



UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
GENERAL

E/CN.4/1010/Add.1
4 March 1970

ORIGINAL: ENGLISH

COMMISSION ON HUMAN RIGHTS
Twenty-sixth session
Agenda item 6

QUESTION OF THE PUNISHMENT OF WAR CRIMINALS AND OF PERSONS
WHO HAVE COMMITTED CRIMES AGAINST HUMANITY

Note by the Secretary-General

Addendum

The Secretary-General has the honour to submit, further to the document E/CN.4/1010 of 24 November 1969 issued in pursuance of resolution 9 (XXV) of the Commission on Human Rights, the reply received from the Government of the Philippines.

Information concerning the arrest, extradition and punishment of
persons guilty of war crimes and crimes against humanity and the
exchange of documentation related thereto (continued)

PHILIPPINES

[Original: English]
26 February 1970

A. Present situation

There is no special legislation, as yet, in the Philippines treating specifically the arrest, prosecution, extradition and punishment of persons guilty of war crimes and crimes against humanity.

The absence, however, of a special legislation to this effect was not a deterrent factor in the prosecution of war criminals for their activities during the Japanese military occupation of the Philippines in view of certain provisions in our municipal laws giving recognition and validity to international law, to wit:

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(1) Constitution:

Article II, Sec. 3. - the Philippines renounces war as an instrument of national policy, and adopts the generally accepted principles of international law as the law of the nation.

(2) Civil Code:

Article 14. - Penal laws and those of public security and safety shall be obligatory upon all who live or sojourn in Philippine territory, subject to the principles of public international law and treaty stipulations.

(3) Revised Rules of Court:

Rule 129, Sec. 1. - Judicial Notice. - The existence and territorial extent of States, their forms of government and symbols of nationality, the law of nations, the admiralty and maritime courts of the world and their seals, the political constitution and history of the Philippines, the official acts of the legislative, executive, and judicial departments of the Philippines, the laws of nature, the measure of time, the geographical divisions and political history of the world, and all similar matters which are of public knowledge, or are capable of unquestionable demonstration, or ought to be known to judges because of their judicial functions, shall be judicially recognized by the court without introduction of proof; but the court may receive evidence upon any of the subjects in this section stated, when it shall find it necessary for its own information, and may resort for its aid to appropriate books or documents or reference.

Thus, on the basis of the foregoing municipal laws coupled with the concept that the President of the Philippines is the Commander-in-Chief of the armed forces, a system whereby war criminals have been tried and punished has evolved in Philippine jurisprudence.

On 29 July 1947, the President of the Philippines issued Executive Order No. 68 establishing a War Crimes Office and prescribing rules and regulations governing the trial of accused war criminals. The legality of this Executive Order No. 68 was questioned in the case of Kuroda v. Jalandoni, 83 Phil. 171 (1949).

Commenting on the right of the present Republic to try and punish war crimes committed against our people and our Government while we were a Commonwealth, the Court in the case of *Laurel v. Misa* (76 Phil. 372) said: "... The change of our form of government from Commonwealth to Republic does not affect the prosecution of those charged with the crime of treason committed during the Commonwealth, because it is an offense against the same government and the same sovereign people...".

B. Recommendations

In the light of our international commitment to the cause of the United Nations, and specifically in keeping with the resolutions adopted by the Commission on Human Rights on this question, the need of enacting a particular legislation governing the arrest, extradition and punishment of war crimes and crimes against humanity is strongly felt so as to make our laws responsive to the demands of our international relationship and present-day developments in international law.
