# Round 1 v UCO VY

## 1ac

### Contention 1: Internment

#### The internment cases create a legal precedent for indefinite detention under the basis of race – a racist decision continues to have legal legacy.

Harris, University of Pittsburgh law professor, 11

[David, 76 Mo. L. Rev. 1, “ARTICLE: On the Contemporary Meaning of Korematsu: "Liberty Lies in the Hearts of Men and Women"” Lexis, accessed 7-17-13, TAP]

Perhaps it might seem troubling to see Korematsu as a continuing source of modern equal

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will not be extended to the 'war on terrorism'?" n124 [\*24]

#### The War on Terror raises the necessity of criticism – only complete overturning of the Korematsu precedent prevents racial justifications for national security violations of civil liberties.

Saito, Georgia State University law professor, 10

[Natsu Taylor, 2 Duke Forum for L. & Soc. Change 71, “ARTICLE: INTERNMENTS, THEN AND NOW: CONSTITUTIONAL ACCOUNTABILITY IN POST-9/11 AMERICA” Lexis, accessed 10-25-13, TAP]

The dangers illustrated by the internment of Japanese Americans during World War II appear to

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inadequate. Otherwise, we are engaging not in legal analysis but alchemy.

The injustices of the Japanese American internment were belatedly acknowledged and partial redress provided to

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will ensure that they, too, will be repeated in the future.

#### The internment cases are still on the books – their precedent can be used to justify war powers under racist pretenses.

Watanabe, University of Southern California JD candidate, 3

[Nathan, 13 S. Cal. Interdis. L.J. 167, “NOTE: INTERNMENT, CIVIL LIBERTIES, AND A NATION IN CRISIS” Lexis, accessed 11-2-13, TAP]

The Court's language in the Internment Cases also indicates a somewhat ambiguous definition of what

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times, these relics of the past are factually analogous and legally applicable.

#### Racism must be rejected in every instance

Albert Memmi 2k, Professor Emeritus of Sociology @ U of Paris, Naiteire, Racism, Translated by Steve Martinot, p. 163-165

The struggle against racism will be long, difficult, without intermission, without remission

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. True, it is a wager, but the stakes are irresistible.

#### Lack of repudiation by the Court meant the door is wide open for utilizing Korematsu’s racist precedent – Court action is key.

Somin, George Mason University law professor, 3-13-13

[Ilya, “Repudiating the Japanese Internment Decisions” <http://www.volokh.com/2013/03/13/repudiating-the-japanese-internment-decisions/>, accessed 11-2-13, TAP]

Legal scholar Peter Irons, a leading academic expert on the Japanese internment cases,

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good reason for it to cover Proposition 2 as well as Proposition 3.

### Plan

#### The United States federal judiciary should restrict the use of the Internment Cases as a basis for the war powers authority of the President of the United States in the area of indefinite detention.

### Contention 2: Legacy

#### The legal education of cases are good – it is critical to prevent repeating mistakes.

Chemerinsky, University of California Irvine law professor and dean, 11

[Erwin, 39 Pepp. L. Rev. 163, “SYMPOSIUM: SUPREME MISTAKES: Korematsu v. United States: A Tragedy Hopefully Never to Be Repeated” Lexis, accessed 7-15-13, TAP]

Over the course of American history there have been some terrible Supreme Court decisions with

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in history are a powerful reminder of the need for real judicial humility.

#### Learning about Korematsu is the only way to prevent the denial of rights in the future.

Chemerinsky, University of California Irvine law professor and dean, 11

[Erwin, 39 Pepp. L. Rev. 163, “SYMPOSIUM: SUPREME MISTAKES: Korematsu v. United States: A Tragedy Hopefully Never to Be Repeated” Lexis, accessed 7-15-13, TAP]

What lessons might be learned from Korematsu? One important lesson is that no individual

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can help prevent the Court and the country from making these mistakes again.

#### Law students lack teaching of Korematsu – Korematsu reigns today as setting the precedent for strict scrutiny – it has been stripped of its historical context.

Harris, University of Pittsburgh law professor, 11

[David, 76 Mo. L. Rev. 1, “ARTICLE: On the Contemporary Meaning of Korematsu: "Liberty Lies in the Hearts of Men and Women"” Lexis, accessed 7-17-13, TAP]

Korematsu may have a different meaning for lawyers whose careers began less than twenty years

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Korematsu, itself, you would never know Mr. Korematsu lost." n79

#### Education about Korematsu creates a conceptual framework for challenging oppression.

Serrano, Equal Justice Society project director, and Minami, Minami Lew and Tamaki partner, 2003

[Susan Kiyomi and Dale, 10 Asian L.J. 37, “ARTICLE: Korematsu v. United States: A "Constant Caution" in a Time of Crisis” Lexis, accessed 11-2-13, TAP]

In her opinion, Judge Patel underscored the urgent need for America's institutions to actively

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us every day to Asian Americans and other racial communities and beyond." n64

#### Education that promotes the rejection of the Korematsu is the only way to constrain the executive from excessive war powers.

Green, Temple University law professor, 2011

[Craig, 105 Nw. U.L. Rev. 983, “ARTICLE: ENDING THE KOREMATSU ERA: AN EARLY VIEW FROM THE WAR ON TERROR CASES” Lexis, accessed 10-25-13, TAP]

Part III explores how this Article's arguments against the Korematsu era might affect modern legal

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confronting their own debates over how judicial and presidential powers interact during wartime.

#### Public pressure is the only way to prevent mass incarceration – education about the history of Korematsu is the only way to prevent it.

Harris, University of Pittsburgh law professor, 11

[David, 76 Mo. L. Rev. 1, “ARTICLE: On the Contemporary Meaning of Korematsu: "Liberty Lies in the Hearts of Men and Women"” Lexis, accessed 7-17-13, TAP]

III. The Way to Avoid a Repetition of Korematsu: "Liberty Lies in

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and women, it is bigger and more important than the law. n240

## 2ac

### 2ac – T – WPA – General

1. We meet – plan is a ban on the use of the Internment Cases for war powers authority – that is a restriction on authority.

#### 2. We meet – Korematsu granted war powers to the president.

Green, Temple University law professor, 2011

[Craig, 105 Nw. U.L. Rev. 983, “ARTICLE: ENDING THE KOREMATSU ERA: AN EARLY VIEW FROM THE WAR ON TERROR CASES” Lexis, accessed 10-25-13, TAP]

Prior to the GWOT, American law schools had taught Korematsu for decades as a

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that is often clouded by the visceral reaction to the decision's racial discrimination.

#### 3. Counter-interp – war powers authority refers to the President’s overall power over national defense and warmaking – that includes the plan

Manget, CIA assistant general counsel, 1991

[Fred, “Presidential War Powers" media.nara.gov/dc-metro/rg-263/6922330/Box-10-114-7/263-a1-27-box-10-114-7.pdf, p.93, accessed 11-14-13, TAP]

The President's war powers authority is actually a national defense power that exists at all

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wage it, in the broadest sense. It operates at all times.

#### 4. The aff is predictable.

Green, Temple University law professor, 2011

[Craig, 105 Nw. U.L. Rev. 983, “ARTICLE: ENDING THE KOREMATSU ERA: AN EARLY VIEW FROM THE WAR ON TERROR CASES” Lexis, accessed 10-25-13, TAP]

When President George W. Bush started the Global War on Terror (GWOT)

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of the Korematsu era, which might thereby guard against future executive abuse.

### Case

#### Conditions for Native Americans are structurally improving.

Adamson, First Peoples Worldwide founder and president, 2009

[Rebecca, “Challenges to Native American Advancement: The Recession and Native America” [https://www.google.com/search?q=native+american+poverty%2C+decreasing&aq=f&oq=native+american+poverty%2C+decreasing&aqs=chrome.0.57.4413&sourceid=chrome&ie=UTF-8#hl=en&safe=off&sclient=psy-ab&q=%22native+american+lives+are+improving%22+twenty-first+century&oq=%22native+american+lives+are+improving%22+twenty-first+century&gs\_l=serp.3...84617.103587.0.103881.53.43.9.0.0.0.238.4248.26j14j3.43.0...5.0...1c.1.7.psy-ab.yhXfw9o1HOE&pbx=1&bav=on.2,or.r\_cp.r\_qf.&fp=ee43abfe2c3d4bbc&biw=1304&bih=683](https://www.google.com/search?q=native+american+poverty%2C+decreasing&aq=f&oq=native+american+poverty%2C+decreasing&aqs=chrome.0.57.4413&sourceid=chrome&ie=UTF-8#hl=en&safe=off&sclient=psy-ab&q=%22native+american+lives+are+improving%22+twenty-first+century&oq=%22native+american+lives+are+improving%22+twenty-first+century&gs_l=serp.3...84617.103587.0.103881.53.43.9.0.0.0.238.4248.26j14j3.43.0...5.0...1c.1.7.psy-ab.), p.5, accessed 3-31-13, TAP]

These are exciting times to be a Native American.¶ The century-old movement

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that harness the power of the sun and¶ wind to produce electricity.

#### Using the state doesn’t compromise ethics – using it strategically in the short term does not trade off with long term revolution.

Smith, Associate Professor of Media and Cultural Studies at UC Riverside, 12

 (Andrea, “The Moral Limits of the Law: Settler Colonialism and the Anti-Violence Movement,” settler colonial studies 2, 2 (2012) Special Issue: Karangatia: Calling Out Gender and Sexuality in Settler Societies, http://www.tandfonline.com/doi/pdf/10.1080/2201473X.2012.10648842, accessed 10-18-13, CMM)

In the debates prevalent within Native sovereignty and racial justice movements, we are often

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Native women’s lives by buttressing the prison industrial complex and its violent logics.

While this reformist versus revolutionary dichotomy suggests two radically different positions, in reality they

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would free us to change our strategies as we assess its strategic effects.

At the same time, by divesting from the morality of the law, we

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an alternative system to the heteropatriarchal, white supremacist, settler colonial state.

#### Courts solve – deter presidential indiscretion.

Prakash, University of Virginia law professor, and Ramsey, University of San Diego law professor, 2012

[Saikrishna and Michael, “The Goldilocks Executive” <http://www.texaslrev.com/wp-content/uploads/Prakash-Ramsey-90-TLR-973.pdf>, p.990-2, accessed 9-30-13, TAP]

3. The Courts.—The courts constrain the Executive, both because courts are

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law, including law defined as what a ¶ court will likely order.

#### Only the perm solves – legal reform is key

Lobel, Assistant Law Prof at Univ. of San Diego, ‘7

(Orly, “THE PARADOX OF EXTRALEGAL ACTIVISM: CRITICAL LEGAL CONSCIOUSNESS AND TRANSFORMATIVE POLITICS,” 2007, [http://www.harvardlawreview.org/media/pdf/lobel.pdf](http://www.harvardlawreview.org/media/pdf/lobel.pdfm), accessed 9-23-13) PM

In all of these cases, it is the act of engagement, not law

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, and in turn serve to facilitate and ¶ stabilize the process.185

### 2ac – Give Back Land

#### Even if they win a link – the perm is life-affirming – embrace excess.

White, Williams College philosophy professor, 1990

[Alan, “Within Nietzsche’s Labyrinth” <http://sites.williams.edu/awhite/files/2013/01/White-1990-Within-Nietzsches-Labyrinth.pdf>, p.140, accessed 11-11-13, TAP]

That there is shit in the world – in all worlds, on our earth

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is of gold.” Does he thereby acknowledge a categorical agreement with being?

#### And the perm is best – it is the basis for intersectional analysis.

Razack, University of Toronto sociology professor, 1998

Sociology and Equity Studies in Education, the Ontario Institute for Studies in Education of the University of Toronto, 98 [Sherene, “Race, Space, and Prostitution: The Making of the Bourgeois Subject”, Canadian Journal of Women and the Law, 12/1, pg. Women’s Studies International]

To focus on one system of oppression has not sufficed to point the way to

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, we over-simplify what can be achieved by regulation or deregulation.

#### The education of the 1ac gives gives activists a tool for fighting oppression.

Gruber, Florida International University associate law professor, 2006

[Aya, 54 Kan. L. Rev. 307, “ARTICLE: Raising the Red Flag: The Continued Relevance of the Japanese Internment in the Post-Hamdi World” Lexis, accessed 11-2-13, TAP]

Examining the legal literature, there are two different but related areas in which the

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is a necessity; it is a struggle we all must join. n80

#### Korematsu creates a framework for reconciliation.

Yamamoto, University of Hawai'i law professor, and Obrey, University of Hawai'I JD candidate, 2009

[Eric and Ashley Kaiao, 16 Asian Am. L.J. 5, “Article: Reframing Redress: A "Social Healing Through Justice" Approach to United States-Native Hawaiian and Japan-Ainu Reconciliation Initiatives” Lexis, accessed 10-22-13, TAP]

For these reasons, the language of redress is shifting away from reparations and towards

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a segment of the far larger terrain of national and global reconciliation efforts.

#### Permutation is the best option – reconciliation is an open concept that creates a space for social healing.

Yamamoto, University of Hawai'i law professor, and Obrey, University of Hawai'I JD candidate, 2009

[Eric and Ashley Kaiao, 16 Asian Am. L.J. 5, “Article: Reframing Redress: A "Social Healing Through Justice" Approach to United States-Native Hawaiian and Japan-Ainu Reconciliation Initiatives” Lexis, accessed 10-22-13, TAP]

What is also clear is that the very term "reconciliation" has disparate meanings

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of society, including communities, public organizations, businesses, and governments.

#### Social healing is good framework to articulate racial injury.

Yamamoto, University of Hawai'i law professor, and Obrey, University of Hawai'I JD candidate, 2009

[Eric and Ashley Kaiao, 16 Asian Am. L.J. 5, “Article: Reframing Redress: A "Social Healing Through Justice" Approach to United States-Native Hawaiian and Japan-Ainu Reconciliation Initiatives” Lexis, accessed 10-22-13, TAP]

B. Social Healing¶ ¶ This is a significant shift in American thinking about

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Church and by government demonstrating fundamental change in dealings with Native Hawaiians. n187

#### Status quo solves

Eugene J. Koprowski, World Net Daily, 12/26/2010, "Obama to give Manhattan back to Native Americans?," http://www.wnd.com/index.php?fa=PAGE.view&pageId=243153, access 12/29/10

President Obama is voicing support for a U.N. resolution that could accomplish

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Indian Education Institute at Eastern Oregon State, one expert recalled for WND.

#### Corporations fill in – that’s uniquely worse

Mary Christina **Wood**, **Oregon Law Professor**, **1994**

(“Protecting the Attributes of Native Sovereignty” Utah Law Review, p. L/N)

A barrage of recent development proposals directed to tribes starkly demonstrates an intense modern pressure

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dynamics and deference to tribes ushered in by the Self-Determination era.

#### They lead to transition wars

James **Aune**, Texas A&M Communications Professor**, 2000**

[Selling the Free Market: the Rhetoric of Economic Correctness]

Strangely enough, if taken seriously as a prescription for policy, the essay contradicts

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the bourgeoisie – to implement its proposals in the teeth of popular resistance.

#### Counter-insurgency against the government fails – they will kill groups to the point of liquidation.

Argue, San Francisco Bay Independent Media Organization, 5-3-13

[Steven, “Obama's FBI Has Put Political Refugee Assata Shakur in its Crosshairs “<http://www.indybay.org/newsitems/2013/05/03/18736330.php>, accessed 11-9-13, TAP]

Similar to the oppression faced by Blacks, Native Americans on the Pine Ridge Reservation

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dollar bounty put on her head by the U.S. government.

#### Alt fails and only worsens racism – their movement gets crushed and causes genocidal backlash.

Emery, PHD, 2007

[Kathy, For the Western Edition, “The Limits of Violent Resistance” <http://www.educationanddemocracy.org/Emery/westernedition/Sept07WestEd.pdf>, p.1, accessed 10-28-12, TAP]

The August 15th editorial for SF Bayview concluded that the only way to stop¶

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it’s¶ strongest point, a suicidal Pickett’s Charge, if you will.

#### Learning policy making discourse is the only way to challenge the dogmatic assumptions of elites – using the state can fight oppression.

David E. McClean, New School University Professor, and Society for the Study of Africana Philosophy President, 2001, “The Cultural Left and the Limits of Social Hope,” http://www.american-philosophy.org/archives/past\_conference\_programs/pc2001/Discussion%20papers/david\_mcclean.htm

Yet for some reason, at least partially explicated in Richard Rorty's Achieving Our Country

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critics with their snobish disrespect for the so-called "managerial class."

#### Totalizing opposition creates a culture of suspicion that fails to materialize change.

Berman, University of Connecticut Law School Associate Professor, 2001

[Paul Schiff, “APPROACHES TO THE CULTURAL STUDY OF LAW: TELLING A LESS SUSPICIOUS STORY: NOTES TOWARD A NON-SKEPTICAL APPROACH TO LEGAL/CULTURAL ANALYSIS,” 13 Yale J.L. & Human. 95, Lexis]

The second drawback of the hermeneutics of suspicion is perhaps even more important. As

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suspiciousness is the most effective way to seek political (or personal) change

anyway. Suspicious analysis seeks to expose the dangers of our enchantment with reason or

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normative scholarship cannot extricate scholars from the fundamental questions that I am discussing.

#### A. Using the state is ok – shouldn’t leave the tools of the colonizer out of the hands of the colonized and their view is overly totalizing and impossible to practice.

Grande, Connecticut College education associate professor, 2007

[Sandy, *Critical Pedagogy: Where are we now?* By Peter McLaren, “Red Lake Woebegone: Pedagogy, Decolonization, and the Critical Project” <http://books.google.com/books?id=M97YKJdkJbcC&q=sandy+grande#v=onepage&q=grammar%20of%20empire&f=false>, p.330, accessed 2-6-13, TAP]

Audre Lorde’s essay, The Master’s Tools Will Not Dismantle the Master’s House, is

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, we live within, against, and outside of its constant company,

 witnessing its various manifestations as it shape-shifts its way into everything from

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is it possible to engage the grammar of empire without replicating its effects?

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### Efficacy

#### Evaluate consequences of the alt vs the consequences of the plan.

Isaac, Indiana University James H. Rudy Professor of Political Science and Center for the Study of Democracy and Public Life director, Spring 2002

(Jeffrey C. “Ends, Means, and Politics,” Dissent Magazine Vol. 49 Issue 2, p32)

Power is not a dirty word or an unfortunate feature of the world. It

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not true believers. It promotes arrogance. And it undermines political effectiveness.