



INTEGRITY

of

JUDICIAL SYSTEM

and of

INTERNATIONAL LAW

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**

PMSCs

**Private Military and Security Companies
(PMSCs)**

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

PMSCs

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**

USA

**Separation of
Civil and Military Justice**

USA

**Jurisdiction of
US military justice
is overspread onto many
types of civilian affairs**

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.**

USNA

US operation

in Afghanistan:

Law-Enforcement or

Military Operation (war)?

USA

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

Report by Associated Press:

Since 2001

119 044 arrested for terrorism

**35 117 sentences for “terrorism”
in 66 countries**

Report by Associated Press:

Since 2001

**13 000 sentenced for “terrorism”
in Turkey**

**7 000 sentenced for “terrorism”
in China (PRC)**

Report by Associated Press:

In the USA

2934 arrested for “terrorism”

2568 sentenced for “terrorism”

Report by Associated Press:

Pakistan:

**1552 arrested for “terrorism”
in 2006**

**12 886 sentenced for “terrorism”
in 2009**

USA NYU Report

**7,9% Terrorism-associated
prosecution in 2001**

**47% Terrorism-associated
prosecution in 2007**

USA NYU Report

**Terrorist organizations
prosecuted in US Courts:**

94 – FARC

87 – Al-Qaeda

42-Hesbollah

24 - Hamas

USA NYU Report

Citizenship of prosecuted

for terrorism:

98 - Columbia

60 – Pakistan

22 – Palestine

18 – Jordan

USA NYU Report

**Citizenship of prosecuted
for terrorism:**

14 – Iraq

13 – Egypt

12 – UK

10 – Saudi Arabia

USA NYU Report

Military targets – 16%

Civilian targets – 84%

U S S A

**Military commissions –
7 prosecutions**

**Civilian courts–
523 convictions
for terrorism**

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

CONCLUSIONS

Right for a Fair trial:

Principle of equal (comparable)

prosecution for equal (comparable) crimes

requires

higher integrity of judicial system

CONCLUSIONS

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**

CONCLUSIONS

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

Adopt UN Convention on PMSCs.

CONCLUSIONS

Fill the gap in the law:

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

CONCLUSIONS

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

