

tions that have impeded my ability to transfer detainees from Guantanamo. Earlier this year I again called upon the Congress to lift these restrictions and, in this bill, the Congress has taken a positive step in that direction. Section 1035 of this Act gives the Administration additional flexibility to transfer detainees abroad by easing rigid restrictions that have hindered negotiations with foreign countries and interfered with executive branch determinations about how and where to transfer detainees. Section 1035 does not, however, eliminate all of the unwarranted limitations on foreign transfers and, in certain circumstances, would violate constitutional separation of powers principles. The executive branch must have the flexibility, among other things, to act swiftly in conducting negotiations with foreign countries regarding the circumstances of detainee transfers. Of course, even in the absence of any statutory restrictions, my Administration would transfer a detainee only if the threat the detainee may pose can be sufficiently mitigated and only when consistent with our humane treatment policy. Section 1035 nevertheless represents an improvement over current law and is a welcome step toward closing the facility.

In contrast, sections 1033 and 1034 continue unwise funding restrictions that curtail options available to the executive branch. Section 1033 renews the bar against using appropriated funds to construct or modify any facility in the United States, its territories, or possessions to house any Guantanamo detainee in the custody or under the control of the Department of Defense unless authorized by the Congress. Section 1034 renews the bar against using appropriated funds to transfer Guantanamo detainees into the United States for any purpose.

I oppose these provisions, as I have in years past, and will continue to work with the Congress to remove these restrictions. The executive branch must have the authority to determine when and where to prosecute Guantanamo detainees, based on the facts and circumstances of each case and our national security interests. For decades, Republican and Democratic administrations have successfully prosecuted hundreds of terrorists in Federal court. Those prosecutions are a legitimate, effective, and powerful tool in our efforts to protect the Nation. Removing that tool from the executive branch does not serve our national security interests. Moreover, section 1034 would, under certain circumstances, violate constitutional separation of powers principles.

The detention facility at Guantanamo continues to impose significant costs on the American people. I am encouraged that this Act provides the Executive greater flexibility to transfer Guantanamo detainees abroad, and look forward to working with the Congress to take the additional steps needed to close the facility. In the event that the restrictions on the transfer of Guantanamo detainees in sections 1034 and 1035 operate in a manner that violates constitutional separation of powers principles, my Administration will implement them in a manner that avoids the constitutional conflict.

BARACK OBAMA

The White House,
December 26, 2013.

NOTE: H.R. 3304, approved December 26, was assigned Public Law No. 113–66.

Statement on the Observance of Kwanzaa *December 26, 2013*

Michelle and I extend our best wishes to all those celebrating Kwanzaa this holiday season. Today marks the beginning of the week-long celebration of African American culture through family activities and community festivities that bring attention to Kwanzaa's seven

principles of unity, self-determination, collective work and responsibility, cooperative economics, purpose, creativity, and faith. Though each principle represents the essence of this holiday, they also represent the shared values that bind us as Americans.

Dec. 26 / Administration of Barack Obama, 2013

As families and communities across our country come together today to light the *kinarra*, our family sends our hopes for a prosperous and healthy new year.

NOTE: This statement was released by the Office of the Press Secretary as a statement by the President and the First Lady.