

**Topic:**

World War II and the Japanese Relocation

**Time:**

2 periods (with week-long follow-up)

**Historical Period:**

World War II (1944)

**Core:**

Utah 6100 - 0502  
US II 6250 - 0702, 0703, 0801  
Gov. 6210 - 0201

**Objectives:**

1. Students will understand the issues and arguments involved in the *Korematsu v. United States* (1944) case.
2. Students will use local newspapers to demonstrate an understanding of the Bill of Rights by categorizing various articles.

**Procedure:**

1. Read about World War II, its causes, the attack on Pearl Harbor, and the Declaration of War.
2. Read about the *Korematsu* case, Handout 1.
3. Have the students answer the questions.
4. Have students read Handout 2, Chronology of Events, and Executive Orders No. 9600 and 34.
5. Distribute Handouts 3 and 4, arguments for *Korematsu* and for the U. S. government. The students can fill out a case study sheet for the facts in the case and/or they may wish to keep a vocabulary list of words they do not know from the sheets for further discussion.
6. What do the students think was the Supreme Court's decision? Why?
7. Distribute Decision Sheet, Handout 5. Were the students surprised? If so, why? If not, why not?
8. Basically, was *Korematsu* denied certain rights as listed in our own Bill of Rights? If so, what are they?
9. Have students list the Ten Amendments in the Bill of Rights. Can they?
10. Now distribute a copy of the Bill of Rights, Handout 7, to refresh their memory.
11. Every day in the local newspapers are examples of the Bill of Rights. Have students collect articles on the Bill of Rights in action. The purpose is for students to see, in their own community, that the Constitution is alive and these rights are part of our every day lives.

**Handouts/Worksheets:**

1. *Toyosaburo Korematsu v. United States* (1944)
2. Executive Order 90644. Chronology Sheet on Events in early World War II
3. Arguments for *Korematsu*
4. Arguments for the United States Government
5. Decision Sheet: *United States v. Korematsu* (condensed)
6. Additional Cases: World War II and the Japanese Relocation
7. Copy of the Bill of Rights

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## **INTRODUCTION**

The relocation of Japanese-Americans during World War II continues to be a highly controversial episode in American history. This lesson asks students to examine Fred Korematsu's treatment by the United States government in light of the Bill of Rights.

Then, using newspapers, students are asked to consider the application of the Bill of Rights in our every day lives. A follow-up activity encourages interested students to follow the daily newspaper and realize how often issues raised by the Bill of Rights are significant in the news.

## HANDOUT 1

### *TOYOSABURO KOREMATSU v. UNITED STATES (1944)*

In early 1942, America was at war with Japan following the surprise attack on Pearl Harbor. Many Americans feared that Japan might invade the West Coast. At this time, 112,000 people of Japanese descent lived on the West Coast. People feared that some Japanese-Americans would become enemy agents.

Reacting to public pressure, President Roosevelt, with the approval of Congress, issued Executive Order No. 9066. This order authorized the military to declare regions of the West Coast as military zones. The military could thus relocate inland all people of Japanese descent--both U. S. citizens and aliens alike. These people were to be taken to mass relocation camps.

Fred Korematus was a U. S. citizen of Japanese descent who lived all of his life in California. When he received an order to report to a center in preparation for relocation, he refused to go.

Korematsu was arrested by U. S. military police and was convicted of refusing to obey the evacuation order. He was given five years probation and sent to a relocation camp in Utah.

Korematsu appealed his case to the U. S. Supreme Court. He argued that Executive Order No. 9066 was unconstitutional because it discriminated against Japanese-Americans solely on the basis of ancestry and without any evidence of disloyalty. He also said that he had been deprived of his Fifth Amendment rights of liberty and property "without due process of law."

#### **Questions for discussion:**

1. Was there any evidence that Korematsu was disloyal or a threat to U. S. security? Should the loyalty of Japanese-Americans have been a consideration in this case?
2. America was also at war with Italy and Germany. Why do you think German-Americans and Italian-Americans were not treated in the same manner as Japanese-Americans?
3. Should the government be able to exercise greater power to suspend the Bill of Rights during a time of war? Should it have greater power even when not at war if acting in the interest of national security?

**EXECUTIVE ORDER NO. 9066**

Issued by the President on February 9, 1942;  
passed by Congress on March 21, 1942.

The successful prosecution of the war requires every possible protection against espionage and against sabotage to national defense material, national defense premises, and national defense utilities. Military commanders may at their discretion prescribe military areas and define their extent. From these areas any and all persons may be excluded, and with respect to which, the right of any person to enter, remain, or leave shall be subject to whatever restrictions the military commander may impose at his discretion.

**CIVILIAN EXCLUSION ORDER NO. 34**

Issued March 24, 1942

Those of Japanese ancestry shall:

1. depart from Military Zone One,
2. report to and temporarily remain at an assembly center, and
3. go under military control to a relocation center there to remain for an indeterminate period until conditionally or unconditionally released.

Violation of Exclusion Order No. 34 shall be a misdemeanor punishable by \$5,000 fine or one year in jail, or both.

## HANDOUT 2

### CHRONOLOGY OF EVENTS

- December 8, 1941 U. S. declares war on Japan.
- February 19, 1942 President issues Executive Order No. 9066.
- February 20, 1942 Lt. General DeWitt is appointed Military Commander of the Western Defense Command.
- March 2, 1942 DeWitt creates Military Zones One and Two on the West Coast. Persons or classes or persons as the situation may require will be excluded from Military Zone One.
- March 2, 1942 Mr. Korematsu is put on notice that his residence is in Zone One.
- March 21, 1942 Congress enacts Executive Order No. 9066.
- March 24, 1942 DeWitt institutes in Zone One an 8:00 p.m. to 6:00 a.m. curfew for all persons of Japanese ancestry.
- March 24, 1942 DeWitt issues Exclusion Order No. 34.
- March 27, 1942 DeWitt orders that after March 29 no person of Japanese ancestry will be permitted to leave Military Zone One.
- May 3, 1942 Exclusion Order No. 34 is put into effect. Persons of Japanese ancestry are ordered to report on May 8 to a designated assembly center for relocation.
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## HANDOUT 3

### **ARGUMENTS FOR PETITIONER, TOYOSABURO KOREMATSU**

1. The orders violated the due process rights guaranteed to U. S. citizens by the Fifth and Fourteenth Amendments. Japanese-Americans had lost their liberty and their property without any kind of hearing or trial as required by the Constitution.
2. The order violated the Sixth Amendment procedural due process rights of citizens. There had been no charges against the Japanese-Americans; they were unable to call witnesses on their behalf; they had no attorneys and no juries to hear the facts and determine their guilt or innocence.
3. The orders violated the Fourteenth Amendment equal protection clause. Japanese-Americans had been treated as a class of citizens rather than individuals. This action was an act of racial discrimination, which the Fourteenth Amendment was designed to prevent. All citizens of the United States enjoy the equal protection of the law. The order affected thousands of Japanese-Americans who were not involved in sabotage. The government should have gone after those citizens it suspected of spying and not the entire group of Japanese-American citizens. Further, no similar action was taken against the German-Americans or Italian-Americans although the United States was at war with those countries, too.
4. The emergency could not be as extreme as Executive Order No. 9066 would lead one to believe. In times of grave national emergency, the President may request a declaration of martial law and citizens' rights may be temporarily curtailed. The President did not do this.
5. It took the government six months to take action to prevent sabotage by Japanese-Americans. The national emergency could not have been as extreme as the government said if it took that long to respond to the "threat."
6. The government failed to prove in any tribunal the disloyalty of Korematsu; therefore, the order is strictly discriminatory. The proper action of the government would have been to conduct loyalty hearings to screen individual Japanese-Americans.

## HANDOUT 4

### ARGUMENTS FOR RESPONDENT, U. S. GOVERNMENT

1. People of Japanese descent living in the Western United States posed the gravest danger to public safety because the nation was at war with Japan. The government has the power to protect itself and that power must be equal to the danger it faces. The government must protect itself from espionage and sabotage.
2. The removal orders issued by the President were issued with the authority of Congress. Congress had enacted Executive Order No. 9066 into law. When Congress declared war on Japan, it gave the U. S. President power to wage war. When the U. S. wages war, it expects to wage war successfully.
3. The government could not easily or quickly determine who among the Japanese-American population was disloyal to the United States. To hold a hearing for each individual would have been impossible; therefore, it was necessary to relocate the entire group.
4. The orders did not violate the Fourteenth Amendment. Precedent for this type of action had been set in a previous case, the *Hirabayashi* case. In *Hirabayashi*, the U. S. Supreme Court said imposing an evening curfew exclusively on Japanese-Americans was not a violation of the equal protection clause.
5. The action of the government must be judged solely in the context of war. At any other time, such an action might well be illegal.

**DECISION**  
***KOREMATSU v. UNITED STATES***

All legal restrictions that curtail the civil rights of a single racial group are immediately suspect and must be rigidly scrutinized, though not all of them are necessarily unconstitutional. Pressing public necessity may sometimes justify restrictions on civil rights of a single racial group, but racial antagonism never can. Compulsory exclusion of large groups of citizens from their homes, except under circumstances of direst emergency and peril, is inconsistent with our basic governmental institutions. When, under conditions of modern warfare, our shores are threatened by hostile forces, power to protect must be commensurate with the threatened danger. Exclusion of persons of Japanese ancestry, including citizens whose loyalty was not questioned, from the West Coast war area was within the war power of Congress and the executive as it related to the prevention of espionage and sabotage. The validity of this action under the war power must be judged wholly in the context of war. Like action in times of peace would be lawless.

**ADDITIONAL CASES**  
**WORLD WAR II AND THE JAPANESE RELOCATION**

Just after the Japanese attacked Pearl Harbor, three cases came before the Supreme Court concerning the denial of certain civil liberties toward a certain segment of citizens of the U. S. These cases are introduced for a better understanding of what was going on during World War II.

**Case 1:**

In 1943, Gordon Hirabayashi was an American citizen of Japanese ancestry. He was born in the United States and had never seen Japan. In his life, he had done nothing to suggest disloyalty to the U. S. Hirabayashi was arrested and convicted for violating General DeWitt's curfew order of February 19, 1942, and March 2, 1942, and for not registering at a control station in preparation for transportation to a detention camp.

The Supreme Court ruled unanimously to uphold the curfew law which placed "Japanese-Americans" in military areas. The Court affirmed the power of the President and Congress to do such a thing under the war powers expressed in the Constitution. Their actions did not violate the Fifth Amendment. The Court only ruled on the legality of the curfew order. It avoided the larger issue of the legality of holding American citizens in detention centers. As you read the *Korematsu* case, notice that the 6-3 decision against *Korematsu* did not really say whether or not the relocation of Japanese-Americans was constitutional. Rather, the Court side-stepped the touchy issue, emphasizing instead that the nation faced a time of crisis. Therefore, the *Hirabayashi* and *Korematsu* cases are similar.

**Case 2:**

In 1944, Mitsuye Endo was dismissed from her civil service job in California and ordered to a relocation center. She never attended a Japanese language school and could neither read nor write Japanese. She was a U. S. citizen with a brother serving in the U. S. Army. Miss Endo's attorney filed a writ of Habeas Corpus, contending that the War Relocation Authority had no right to detain a loyal American citizen who was innocent of all various allegations that the Army had used to justify evacuation. This time the Supreme Court ruled unanimously that Mitsuye Endo "should be released from custody." Justice Murphy added, "I am of the view that detention in Relocation Centers of persons of Japanese ancestry regardless of loyalty is not only unauthorized by Congress or the Executive, but is another example of the unconstitutional resort to racism inherent in the entire evacuation program . . . ." Shortly after the Court's decision in the case, Major General Pratt (Commander of the West Coast Military Area #1) ordered an end to the "exclusion orders . . ." Most of the Japanese-Americans were free to return home.

## **The Significance**

The Supreme Court allowed the Executive and Legislative branches of government to engage in behavior that surely would have been found unconstitutional in peacetime. In actuality, the Court avoided a key constitutional question: Can military authorities -- supported by acts of the President and Congress -- detain citizens (outside of a combat zone), who are charged with no crime, on grounds of defending the nation during wartime? The Court had set a dangerous precedent that supported the evacuation and detention of an unpopular minority during time of war. Could political reasons for denying these people their rights be underscored by military necessity? After all, why did America not do the same to the German and Italian-Americans during World War II?

## **Afterword**

Not one Japanese-American was found to be a spy for Japan during World War II. These Americans proved their loyalty to their country even though their families had been jailed without "due process of law."

In 1948, Congress agreed to pay back lost property by giving Japanese-Americans less than ten cents for each dollar they had lost. In 1980, Congress re-opened investigations into treatment of Japanese-Americans during World War II and created the Commission on Wartime Relocation and Internment of Civilians. After three years of investigation and 750 witnesses, the Commission issued its report on February 25, 1983, which said: "A grave injustice was done to American citizens and resident aliens of Japanese ancestry who, without individual review or any probative evidence against them, were excluded, removed and detained by the U. S. during World War II."

**AMENDMENTS TO THE CONSTITUTION OF THE  
UNITED STATES**

**THE BILL OF RIGHTS**

**AMENDMENT 1 (1791)**

**Freedom of religion, speech and press, peaceful assemblage; petition of grievances**

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people to peacefully assemble, and to petition the Government for a redress of grievances.

**AMENDMENT 2 (1791)**

**Right to bear arms**

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

**AMENDMENT 3 (1791)**

**Quartering of soldiers in homes**

No soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

**AMENDMENT 4 (1791)**

**Searches and seizures**

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

**AMENDMENT 5 (1791)**

**Capital crimes; double jeopardy; self incrimination; due process; just compensation for property**

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

**AMENDMENT 6 (1791)**

**Jury trial for crimes, and procedural rights**

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

**AMENDMENT 7 (1791)**

**Civil trials**

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

**AMENDMENT 8 (1791)**

**Excessive bail, fines, punishments**

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

**AMENDMENT 9 (1791)**

**Constitution of enumerated rights**

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

**AMENDMENT 10 (1791)**

**Reserved powers to the states**

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.