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A Japanese-American Internment Icon's Legacy and the Civil Rights Movement

by William Fisher

NEW YORK -- The Japanese-American who waited 40 years for justice is dead.

Fred Korematsu, hailed by many as the Rosa Parks (a heroine of the African American civil rights movement) of World War II, passed away Wednesday in the northern California community of Larkspur. He was 86.

The beginning of Korematsu's battle began in a jail cell in Oakland, California. It passed through defeat after defeat in US courts all the way to the Supreme Court, and ended with his total exoneration -- and the award of the Presidential Medal of Honor.

In between was one of the most egregious chapters in the history of US civil rights.

In February 1942, following Japan's December 7, 1941, attack on Pearl Harbor, then president Franklin D Roosevelt authorized the internment of 120,000 US residents of Japanese ancestry. Citizens and non-citizens alike were shipped off to camps.

But Korematsu refused to surrender. While his parents were sent off to internment, he was arrested, tried, convicted and jailed. In 1944, Roosevelt's order was upheld by the US Supreme Court.

Enter Ernest Besig, a lawyer and executive director of the American Civil Liberties Union of Northern California. Besig wanted to find a case that would test the constitutionality of internment. He came up with Korematsu's US\$5,000 bail, but the military police refused to release him.

Instead, he was taken to a racetrack, which was serving as a staging area for Japanese-Americans. He slept in a horse stall and later was sent to a camp in Topaz, Utah.

Meanwhile, his case was wending its way through the courts, and eventually all legal avenues had been exhausted. Internment ended in 1944, and Korematsu returned to San Francisco. He raised a family and worked as a draftsman. But his felony conviction kept him from getting a job at a large firm or with the government.

Then in 1981 a legal historian, Peter H Irons, asked the Justice Department to provide the original documents in the case. There he discovered that the lawyer who had argued the Korematsu case for the government had lied to the Supreme Court.

Two years later, the case was reopened. Korematsu was offered a pardon, which he refused. He wanted a new trial. Soon afterward, a federal court ruled that Korematsu had been tried based on flawed evidence and his conviction was overturned.

Thus, Korematsu provided the coda for a dark chapter in US legal history.

Five years later, president Gerald R Ford decried the internment as a "national mistake". In 1983, a unanimous federal commission found that the internment policies were not a matter of military necessity, and were based on "race prejudice, war hysteria and a failure of political leadership".

Five years later, president Ronald Reagan called the internment a "grave injustice" and authorized reparations of \$20,000 each to thousands of surviving internees, including Korematsu. In 1999, president Bill Clinton awarded Korematsu a Presidential Medal of Freedom, the nation's highest civilian honor.

"In the long history of our country's constant search for justice, some names of ordinary citizens stand for millions of souls -- Plessy, Brown, Parks," Clinton said, citing famous civil rights cases. "To that distinguished list today we add the name of Fred Korematsu."

The "Plessy" Clinton referred to was Homer Plessy, a 30-year old shoemaker, who was jailed in 1890 for sitting in the "whites only" car of the East Louisiana Railroad.

In a sign of the racial obsessions of the time, Plessy was described as a mix of "seven-eighths white" and "one-eighths black". This made him officially "black" under Louisiana law and, therefore, required him to sit in the "colored" car.

He took his case all the way to the US Supreme Court, arguing that the law was unconstitutional. The court found against him, and it would not be until 1954 that the court would rule that "separate but equal" would no longer be the law of the land.

That decision, known as Brown v Board of Education, involved a third-grader named Linda Brown, who had to walk one mile in Topeka, Kansas, through a railroad switchyard to get to her all-black elementary school, even though a white elementary school was only seven blocks away.

Linda's father, Oliver Brown, tried to enroll her in the white elementary school, but the principal of the school refused. With the help of Topeka's branch of the National Association for the Advancement of Colored People (NAACP), in 1951 little Linda Brown sued the Topeka Board of Education.

At the trial, the NAACP argued that segregated schools sent the message to black children that they were inferior to whites; therefore, the schools were inherently unequal.

The case went all the way to the Supreme Court, which said in a unanimous 1954 ruling, "We conclude that in the field of public education the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal."

Leading Linda Brown's legal team was Thurgood Marshall, who later became the first black justice of the US Supreme Court.

Rosa Parks, who has been called the "mother of the civil rights movement", was a seamstress in Montgomery, Alabama when, in December of 1955, she refused to give up her seat on a city bus to a white passenger.

The bus driver had her arrested, and she was tried and convicted of violating a local ordinance. Her act sparked a citywide boycott of the bus system by blacks that lasted more than a year. The boycott raised an unknown clergyman named Martin Luther King, Jr, to national prominence and resulted in the US Supreme Court decision outlawing segregation on city buses.

For Korematsu, however, it was deja vu all over again in April 2004, when the question before the Supreme Court was whether US courts could review challenges to the imprisonment of "enemy combatants" held at Guantanamo Bay Naval Station in Cuba after the terrorist attacks of September 11, 2001.

Korematsu, then 84, filed a friend-of-the-court brief saying, "The extreme nature of the government's position is all too familiar."

In the end, the Supreme Court ruled that the Bush administration's policy of detaining foreign nationals without legal process at Guantanamo Bay was unconstitutional.

"There are Arab Americans today who are going through what Japanese-Americans experienced years ago, and we can't let that happen again," said Korematsu.

Dorothy Ehrlich, executive director of the American Civil Liberties Union of Northern California, told IPS, "If it had not been for Fred Korematsu, the internment of Japanese Americans during World War II -- this most shameful chapter in America's history -- would have been just a footnote in our history books."

"His actions have served to open the hearts and minds of an entire generation. In the aftermath of September 11, our ability to protect civil liberties has been strengthened immeasurably by the courageous actions of this one man, who some 60 years ago, quietly stood up for his constitutional rights."

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