

December 16, 2011

President Barack Obama  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, DC 20500

Dear Mr. President:

We, the undersigned Asian American and Pacific Islander organizations urge you to veto the *National Defense Authorization Act for Fiscal Year 2012* (NDAA) if it contains provisions that authorize indefinite military detention without charge or trial.

Sections 1021 and 1022 of the House-Senate conference committee report would give any president the authority to put terrorism suspects found anywhere in the world into indefinite military detention without charge or trial, and based solely on suspicion and not proof beyond a reasonable doubt. These provisions would even apply within the United States itself, and incredibly, could also apply to U.S. citizens. As it currently stands, the ambiguity in the existing language of NDAA fails to make clear required constitutional protections, particularly for U.S. citizens, as well as lawful permanent residents. In November, you had committed to veto this bill based on changes to these provisions and our organizations believe that recent revisions will still allow community members to be denied fundamental rights of due process. If enacted, this would be the first time since a McCarthy era statute enacted in 1950 that Congress authorizes the indefinite imprisonment of American citizens without charge or trial.

We are particularly concerned with the issue of indefinite detention because of the Japanese American community's experience with illegal internment during World War II, an episode that has left an indelible scar on American history. The United States has rightly condemned its decision to forcibly relocate and indefinitely detain individuals of Japanese descent, including American citizens, without due process, and efforts to redress this extraordinary wrongdoing continue to this day.

Since the September 11<sup>th</sup> attacks, Muslim, Arab, Sikh and South Asian Americans have been subjected to high rates of racial profiling on behalf of law enforcement, the Transportation Security Administration, and immigration officials. Earlier this year, the *Associated Press* published evidence that the New York Police Department and the Federal Bureau of Investigation have been using illegal surveillance on Muslim communities without any evidence of suspicious behavior. For the past ten years, Muslim, Arab, and South Asian Americans have been under intense scrutiny for suspected connections to terrorist organizations. For this reason, we are concerned that if NDAA is enacted with Sections 1021 and 1022 intact, individuals from these communities will be among the first targeted for indefinite detention without charge or trial.

We also believe that, if enacted, this would be the first time that Congress cuts back on the protections provided by the Non-Detention Act of 1971, which states that, “No citizen shall be imprisoned or otherwise detained by the United States except pursuant to an Act of Congress.” The Non-Detention Act of 1971 expressed the will of Congress and the President that America would never repeat the Japanese American internment experience, and would never subject any other Americans to indefinite detention without charge or trial. In the 40 years since President Richard Nixon signed the Non-Detention Act into law, Congress has never made any exception to it. We do not want to see years of community advocacy for the protection of civil liberties through the Non-Detention Act rendered meaningless by the NDAA provisions.

It is important to remember that although the specific details of the detentions may differ, the principle remains the same: indefinite detentions based on fear-driven and unlawfully substantiated national security grounds, where individuals are neither duly charged nor fairly tried, violates the essence of American law and the most fundamental values upon which this country was built.

In 1942, Milton Eisenhower, the National Director of the War Relocation Administration, predicted that “when [the internment of Japanese Americans] is over ... we, as Americans, are going to regret the ... injustices” of their unlawful detention. Forty-six years later, President Reagan signed the Civil Liberties Act, which officially declared that the Japanese American internment had been a “grave injustice” that had been “carried out without adequate security reasons.” In other words, the indefinite detention of Japanese Americans during World War II was not only unconstitutional, but unnecessary.

The same is true of the indefinite detention of modern terrorism suspects. Our criminal justice system is more than equipped to ensure justice and security in terrorism cases, and we certainly should not design new systems in order to accommodate the tragic and illegitimate policies of the past.

At this critical juncture, you must ensure that the United States respects fundamental constitutional and human rights – even in times when fear sometimes has the potential to overshadow our commitment to our most basic American values. Consider the lessons of the Japanese American internment and protect Muslim, Arab, Sikh and South Asian Americans from scapegoating. Given that the indefinite detention provisions remain in the NDAA, we urge you to prevent it from becoming law by recommitting to vetoing the bill.

Sincerely,

Asian American Justice Center (National)  
Asian and Pacific Islander American Health Forum (National)  
Asian Pacific American Labor Alliance, AFL-CIO (National)  
Asian Pacific American Labor Alliance Education Fund (National)  
Daya, Inc. (Houston, TX)  
Desis Rising Up and Moving (New York, NY)

Indo-American Center (Chicago, IL)  
Japanese American Citizens League (National)  
Laotian American National Alliance (National)  
National American Pacific American Bar Association (National)  
National Asian Pacific American Families Against Substance Abuse (National)  
National Asian Pacific American Women's Forum (National)  
Sakhi for South Asian Women (New York, NY)  
Satrang (Los Angeles, CA)  
Sikh American Legal Defense and Education Fund (National)  
South Asian Americans Leading Together (National)  
South Asian Network (Artesia, CA)  
South Asian Progressive Action Collective (Chicago, IL)  
Trikone Northwest (Seattle, WA)  
Turning Point for Women and Families (New York, NY)