

18 January 2012

Mr. Speaker: I rise today to introduce a very simple piece of legislation to repeal the infamous Section 1021 of the National Defense Authorization Act, quietly signed into law by the president on New Year's Day.

Section 1021 essentially codifies into law the very dubious claim of presidential authority under the 2001 Authorization for the Use of Military Force to indefinitely detain American citizens without access to legal representation or due process of law. Section 1021 provides for the possibility of the US military acting as a kind of police force on US soil, apprehending terror suspects – including Americans -- and whisking them off to an undisclosed location indefinitely. No right to attorney, no right to trial, no day in court.

This is precisely the kind of egregious distortion of justice that Americans have always ridiculed in so many dictatorships overseas. A great man named Solzhenitsyn became the hero of so many of us when he exposed the Soviet Union's extensive gulag system. Is this really the kind of United States we want to create in the name of fighting terrorism?

Some have argued that nothing in Section 1021 explicitly mandates holding Americans without trial, but it employs vague language radically expanding the detention authority to include anyone who has "substantially supported" certain terrorist groups or "associated forces." No one has defined what those two terms mean. What is an "associated force"?

Sadly, too many of my colleagues are too willing to undermine our Constitution to support such outrageous legislation. One senator even said about American citizens picked up under this section of the NDAA, "When they say, 'I want my lawyer,' you tell them, 'Shut up. You don't get a lawyer.'" Is this acceptable in someone one who has taken an oath to uphold the Constitution?

Mr. Speaker, of course I recognize how critical it is that we identify and apprehend those who are suspected of plotting attacks against Americans. But why do we have so little faith in our justice system? Have we not tried in civilian court and won convictions of hundreds of individuals for terrorist or related activities? I fully support our continuing to do so, but let us not abandon what is so unique and special about our system of government in the process.

I hope my colleagues will join my effort to overturn the shameful Section 1021.