

Spring 2012 U.S. Immigration Alert!

A Newsletter from National Immigrant Solidarity Network
Spring, 2012 Issue, Volume 39
No Immigrant Bashing! Support Immigrant Rights!

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May Day 2012 National Call To the Action! NO to the NDAA!

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May Day National 2012 Call To Action!

National Immigrant Solidarity Network

Please send your May Day 2012 action announcements to info@immigrantsolidarity.org

We are calling A national day of multi-ethnic unity with youth, labor, peace and justice communities in solidarity with immigrant workers and building new immigrant rights & civil rights movement! Wear White T-Shirt; organize local actions to support immigrant worker rights! We support immigrant activist groups call for general strike or peaceful non-violent direct actions!

1. No to anti-immigrant legislation, police surveillance and the criminalization of the immigrant communities.
2. No to militarization of the border.
3. No to the private prison, immigrant detention and deportation.
4. No to the guest worker program.
5. No to the NDAA.
6. Yes to a path to legalization without condition for undocumented immigrants NOW.
7. Yes to speedy family reunification.
8. Yes to civil rights and humane immigration law.
9. Yes to labor rights and living wages for all workers.
10. Yes to the education and LGBTQ immigrant legislation.

We encourages everyone to actively linking our issues with different struggles: wars in Africa, the Americas, Asia, Iraq, Afghanistan, Palestine & Korea with sweatshops exploitation in Asia as well as in Los Angeles, New York; international arm sales and WTO, FTAA, NAFTA & CAFTA with AIDS, hunger, child labors and child soldier; as well as multinational corporations and economic exploitation with racism and poverty at home—in order we can win the struggle together at this May Day 2012!

The NDAA's Historic Assault on American Liberty

By signing into law the NDAA, the president has awarded the military extraordinary powers to detain US citizens without trial

Jonathan Turley - Monday, January 2, 2012

President Barack Obama rang in the New Year by signing the NDAA law with its provision allowing him to indefinitely detain citizens. It was a symbolic moment, to say the least. With Americans distracted with drinking and celebrating, Obama signed one of the greatest rollbacks of civil liberties in the history of our country ... and citizens partied in unwitting bliss into the New Year.

Ironically, in addition to breaking his promise not to sign the law, Obama broke his promise on signing statements and attached a statement that he really does not want to detain citizens.

Obama insisted that he signed the bill simply to keep funding for the troops. It was a continuation of the dishonest treatment of the issue by the White House since the law first came to light. As discussed earlier, the White House told citizens that the president would not sign the NDAA because of the provision. That spin ended after sponsor Senator Carl Levin (Democrat, Michigan) went to the floor and disclosed that it was the White House and insisted that there be no exception for citizens in the indefinite detention provision.

The latest claim is even more insulting. You do not "support our troops" by denying the principles for which they are fighting. They are not fighting to consolidate authoritarian powers in the president. The "American way of life" is defined by our constitution and specifically the bill of rights. Moreover, the insistence that you do not intend to use authoritarian powers does not alter the fact that you just signed an authoritarian measure. It is not the use but the right to use such powers that defines authoritarian systems.

The almost complete failure of the mainstream media to cover this issue is shocking. Many reporters have bought into the spin of the Obama administration as they did the spin over torture by the Bush administration. Even today, reporters refuse to call waterboarding torture despite the long line of cases and experts defining waterboarding as torture for decades.

On the NDAA, reporters continue to mouth the claim that this law only codifies what is already the law. That is not true. The administration has fought any challenges to indefinite detention to prevent a true court review. Moreover, most experts agree that such indefinite detention of citizens violates the constitution.

There are also those who continue the longstanding effort to excuse Obama's horrific record on civil liberties by blaming either others or the times. One successful myth is that there is an exception for citizens. The White House is saying that changes to the law made it unnecessary to veto the legislation. That spin is ridiculous. The changes were the inclusion of some meaningless rhetoric after key amendments protecting citizens were defeated. The provision merely states that nothing in the provisions could be construed to alter Americans' legal rights. Since the Senate clearly views citizens as not just subject to indefinite detention but even to execution without a trial, the change offers nothing but rhetoric to hide the harsh reality.

The Obama administration and Democratic members are in full spin mode - using language designed to obscure the authority given to the military. The exemption for American citizens from the mandatory detention requirement (section 1032) is the screening language for the next section, 1031, which offers no exemption for American citizens from the authorisation to use the military to indefinitely detain people without charge or trial.

Obama could have refused to sign the bill and the Congress would have rushed to fund the troops. Instead, as confirmed by Senator Levin, the White House conducted a misinformation campaign to secure this power while portraying the president as some type of reluctant absolute ruler, or, as Obama maintains, a reluctant president with dictatorial powers.

Most Democratic members joined their Republican colleagues in voting for this un-American measure. Some Montana citizens are moving to force the removal of these members who, they insist, betrayed their oaths of office and their constituents. Most citizens, however, are continuing to treat the matter as a distraction from the holiday cheer.

For civil libertarians, the NDAA is our Mayan moment: 2012 is when the nation embraced authoritarian powers with little more than a pause between rounds of drinks.

* Jonathan Turley is a professor of law at George Washington University.

Goodbye, First Amendment: 'Trespass Bill' will make protest illegal

Russia Times
29 February, 2012

Just when you thought the government couldn't ruin the First Amendment any further: The House of Representatives approved a bill on Monday that outlaws protests in instances where some government officials are nearby, whether or not you even know it.

The US House of Representatives voted 388-to-3 in favor of H.R. 347 late Monday, a bill which is being dubbed the Federal Restricted Buildings and Grounds Improvement Act of 2011. In the bill, Congress officially makes it illegal to trespass on the

grounds of the White House, which, on the surface, seems not just harmless and necessary, but somewhat shocking that such a rule isn't already on the books. The wording in the bill, however, extends to allow the government to go after much more than tourists that transverse the wrought iron White House fence.

Under the act, the government is also given the power to bring charges against Americans engaged in political protest anywhere in the country.

Under current law, White House trespassers are prosecuted under a local ordinance, a Washington, DC legislation that can bring misdemeanor charges for anyone trying to get close to the president without authorization. Under H.R. 347, a federal law will formally be applied to such instances, but will also allow the government to bring charges to protesters, demonstrators and activists at political events and other outings across America.

The new legislation allows prosecutors to charge anyone who enters a building without permission or with the intent to disrupt a government function with a federal offense if Secret Service is on the scene, but the law stretches to include not just the president's palatial Pennsylvania Avenue home. Under the law, any building or grounds where the president is visiting — even temporarily — is covered, as is any building or grounds "restricted in conjunction with an event designated as a special event of national significance."

It's not just the president who would be spared from protesters, either.

Covered under the bill is any person protected by the Secret Service. Although such protection isn't extended to just everybody, making it a federal offense to even accidentally disrupt an event attended by a person with such status essentially crushes whatever currently remains of the right to assemble and peacefully protest.

Hours after the act passed, presidential candidate Rick Santorum was granted Secret Service protection. For the American protester, this indeed means that glitter-bombing the former Pennsylvania senator is officially a very big no-no, but it doesn't stop with just him. Santorum's coverage under the Secret Service began on Tuesday, but fellow GOP hopeful Mitt Romney has already been receiving such security. A campaign aide who asked not to be identified confirmed last week to CBS News that former House Speaker Newt Gingrich has sought Secret Service protection as well. Even former contender Herman Cain received the armed protection treatment when he was still in the running for the Republican Party nod.

In the text of the act, the law is allowed to be used against anyone who knowingly enters or remains in a restricted building or grounds without lawful authority to do so, but those grounds are considered any area where someone — rather it's President Obama, Senator Santorum or Governor Romney — will be temporarily visiting, whether or not the public is even made aware. Entering such a facility is thus outlawed, as is disrupting the orderly conduct of "official functions," engaging in disorderly conduct "within such proximity to" the event or acting violent to anyone, anywhere near the premises. Under that verbiage, that means a peaceful protest outside a candidate's concession speech would be a federal offense, but those occurrences covered as special event of national significance don't just stop there, either. And neither does the list of covered persons that receive protection.

Outside of the current presidential race, the Secret Service is responsible for guarding an array of politicians, even those from outside America. George W Bush is granted protection until ten years after his administration ended, or 2019, and every living president before him is eligible for life-time, federally funded coverage. Visiting heads of state are extended an offer too, and the events sanctioned as those of national significance — a decision that is left up to the US Department of Homeland Security — extends to more than the obvious. While presidential inaugurations and meeting of foreign dignitaries are awarded the title, nearly three dozen events in all have been considered a National Special Security Event (NSSE) since the term was created under President Clinton. Among past events on the DHS-sanctioned NSSE list are Super Bowl XXXVI, the funerals of Ronald Reagan and Gerald Ford, most State of the Union addresses and the 2008 Democratic and Republican National Conventions.

With Secret Service protection awarded to visiting dignitaries, this also means, for instance, that the federal government could consider a demonstration against any foreign president on American soil as a violation of federal law, as long as it could be considered disruptive to whatever function is occurring.

When thousands of protesters are expected to descend on Chicago this spring for the 2012 G8 and NATO summits, they will also be approaching the grounds of a National Special Security Event. That means disruptive activity, to whichever court has to consider it, will be a federal offense under the act.

And don't forget if you intend on fighting such charges, you might not be able to rely on evidence of your own. In the state of Illinois, videotaping the police, under current law, brings criminals charges. Don't fret. It's not like the country will really try to enforce it — right?

On the bright side, does this mean that the law could apply to law enforcement officers reprimanded for using excessive force on protesters at political events? Probably. Of course, some fear that the act is being created just to keep those demonstrations from ever occurring, and given the vague language on par with the loose definition of a “terrorist” under the NDAA, if passed this act is expected to do a lot more harm to the First Amendment than good.

United States Representative Justin Amash (MI-03) was one of only three lawmakers to vote against the act when it appeared in the House late Monday. Explaining his take on the act through his official Facebook account on Tuesday, Rep. Amash writes, “The bill expands current law to make it a crime to enter or remain in an area where an official is visiting even if the person does not know it's illegal to be in that area and has no reason to suspect it's illegal.”

“Some government officials may need extraordinary protection to ensure their safety. But criminalizing legitimate First Amendment activity — even if that activity is annoying to those government officials — violates our rights,” adds the representative.

Now that the act has overwhelmingly made it through the House, the next set of hands to sift through its pages could very well be President Barack Obama; the US Senate had already passed the bill back on February 6. Less than two months ago, the president approved the National Defense Authorization Act for Fiscal Year 2012, essentially suspending habeas corpus from American citizens. Could the next order out of the Executive Branch be revoking some of the Bill of Rights? Only if you consider the part about being able to assemble a staple of the First Amendment, really. Don't worry, though. Obama was, after all, a constitutional law professor. When he signed the NDAA on December 31, he accompanied his signature with a signing statement that let Americans know that, just because he authorized the indefinite detention of Americans didn't mean he thought it was right.

Should President Obama suspend the right to assemble, Americans might expect another apology to accompany it in which the commander-in-chief condemns the very act he authorizes. If you disagree with such a decision, however, don't take it to the White House. Sixteen-hundred Pennsylvania Avenue and the vicinity is, of course, covered under this act.

3/4: ICE Detainee Death in CA

Andrew Lorenzen-Strait

Public Advocate, Enforcement and Removal Operations U.S. Immigration and Customs Enforcement

ICE detainee passes away at Victorville hospital Mexican national was being treated for pneumonia

VICTORVILLE, Calif. — A Mexican national in the custody of U.S. Immigration and Customs Enforcement (ICE) passed away Sunday morning at Victor Valley Community Hospital where he had been undergoing treatment for pneumonia.

Fernando Dominguez-Valivia, 58, originally came into ICE custody Nov. 23, 2011, following his release from the West Valley Detention Center in Rancho Cucamonga where he had been detained on local charges. Dominguez also had prior criminal convictions for forgery and theft. On February 16, he was transferred to Victor Valley Community Hospital after developing pneumonia. Dominguez, who had been under a physician's care since his admission to the hospital, passed away shortly after 5:30 a.m on March 4, 2012.

Medical records indicate Dominguez had a history of heart trouble for which he had been receiving treatment since coming into ICE custody. An autopsy has been scheduled to determine his exact cause of death.

ICE notified Dominguez's next of kin and the Mexican consulate. Consistent with ICE protocol, the appropriate state health and local law enforcement agencies have also been informed.

Dominguez is the sixth detainee to pass away in ICE custody in fiscal year 2012.

Immigration detention is no hospitality suite

By Gregory Chen, director of advocacy, American Immigration Lawyers Association

02/29/2012

On February 28, Rep. Lamar Smith (R-Texas) issued a statement criticizing U.S. Immigration and Customs Enforcement (ICE) for releasing new national standards for immigration detention facilities. Entitled, “Deportation Manual: a Hospitality Guideline for Illegal Immigrants,” his statement makes imprisonment sound like a hotel visit. In so doing, Mr. Smith belittles

the fact that each year 400,000 people — including thousands of asylum seekers, trafficking victims, families with children, the elderly and the sick — are jailed while they await civil immigration court proceedings in facilities that bear no resemblance even to the cheapest motel.

In 2008, Francisco Castaneda died of penile cancer after detention staff refused his numerous attempts to obtain diagnosis and treatment at a San Diego detention facility. Over the years cases like his and the substandard conditions in immigration detention have been well-documented by 60 Minutes, National Public Radio, The New York Times, and The Washington Post. In many facilities, detainees endure a myriad of abuses including a lack of adequate medical and mental health care that has led to numerous unnecessary deaths. As recently as October 2011, PBS Frontline revealed frightening accounts of sexual abuse by guards in the Willacy, Texas detention center.

Detention facilities should not jeopardize the health and safety of those in custody and that is why stricter standards are absolutely necessary. The national standards ICE announced last week are an important step. They are not a hospitality guide, but minimal standards to prevent mistreatment, injury, or death. Moreover, concerns remain that these new standards are insufficient to hold accountable the hundreds of facilities under ICE contract.

Indeed ICE has not gone far enough. It should recognize the applicability of the Prison Rape Elimination Act standards to immigration detention. When Congress enacted the law in 2003, it was intended to protect every individual in government custody. But ICE and its parent agency, the U.S. Department of Homeland Security, are resisting and leaving people at greater risk of rape and sexual assault in immigration detention.

Rep. Smith rightly points out that immigration detention is expensive, costing \$2 billion annually. But the solution is not to deprive detainees the basic care and treatment that U.S. law and common decency require as Smith proposes. The better solution that ICE uses but could implement more effectively is alternatives to detention, such as release on bond, intensive supervision and GPS-technology, that cost a dime for each dollar spent on jails. ICE should screen people more carefully for these more humane and cost effective methods.

Smith's statement betrays a callousness that is unacceptable when we are talking about the detention of human beings. Over the years he has proposed extreme measures, such as H.R. 1932, that grossly misuse detention and are clearly unconstitutional. To take away one's liberty is a power that must be exercised carefully and with restraint. And when someone is jailed, our government bears the responsibility for caring properly for them.

* Chen is the director of advocacy for the American Immigration Lawyers Association. The AILA is the national association of over 11,000 attorneys and law professors who practice and teach immigration law.

March 23 Newark, NJ: Conference on Immigrant Detainees Registration Now Open

Nationally renowned immigration experts, judges, practitioners, academics, and former detainees will speak at the all-day conference, "Immigrant Detainees: Alone, Unrepresented & Imprisoned," to be held at Rutgers School of Law–Newark on Friday, March 23, 2012. U.S. Senator Robert Menendez will deliver the keynote address.

The conference is a joint effort by the Rutgers–Newark, Seton Hall, Cardozo, and New York University law schools. Panel sessions include:

Immigration Incarceration (a look at the realities of immigration detention)
Mandatory Detention: Impact, Alternatives & Paths to Reform
Access to Justice for Detainees in Immigration Proceedings
A Call to Action: Promoting Pro Bono Representation in Immigration Proceedings.

The conference is free and open to the public; however pre-registration is required. Additional information, including registration information, can be found at <http://www.law.newark.rutgers.edu/immigrant-detainees>. A conference flier and the conference program are attached (the conference program can also be downloaded from the website).

The conference is co-sponsored by Lowenstein Sandler PC, Gibbons PC, Rutgers Committee to Advance Our Common Purposes, Rutgers–Newark Center for Migration and the Global City, Cardozo Immigration Justice Clinic, Rutgers Immigrant Rights Collective, Rutgers Human Rights Forum, Seton Hall Law Center for Social Justice, NYU School of Law Immigrant Rights Clinic, American Friends Service Committee, and Human Rights First.

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About National Immigrant Solidarity Network

NISN is a coalition of community, immigrant, labor, human rights and student activist groups, founded in 2002 in response to the urgent needs for the national coalition to fight immigrant bashing, support immigrant rights, no to the sweatshops exploitation and end to the racism on the community. Please visit our website: <http://www.ImmigrantSolidarity.org>

Contact Information:

E-mail: info@ImmigrantSolidarity.org
(213) 403-0131 (Los Angeles)
(212) 330-8172 (New York)
(202) 595-8990 (Washington D.C.)
(773)942-2268 (Chicago)

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