

Celebrating Korematsu Day in New Jersey

By Rose Cuisson-Villazor,
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On Dec. 19, 2022, the New Jersey Senate passed NJ Assembly Joint Resolution 98, a bill to establish January 30 of each year as “Fred Korematsu Day of Civil Liberties and the Constitution of New Jersey.” The bill previously passed the NJ State Assembly last February 28th, so it now goes to Gov. Phil Murphy for his signature. While state and local entities such as California, Florida, and New York City have held their own celebrations of Fred Korematsu before, the first New Jersey state-wide celebration of Korematsu, civil liberties and the Constitution will take place on Jan. 30, 2023.

While Korematsu never lived in New Jersey, his case is part of a decades-long struggle by the nation’s Asian American and Pacific Islander (AAPI) community to have its history reflected in K-12 classrooms, college curricula, the legal academy, and the legal profession. For example, in April 2022, Rutgers Law School and the Asian American Legal Defense and Education Fund (AALDEF) provided a Continuing Legal Education (CLE) program focused on ways that lawyers of any background could address the ongoing scourge of anti-Asian violence.

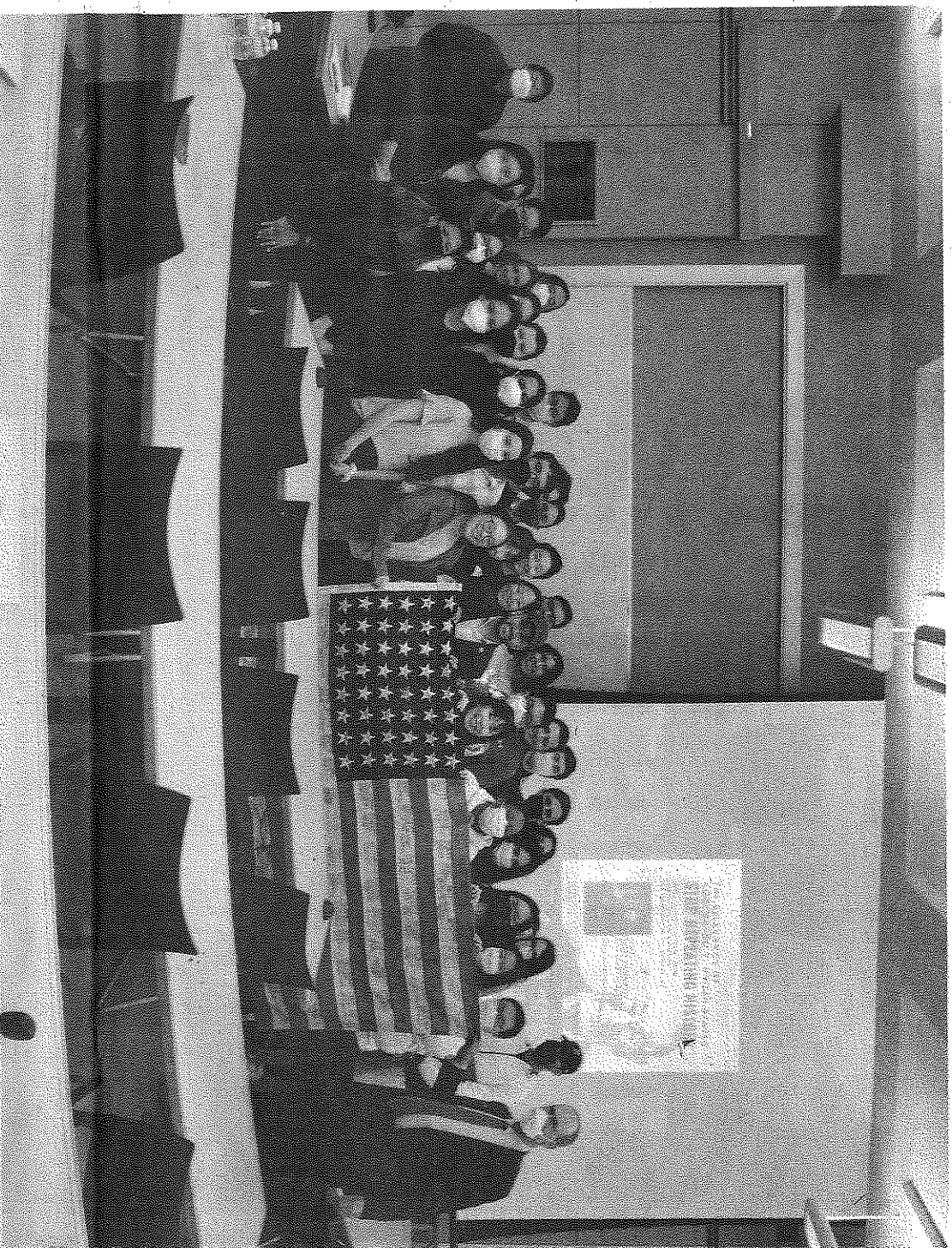
Since the 1940s, every law student has heard Korematsu’s name because of his landmark Supreme Court case, but not all know the backstory that has led to a nation-wide movement, spearheaded by the Fred T. Korematsu Institute in California, to have every state honor him on his January 30th birthday.

After Japanese forces attacked Pearl Harbor on Dec. 7, 1941, President Roosevelt issued Executive Order 9066 on Feb. 19, 1942, authorizing the War Department to create military areas from which Americans might be excluded. The Army’s Western Defense Command then ordered “all persons of Japanese ancestry, including aliens and non-aliens” to leave so-called “Exclusion Zones” on the West Coast, and report to so-called “internment camps” (but which contemporary government leaders themselves referred to as “concentration camps”). Two-thirds of the Japanese Americans affected by this order were, like Fred Korematsu, American citizens by birth.

Korematsu was a 23-year-old Japanese American man living near San Francisco when Executive Order 9066 was issued. He understood the difficult-

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DR. KAREN KOREMATSU, FOUNDER AND EXECUTIVE DIRECTOR OF THE FRED T. KOREMATSU INSTITUTE, AFTER SPEAKING TO RUTGERS LAW STUDENTS ABOUT HER FATHER’S LEGACY, ON APRIL 13, 2022.

ties he faced if he challenged the government’s actions, but he felt that the Executive Order was unconstitutional and was willing to disobey government orders and face the consequences.

After his arrest, Korematsu’s lawyers asserted that his Fifth Amendment rights had been violated, but he was

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still convicted, given a sentence of five years on probation, and ordered to report to the camps, with other Japanese Americans. The Supreme Court of the United States ruled that, while it was Constitutionally suspect, Korematsu’s compulsory exclusion from the West Coast was justified based on a “military necessity” that existed in a time of “emergency and peril.”

For the next 40 years, Korematsu’s conviction meant that he could not get jobs for which he was qualified. In the early 1980s, however, evidence was discovered that 1940s government lawyers deliberately suppressed

and altered government reports that showed that Japanese Americans were not a security risk at the time that Executive Order 9066 was being issued. A legal team of Japanese American lawyers represented Korematsu and two other Japanese Americans, Gordon Hirabayashi and Minoru Yasui who, like him, had resisted laws that discriminated against Japanese and were convicted of violating those laws. Using the writ of coram nobis, Korematsu’s lawyers successfully had his conviction vacated by a District Court in San Francisco in 1983.

Korematsu’s life trajectory represents both the worst and best that this country has to offer. Through tenacity, intelligence, compassion, and many years of work with a broad network of friends and allies, Korematsu was able to make our legal system replace injustice with justice and exclusion with inclusion. And he didn’t stop when his own conviction was vacated in 1983. Korematsu continued for another two decades advocating for civil liberties and adherence to Constitutional norms for everyone. After the 911 attacks in 2001, for example, Korematsu was outspoken in defending Muslim Americans from being incarcerated en masse. He lent his name to amicus briefs and spoke at many law schools, legal groups, and public forums over several decades to remind all of us that liberty is fragile, especially in times of war or turmoil.

Like many other New Jersey teachers, parents, community lead-

ers, and education groups such as Make Us Visible NJ, we plan to teach about and publicize Fred Korematsu’s life on January 30th, and we urge our colleagues at the K-12, college and law school levels to do the same. Meanwhile, it is imperative that New Jersey’s pathbreaking law to require the teaching of Asian American and Pacific Islander history in K-12 classrooms be strengthened by the allocation of state funds to help school districts conduct curriculum reviews, train teachers, and purchase resources. Korematsu’s story is important, but so are the histories of the rest of the diverse AAPI community here in New Jersey and nationwide.

Every student needs heroes who have been willing to fight for the guarantees of the Constitution, and who have had the vision to see that none of us has a guarantee of personal liberty unless we are willing to defend that guarantee for everyone else as well. By that standard, Fred Korematsu should be celebrated on January 30th—and every day. ■

Opinion Submissions

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