

NOVEMBER  
LESSON PLANS



FRED T.  
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INSTITUTE

**Title of Lesson Plan:** Challenging Extralegal Incarceration: *Coram Nobis* as Reparative Tactic

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**Grade Level:** 10-12

**Synopsis/Summary of Lesson:**

In this lesson, students learn about the legal tactic of *coram nobis*, a little-known legal procedure that compels courts to correct errors in their own processes. The lesson broadens students' engagement with *coram nobis*, exploring the broader juridical and social issue of wrongful conviction. Moreover, as is in *Korematsu vs. United States* case, the lesson aims to delve into the labors of families and legal teams to rectify such convictions, especially for those who have served prison terms. During the lesson, students listen to episodes of a podcast with first-person stories of those imprisoned for crimes they did not commit.

**Background Introduction:**

*Korematsu vs. U.S.* was a 1944 Supreme Court case in which Fred Korematsu contested the World War II-era incarceration of Japanese Americans based on their possible "disloyalty" or military necessity. Korematsu lost his case and, in 1983, reopened the case along with two other Japanese Americans who also protested their wartime imprisonment. A volunteer legal team filed a writ of *coram nobis*, which urged the courts to recognize their wrongdoing and, in the end, overturn the group's convictions.

**Possible Units to Use With:**

- World War II Japanese American incarceration
- Violations of civil liberties
- Juridical processes
- Mass incarceration

**Focus/Essential Question(s):**

- What tactics are available to oppose wrongful incarceration? What efforts do families and legal teams take to challenge a sentencing?
- What are of the lifelong effects of a wrongful imprisonment?

**Objectives:**

1. To examine some of the legal strategies deployed in the face of civil liberties violations.
2. To absorb first-hand accounts of wrongful conviction and speculate on the long-term effects of such convictions.

### C3 Framework Standards:

- **D2.Civ.12.9-12.** Analyze how people use and challenge local, state, national, and international laws to address a variety of public issues.
- **D2.Soc.15.9-12.** Identify common patterns of social inequality.

### Required Materials and Preparation:

#### Materials:

- Copies of Eric Yamamoto, Dale Minami, and May Lee Heye, “One Man Seeks Justice from a Nation: Korematsu v. United States,” in Kwoh, Stewart, Leong Kwoh, and Russell C. Leong. *Untold Civil Rights Stories: Asian Americans Speak Out for Justice*. University of California, Los Angeles, Asian American Studies Center, 2009.
  - **Note: This reading can be found in the Korematsu Institute Curriculum Toolkit Teacher’s Guide; see pages 21-27.**
- Episodes of the podcast, *Wrong Conviction*:  
<http://www.revolverpodcasts.com/shows/wrongful-conviction-with-jason-flom/>

### Procedure:

#### PART 1:

1. First, students should read pgs. 21-27, “One Man Seeks Justice from a Nation: Korematsu v. United States,” in the Korematsu Institute Curriculum Toolkit Teacher’s Guide, during class time or for homework.
2. After reading about Fred Korematsu’s story and the subsequent cases, students should write a brief paragraph summarizing the reading:
  - *What are the main points of the article?*
  - *What did you learn about the cases?*
3. Direct all students in the class to share out one “learning” from the article. Write down the students’ points as they are shared on the board or projector. Students should write down any ideas or facts that are additive to their own findings.
4. Post the following definition from the reading for students to see and review together:

**A writ of *coram nobis* is limited to rare cases in which the courts are compelled to correct “fundamental error,” or “manifest injustice” in their own processes, which are discovered after a person has been convicted and released from prison.**

5. Students should then discuss in small pairs or as a whole class: Can they put *coram nobis* into their own words? What exactly does it mean? Can they think of any real-life examples in which a wrongdoing has to be acknowledged and corrected (and not just within the legal system)?

- Elicit student responses, encouraging them to draw connections between the reparative legal work of Korematsu's case and other examples where a wrong must be acknowledged.

**PART 2:**

- For the second part of this lesson, students will look at contemporary issues in wrongful incarceration. Similar to the Korematsu case, these cases involve a reversal to convictions that happen under false evidence or reasoning.
- Assign students to small groups in which they will listen to a single episode of the podcast, *Wrongful Conviction*. The podcast focuses on the real-life stories of men and women who served decades in prison for crimes they did not commit. Allow students to preview the website with the different stories and select the episode their group wishes to focus on.
- Each student should listen to their episode individually, either in class or for homework. While they are listening to their episode, they should take notes on the following graphic organizer:

***Wrongful Conviction* Podcast Notetaker**

<p><i>WHO is the person featured in the episode of the podcast? What do you learn about their life?</i></p>	<p><i>WHAT is the crime of which the person has been accused?</i></p>
<p><i>HOW was this person convicted for the crime?</i></p>	<p><i>WHAT were their experiences like during imprisonment?</i></p>

<i>WHAT strategies did their legal teams, families, and/or communities use to free them from their conviction?</i>	<i>WHAT was life like for this person after being released from prison? How did their prison sentence impact the rest of their life?</i>
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4. After all students have had a chance to listen to their episode and take notes, they should meet in their small groups to discuss the episode. Ask students to bring their notetakers and to add any relevant or new information to their graphic organizer.
5. Inform students that they will have an opportunity to share with the entire class a short “portrait” of their person. To prepare for these share-outs, students should create a short summary of the episode, covering the life story of the person and the efforts to reverse their convictions. Presentations should be approximately five minutes as a group, and each group member should have some kind of speaking role. They should also integrate a short, 30-second audio clip from the podcast.
6. Have each group give their presentations to the class, playing their audio clip.
7. After all students have presented, do a quick brainstorm on the board: *What are some of the struggles that are emerging? Some of the commonalities between the stories? Differences?*
8. To wrap up the activities, students can draw connections to the Korematsu case and the larger issue of mass incarceration in the United States. On a small index card, they can write down some of their ideas:
  - What does it mean to engage in a struggle to overturn a conviction?
  - What societal conditions create wrongful imprisonment?
  - What can we do to counter some of these injustices?
9. If time permits, student can share with a partner or as a whole class. Collect index cards and review.

**Differentiated Engagement Strategies for Accessibility of All Students:**

- Give ample supports for reading non-fiction texts: Provide sticky notes and highlighters to chunk up the text and do smaller summaries for each paragraph. Do read-alouds of the texts as a class, pausing to “think aloud” and summarize the text as a collective effort.
- Break up activities into smaller segments: Allow plenty of time for listening to the podcasts and give students time to pause after segments and discuss with a peer.

**Extension Activities:**

- Conduct a video or audio interview with a classmate, community member, or family member who has experienced a wrongdoing and sought to repair it.
- Research an issue within the school or the community that requires a *coram nobis*-like reparation. Students can research the issue and create a campaign (in a letter, short video, tweet, or media story) to compel an address to the wrongdoing.
- Create a proposal for a restorative justice program within the school, in which students are permitted to address harms through alternative means like dialogue and community service.