



December 5, 2012

Re: VETO the National Defense Authorization Act, If It Extends Restrictions on Transferring Detainees Out of the Guantanamo Prison

Dear President Obama:

The undersigned human rights, religious, and civil liberties groups strongly urge you to veto the National Defense Authorization Act for Fiscal Year 2013 (NDAA)—if the conference bill, which is being negotiated now, impedes your ability to close Guantanamo. Specifically, we urge you to veto the NDAA conference bill if it restricts the Executive Branch's authority to transfer detainees for repatriation or resettlement in foreign countries or for prosecution in federal criminal court. The House of Representatives passed a version of the NDAA that restricts all transfers out of Guantanamo for the full fiscal year, while the Senate version of the bill restricts transfers overseas and includes a permanent ban on transfers to the United States, even for prosecution in federal criminal

court. We urge you to veto the NDAA if any of these restrictions are included in the final bill sent to you by Congress.¹

Your commitment to close the Guantanamo prison was a hallmark of your 2008 campaign and a signal to everyone, both across America and around the globe, of a renewed commitment to the rule of law. Your executive order, on your second full day as president, directing the government to close the prison should have heralded the end of the prison, but instead triggered a long series of failures and obstacles to its closure. There are still 166 detainees left at Guantanamo, and the promise of closing the prison remains unfulfilled.

We appreciate that you publicly renewed your commitment to closing Guantanamo in public comments last month, and we strongly believe that you can accomplish this objective during your second term. You can still make the successful closing of the Guantanamo prison an important part of your historic legacy.

However, if the NDAA is signed with any transfer restrictions in it, the prospects for Guantanamo being closed during your presidency will be severely diminished, if not gone altogether. The current statutory restrictions on transfer expire on March 27, 2013. Those restrictions—which have been in place for nearly two years with zero detainees being certified for transfer overseas and zero detainees transferred to the United States for prosecution—are functionally similar to the restrictions in the NDAA bills pending in Congress. If extended for the entire fiscal year, then nearly a year of your second term could be lost, and the political capital required to start closing it later in your next term will be even greater.

Now is the time to end the statutory restrictions on closing Guantanamo, by vetoing the NDAA if it extends them. When signing earlier versions of these restrictions into law, you stated, “my Administration will work with the Congress to seek repeal of these restrictions, will seek to mitigate their effects, and will oppose any attempt to extend or expand them in the future.” The restrictions have proven unworkable, and should not be extended for yet another year.

There is broad support among national security and foreign policy leaders for closing Guantanamo. Your own national security and foreign policy leadership team shares your commitment to closing Guantanamo. The list of leaders who support closing the Guantanamo prison is long, and crosses party lines, including: former President George W. Bush, former Secretary of State Condoleezza Rice, former Secretary of State Colin Powell, former Secretary of Defense Robert Gates, former National Security Advisor James Jones, General Charles C. Krulak (ret.) former Commandant of the Marine Corps, General Joseph P.

¹ There also are a range of other detention-related provisions in either the House or Senate bill, which would cause harm, such as sending all foreign terrorism suspects to military commissions, causing confusion among the public on the scope and availability of habeas corpus protections, and leaving many persons in the United States out of protections against indefinite detention without charge or trial. We urge you to veto the NDAA if any of these provisions are included in the final conference bill.

Hoar (ret.), former CESTCOM commander, and Brigadier General Michael Lehnert (ret.), who set up the Guantanamo prison, and 25 retired admirals and generals. Closing Guantanamo is good human rights policy and good national security policy.

We realize that there is a long tradition of the NDAA being enacted annually. However, an annual NDAA is not required for the Department of Defense to carry out its functions. The NDAA does not fund the Department of Defense, and all of its provisions can be either implemented by agency action or enacted as part of other legislation. Four of your five immediate predecessors--Presidents Carter, Reagan, Clinton, and George W. Bush--each vetoed an NDAA. Restrictions impeding the closing of the Guantanamo prison clearly warrant a veto by you.

We believe that you will be far more likely to succeed in fulfilling your commitment to closing the Guantanamo prison if the transfer restrictions are allowed to expire on March 27. We strongly urge you to veto the NDAA, if it includes any extension of the restrictions on transferring detainees out of Guantanamo for either repatriation or resettlement overseas or prosecution in the United States. Thank you for your attention to this request.

Sincerely,

American Civil Liberties Union
American Friends Service Committee
Amnesty International USA
Appeal for Justice
Bill of Rights Defense Committee
Brennan Center for Justice
Center for Constitutional Rights
Center for International Policy
Center for Victims of Torture
Commission on Social Action of Reform Judaism
Council on American-Islamic Relations
Defending Dissent Foundation
Disciples Justice Action Network
Friends Committee on National Legislation
Human Rights Watch
International Justice Network
Japanese American Citizens League
Maryknoll Office for Global Concerns
National Association of Criminal Defense Lawyers
National Religious Campaign Against Torture
Peace Action
Presbyterian Church (USA) Office of Public Witness
Physicians for Human Rights
Psychologists for Social Responsibility
Rabbis for Human Rights – North America
United Church of Christ Justice and Witness Ministries

United Methodist Church, General Board of Church and Society
Unitarian Universalist Association
Win Without War