

Week 3 conference

Law



Military Tribunal Military tribunal Military tribunal is machinery that gives ity to the military officers to determine and hear cases that involve the violation of law of war against the United States. It is composed of the military officers who act as juror and as judges at the same time. The significance of the tribunal is ensuring that the persons, who have committed war crimes or terrorist, are punished for the crimes they have committed. These courts have been in place for a long time as they were used to try spies and war criminals.

I do not agree that the military tribunal provide constitutional right fully because they do not provide tor the right of the due process of law that has been accorded to all accused persons in the United States. In that, any evidence or testimony from previous trials can be admissible during the trial, which I not the case in the criminal civil courts that means that the tried person is not accorded the right to due process. The courts should allow a structure as that of the civilian court to ensure that all the constitutional rights are upheld.

In the case of *Exparte Milligan* (1866), the court illustrated that the constitution protects the law of the land. It also tried to justify the fact that every person should get a fair trial. Upon Appeal it was held that Milligan should have been tried in a regular court and not a military tribunal as the law protects every person and they are equal.

Part 11

Korematsu had a right of fair treatment as any other American resident but since he was Japanese, the government felt that they had a right to protect their country during war times. Moreover, if they saw him as a threat then they had a right to send him away from his home where he had refused to <https://assignbuster.com/week-3-conference/>

come out of, as he believed it was his right. The court felt that it was impossible from them to separate the friend from the foe or the royal and the disloyal as Korematsu was from the imperial Japan as all the Japanese were supposed to go to the internment camp and there would be no exceptions (Konkoly, 2006, par. 3). The court was correct in its holding not to exclude Korematsu from moving from his house to the internment camp as the rest of the Japanese, as they were protecting the security of the whole nation.

The exclusion order 9066 at that time that is the 1942 to 1944 was seen as constitution because the courts sided with the government as they were trying to protect the country during the time of war. It was also held that the individual right of Mr. Fred was not as important as the rights of the American people and neither did the rights of the American Japanese descent matter at that particular time.

These decision was criticized by Justice Murphy, were he went ahead to say that the decision was racist and it went beyond the constitution rights that were accorded to the people living in the United States. The Korematsu case showed that although the constitution rights may be denied to people it is not for the sole reason of an individual but for protecting the country.

References

MURPHY, J. (1944, December 18). Korematsu v. United States. LII | LII / Legal Information Institute. Retrieved February 25, 2013, from http://www.law.cornell.edu/supct/html/historics/USSC_CR_0323_0214_ZD1.html