

JUDICIAL SYSTEM and of INTERNATIONALIAW

PROBLEM

Absence of integrity, uniformity, presence of split, 'black holes' and 'double-standards' in judicial system of many states and in the international law as a whole

Private Military and Security Companies(PMSCs)

Problems with jurisdiction, regulation, registering, licensing, transparency, accountability, violations of human rights

Draft of UN CONVENTION
On Regulating Private Military and
Security Companies (PMSCs)

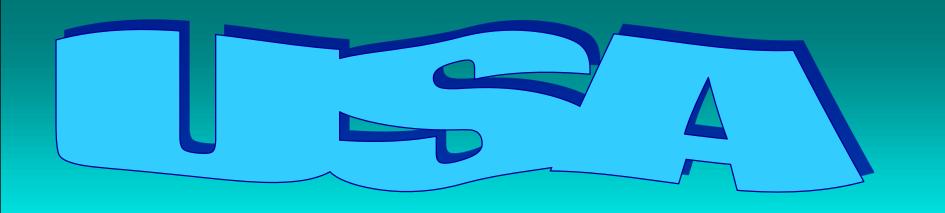
In 2012 circulated by UN Secretariat among MFAs of all 193 UN state-members. Awaits adoption.

Int. Criminal Justice system

- 1.International Criminal Tribunals
 (Court Martial) created ad hoc by UN SC
- 2. Mixed (hybrid) Courts
 - 2.1 Based upon a State-UN Treaty
 - 2.2 Est. by UN in Peacekeeping areas
- 3. Internationalised national courts

4. International Criminal Court (ICC)

Absence or corrosion of legal integrity on the territory of non-recognized and\or failed states



Separation of Civil and Military Justice



Military Courts

- Smaller than civilian courts
- Ad hoc nominated officers
- Officers may be without legal education
- -May be biased, as far as originate from the same contingent as suspects
- Judging by majority, not by consensus

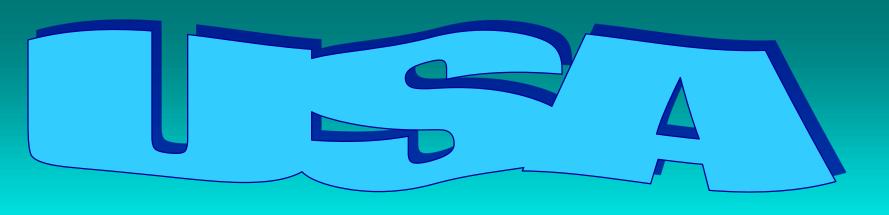
Military Commissions

Extraordinary court for justice over adversarial combatants.

Example – MC at Guantanamo. Created by US Congress in 2006.

Many prisoners in lengthy trials, but sentenced just 7 individuals since then.





Extradition from Europe to the USA complicated, if suspects will be taken by non-transparent Military Commissions

Since 2001 119 044 arrested for terrorism

35 117 sentences for "terrorism" in 66 countries

Since 2001
13 000 sentenced for "terrorism"
in Turkey

7 000 sentenced for "terrorism" in China (PRC)

In the USA 2934 arrested for "terrorism"

2568 sentenced for "terrorism"

Pakistan:
1552 arrested for "terrorism"
in 2006

12 886 sentenced for "terrorism" in 2009

7,9% Terrorism-associated prosecution in 2001

47% Terrorism-associated prosecution in 2007

ISANU RECORD Terrorist organizations prosecuted in US Courts: 94 – FARC 87 – Al-Qaeda 42-Hesbollah 24 - Hamas

Citizenship of prosecuted for terrorism: 98 - Columbia

60 – Pakistan

22 – Palestine

18 – Jordan

Citizenship of prosecuted for terrorism:

14 -Iraq 13 – Egypt 12 – UK 10 - Saudi Arabia

ISANU REDIT

Military targets – 16%

Civilian targets – 84%

Military commissions – 7 prosecutions

Civilian courts—523 convictions for terrorism

US Military commissions do not consider that foreign suspects have constitutional human rights

Right for a Fair trial:

Principle of equal (comparable)
prosecution for equal (comparable) crimes
requires

higher integrity of judicial system

Right for a Fair trial:

Necessary to eliminate non-standard non-transparent elements of judicial system,

like Court Martial not subordinated to general principles of Civilian Justice, or like extraordinary Military Commissions

Fill the gap in the law: PMSCs need to be regulated.

Adopt UN Convention on PMSCs.

Fill the gap in the law:

Coordinate approach to Justice in non-recognized and/or failed states.

Provide higher integrity
and homogeneity
of judicial system,
both on national and international levels

