

Obama administration backs bill authorizing indefinite military detention of US citizens

By Joseph Kishore
15 December 2011

The Obama administration declared Wednesday afternoon that it was abandoning its nominal threat to veto a military authorization bill that explicitly authorizes the indefinite military detention of anyone the federal government declares to be a terrorist or supporter, including US citizens.

The final passage of the bill is now virtually assured by the end of the week. It marks a new stage in the collapse of the most basic democratic rights in the United States and the erection of the framework of a military-police state.

From the beginning, the administration has supported all fundamental components of the bill, while criticizing it largely from the standpoint of defending executive power. In a statement, White House Press Secretary Jay Carney said that a few cosmetic changes this week ensured that it “does not challenge the president’s ability to collect intelligence, incapacitate terrorists and protect the American people.”

A few hours later, the House of Representatives voted overwhelmingly in favor of the legislation, 286-136, with support from both big business parties. Democrats split 93-93 on the bill, while Republicans voted for it by a margin of 193-43.

The Senate is expected to vote on it Thursday, before it arrives at the president’s desk. Both houses of Congress had already passed earlier versions of the same legislation, the National Defense Authorization Act (NDAA).

The bill would allow for the open-ended detention of anyone caught up in the “war on terror,” without trial or charges, including US citizens. This is the first explicit legislation to effectively abolish *habeas corpus* (the right to challenge unlawful detentions) and the constitutional rights to a fair trial (the Sixth

Amendment) and due process (the Fifth Amendment).

Another provision requires that such individuals be taken into military custody, with an exception for US citizens. The military seizure of US citizens is left to the discretion of the executive branch. This means the effective abolition of the Posse Comitatus Act, which has restricted use of the military for domestic policing for more than a century.

The main concern of the administration was that the requirement for military custody could hamper actions of other agencies engaged in counterterrorism operations, such as the FBI and CIA. An earlier policy statement from last month outlined the White House position that the requirement on military detention was an “unnecessary, untested, and legally controversial restriction of the President’s authority to defend the Nation from terrorist threats that would tie the hands of our intelligence and law enforcement professionals.”

The White House has cited the extra-judicial assassination of Osama bin Laden and Anwar al-Awlaki (a US citizen) as evidence that there should be no restraints on the form through which executive power is exercised.

In response to White House pressure, House and Senate negotiators on Monday agreed to compromise language that states that nothing in the bill will affect “existing criminal enforcement and national security authorities of the FBI or any other domestic law enforcement agency...regardless of whether such... person is held in military custody.”

Another measure would allow the president to waive requirements on the grounds of “national security.”

The administration also expressed the concern that the explicit authorization of indefinite detention was not necessary, as the White House claims that this power is already incorporated in the Authorization to

Use Military Force, passed in 2001 after the 9/11 attacks. Its inclusion in the bill could prompt judicial review. Carney's statement declared, "Though this provision remains unnecessary, the changes ensure that we are merely restating our existing legal authorities and minimize the risk of unnecessary and distracting litigation."

Commenting on the amended version, the American Civil Liberties Union said in a statement earlier this week: "The sponsors of the bill monkeyed around with a few minor details, but all of the core dangers remain—the bill authorizes the president to order the military to indefinitely imprison without charge or trial American citizens and others found far from any battlefield, even in the United States itself."

This assault on fundamental democratic rights has been packaged into a \$662 billion military spending bill, including funding for the wars in Iraq and Afghanistan. The bill also includes new sanctions against Iran and the renewal of the AUMF, which was passed after the September 11 attacks and used to justify everything from aggressive war to domestic spying.

It incorporates a sweeping definition of those who are subject to the law, including anyone who "substantially supported al-Qaeda, the Taliban, or associated forces" and "any person who has committed a belligerent act or has directly supported such hostilities." This language can be stretched to include virtually anyone, including political opponents of US wars justified on the pretext of the "war on terror."

The battlefield is defined in the legislation to encompass the entire world, including the "homeland"—that is, the United States. A person can be detained "under the law of war without trial until the end of the hostilities"—that is, forever.

The White House was particularly concerned to ensure that the legislation *not restrict* the ability of the executive to detain US citizens indefinitely. During the early drafting procedure, it requested that Congress strip out language that would have excluded citizens from the indefinite detention clause.

The entire "debate" within the political establishment over the NDAA testifies to the collapse of any commitment to democratic rights within the American ruling class.

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