



**ROBERT F.
KENNEDY
HUMAN
RIGHTS**

SPEAK TRUTH TO POWER

**HUMAN RIGHTS
DEFENDERS WHO
ARE CHANGING
OUR WORLD**

**FRED T. KOREMATSU: YOUNG PEOPLE FIGHTING RACISM
IN THE JUSTICE SYSTEM (DURING CONFLICT)**

YOUNG PEOPLE FIGHTING RACISM IN THE JUSTICE SYSTEM (DURING CONFLICT)

9TH-12TH GRADE

OVERVIEW

Fred T. Korematsu was a national civil rights hero. In 1942, at the age of 23, he refused to go to the government's incarceration camps for Japanese Americans. After he was arrested and convicted of defying the government's order, he appealed his case all the way to the Supreme Court. In 1944, the Supreme Court ruled against him, arguing that the incarceration was justified due to military necessity.

–Korematsu Institute

<https://korematsuinstitute.org/freds-story/>

UNIVERSAL DECLARATION OF HUMAN RIGHTS

- **Article 1:** All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.
- **Article 2:** Right to Freedom from Discrimination
- **Article 3:** Right to Life, Liberty, and Security
- **Article 9:** Right to Freedom from Arbitrary Arrest
- **Article 30:** Freedom from State and Personal Interference

TIME REQUIREMENT

2-3 60 minute class periods

ENDURING UNDERSTANDINGS

- An individual can hold a government accountable for its treatment of its citizens.
- During times of war, human rights have been violated in the name of national security.
- Racism against the AAPI community before and during WWII led to the internment of Japanese Americans.
- The legal system is one that can either support or reject the defense of human rights.

ESSENTIAL QUESTIONS

- How can an individual fight for justice in a system that discriminates against them?
- What role does community play in advancing or impeding justice during unjust times?
- How does Japanese internment relate to Islamophobia and the current "War on Terror"?

AIM

How did Fred Korematsu defend his freedom from unjust internment and what does his fight reveal about the struggle for human rights during conflict?

DO NOW

Ask students what they think it 1) means to be an American citizen and 2) what rights are guaranteed to them under law. Brainstorm for 3-5 minutes and put answers on the board/create a word cloud. Notice which words are repeated by students. Anticipated responses for the question concerning what it means to be an American include: Freedom, Equality, Capitalism, Liberty, Democracy, Work ethic, Justice, Strength, Patriotism, Federalism

STUDENT ACTIVITIES

ACTIVITY 1

Who was Korematsu and what does his supreme court case reveal about who Americans were during World War II?

Watch the 4.5 minute video from BESE about Fred Korematsu.
<https://www.youtube.com/watch?v=4MXF2302fr8&list=PLJyAeFRsBNwVMB8L0IB9ug6GUAnlXvvZ5&index=18>

Questions for students to answer during and after in discussion are:

1. What happened to Fred Korematsu?
2. What was his crime?
3. Where is the evidence of racism in Korematsu's case?
4. How do we confront history that is uncomfortable and rejects our core values as we understand them? What do we do with Korematsu's case? How relevant is it to the world in which we live?
5. How did the Japanese-American community react to Korematsu's actions? Does this surprise you? Why or why not?
6. Quote: "Fred Korematsu was a young person growing up at a scary time in a changing country." You are all young people growing up at a scary time in a changing country. What stands out to you about Fred's story?

ACTIVITY 2

Primary Source Analysis: What are some policies in a war that protect individuals/the nation from espionage and/or sabotage?

Read Executive Order 9066, using it to answer the above question. After discussion, view the Civilian Exclusion Order and the map that accompanies it.

Executive Order 9066:
<https://www.pbs.org/childofcamp/history/eo9066.html>

Civilian Exclusion Order and Map:
https://americanhistory.si.edu/collections/search/object/nmah_1694663

After looking at the map: Are these orders constitutional? Why or why not?

CONCLUDING QUESTION

To what extent has justice been served?

Students can explore the following resources about the 1983 investigation and subsequent Civil Liberties Act of 1988 and President Clinton's statement. Questions for discussion: To what extent do these documents reflect justice? Is there a time limit on justice? To what extent should individuals fight for their rights even after the government denies them?

Resource 1: "Despite losing his case, history vindicated Mr. Korematsu. In 1983, as a result of evidence that the Solicitor General suppressed reports showing that the War Department exaggerated the threat posed by the Japanese population, a writ of coram nobis was granted, overturning Korematsu's conviction. Mr. Horsky later said that he also felt justified by the writ, since he had doubted the government's evidence and had always been troubled about losing Korematsu's case."
<http://www.courtexcellence.org/news-events/korematsu-v-united-states-1944>

Resource 2: Fred Korematsu Awarded Presidential Medal of Freedom video:
<https://www.c-span.org/video/?c4660995/fred-korematsu-awarded-presidential-medal-freedom>

Resource 3: Civil Liberties Act of 1988:
<https://www.pbs.org/childofcamp/history/clinton.html>

Resource 4: President Clinton's 1993 statement:
<https://www.pbs.org/childofcamp/history/clinton.html>

DAY 2

Connections between Korematsu's case and Islamophobia

Teacher introduces the lesson as follows: President Trump enacted a travel ban against 5 predominantly Muslim countries in 2016, which was upheld by the Supreme Court in a 5-4 decision in 2018. Many pundits compared the so-called "Muslim ban" to Japanese internment. President Biden revoked the Muslim ban upon taking office in January 2021. What can we learn from comparing these two periods in which people were excluded from access to America?

Watch the video:

<https://www.usatoday.com/videos/news/2019/01/02/trumps-travel-ban-compared-internment-japanese-americans/106466256/>

What similarities does Karen Korematsu see between Japanese internment during World War II and the treatment of Muslims post-9/11 and the travel ban? (racial profiling)

Read the New York Times article below and answer the question(s):

<https://www.nytimes.com/2018/04/16/us/politics/travel-ban-japanese-internment-trump-supreme-court.html>

Based on Korematsu, how should Americans have responded to the travel ban or continued Islamophobia in this country?

Travel Ban Case Is Shadowed by One of Supreme Court's Darkest Moments April 16, 2018



Demonstrators against President Trump's travel ban outside the Supreme Court last year. Al Drago for The New York Times

WASHINGTON — "I'm calling, very simply, for a shutdown of Muslims entering the United States," Donald J. Trump said on Dec. 8, 2015. It was early in his presidential campaign, and he was saying that sort of thing all the time.

On this occasion, though, he also cited a historical precedent. "Take a look at what F.D.R. did many years ago," Mr. Trump said. "He did the same thing."

President Franklin D. Roosevelt signed a 1942 executive order that sent more than 110,000 people of Japanese ancestry to internment camps.

Next week, the Supreme Court will hear arguments in a challenge to Mr. Trump's own executive order, one that restricted travel from eight nations, six of them predominantly Muslim. It is the last scheduled argument of a busy term, and it is very likely to yield a major statement on presidential power.

The justices... will act in the shadow of their own decision in Korematsu v. United States, which endorsed Roosevelt's 1942 order and is almost universally viewed as a shameful mistake. The challengers — Hawaii, several individuals and a Muslim group — took a different view. Mr. Trump's order, they said, was "the fulfillment of the president's promise to prohibit Muslim immigration to the United States."

A pair of supporting briefs, from children of Japanese-Americans held in the detention camps and several public interest groups, went further. They said Mr. Trump's latest travel ban is of a piece with Roosevelt's order.

"History teaches caution and skepticism when vague notions of national security are used to justify vast, unprecedented exclusionary measures that target disfavored classes," lawyers for the Japanese American Citizens League told the justices.

There are, of course, major differences between the two orders, as legal scholars have noted. Roosevelt's order applied to people living in the United States, many of them citizens, while Mr. Trump's order concerned nationals of other countries living abroad. (The countries initially included Iran, Libya, Syria, Yemen, Somalia, Chad, North Korea and Venezuela. Last week, the administration lifted restrictions on travel from Chad.)

In enforcing Roosevelt's order, moreover, the military singled out "persons of Japanese ancestry." Mr. Trump's order, by contrast, is neutral on its face, though it disproportionately affects Muslims.

Still, the legacy of the Korematsu decision figured in opinions in recent appeals court decisions blocking Mr. Trump's third and most considered travel ban, issued as a presidential proclamation in September.

The Korematsu decision occupies a curious place in the Supreme Court's jurisprudence, as a grave error that has never been formally disavowed.

Justice Antonin Scalia wrote that Korematsu ranks with Dred Scott, the 1857 decision that black slaves were property and not citizens, as among the court's most disastrous rulings.

In 1982, a congressional commission concluded that the internment of Japanese-Americans was "a grave injustice" animated by "race prejudice, war hysteria and a failure of political leadership." It added that "the decision in Korematsu lies overruled in the court of history."

But the Supreme Court has never overruled the decision. It remains, in the words of Justice Robert Jackson's dissent, "a loaded weapon, ready for the hand of any authority that can bring forward a plausible claim of an urgent need."

The supporting briefs in the new case, *Trump v. Hawaii*, No. 17-965, urged the justices to consider the similarities between the two executive orders. "Then, as now," one said, "the government pursued a mass exclusionary measure of sweeping and senseless scope." Both orders, the briefs said, relied on general characteristics like ancestry and nationality in the place of individualized scrutiny.

In defending the Japanese internment, the Justice Department told the Supreme Court that "the group as a whole contained an unknown number of persons who could not readily be singled out and who were a threat to the security of the nation." Mr. Trump's executive order bars entry of large numbers of people "about whom the United States lacks sufficient information to assess the risks they pose."

In 2011, Neal K. Katyal, then the acting United States solicitor general, issued a "confession of error" for the actions of government lawyers in the *Korematsu* case. Mr. Katyal now represents the challengers in the case against Mr. Trump's travel ban, and he may face an uphill fight next week. In December, the Supreme Court allowed the latest travel ban to take effect while the case moved forward, with only two justices noting dissents. But there is little doubt that all of the justices view the case as momentous. On Friday, the court announced that it would release an audio recording of the arguments shortly after they end. That is a rare step, one the court reserves for cases likely to face historical scrutiny.

After answering the essential question for the NYTimes article, view the photos below from HuffPost and answer the following questions: https://www.huffpost.com/entry/photos-interfaith-trump-muslim-ban_n_589a3af6e4b0c1284f29102d

1. Why do people stand up for the rights of Muslims today when they didn't stand up for the rights of Japanese Americans during the WWII era?
2. How has activism changed as a response to increasing nationalism and xenophobia?
3. What is the role of social media in advancing or impeding justice?

ABOUT THE AUTHORS



Meredith Joo attends King School in Stamford, CT, where she has been instrumental in planning ways to engage the student community in human and civil rights.



Lindsey Rossler, a lead educator for RFK Human Rights STTP, has been teaching for sixteen years and is currently a history teacher at King School in Stamford, Connecticut. She holds an MA from Teachers College at Columbia University, a BA in History and Political Science from Emory University, and a Certificate in Gifted Education from the University of Connecticut. She teaches World History, and advises student activities. She approaches teaching through the lens of how we treat one another, and focuses on student thinking, empathy, and defending human rights. Prior to teaching at King School, she taught Global History, Early American History, and college-level International Relations at Hunter College High School in New York City.