

May 21, 2014

Re: Vote “No” on Walorski Amendment to prohibit transferring any Guantanamo detainee to Yemen

Dear Representative,

The undersigned civil liberties, human rights, and religious organizations write to oppose Rep. Jackie Walorski’s amendment to the House version of the 2015 National Defense Authorization Act (NDAA) that would prohibit the Defense Secretary from transferring any Guantanamo detainee to Yemen. The amendment is unnecessary, unwise, and unjust. We urge you to vote against it.

A Yemen transfer ban is unnecessary because current law already requires the Defense Secretary to consider a host of security-related factors in making the dual determination necessary to execute a foreign transfer. First, he must determine that steps have been taken to mitigate the risk of a detainee engaging in terrorist activities post-transfer. Second, he must determine that the transfer is in the national security interests of the United States. Factors that must be considered include, but are not limited to: the security situation in the transfer country; steps taken or changed circumstances on the ground that impact the risk of a detainee engaging in terrorist activity after being transferred; assurances from the transfer country that it will work to substantially mitigate that risk; and an assessment of whether the transfer country can and will meet those assurances.

A Yemen transfer ban is also unwise because Yemeni President Hadi and President Obama have pledged to work together to repatriate Yemeni detainees. A congressionally imposed prohibition on transfers to Yemen would undermine those efforts and send precisely the wrong signal to a key ally. Additionally, a Yemen transfer ban would make substantially reducing the Guantanamo population, much less closing the prison, nearly impossible because the majority of remaining detainees are Yemeni. Every day that Guantanamo remains open we waste precious resources (*\$2.8 million per detainee annually*), fuel terrorist recruitment efforts, violate human rights, and further damage relationships with international partners. Congress should not be in the business of micromanaging transfer decisions, and is ill-equipped to do so. Each transfer decision involves unique considerations and should be made on a case-by-case basis by those with the relevant knowledge and expertise.

Finally, a Yemen transfer ban is unjust. Following a painstaking review by all relevant national security agencies, 77 detainees were found to pose so little risk to the United States that they could be sent home or to a suitable third country, if one could be found. Of those cleared detainees, 57 are Yemeni. A Yemen transfer ban would punish these Yemeni detainees based solely on their country of origin. Congress should oppose, not sanction, that sort of discrimination.

For these reasons, we urge you to vote “No” on the Walorski Amendment to prohibit transferring any Guantanamo detainee to Yemen. Thank you for your attention to this important matter.

Sincerely,

Appeal for Justice

American Civil Liberties Union

Center for Constitutional Rights

Center for National Security Studies

Center for Victims of Torture

The Constitution Project

Council on American-Islamic Relations

Human Rights First

Human Rights Watch

International Justice Network

National Association of Criminal Defense Lawyers

National Religious Campaign Against Torture

Open Society Policy Center

Peace Action West

National Security Network

Win Without War