and length of immigration detention and the limited access to counsel afforded to non-citizens facing removal.

As Ms. Clutter noted, “a system such as the one approved today by the Committee that permits the indefinite detention of a non-citizen would raise serious constitutional concerns.”

About The Constitution Project

Established in 1997, The Constitution Project (TCP) is known for its ability to bring together unlikely allies-experts and practitioners from across the political spectrum-in order to promote and safeguard America's founding charter. TCP is working to reform the nation's broken criminal justice system and to strengthen the rule of law by undertaking scholarship, consensus policy reforms, advocacy and public education. TCP was born out of the belief that we must cast aside the labels that divide us, in order to keep our Constitution and our democracy strong.