

# THE CONSTITUTION PROJECT



*Safeguarding Liberty, Justice & the Rule of Law*

## Constitution Project Dismayed by House Action on National Defense Authorization Act

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WASHINGTON-Today, the House of Representatives passed its version of the 2012 National Defense Authorization Act ("NDAA"). The bill includes harmful provisions that continue the ban on the use of traditional federal courts to try the remaining Guantanamo detainees (Section 1039), and extends those restrictions to encompass all non-citizen terrorism suspects, thereby requiring military commission trial of all foreign terrorism suspects. (Buchanan Amendment). The Constitution Project (TCP) is also deeply concerned by the inclusion of Section 1034, which "affirms that the United States is engaged in an armed conflict with al-Qaeda, the Taliban, and associated forces," but was never the subject of independent hearings or a full public debate.

The following can be attributed to TCP Counsel Mason C. Clutter: "The Constitution Project is extremely disappointed in the House's refusal to reverse the harmful restrictions on the use of America's criminal justice system to try Guantanamo detainees. The distrust that the House has shown of our courts is alarming and unfounded. Members of Congress continue to strip the United States of one of its most valuable tools in the fight against terrorism-federal courts. We urge the Senate to thoroughly evaluate these troubling provisions and work to untie the President's hands to better protect the security of the United States.

We are also dismayed by the House's failure to heed the advice of our bipartisan War Powers Committee regarding Section 1034. Section 1034 was passed without full consideration of whether or not any new authorization for the use of force is warranted. We urge the Senate to recognize this failure and to stand up and require full deliberation of the need for and proper scope of such a provision."

Last week, members of TCP's bipartisan War Powers Committee sent a [letter](#) to the House calling on Congress to "act to closely examine whether or not Section 1034 is appropriate." In its 2005 report entitled [Deciding to Use Force Abroad: War Powers in a System of Checks and Balances](#), The Constitution Project's War Powers Committee recommended improvements to war powers decision-making designed to restore the proper roles of all three branches of government. Ms. Clutter and members of the War Powers Committee are available for comment.

### 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.