

September 15, 2016

RE: Vote “NO” on H.R. 5351, the Walorski Bill to Ban All Transfers from Guantanamo

Dear Representative:

The undersigned human rights, civil liberties, and religious organizations strongly urge you to oppose H.R. 5351, a bill introduced by Representative Jackie Walorski, which would—for the first time ever—impose a complete ban on all transfers out of Guantanamo. Not only would the bill block all transfers of Guantanamo detainees to the United States, even for purposes of prosecution in federal criminal court, but it also would ban the resettlement or repatriation of detainees cleared by the United States for transfer to foreign countries. The bill would be effective until the earlier of January 21, 2017 or the effective date of the next National Defense Authorization Act.

In a Statement of Administration Policy sent to the House yesterday, the White House strongly opposed H.R. 5351 and threatened to veto the bill, explaining:

As the Administration has said many times before, the continued operation of the detention facility at Guantanamo Bay weakens our national security by draining resources, damaging our relationships with key allies and partners, and emboldening violent extremists...The restrictions contained in this bill would seek to foreclose entirely the Executive Branch's ability to determine appropriate disposition options for detainees, including to transfer them consistent with our national security and our humane treatment policy, as well as its flexibility to determine when and where to prosecute them, based on the facts and circumstances of each case and our national security interests. Moreover, by purporting to prohibit all transfers of individuals detained at Guantanamo Bay, the bill would in some circumstances violate constitutional separation of powers principles, and could interfere with the ability to transfer a detainee who has been granted a writ of habeas corpus. If the President were presented with H.R. 5351, his senior advisors would recommend he veto the bill.

H.R. 5351 would wrongly block transfers for *any* purpose. Such highly-restrictive measures would needlessly tie the administration's hands in resolving the problem of Guantanamo and trying terrorism suspects in federal criminal courts, or resettling or repatriating cleared detainees overseas in a manner that protects national security and comports with human rights principles and the rule of law. A blanket ban on transfers would hinder the administration's ability to employ criminal prosecutions in regular federal courts.

The blanket ban would also make impossible the ability of the United States to transfer to foreign countries those detainees who have been cleared for transfer. As of today's date, 20 of the 61 men at Guantanamo have been cleared for transfer overseas. The government does not make its transfer decisions lightly. Under current law, the decision that a detainee can be transferred to another country reflects not only the determination of the Secretary of Defense himself, but also

the agreement of the Departments of Defense, State, Justice, and Homeland Security, as well as the Joint Chiefs of Staff and the Director of National Intelligence.

H.R. 5351 would continue to obstruct the Department of Justice from trying terrorism suspects in the most experienced and proven forum, federal criminal court. These are the very same federal courts that have been used by the Justice Department during the Bush and Obama administrations to prosecute more than 400 individuals for terrorism-related crimes since 9/11. The Federal Bureau of Prisons has held individuals convicted of the most serious crimes of terrorism, such as co-conspiracy in the 9/11 attacks, the 1993 World Trade Center bombing, and the 1998 East African embassy bombings, without harm to the surrounding communities – and, of course, without escape..

If Congress imposes a blanket transfer ban, it would further hinder efforts to put to rest a legacy of failed detention policy. There is widespread agreement among our country’s leading national security and foreign policy experts—including General Colin Powell, Secretary of Defense Robert Gates, and six former Secretaries of State from both parties—that closing the Guantánamo Bay detention facility is essential to U.S. counterterrorism efforts and to repairing the standing of the United States as a country committed to human rights and the rule of law.

Adhering to the rule of law both protects human rights and—according to national security experts—enhances U.S. national security. For these reasons, we strongly urge you to vote “NO” on H.R. 5351.

Sincerely,

American Civil Liberties Union
Amnesty International USA
Appeal for Justice
Bill of Rights Defense Committee & Defending Dissent Foundation
Center for Constitutional Rights
Council on American-Islamic Relations (CAIR)
Friends Committee on National Legislation
Human Rights First
Human Rights Watch
National Association of Criminal Defense Lawyers
National Religious Campaign Against Torture
Physicians for Human Rights
The Center for Victims of Torture
The Constitution Project
Washington Office on Latin America
Win Without War