

GODOFREDO DIZON, PETITIONER, VS. THE COMMANDING GENERAL OF THE PHILIPPINE RYUKUS COMMAND, UNITED STATES ARMY, RESPONDENT.

G. R. No. L-2110. July 22, 1948

Ponente: PARAS, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/0f7d7ea31329/>

PARAS, J.:

On March 14, 1947, an Agreement was concluded between the Philippines and the United States of America whereby the latter is authorized to occupy and use certain portions of the Philippine territory as military bases and to exercise jurisdiction over certain offenses committed within and outside said base for an offense allegedly committed at the Main Storage Area, Philrycom Engineer Depot, United States Army, APO 900, located at Quezon City, Philippines, the petitioner was prosecuted in and convicted by a General Court Martial appointed by the Commanding General of the Philippine Ryukus Command of the United States Army and accordingly sentenced, on March 4, 1948, to confinement at hard labor for five years.

In his petition for habeas corpus filed with this Court on March 24, 1948, lastly amended by motion dated April 9, 1948, the petitioner contends that the General Court Martial had no jurisdiction over the alleged offense which was committed in a place not a base of the United States Army within the meaning of the Agreement concerning military bases of March 14, 1947, and that even assuming that the offense was committed in a base, said Agreement is unconstitutional because it deprives the Philippine courts of the jurisdiction over all offenses exclusively vested in them by Article VIII, Section 1, of the constitution, and violates Section 1 of Article III of the constitution, guaranteeing to every person in the Philippines due process and equal protection of the law.

There is no dispute that the Main Storage Area in which the offense in question is alleged to have been committed is located within a site in Quezon City which has been used as headquarters by the Philippine Ryukus Command of the United States Army since before March 14, 1947, when the Agreement between the Philippines and the United States regarding military bases was concluded. The bases granted to the United States under the Agreement are specified and enumerated in Annex "A" and Annex "B" of said Agreement which, however, in its Article XXI provides that the United States shall retain the right to occupy temporary quarters and installations now existing outside the bases mentioned in Annex 'A' and Annex 'B' (paragraph 1) and that "the terms of this Agreement pertaining to bases shall be applicable to temporary quarters and installations referred to in paragraph 1 of this Article while they are so occupied by the armed forces of the United States; provided, that offenses committed within the temporary quarters and installations located within the present limits of the City of Manila shall not be considered as offenses within the bases." (paragraph 3).

It is not pretended on the part of the respondent that the site in question is included within any of the bases specified in Annex "A" and Annex "B". Hence the same undoubtedly falls under the classification of temporary installations provided for in Article XXI of the Agreement. Even so, as said temporary installation is not located within the limits of the City of Manila, the terms of the Agreement pertaining to bases are applicable thereto by

virtue of the provision of paragraph 3 of Article XXI already above quoted. Accordingly, the offense in question falls under the jurisdiction of the United States as a consequence of Article XIII of the Agreement which stipulates that the Philippines consents that the United States shall have the right to exercise jurisdiction over xxx any offense committed by any person within any base except where the offender and offended parties are both Philippine citizens (not members of the armed forces of the United States on active duty) or the offense is against the security of the Philippines x x x. (paragraph 1). It is not insisted by the petitioner that his case comes under any of the exceptions mentioned in this provision. This brings us to the constitutional point raised by the petitioner.

In at least two recent cases (*Raquiza vs. Bradford*,^[1] 41 Off. Gaz., 626, decided on September 13, 1945, and *Tubb vs. Griess*,^[2] 44 Off. Gaz., 2712, decided on April 7, 1947), we applied the well-settled principles of International law that a foreign army allowed to march through a friendly country or to be stationed in it, by permission of its government or sovereign, exempt from the civil and criminal jurisdiction of the place. Counsel for the petitioner, admitting the correctness of our pronouncement, does not contend that such exemption is an unconstitutional diminution or deprivation of the jurisdiction of the Philippine courts, because by virtue of section 3 of Article II of the Constitution, the generally accepted principles of international law have been adopted as part of the law of the Nation. In like manner, there would not be an unconstitutional derogation of the jurisdiction of the local courts if we are to recognize the immunities of foreign sovereigns and ministers.

Although already superfluous, we do not hesitate to hold that even in the absence of an express declaration in the Constitution that the generally accepted principles of international law are made a part of the law of the Nation, we are bound to uphold the immunities above referred to. And this should be true as long as the civilized world or majority of the independent countries composing it still abide by the rules of international law, and as long as the Philippines continues, as it must continue, to have an intercourse with such countries. We would be the last to suppose that the framers of the Constitution would ever intend to impugn or disregard any international practice. "A nation would justly be considered as violating its faith, although that faith might not be expressly plighted, which should suddenly and without previous notice, exercise its territorial powers in a manner not consonant to the usages and received obligations of the civilized world." (*The Schooner Exchange vs. McFaddon and Others*, 3 Law. ed., 287.)

Under the Agreement of March 14, 1947, the United States was given express permission to establish military bases on certain portions of the Philippine territory and to exercise jurisdiction over certain offenses. The rights thus granted are no less than those conceded by the rule of international law to "a foreign army allowed to march through a friendly country or to be stationed in it, by permission of its government or sovereign". For this reason, if for no other, the constitutional point raised by the petitioner becomes untenable. The jurisdiction granted to the United States under the Agreement may be wider than what is recognized by international law, but the fact remains that the lesser right is fundamentally as much a diminution of the jurisdiction of the Philippine courts as the greater right. If the latter right were to be invoked in the absence of the Agreement, there is every reason to state that:

"The jurisdiction of the nation, within its own territory is necessarily exclusive and absolute. It is susceptible of no limitation not imposed by itself. Any restriction upon it, deriving validity from an external source, would imply a diminution of its sovereignty to the extent of the restriction, and an investment of that, sovereignty to the same extent in that power which could impose such restriction." (*The Schooner Exchange v. McFaddon and Others*, 3 L. ed., 287, 293.)

Thus in the more recent case of *Miquiabas vs. Commanding General, Philippines Ryukus Command, United States Army*,^[1] G. R. No. L-1988, decided on February 24, 1948, this Court enunciated the principle that as a rule

"the Philippines, being a sovereign nation, has jurisdiction over all offenses committed within its territory, but it may, by treaty or by agreement, consent that the United States or any other foreign nation, shall exercise jurisdiction" over certain offenses committed within certain portions of said territory.

In further support of the Agreement in question, the argument may be advanced that the Philippines Independence Act, approved by the United States Congress on March 24, 1934, reserves to the United States the right to have and acquire naval reservations and fuelling stations in the Philippines. (See section 10, in connection with section 5.) In the Joint Resolution approved by the United States Congress on June 29, 1944, it was provided (Section 2) that after negotiation with the President of the Commonwealth of the Philippines, or the President of the Filipino Republic, the President of the United States is hereby authorized by such means as he finds appropriate to withhold or to acquire and to retain such bases, necessary appurtenances to such bases, and the rights incident thereto, in addition to any provided for by the Act of March 24, 1934, as he may deem necessary for the mutual protection of the Philippine Islands and of the United States. The result is that the right of the United States under the Philippine Independence Act was enlarged by the Joint Resolution of June 29, 1944, so as to include not only naval reservations and fuelling stations but other military bases in the Philippines. Indeed, in the Proclamation of Philippine Independence, it was recited that "Whereas the Act of Congress approved March 24, 1934, known as the Philippine Independence Act, directed that on the 4th day of July, immediately following a ten year transitional period leading to the independence of the Philippines the President of the United States of America should by proclamation withdraw and surrender all rights of possession, supervision, jurisdiction, control or sovereignty of the United States of America in and over the territory and people of the Philippines except certain reservations therein, and thereafter authorized to be made and on behalf of the United States of America should recognize the independence of the Philippines, now therefore, I, Harry S. Truman, President of the United States of America, acting under and by virtue of the authority vested in me by the aforesaid Act of Congress, do proclaim that, in accord with and subject to the reservations provided for in the pertinent provisions of the existing of Congress, the United States of America hereby withdraws and surrenders all rights of possession, supervision, jurisdiction, control or sovereignty now existing and exercised by the United States of America in and over the territory and people of the Philippines and on behalf of the United States of America I do hereby recognize the independence of the Philippines as a separate and self-governing nation and acknowledge the authority and control over the same of the Government instituted by the people thereof under the constitution now in force. x x x " (Underscoring supplied.) The emphasized portions of this declaration in the Proclamation of Philippine Independence plainly lead to the conclusion, that the withdrawal of the sovereignty of the United States over the territory and people of the Philippines is subject to the right of the United States to withhold and acquire such military bases as are authorized, not only by the Philippine Independence Act of March 24, 1934, but also by the Joint Resolution of June 29, 1944. Hence the acquisition of bases by the United States under the Agreement of March 14, 1944, cannot be constitutionally objectionable.

But the point we want to bring out is that, if bases may be validly granted to the United States under the Constitution, there is no plausible reason why the lesser attribute of jurisdiction cannot be waived. From another point of view, waiver of jurisdiction may well be considered as included within the terms "necessary appurtenances to such bases, and the rights incident thereto, appearing in the Joint Resolution of June 29, 1944, hereinabove already quoted.

Jurisdiction being validly waived in favor of the United States under the Agreement in question, it follows that petitioner's contention regarding alleged denial of due process and equal protection, of the law becomes unfounded.

The petition is therefore hereby denied, with costs against the petitioner. So ordered.

Feria, Pablo, Bengzon, Briones, Padilla, and Tuason, JJ., concur.

[1] 75 Phil., 50.

[2] 78 Phil., 249.

DISSENTING

PERFECTO, J.:

There is no way of measuring the magnitude of the constitutional question involved in this case. Whether we shall allow ourselves to bear the stigma of judicial extraterritoriality is a matter of public policy upon which any one may take the position that may suit his taste, his mental and moral training, or simply his sense of national pride or dignity. However low the concept of extraterritoriality has fallen into the abyss of ill-repute and however deep the conviction is as to the affront and ignominy caused by the Imposition of extraterritoriality in any country or nation, such consideration is only secondary to the vital question regarding the effectiveness of democratic constitutionalism.

The issue directly involved in this case poses before us the question whether or not the judicial extraterritoriality provided in the Agreement of March 14, 1947 on American military bases in the Philippines is violative of the following provisions of Sections 1 and 2, Article VIII of the Constitution:

"SECTION 1. The Judicial power shall be vested in one Supreme Court and in such inferior courts as may be established by law.

"SEC. 2. The Congress shall have the power to define, prescribe, and apportion the jurisdiction of the various courts, but may not deprive the Supreme Court of its original jurisdiction over cases affecting ambassadors, other public ministers, and consuls, nor of its jurisdiction to review, revise, reverse, modify, or affirm on appeal, certiorari, or writ of error, as the law or the rules of court may provide, final judgments and decrees of Inferior courts in-

"(1) All cases in which the constitutionality or validity any treaty, law ordinance, or executive order or regulations is in question.

"(2) All cases involving the legality of any tax, impost, assessment, or toll, or any penalty imposed in relation thereto.

"(3) All cases in which the jurisdiction of any trial court is in issue.

"(4) All criminal cases in which the penalty imposed is death or life imprisonment.

"(5) All cases in which an error or question of law is involved."

Article XIII of the Agreement grafts the United States of America a general right to exercise jurisdiction over offenses committed by any person within any military base, permanent or temporary, with two exceptions: First, where the offender and offended party are both Filipinos; and second, where the offense is against the security of the Philippines.

The jurisdiction granted is judicial in nature. As such, it constitutes the essential function of one of the elemental powers and attributes of sovereignty, the judicial power.

The Filipino people, in the exercise of their sovereignty (section 1, Article II of the Constitution), decided to vest

the judicial power in one Supreme Court and such inferior courts as may be established by law. The popular constitutional mandate as couched in Section 1 of Article VIII excludes from the exerciser the power, other entities and persons. Being an attribute of their sovereignty, the people may exercise it directly or delegate it. When they delegated it to one Supreme Court and to such inferior courts as may be established by law, the delegation cannot be enlarged or extended without contravening the will of the people.

To name one Supreme Court and inferior courts established by law is to exclude the United States of America, as a nation, and its military personnel, establishments, and organization that may happen to occupy, use, or stay in the military bases covered by the Agreement. Even the blind can see this clearly in their minds.

The negative provision of Section 2 of Article VIII of the Constitution makes more emphatic and imperative the exclusiveness of the delegation. Five cases are therein specified in which the Supreme Court cannot be deprived of original or appellate Jurisdiction. Many of such cases may present themselves in the trial of offenses Jurisdiction over which is granted by the Agreement to the United States of America. No one with some knowledge of law may gainsay the fact that in the trial of said offenses the constitutionality or validity of a treaty, law, ordinance, or executive regulation may be raised; the Jurisdiction of the trial military court may be in issue; the accused may be sentenced to death or life imprisonment or errors or question of law may be involved. When said situation should arise in the exercise by the United States of America of the judicial extraterritoriality granted to it in the Agreement, the Supreme Court may not exercise the appellate find revisory jurisdiction guaranteed to it by the Constitution, because the Agreement has transferred it to the United States of America. The conflict between the Agreement and the Constitution is too glaring to need more elaboration. The constitutional contravention is so evident that those who would save the offending parts of the Agreement would not dare face squarely the conflict, but would rather seek refuge in judicial pronouncements which have no bearing on the issue, have been made on different facts and issues, are the expressions of early 19th century mentality, or are the results of a wrong mental appraisal of truth and justice.

An obiter dictum made in a decision rendered one and a half century ago, notwithstanding its immateriality maybe by the sheer force of its old age is now elevated to the category of a principle of international law so as to justify the unconstitutional provisions of the Agreement in question. A foreign army it says allowed to march through a friendly country or to be stationed in it, by permission of its government or sovereign, is exempt from the civil and criminal jurisdiction of the place. This amazing pronouncement has been made in *Exchange v. M'faddon* (7 Cranch 116; 3 Law. ed., 287, 294) rendered by the Supreme Court of the United States of America in 1812, where a foreign army was not involved in any way. The whole litigation was about the schooner *Exchange*. John M'faddon and William Greetham, American citizens, filed libel, claiming ownership of, and restoration of possession to them, of the schooner, alleging that they were her sole owners, that on October 27, 1809, she sailed from Baltimore bound to San Sebastian, Spain, and while lawfully, peacefully pursuing her voyage, she was, on December 30, 1810, forcefully taken by persons under decrees and orders of Napoleon, Emperor of the French, out of the custody of the libellants and of their captain and agents, and was disposed of by those persons. That the Supreme Court of the United States should in the case of such a vessel make a solemn pronouncement about the grant of free passage to foreign troops is a thing that would need a volume of explanations to be understood.

The impertinent pronouncement, thus officiously inserted in a litigation about a vessel, where it has no bearing at all, has been invoked in support of the majority opinion in the *Raquiza* case (41 Off. Gaz., 626), to justify the trampling down of the fundamental right of personal freedom of three ladies, perpetrated by members of the army of the United States. It seemed that the aura with which the array of liberation was surrounded was too dazzling to hide the acts of oppression committed by members thereof, and to have blinded the majority to the extent of brushing aside a 20th century constitution for the sake of a casual immaterial statement made in a decision

rendered about the beginning of the 19th century. The error was again committed in the majority opinion in the Tubb case, L-1325,[1] where the constitutional rights of two American citizens were involved.

In both cases, Raquiza and Tubb, the constitutional question was overridden by transferring the controversies to an international field, to be decided under a pseudo-principle of international law applied by analogy, and the pseudo-principle is no other than the impertinent statement made in an early 19th century decision. That impertinent pronouncement is again invoked in this case to side-step the constitutional issue.

The much abused provision of the Constitution to the effect that the generally accepted principles of international law are adopted as part of the law of the nation (Sec. 3 of Art. II of the Constitution), is invoked to decide this case, not upon the very text of the Constitution but upon the foreign army passage casual pronouncement. Of course, neither in this case nor in the Raquiza and Tubb cases has any attempt been made to show that the pronouncement in question is among the generally accepted principles of international law. The attempt would be futile now, because the pronouncement is neither a principle of international law nor one generally accepted, it being only an obiter dictum made by a judge of the horse-and-buggy age.

It appears paradoxical that in a constitutional democracy like ours official pronouncements should be made recognizing immunities of foreign sovereigns and ministers in violation of the Constitution. The Filipino people have never given recognition to such immunities. On the contrary, they have embodied in the Constitution the purpose's to establish a government under a regime of justice, liberty and democracy, where any discrimination even in favor of the most powerful foreign power should not take place. In tyrannical dictatorships or under a sod-emperor regime, even the most powerful chief of state is bound by laws or even traditions. Such laws and traditions compelled a king of England to abdicate his throne.

It is admitted that the agreement in question effectuates a diminution of the jurisdiction of the Philippine courts, but it is justified upon the following statement, recklessly made by the majority in the Miquiabas case, L-1198, that "the Philippines, being a sovereign nation, has jurisdiction over all offenses committed within its territory, but it may, by treaty or by agreement, consent that the United States or any other foreign nation, shall exercise jurisdiction over said offenses committed within certain portions of said territory."

To rely on such a statement is to lean on a slender bamboo branch. Both are misleading as support. Not much docimastic effort is needed to show that the statement reveals an inadequate intellectual grasp of elemental concepts. Of course, the Philippines may do anything it pleases with the attributes of its national sovereignty. On that score, practically the infinite is the limit. But, why forget that "Philippines" is an abstract name of an entity whose acts are visible, tangible, and intelligible only through concrete undertakings of living agents, moving on the solid earth of reality, not as fleeces of evaporating cloud vanishing in the sky of intellectual conceptions and mirages? For the entity to have a footing in the realm of concrete facts, we have to reckon, in the first place, with the human being that constitute the people. That great mass of humanity does not, for practical reasons, undertake directly any treaty-making, which, by the devices of representative democracy, is entrusted to specific agents and agencies of government. Our people did not deem it wise to grant the treaty-making agencies absolute powers, but subject to the limitations set forth in the Constitution. Now, to confuse, to identify the treaty-making agents—executive officers, diplomats, the Senate,—with the Filipino people or with that abstract Creature called "Philippines," without exhibiting necessarily manifestations of doddery, is to invite urgent therapeutic measures to achieve freedom from the spider web of error.

There is in the quoted assertion a lack of understanding of the elemental fact that treaties and international agreements are concluded, not by the principals themselves, the people, but by their representatives, and that, while the powers of the principals are unlimited, those of their representatives are limited by the Constitution. The

people may amend, or remake the Constitution, or maybe, dispense with it entirely. The representatives of the people can go no further than that allowed by the will of the people as expressed in the Constitution.

To invoke the provisions of the Tydings-McDuffie Act of March 24, 1934 and the joint resolution of the United States Congress on June 29, 1944, and the proclamation of Philippine Independence issued by President Truman on July 4, 1946, appears to us to be out of place. They are authorities in support of reservations made by the United States to acquire naval reservations, fuelling stations and military bases in the Philippines, through negotiations with our government and by mutual agreements of both countries. The assertion that the acquisition of military bases by the United States under the agreement of March 14, 1947, cannot constitutionally be objectionable, appears to be completely immaterial in the present controversy. Of course, our government may allow the establishment in this country of the military bases provided in the agreement, although not all will agree with the wisdom of the number, extent and nature of the bases actually granted, and there are reasonable and patriotic citizens who would grant much less and on conditions not so onerous as those provided in the agreement. Such matter has nothing to do with the question involving the constitutionality of the judicial extraterritoriality granted in the agreement. There is nothing in the congressional act and resolution and in the independence proclamation exacting from our government the commitment of disregarding or violating our own Constitution which, besides having been ratified by the Filipino people, carries the express approval of President Franklin D. Roosevelt, as the highest representative of the people and government of the United States of America. At any rate, no such commitment, if any, can be binding upon officials of our government who have all solemnly sworn to uphold the Constitution.

We cannot keep the respect of the world or our own self-respect if we lack the moral fiber to resist the impositions of the powerful, much less at the cost of our own fundamental law. When in 1946 three senators and several representatives were wantonly suspended so that their presence in Congress would not stand in the way of the approval of the so-called parity amendment, our country had to pay very dearly in properties destroyed and lives snuffed. Just to accommodate a small minority of Americans, a group of representatives of the people were denied the constitutional privileges of their office, thereby trampling down the fundamental law. The shadow and memory of those who had been killed in the hills and plains of Central Luzon will forever remorselessly haunt our people. We hope that the unconstitutional Judicial extraterritoriality here in issue will not cause our people to spill so much sweat, tears, and blood, and to suffer the same calamities occasioned by the unconstitutional suspension of senators and representatives in 1946.

This Supreme Court has the power to stop the rampage of constitutional breaches in which other agencies of our government are indulging in a servile attitude of complaisance to former masters who are bent on keeping in their hands the strings, the chains, and the whip of unquestioned command. Our oath of office compels us to exercise that power. We do not entertain much respect for the Soviet satellites in Eastern and Central Europe. Shall we allow ourselves to go down in history as a mere American satellite. The invading Japanese imperial army established in our country the puppet Philippine Republic. With only that one, we are already sated with puppetry. Let us make the present Republic of the Philippines as truly sovereign as is the will of our people, solemnly manifested in the Constitution.

Extraterritoriality impinges sharply upon our sovereignty and hurts our national dignity. On that matter we have yet much to learn from the uncompromising attitude of Mabini, Quezon and Abad Santos. There is a striking contrast between the way our heroes stood their ground to the last inch on matters of national dignity and our present proneness to allow the sphere of our sovereignty to be pricked by abdications and surrenders to foreign impositions. Our pliability and meek submission to the powerful compel us to mortgage and endanger the future of our people. We are in urgent need of reading Plutarch again, so that we may mirror ourselves on the ancient

examples of such public men as Lycurgus and Solon, Aristides and Cato the Censor, and we need to cradle our hearts in the burning passion for liberty which placed Marcus Brutus among the immortals. The imposition upon us of extraterritoriality is a thing of which the fellow citizens of Jefferson and Lincoln can never make legitimate boast and they would rather have it forgotten as racism and lynching, and our submission to that imposition will be a thorn constantly wounding the pride of our people.

Democratic constitutionalism is an essential factor in our present task of nation building. To insure even a moderate success of this Republic, we have to stick to the system. That system lies behind the wonderful achievements Of the American Republic, the greatest ever known in history, pioneer in many fields of human endeavor and leader in ushering the present Atomic era. That system is indispensable for the attainment of an effective one-world political organization. No organization is possible without law, and no law will command respect and obedience if it is not the expression of the free will of the people. Democratic constitutionalism is in essence the just and orderly rule of the majority manifested in a basic documents the constitution. Any breach, of the constitution is a dissolvent seed jeopardizing the survival of the organization welded by the fundamental document. While no unit of the organization is exempt from the duty of upholding it, the greatest responsibility lies on the shoulders of the tribunals, by the very nature of their functions. The failure of this Supreme Court to enforce in this case the constitutional mandates concerning the judicial power gives ground for serious alarm. We hope it will not cause too much havoc.

Our vote is to order the immediate release of petitioner.

[1] 78 Phil., 249.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.