



Dangerous Precedent: The Korematsu Case

The Court for all time has validated the principle of racial discrimination. ... The principle then lies about like a loaded weapon ready for the hand of any authority that can bring forward a plausible claim of an urgent need."

-- Supreme Court Justice Robert Jackson, *Korematsu v. United States*, 1944

"I think we will have a return to Korematsu. ... If there's another terrorist attack and if it's from certain ethnicities that the terrorists are from, you can forget about civil rights in this country. ... Not too many people will be crying in their beer if there are more detentions, more stops, more profiling."

-- Civil Rights Commissioner Peter Kirsanow, 2002

"History doesn't repeat itself. People repeat history."

-- Nadin Hamoui, 2003



Store sold by Japanese American family, Oakland, California, March 13, 1942. Courtesy of National Archives and Records Administration.

Since the 1970s Japanese Americans have marked February 19, 1942 -- the date President Roosevelt signed Executive Order 9066 -- with Day of Remembrance programs commemorating the wartime incarceration. Some might question the value of observing such a sad day in history, years after the federal government apologized for the wrongful mass imprisonment.

One young woman can say why the incarceration should be remembered. Nadin Hamoui, who as a child left Syria with her family in search of political asylum, spoke at a well-attended Day of Remembrance event hosted by Densho at Seattle's Town Hall. Like thousands of Japanese Americans sixty years earlier, the Hamouis felt the force of ethnic suspicion backed by federal authority. The mother, father, and daughter were taken from their home by FBI agents and detained for nearly a year. Released after much public pressure, the family is still threatened with deportation.

The keynote speaker at the event, attorney Dale Minami, noted the disturbing recurrence of government assertions that "ethnic affiliations determine loyalty." He pointed to the ominous resurrection of the 1944 case *Korematsu v. United States*, in which the Supreme Court accepted the army's unproven argument of military necessity as grounds to imprison an entire racial group without due process.

"We should not be fighting the war against terrorism abroad only to lose the battle for civil rights at home."

--Dale Minami

When Minami and other volunteer attorneys successfully reopened the *Korematsu* case in 1983, Federal District Judge Marilyn Hall Patel declared, "*Korematsu* stands as a caution that in times of international hostility our institutions -- legislative, executive and judicial -- must be prepared to exercise their authority to protect all citizens from petty fears and prejudices that are so easily aroused."

The Supreme Court's decision in *Korematsu* has been discredited but never overruled. One Supreme Court justice warned that it lies "like a loaded weapon." The current administration has picked up that weapon, citing *Korematsu* as legal precedent to indefinitely detain immigrants from suspect countries. Now is the time to guard against prejudices.

DEAR FRIENDS,

This spring *Densho* is entering an exciting new phase. Our focus on Seattle's Japanese American heritage will widen to include helping other communities around the country secure the Japanese American legacy. Various groups have expressed enthusiasm about working with *Densho* and combining the oral histories in a national collection.

Staff are pushing ahead with projects. We are producing in-depth interviews, conducting innovative teacher workshops, and creating our first bilingual educational unit featuring the art of Roger Shimomura.

For all of these initiatives, we ask your support. These are tough times for nonprofit organizations. *Densho* has benefited from generous donations, but we are not immune to shrinking funding. We've had to make budget cuts, resulting in fewer interviews and reduced salaries while we seek new sources of income. We rely on the generosity of individuals like you who share our faith in the power of the past to enlighten the future.

Best wishes,

Tom Ikeda
Executive Director



From the Archive



Tule Lake camp, California, 1943. Courtesy of National Archives and Records Administration.

"Power takes so many different forms. Power comes out of the barrel of a gun. Power comes from voting....The Korematsu case was a case about power. It wasn't a case about justice and law."

– Dale Minami

San Francisco attorney Dale Minami, in his recent interview for the Densho archive, recalls his decision in the 1980s to help challenge *Korematsu v. United States*, the 1944 Supreme Court case that validated the World War II mass incarceration. After suppressed evidence was discovered by legal researchers, Minami and a team of volunteer lawyers fought to reopen the case, along with the other Supreme Court challenges brought by Gordon Hirabayashi and Minoru Yasui. As Minami declares, the team discredited the government's false justification for the mass incarceration:

"The plausible claim of urgent need, of military necessity can be an outright lie. We proved that in court."

Minami pursued justice despite his early skeptical appraisal of the case as a law student in Berkeley: "What I came away with is that the rule of law as absolute justice or absolute values is a total myth. The rule of neutral impartial arbitrators, like judges, is a myth and that there are values beyond law that drive justice."

"It is our political birthright to dissent, our historical legacy. It is our duty as Americans."

We can all be grateful that Dale Minami and his fellow activists believed in values beyond law. Legislation is enacted by fallible humans who are as susceptible to fear, pressure, and prejudice as any of us. Misguided authorities may have the power to restrict individual freedoms in the name of security, but ordinary citizens have the power to demand that the government respect their constitutional rights, in peace and, too often, in war.

Gordon Hirabayashi served jail time for defying the curfew and exclusion orders. In 1943 the Supreme Court upheld his convictions; in 1986 a court of appeals reversed them, stating the wartime orders were racist. Though sure of his moral stance, he was concerned about his parents, who were held at Tule Lake, California.

My mother used to write me once a week. She said when she arrived at Tule Lake, a knock came. And there were two ladies, shoes dusty. They had walked from the other end of camp. They said, "We heard that the family of the boy that's in jail is arriving today. So we came out to welcome you and to say thank you for your son." And when I read that, I experienced a sudden removal of weight on my shoulders, which I didn't realize I was carrying, ever since my mother pled with me. She said, "I admire what you've done. I agree with you. But if we get separated now, we may never see each other again. If the government could do this, it could keep us apart. So, please, come with us." And I said, "I'd like to, but... I just can't go. I wouldn't be the same person if I went now because I, I took a stand, and I can't give it up." Even tears couldn't change my views. But it gave me a sense of guilt, failing to respond as a dutiful son. That letter gave me a big lift. Lots of peculiar encouragement came during my experience of taking a stand. And I've had no occasion to regret the stand.



From *An American Diary*, Roger Shimomura, 1997. Courtesy of the artist.

AN AMERICAN DIARY: NEW EDUCATIONAL UNIT

Artwork chronicling one family's memories of the wartime incarceration forms the heart of an innovative educational website Densho will unveil this summer. The artist Roger Shimomura, who was imprisoned at Minidoka, Idaho, as a three year old,

found inspiration in his grandmother's journals for the series *An American Diary*. In ironic commentary, Shimomura plays on the uneasy convergence of Japanese culture and American identity -- a Baby Ruth candy bar rests next to a bowl of udon, and Dick Tracy spies on the grandmother who must register with the government after Pearl Harbor.

In this bilingual multimedia website, students will view the vivid paintings, accompanied by comments from the artist, childhood memories from World War II, and remarks by contemporary teenagers. Teachers everywhere can print an accompanying resource guide from the website, and teacher-training workshops will be held in the Seattle area. Interdisciplinary classroom activities encourage students to consider the past injustice of the camps in relation to their own life experiences.

The website is made possible by a generous grant from the United States - Japan Foundation. This program is funded in part by grants from the Washington State Arts Commission and the National Endowment for the Arts.



BEHIND THE SCENES SUPPORT

By means of the Internet, Densho delivers interviews, photos, and curriculum to some 5,000 users per month around the globe. We rely on cash and in-kind support to acquire the necessary equipment and Internet services. We gratefully acknowledge grants and donated services from The Seattle Foundation, Digital Forest, Real Networks, and the Cultural Development Authority of King County.



REACHING OUT TO TEACHERS

This spring and summer Densho is conducting teacher-training workshops to demonstrate a creative multimedia lesson on the causes of the Japanese American incarceration. In day-long sessions teachers receive instruction and materials needed to adapt a multimedia presentation for their classrooms. They also learn about the rich curriculum and archive of interviews and images available on the Densho website. Interested teachers should contact the Densho office for details. This educational outreach program is funded by the Cultural Development Authority of King County and the Washington Civil Liberties Public Education Program.



GIVING OPPORTUNITIES

Precious firsthand stories of American history will educate tomorrow's schoolchildren, thanks to far-sighted individuals like you. Please make a tax-deductible gift to Densho through one of these means:

Annual giving

To make your gift by mail, send your check or credit card number to Densho, 1416 South Jackson Street, Seattle, WA 98144-2023. To receive acknowledgment, include your mailing address, phone number, and how you wish your name to appear in a donors list.

Pledges

Pledging a contribution by installment is an excellent means of sustaining support. You can specify the length of the pledge period, frequency of payments, and method of payment.

Employer matching

Many companies encourage philanthropy by matching their employees' donations. Please check with your employer about its matching-gift guidelines. The power of your gift could be doubled.

Tribute gifts

Mark a happy occasion such as a birthday or anniversary with a tribute gift, or honor the life of a deceased friend or family member with a memorial gift to Densho. And please consider remembering Densho in your will.

Stocks and securities

By contributing appreciated stocks or other assets, you can benefit at tax time. For details about donating stock, contact Diana Hendrickson of Salomon Smith Barney at 206-628-4437 or by email at diana.l.hendrickson@smithbarney.com.

In-kind gifts

Gifts of goods and services help us carry out our work. We are indebted to professionals and community members who donate their skills. If you wish to donate items that would be useful in our work, please let us know.

Annual fundraising event

The Densho golf tournament and dinner auction will be held on Wednesday, September 10, 2003, at the Golf Club at Newcastle, Washington. We welcome donations of suitable items for auction. Contact Leslie Arai (leslie.arai@densho.org) for more information about attending or sponsoring this festive event.



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Preserving the past, informing the future

Densho is a 501(c)(3) nonprofit organization founded in 1996 with the mission to educate, preserve, collaborate, and inspire action for equity. Densho (meaning “to pass on to future generations”) is building a digital archive of life stories and historical images that document the incarceration of Japanese Americans during World War II. The archive and related curriculum on the public website (www.densho.org) promote respect for civil liberties and social justice.

Visit the Densho website at
www.densho.org



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