

**Title:** Shigenori Kuroda vs. Major General Rafael Jalandoni, et al., 83 Phil. 171 (1949)

**Facts:**

- Background of Petitioner:** Shigenori Kuroda, formerly a Lieutenant-General of the Japanese Imperial Army and Commanding General of the Japanese Imperial Forces in the Philippines during 1943 and 1944.
- Charges:** Kuroda was charged before a Military Commission for failing to control his troops, permitting them to commit atrocities against noncombatant civilians and prisoners, violating laws and customs of war.
- Procedural History:** The charges were based on Executive Order No. 68 (July 29, 1947), by the President of the Philippines, establishing a National War Crimes Office and outlining rules for the trial of war crimes.
- Petition:** Kuroda petitioned the Supreme Court of the Philippines, arguing:
  - The illegality of Executive Order No. 68, stating it violates the Constitution and local laws, and that the Philippines was not a signatory to the Hague Convention.
  - The participation of American attorneys Melville S. Hussey and Robert Port as prosecutors violated the Constitution because they were not authorized to practice law in the Philippines.
  - The United States, represented by Hussey and Port, was not a party in interest in the case.

**Issues:**

- Constitutionality of Executive Order No. 68:**
  - Whether Executive Order No. 68 is constitutional given the Philippines was not a signatory to certain international conventions.
- Jurisdiction of the Military Commission:**
  - Whether the Military Commission has jurisdiction under Executive Order No. 68.
- Participation of Foreign Attorneys:**
  - Whether the participation of foreign attorneys Hussey and Port as prosecutors is constitutional and valid.
- United States as a Party in Interest:**
  - Whether the United States has a legitimate interest in the prosecution of Kuroda before the Philippine Military Commission.

**Court's Decision:**

- Constitutionality of Executive Order No. 68:**

- The Court held that Executive Order No. 68 is constitutional relying on Article 2, Section 3 of the Philippine Constitution, recognizing the generally accepted principles of international law as part of national law. The Court established that those guilty of wartime atrocities must be held accountable, irrespective of whether the Philippines was a signatory to the Hague or Geneva Conventions as these conventions embody principles accepted as part of international law.

2. **Jurisdiction of the Military Commission:**

- The Court affirmed the validity of the Military Commission, underscoring the President's powers to fulfill post-war obligations such as trying war criminals. The Court cited the precedent of *Yamashita vs. Styer* (L-129).

3. **Participation of Foreign Attorneys:**

- The Court ruled that the Military Commission is governed by special rules under Executive Order No. 68 and not by the Rules of Court applicable to civilian courts. Consequently, there is no requirement that attorneys must be qualified to practice law in the Philippines.

4. **United States as a Party in Interest:**

- The Court supported the participation of American attorneys, in view of international comity and the interest of the United States in prosecuting crimes against its nationals and forces. The Court noted this represented an instance of U.S. comity by allowing the Philippines to try crimes committed during joint wartime involvement.

**Doctrine:**

- The doctrine of incorporating generally accepted principles of international law into domestic law (Article 2, Section 3 of the Philippine Constitution) was reinforced.
- The Court affirmed that special military tribunals convened under executive orders have jurisdiction to try war crimes, independent of conventional peacetime legal requirements.
- The principle of international comity was highlighted in the context of allowing foreign legal representation in national military trials for war crimes.

**Class Notes:**

1. **Elements of War Crimes:** Understanding the definition and scope of war crimes under international law principles, applicable even where national treaties are absent.
2. **Constitutional Provisions:**
  - Article 2, Section 3 of the Philippine Constitution (recognition of international law).
  - The President's Commander-in-Chief powers.

3. **Jurisdiction of Military Tribunals:** Special military tribunals' expanded jurisdiction during and post-war periods.
4. **Representation Rules:** Non-application of domestic rules of practice for attorneys in special military commissions.

**Historical Background:**

Post-World War II, the Philippines, and various Allied nations faced the task of prosecuting war criminals for atrocities committed during the war. The case of Kuroda fits within the broader context of post-war justice where victorious nations tried enemy leaders and generals for war crimes and crimes against humanity. The establishment of the National War Crimes Office under Executive Order No. 68 was part of this effort, guided by principles underpinning trials such as those at Nuremberg. The integration of international law into national jurisprudence, especially in periods following massive global conflicts, marked an unequivocal commitment to enforcing wartime laws and ensuring accountability.