

## Legalized Racism: The Internment of Japanese Americans

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The internment of Japanese Americans in the West Coast during World War II grew out of rampant anti-Asian sentiment in the pre-war period. When war broke out between Japan and the United States, this racial hostility led to the rounding up and summary removal to prison camps of some 120,000 Japanese Americans, aliens and citizens alike, purely on the basis of race. Despite its racial foundations, at all times and at every turn, the internment was carried out under color of law, with judicial support against every challenge, most often without dissent. This is all the more remarkable because, on its face, the internment flouted nearly every provision of the Bill of Rights of the U.S. Constitution.

### *A History of Anti-Asian Racism*

Various nativist groups in the West had long sought the exclusion of Japanese Americans. In large part, the hostility was economic, as some white Americans resented competition from Japanese immigrants, particularly in agriculture. (Irons 1989 106) In California especially, organized interest groups stirred anti-Japanese passions; these groups included the Native Sons of the Golden West, the California State Grange, the American Legion, the Japanese Exclusion League, and the California State Federation of Labor. (Tateishi xiv) The press abetted anti-Asian sentiment, with headlines like “The Yellow Peril—How Japanese Crowd out the White Race.” (Irons 10)

The laws of the pre-War period reflected this anti-Asian bias. The Japanese arriving in the United States could not become citizens by naturalization, a privilege that was reserved to “free white persons” since 1790 (and extended after the Civil War to “persons of African descent” in 1870). (Aoki 39 n.9) Thus, first-generation Japanese Americans (known as *Issei*) were forever marked as “aliens,” and denied the rights of citizenship. The Fourteenth Amendment to the Constitution, however, granted citizenship to everyone born in the United States, and, accordingly, Japanese Americans born in the United States, known as *Nisei*, were U.S. citizens. In 1913, California passed an Alien Land Law, denying most non-white aliens the right to own land. (Hing, *Making and Remaking America* 30; Aoki 38) The

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exclusionists won another victory in 1924, when Congress prohibited outright the immigration of most non-white aliens, thereby adding Japanese to the list of already prohibited aliens such as Chinese and Asian Indians. (Takaki 209)

Since Japan's victory in the 1905 Russo-Japanese war, Japanese Americans had been portrayed as a subversive force—a potential “fifth column” of troops—that would assist an invading Japanese army. (Aoki 47-48) Indeed, fears about the lack of loyalty of Japanese Americans had led President Franklin D. Roosevelt to contemplate the internment of some Japanese-Americans as early as 1936. Concerned about contacts between Japanese merchant ships and Japanese Americans, President Roosevelt wrote in a memorandum to the Chief of Naval Operations on August 10, 1936: “every Japanese citizen or non-citizen on the island of Oahu who meets these Japanese ships or has any connection with their officers or men should be secretly but definitely identified and his or her name placed on a special list of those who would be the first to be placed in a concentration camp in the event of trouble.” (Irons 20)

#### *“An Enemy Race”*

With the Japanese attack on Pearl Harbor on December 7, 1941, concentration camps for Japanese Americans came closer to reality. Even though Japanese Americans were among those who had defended Pearl Harbor during the attack, hostility towards Japanese Americans increased sharply. Rumors spread of sabotage and espionage by Japanese Americans. Within hours of the attack, Federal Bureau of Investigation (FBI) agents arrested 737 Japanese aliens on the West Coast, as well a number of Germans and Italians. The Japanese individuals rounded up were Buddhist and Shinto priests, leaders of community organizations, newspapermen, martial arts instructors, travel agents, and Japanese language school teachers, all of whom had been identified as potential “subversives” in government surveillance in the years prior to the attack. (Irons 22, Takeishi xv; Irons 19; Chan 123) With these arrests and continuing surveillance of Japanese Americans, FBI Director J. Edgar Hoover reported to the White House his satisfaction with domestic security arrangements. (Takeishi xv) Hoover worried that “the army was getting a bit hysterical” in running to the press with its fears of Japanese sabotage. (Irons 28) He pointed out false alarms such as “the Bonneville Dam affair, where the power lines were sabotaged by cattle scratching their backs on the wires, or the ‘arrows of fire’ near Seattle, which [turned out to be] only a farmer burning brush as he had done for years.” (Irons 28)

Despite the lack of evidence of sabotage or espionage by Japanese Americans, political pressure grew to remove them from the West Coast. A government report released in January 1942 on the attack on Pearl Harbor stoked anti-Japanese fervor. Justice Owen Roberts' report asserted, without any documentation, that Japanese Hawaiians had gathered intelligence for Japan before the attack. (Irons 41) The report served as a useful tool for those who had long sought the racial cleansing of Japanese Americans from the West Coast. The managing secretary of the Salinas Vegetable Grower-Shipper Association, quoted in an article in the *Saturday Evening Post*, openly declared that the drive to oust Japanese Americans was based on racial and economic, not military, motives: "We're charged with wanting to get rid of the Japs for selfish reasons ... We do. It's a question of whether the white man lives on the West Coast or the brown man..." (*Korematsu* dissent n.12) The West Coast Congressional delegation pressured the government to remove Japanese Americans from the West Coast. (Irons 1989 108; Takeishi xv) California Governor Culbert Olson, Attorney General Earl Warren (who would later lead the Supreme Court in its pivotal *Brown v. Board of Education* years), and Los Angeles Mayor Fletcher Bowron all supported the "evacuation" of Japanese Americans. Newspapers joined the chorus, with the influential national commentator Walter Lippmann denouncing Japanese Americans as a "Fifth Column On the Coast." (Irons 60) The press and the politicians argued for the removal not only of Japanese aliens (the Issei), but also of American citizens of Japanese descent (the Nisei).

In Washington, the possible removal of Japanese Americans divided the Justice Department and the War Department. The War Department, led by Secretary Henry Stimson and Assistant Secretary John J. McCloy, supported the removal of Japanese Americans, in large part due to the determined efforts of military leaders Lieutenant General John L. DeWitt (head of the Western Defense Command), General Allen Gullion, and Major Karl Bendetsen. DeWitt framed the issue in decisively racial terms, describing Japanese Americans as "an enemy race." (Chan 125) Bendetsen turned the very lack of evidence of sabotage against Japanese Americans; he said, "[t]he very fact that no sabotage has taken place to date is a disturbing and confirming indication that such action will be taken." (Irons 59)

Attorney General Francis Biddle and Justice Department lawyers Edward Ennis and James Rowe were far more skeptical, concerned that any exclusion would run afoul of the Constitution. Biddle solicited the advice of three lawyers outside the Justice Department, Benjamin V. Cohen, Oscar Cox, and Joseph Rauh, on the constitutionality of the removal of Japanese Americans. (Irons 53)

These lawyers concluded that the removal would be constitutional because, to white Western (Occidental) people, all Japanese look alike: “Since the Occidental eye cannot readily distinguish one Japanese resident from another, effective surveillance of the movements of particular Japanese residents suspected of disloyalty is extremely difficult if not practically impossible.” (Irons 54) With Attorney General Biddle’s resolve weakened by this advice, President Roosevelt sided with the War Department and the military.

### *Exclusion and Resistance*

On February 19, 1942, with Executive Order 9066, the President granted the military the authority to control the lives of more than 100,000 Japanese Americans. That Order gave to the Secretary of War the power to prescribe military areas from which any or all persons could be excluded. Acting under this authority, General DeWitt designated California, Oregon, and Washington as Military Areas. Congress then strengthened the Executive Order by adding criminal penalties to it. On March 24, General DeWitt imposed a curfew in these zones on all German and Italian aliens, and *all* persons of Japanese ancestry, citizens as well as aliens. Initial ideas of a “voluntary migration” of Japanese Americans away from the West Coast quickly gave way to forced internment, as Exclusion Orders were issued, directing Japanese Americans to leave their homes and report to assembly centers. (Irons 70)

The curfew order took effect on March 28. That same day, Minoru Yasui, a graduate of the University of Oregon law school, walked into the Portland, Oregon police station, five hours after the 6 p.m. curfew deadline, and demanded to be arrested for a curfew violation. (Irons 81) This early act of defiance made Yasui the first challenger to the legality of the military orders. On May 12, Gordon Hirabayashi, a senior at the University of Washington, presented himself at the FBI office in Seattle. Openly violating an order to report to an assembly center, he handed the FBI agent a typed statement titled “Why I refuse to register for evacuation.” Similarly, Fred Korematsu, a young welder from Oakland, defied the exclusion order and was picked up by police on May 30, 1942. (Irons 93) While being detained at an assembly center awaiting relocation to an internment camp, Korematsu urged the American Civil Liberties Union to challenge his detention in court, and handed a visiting ACLU lawyer a written statement declaring that there were “many loyal aliens who can prove their loyalty to America, and they must be given fair trial and treatment!” He concluded, “Fred Korematsu’s Test Case may help.” (Irons 99) On July 12, 1942, Mitsuye Endo, a clerical worker in Sacramento, California, challenged the

constitutionality of her detention in the Tule Lake camp. Yasui, Hirabayashi, Korematsu, and Endo fought their cases all the way to the Supreme Court of the United States. Endo alone won her freedom.

The weakness of the government's claim that Japanese Americans presented a threat to this country can be readily seen in the experience of Japanese Hawaiians. Despite Hawaii's strategic location in the Pacific, Japanese Hawaiians did not face mass internment. Hawaii's multiracial society did not display the same racial animus experienced on the West Coast. Furthermore, Hawaii's military governor, General Delos Emmons resisted calls for mass internment. On December 21, 1941, he stated, "There is no intention or desire on the part of the federal authorities to operate mass concentration camps." (Takaki 380)

On the West Coast, however, notices began appearing on poles instructing Japanese Americans to report to "Control Stations." "Henry went to the Control Station to register the family," remembers internee Monica Sone. "He came home with twenty tags, all numbered '10710,' tags to be attached to each piece of baggage, and one to hang from our coat lapels." (Takaki 393) After registration, the military removed Japanese Americans on the West Coast to "Assembly Centers," mostly in inland California. Families were allowed to take with them only what they could carry. From the Assembly Centers, internees were relocated again, this time to internment camps in semi-desert areas further inland.

### *Behind Barbed Wire*

The Army hastily constructed internment camps in desolate inland areas of the West: Tule Lake and Manzanar, California; Minidoka, Idaho; Heart Mountain, Wyoming; Topaz, Utah; Poston and Gila River, Arizona; Amache, Colorado; and Rohwer and Jerome, Arkansas. (Chan 127) By November 1942, the forced removal to internment camps was complete. Each camp housed between 8,000 and 20,000 people. The barracks were blistering hot in the summer, and freezing cold in the winter. Entire families were housed in a room usually measuring 20 feet by 25 feet. (Chan 128) The communal bathrooms offered no partitions for privacy. (Chan 128) The bleak camps were encircled by barbed wire and guarded by military police in watchtowers. (Takaki 396)

Denied their liberty, internees expressed themselves in stories, poetry, essays, paintings, and even rock gardens. (Takaki 395) A few internees were permitted to leave the camps to attend college, and

others were employed outside the camps during the harvest season. (Chan 128) Internees were forbidden from practicing Shintoism or conducting Japanese language schools. (Chan 128)

At times, the internees demonstrated against their treatment. In November 1942 in Poston, Arizona, internees held a general strike when two internees were detained as suspects in the beating of a fellow internee. After five days, the authorities relented, dropping charges against one prisoner and releasing the second pending trial. (Chan 129) In Manzanar, California, on December 6, 1942, guards fired on a crowd of demonstrators, killing two internees. (Irons 193) Another fatal encounter occurred in spring 1943 in Topaz, Utah, when a sentry at a watchtower shot dead James Hatsuki Wakasa, 63 years old, as he walked toward the fence and did not stop upon command. (Inada 297-8; Chan 129)

### *The No-No Boys and the Japanese American Soldiers*

After having expelled Japanese Americans from the West Coast as potential traitors, the government decided in early 1943, despite the obvious inconsistency, to form an all-Japanese American combat unit. To find candidates for the unit, it forced internees to submit to a loyalty questionnaire. Questions 27 and 28 asked each internee to “forswear any form of allegiance or obedience to the Japanese emperor” and to affirm his or her willingness “to serve in the armed forces of the United States on combat duty.” (Irons 201) Many objected to a questionnaire that seemed to presume their loyalty to Japan, while others were outraged at being asked to fight for a country that had imprisoned them without cause. (Tateishi xxiii) The “no-no boys” who answered no to each of these questions were either deported to Japan or transferred to the harsh Tule Lake camp in California. (Tateishi xxiii)

Other young Japanese Americans saw military service as a way to demonstrate their loyalty to a disbelieving nation, even at the price of their lives. They formed the 442<sup>nd</sup> Regimental Combat Team, which became the most decorated combat unit of World War II. (Irons 1989 105) Hawaiian Japanese formed their own unit, the 100<sup>th</sup> Battalion, which fought bravely in campaigns in Northern Africa and Italy, suffering enough casualties to be nicknamed the “Purple Heart Battalion.” (Takaki 399) By the end of the war, 33,000 Japanese Americans had served in the U.S. military. (Takaki 399)

### *“I Am Chinese”*

The hostility towards Japanese Americans led other Asian Americans to take efforts to distinguish themselves, lest they become targets. Many people took to wearing buttons declaring “I am Chinese,” “I am Filipino,” or “I am Korean.”

The war against Japan impacted Asian Americans in other ways as well. In appealing to other Asian nations for support, Japan sought to exploit America’s racism against Asian Americans. Testifying before Congress, Professor Taraknath Das, an immigrant from India, noted the difficulty in the U.S. position, and warned that “[a]s long as Anglo-American powers would continue to practice racial discrimination against the peoples of the Orient, a vast majority of the orientals will not have any genuine confidence in the professions of promotion of world democracy and world brotherhood.” (Takaki 377) Concerned about the Japanese effort to unite “the oriental world,” Congress rescinded in late 1943 its prohibition on Chinese immigration, hoping thereby to demonstrate America’s openness to non-Japanese Asians. (Takaki 378) But even this Congress did half-heartedly, allowing only 105 Chinese people to immigrate each year. (Takaki 378)

### *Legal Challenges*

Minoru Yasui, Gordon Hirabayashi, Fred Korematsu, and Mitsuye Endo challenged their treatment all the way to the Supreme Court. In *Hirabayashi v. United States*, decided in June 1943, the Court deployed the history of anti-Japanese law against Japanese Americans themselves, reasoning that these laws would have left Japanese-Americans embittered against the United States. (*Hirabayashi* opinion) Acting unanimously, the Court upheld the constitutionality of a military curfew applicable only to Japanese Americans, and on the same day rejected both Hirabayashi’s and Yasui’s petitions.

In December 1944, the Court ruled on the constitutionality of the exclusion of Japanese Americans from the West Coast. The Court began its decision in *Korematsu v. United States* by announcing the new “strict scrutiny” standard by which all racial classifications are to be judged (and by which they have been judged subsequently). (*Korematsu* opinion) The Court went on to conclude, however, that the selection of people of the Japanese race for expulsion from the West Coast withstood such demanding scrutiny because of military “necessity.” (*Korematsu* opinion) As Fred Korematsu later proved in

federal court in 1984 in a proceeding vacating his World War II conviction, the Government had deliberately misled the Supreme Court in 1944 with respect to the evidence justifying the exclusion. Three Justices dissented from the 1944 Supreme Court decision, with Justice Roberts summarizing the case as one of “convicting a citizen as a punishment for not submitting to imprisonment in a concentration camp.” (*Korematsu* opinion)

Mitsuye Endo, alone among the four challengers to the high court, won her freedom. Relying upon a narrow reading of the Presidential and Congressional authority for the exclusion of Japanese Americans, the Court unanimously ordered the release of Endo, whom the government itself had conceded was loyal.

### *Coming Home*

The U.S. naval victory in the Battle of Midway in June 1942 had ended any realistic threat of Japanese invasion. (Rehnquist 188) By May 1943, the War Department had concluded that the internment of loyal Japanese Americans could no longer be justified. Yet, the internment was not undone until December 1944, despite some concern that the continued internment “would be a blot in the history of this country.” (Commission 228) President Roosevelt, who waited till after the November 1944 election to end the internment, offered his vision of a dispersed Japanese population: “75 thousand families scattered all around the United States is not going to upset anybody.” (Takaki 404)

Coming home proved difficult, as some internees felt the shame of being interned, or the burden of starting over, or the fright of reintegration into a majority society that had marked them as possible traitors and imprisoned them. (Commission 241) Often the possessions they had stored had been stolen or lost. (Commission 241) Signs declaring “No Japs allowed” were widespread. Many of those who had run their own businesses now found themselves as employees of others, often in menial positions. (Commission 242) The Issei who would have otherwise retired found they had to work. (Commission 242)

### *“The Legalization of Racism”*

Many have sought recently to excuse the internment as reasonable given the information available at the time. But this claim is belied by the fact that some observers denounced—during the War itself—the internment as militarily unnecessary. Yale Law Professor Eugene Rostow concluded in an article published in 1945 that the



internment rested, not on military needs, but on “race prejudice.”  
(Rostow) Dissenting from the Supreme Court’s decision in  
*Korematsu* in 1944, Justice Murphy labeled the internment the  
“legalization of racism.” (*Korematsu* opinion)

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## Case Excerpt

*Korematsu v. United States*, 323 U.S. 214 (1944)  
Mr. Justice MURPHY, dissenting.

This exclusion of 'all persons of Japanese ancestry, both alien and non-alien,' from the Pacific Coast area on a plea of military necessity in the absence of martial law ought not to be approved. Such exclusion goes over 'the very brink of constitutional power' and falls into the ugly abyss of racism.

... [T]his forced exclusion was the result in good measure of this erroneous assumption of racial guilt rather than bona fide military necessity...

Justification for the exclusion is sought, instead, mainly upon questionable racial and sociological grounds not ordinarily within the realm of expert military judgment, supplemented by certain semi-military conclusions drawn from an unwarranted use of circumstantial evidence. Individuals of Japanese ancestry are condemned because they are said to be 'a large, unassimilated, tightly knit racial group, bound to an enemy nation by strong ties of race, culture, custom and religion.' They are claimed to be given to 'emperor worshipping ceremonies' and to 'dual citizenship.' Japanese language schools and allegedly pro-Japanese organizations are cited as evidence of possible group disloyalty, together with facts as to certain persons being educated and residing at length in Japan...

[T]he retention by some persons of certain customs and religious practices of their ancestors is no criterion of their loyalty to the United States....

I dissent, therefore, from this legalization of racism... All residents of this nation are kin in some way by blood or culture to a foreign land. Yet they are primarily and necessarily a part of the new and distinct civilization of the United States. They must accordingly be treated at all times as the heirs of the American experiment and as entitled to all the rights and freedoms guaranteed by the Constitution.