

Korematsu v. United States / Did the Court Err in Korematsu?

The internment of the Japanese descendants during World War II was devastating to many families. Most internees (people forced into internment camps) suffered significant financial and property losses. When they were evacuated, the internees were told they could bring only as many articles of clothing, toiletries, and other personal effects as they could carry with them.

To compensate these losses, on July 2, 1948, Congress passed the American Japanese Claims Act, which stated that all claims for war losses not presented within 18 months “shall be forever barred.” People had 18 months to file a claim or lose the opportunity. Approximately \$147 million in claims were submitted; 26,568 settlements to family groups totaling more than \$38 million were disbursed.

Beginning in the 1960s, a younger generation of Japanese Americans who were energized and inspired by the civil rights movement began what is known as the “redress movement.” This was an effort to get an official apology and reparations (compensation) from the federal government for interning their parents and grandparents during the war. The redress movement’s first success was in 1976, when President Gerald Ford publicly proclaimed that the evacuation was “wrong.”

Future presidents would continue to try to right the wrongs done to Japanese internees. In 1980, President Jimmy Carter set up a congressional commission to investigate Japanese internment during World War II. The Commission on Wartime Relocation and Internment of Civilians was directed to review the facts and circumstances surrounding Executive Order 9066 and determine the negative impact it had on American citizens and permanent resident aliens. In addition, the commission was to recommend appropriate remedies for the government’s actions.

The commission held 20 days of hearings in 1981. They listened to testimony from more than 750 witnesses including evacuees, government officials, historians, and other professionals. The commission also reviewed the records of government action, contemporary writings, and historical analyses.

On February 24, 1983, the commission issued an important report entitled “Personal Justice Denied.” The report condemned the internment as unjust and motivated by racism. The report stated there was no real military necessity for the internment. The commission concluded in its report that “the decision in *Korematsu* lies overruled in the court of history.” Later in the report, the commission stated that “*Korematsu* has not been [technically] overruled—we have not been so unfortunate that a repetition of the facts has occurred to give the Court that opportunity—but each part of the decision, questions of both factual review and legal principles, has been

discredited or abandoned.” The Commission suggested that the *Korematsu* judgment was an anomaly (something that deviates from the normal standard) in Supreme Court decision-making.

As a result of these conclusions, President Ronald Reagan signed the Civil Liberties Act of 1988, which provided redress of \$20,000 for each surviving detainee, totaling \$1.2 billion dollars. On September 27, 1992, the amendment of the Civil Liberties Act of 1988, and an additional \$400 million in benefits was signed into law by President George H. W. Bush, who also issued another formal apology from the U.S. government.

Other actions by the U.S. government since *Korematsu* support this view. President Bill Clinton sent a formal letter of apology to survivors of Japanese internment in 1993 with reparations.

These actions towards the internees and their descendants were taken at a time when the United States did not face a threat on United States soil. Since the events of September 11, 2001, debate over the *Korematsu* decision has once again ignited as the United States attempts to deal with the threat of terrorism. In 1998, before this terrorism threat fully surfaced, Chief Justice William Rehnquist wrote a book titled “All the Laws But One: Civil Liberties in Wartime.” In the book he discussed the balance that past governments have negotiated between security and civil liberties. In a speech given in 2000, Justice Rehnquist summed up a position supported by many that the Courts may need to give greater leeway to other branches of government in time of war in order to protect the country.

Forty years after his conviction, Fred Korematsu once again decided to challenge it in court. Korematsu’s conviction was overturned on November 10, 1983 by the U.S. District Court for the Northern District of California, the same court that had originally convicted him. The case was heard as a *coram nobis* case. A writ of *coram nobis* is a remedy used only in special circumstances to correct errors in a criminal conviction.

The court ruled that newly uncovered evidence proved the existence of a “manifest injustice” which—had it been known at the time—would probably have changed the Supreme Court’s decision. The recent decision was based on a series of documents recovered from the National Archives. They showed that the government had withheld important and relevant information from the Supreme Court. This information demonstrated that the U.S. Army had altered evidence to make it appear that Japanese Americans posed a greater threat of spying and disloyalty than they actually did.

It is important to note that the *coram nobis* decision overturned Korematsu’s conviction based on the faulty evidence, but it did not overturn the Supreme Court’s decision. However, in *Trump v. Hawaii* (2018), Chief Justice Roberts’ majority opinion stated, “Korematsu was gravely wrong the day it was decided, has been overruled in the court of history, and—to be clear—has no place in law under the Constitution (quoting Justice Jackson’s *Korematsu* dissent).” Justice Sotomayor in her dissent in *Trump v. Hawaii* (2018) noted, “the Court takes the important step of finally overruling *Korematsu*.”

