
HOUSE CONCURRENT RESOLUTION

EXPRESSING COMMITMENT TO THE CONSTITUTION OF THE UNITED STATES.

1 WHEREAS, the Constitution of the United States and the
2 Hawaii State Constitution are the basis of our representative
3 democracy, and both documents declare that no person will be
4 deprived of life, liberty, or property without due process of
5 the law; and

6
7 WHEREAS, these founding documents reflect the essential
8 nature of presumed innocence, the right to a speedy public trial
9 before an impartial jury, other elements of effective due
10 process, and a commitment that no person will be exposed to
11 cruel and unusual punishment; and

12
13 WHEREAS, the language of sections 1021 and 1022 of the
14 National Defense Authorization Act (NDAA) on its face permits
15 indefinite military detention without public trial of any
16 person, including United States citizens on United States soil;
17 and

18
19 WHEREAS, the NDAA could authorize the indefinite military
20 detention of activists, journalists, lawyers, and other
21 Americans for no reason other than exercising their First
22 Amendment rights of free speech, assembly, and association, thus
23 chilling speech and depriving a person of the person's liberty;
24 and

25
26 WHEREAS, the indefinite military detention of any person
27 without trial violates the Fifth and Sixth Amendments of the
28 Constitution of the United States and Article III of the
29 Constitution of the United States; and

30
31 WHEREAS, the NDAA threatens to eliminate the promise of
32 presumed innocence and the right to a fair trial; and
33



1 WHEREAS, the NDAA's detention provisions could allow the
2 recurrence of torture in military detention in violation of the
3 Eighth Amendment; and

4
5 WHEREAS, the detention provisions could force United States
6 military service members to serve as domestic jailers, in
7 violation of the Posse Comitatus Act, an inappropriate role for
8 which they are not trained; and

9
10 WHEREAS, the Director of the Federal Bureau of
11 Investigation, the Secretary of Defense, the Director of
12 National Intelligence, the Department of Defense, and many of
13 our nation's generals, admirals, and service persons have
14 opposed the NDAA's detention provisions; and

15
16 WHEREAS, the State is committed to avoiding a repetition of
17 the tragedies and mistakes of history, including the
18 incarceration of Japanese Americans during World War II; and

19
20 WHEREAS, the families of Fred Korematsu, Minoru Yasui, and
21 Gordon Hirabayashi, Japanese Americans incarcerated in World War
22 II, filed an amicus brief with the United States Court of
23 Appeals for the Second Circuit in *Hedges v. Obama*, a lawsuit
24 that challenges the constitutionality of the NDAA's detention
25 provisions, arguing that, under the pretense of national
26 security, the NDAA essentially repeats the decisions in the
27 discredited World War II legal cases of *Korematsu*, *Yasui*, and
28 *Hirabayashi*, and allows the government to imprison people
29 without any due process rights for an indefinite time; now,
30 therefore,

31
32 BE IT RESOLVED by the House of Representatives of the
33 Twenty-seventh Legislature of the State of Hawaii, Regular
34 Session of 2013, the Senate concurring, that the Legislature
35 expresses its commitment to the rights and liberties enshrined
36 within the Constitution of the United States, including the
37 Fifth Amendment right to due process, the Sixth Amendment right
38 to trial, and the Eighth Amendment prohibition on cruel and
39 unusual punishment; and

40
41 BE IT FURTHER RESOLVED that public agencies of the State
42 and the counties are requested to decline requests by federal
43 agencies acting under detention powers granted by the NDAA or
44 any authorization of force that could infringe upon



