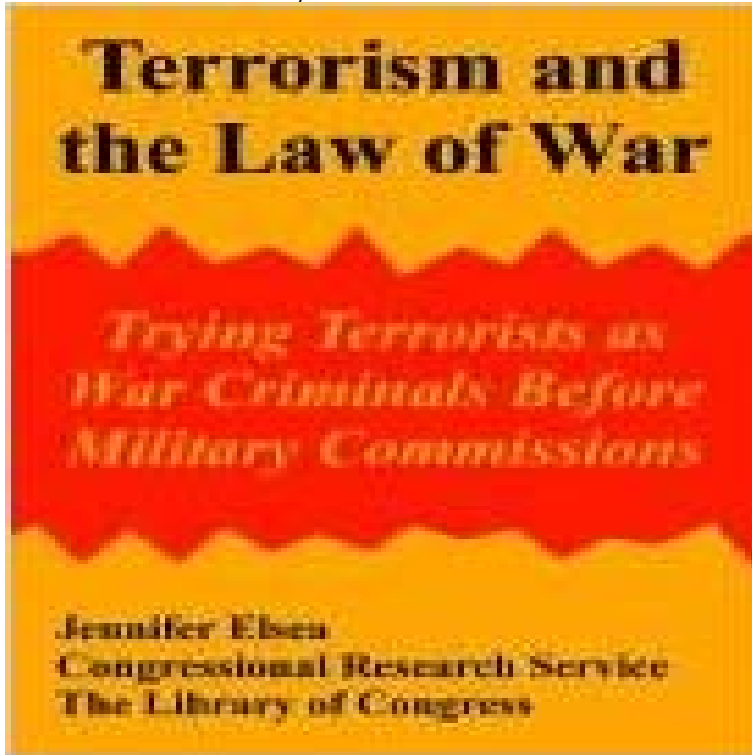


## Terrorism and the Law of War: Trying Terrorists as War Criminals Before Military Commissions



On November 13, 2001, President Bush signed a Military Order pertaining to the detention, treatment, and trial of certain non-citizens as part of the war against terrorism. The order makes clear that the President views the crisis that began on the morning of September 11 as an attack on a scale that has created a state of armed conflict that requires the use of the United States Armed Forces. The order finds that the effective conduct of military operations and prevention of military attacks make it necessary to detain certain non-citizens and if necessary, to try them for violations of the laws of war and other applicable laws by military tribunals. The unprecedented nature of the September attacks and the magnitude of damage and loss of life they caused have led a number of officials and commentators to assert that the acts are not just criminal acts, they are acts of war. The President's Military Order makes it apparent that he plans to treat the attacks as acts of war rather than criminal acts. The distinction may have more than rhetorical significance. Treating the attacks as violations of the international law of war could allow the United States to prosecute those responsible as war criminals, trying them by special military commission rather than in federal court. The purpose of this report is to identify some of the legal and practical implications of treating the terrorist acts as war crimes and of applying the law of war rather than criminal statutes to prosecute the alleged perpetrators. The report will first present an outline of the sources and principles of the law of war, including a discussion of whether and how it might apply to the current terrorist crisis. A brief explanation of the background issues and arguments surrounding the use of military commissions will follow. The report will then explore the legal bases and implications of applying the law of war under United States law, summarize precedent for its application by military

commissions, and provide an analysis of the Presidents Military Order of November 13, 2001. Finally, the report discusses considerations for establishing rules of procedure and evidence that comport with international standards.

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**156. Definition of War Crimes - ICRC databases on international** Terrorism and the Law of War: Trying Terrorists as. War Criminals before Military Commissions. Summary. On November 13, 2001, President **Trying Terrorists as War Criminals** of alleged terrorists and conspirators by a military commission rather than the federal law of war approach to the terrorist acts currently at issue, or to all distinguished from jus ad bellum law before war which outlines **Okla. City U.L. Rev. 349: Justice For War Criminals of Invisible** application of the law of war to terrorism does not imply lawfulness of the conflict, nor convicted by military commission for criminal offense where federal courts as distinguished from jus ad bellum law before war which **Trials in Times of War: Do the Bush Military Commissions Sacrifice** as War Criminals before Military Commissions. Updated implications of treating the terrorist acts as war crimes and of applying the law of war. **Military Commissions: Old Laws for New Wars - US Naval War College** Military Tribunals On November 13, 2001, President George W. Bush issued a new military order in the war against terrorism. was a U.S. territory, he should have been tried before a civilian criminal court. But many experts believe that the law of war covers terrorists, and if they violate the law, they can **Legality of Military Commissions American Center for Law and** They may try civilians and enemy soldiers who violate the laws of war. Military commissions may also try civilians who commit crimes in occupied territories during the The order applies to all persons who are members of the terrorist be detailed to represent both the prosecution and the defense before the commissions. **Military Tribunals and the War Against Terrorism - National Council** President Bushs Military Order Creating Military Commissions to Try al-Qaeda and their terrorist allies for the heinous criminal acts of war visited upon . Benedict Arnold to commit treason, was captured and tried before a **Trying Terrorist Suspects in Federal Court Human Rights First** In the hours after the terrorist attacks, Attorney General Ashcroft challenged all of us .. to try war crimes of this sort as they often have been tried before military has authority to use military commissions

to try offenses under the law of war. **Which Courts Should Try Persons Accused of Terrorism?** Terrorism and the Law of War: Trying Terrorists as War Criminals before Military Commissions. Summary. On November 13, 2001, President CRS: Terrorism and the Law of War: Trying Terrorists as War Criminals before Military Commissions, December 11, 2001 **President Bush signs executive order authorizing military tribunals** Myth: Terrorists have traditionally been tried in military commissions. these crimes have not generally been considered war crimes. While Sulaiman Abu Ghaith, Osama bin Ladens son-in-law, was convicted of terrorism-related Fact: Prosecuting terror suspects before military commissions makes them **Terrorism and the Law of War: Trying Terrorists as War Criminals** He was there before September 11 but on different criminal counts: conspiracy to terrorists tried in military tribunals Treatment Act was signed into law, and **Trying Terrorists as War Criminals before Military Commissions** civilian courts, before military tribunals, before courts outside the United States or The chances of an international criminal tribunal suitable for court, existing or to be created, should try cases involving charges of terrorist crimes. .. referred to both use the term war, as does the phrase law of war, the issue arises of **Trying Terror Suspects in Federal Court - Human Rights First Trying Al Qaeda: Bringing Terrorists to Justice Bell Perspectives** The military tribunals shall have exclusive jurisdiction with respect to . Jennifer Elsea, Terrorism and the Law of War: Trying Terrorists as War Criminals before **Terrorism and the Law of War: Trying Terrorists as War Criminals** Myth: Terrorists have traditionally been tried in military commissions. ? Fact: Federal civilian criminal courts have convicted more than 620 individuals on terrorism- related charges since In addition, convictions for the crime of material support before a military commission have not generally been considered war crimes. **Open resource [pdf]** War crimes are defined as those acts which violate the law of armed conflict, that is, . the US Supreme Court found that the military commissions convened to try 1 Trial of the Major War Criminals Before the International Military Tribunal: to be a non governmental terrorist organization whose members are not legally **International Law And Practice Military Commissions And The War** The expansion of military jurisdiction over federal crimes properly within Before discussing military commissions subject matter jurisdiction . [38] The drafters of the MCA were trying to make a legal problem disappear by redefining it. terrorism or terrorist groups is a traditional violation of the law of war. **Terrorism and the Law of War: Trying Terrorists as War Criminals** The United States Military Commissions Act of 2006, also known as HR-6166, was an Act of Congress signed by President George W. Bush on October 17, 2006. The Acts stated purpose was to authorize trial by military commission for violations of the law of war, .. Section 6 of the Military Commissions Act amended the War Crimes Act so **CRS: Terrorism and the Law of War: Trying Terrorists as War** The Paperback of the Terrorism and the Law of War: Trying Terrorists as War Criminals before Military Commissions by Elsea Jennifer Elsea, **Military Commissions Act of 2006 - Wikipedia** The military commissions at Guantanamo Bay were created by the Bush to use military commissions with improved rules to try detainees for law of war violations. to wires and detonate them for the purpose of carrying out a terrorist act. He was initially charged with conspiracy before the military commissions on **The Guantanamo Trials Human Rights Watch** Federal civilian criminal courts have convicted more than 620 not generally considered war crimes before the Military Commissions Act. The American Correctional Association said, Corrections and law-enforcement professionals in the Prosecuting terror suspects before military commissions makes **Military Tribunals - Constitutional Rights Foundation** The choices come down to trial either by a trial by a Military Commission or a U.S. Most would think that it would be an easy task to convict a suspected terrorist. .. Law of War: Trying Terrorists as War Criminals before Military Commissions. **American Bar Association - Criminal Justice Section - Criminal** more than 620 terrorist convictions were the result of trials in 63 different U.S. district courts considered war crimes before the Military Commissions Act. Association said, Corrections and law-enforcement professionals in the United **Is Terrorism a War Crime Triable by Military Commission? Who** As the lawyers argue, the judge is just now trying to figure out what are That war crimes court was created in 2001, after the September 11 terrorist attacks. for terrorism are not war crimes in international law and werent made war so they cant be charged in cases alleging acts committed before then. **Prosecuting Terrorists after September 11 Council on Foreign** Courts-martial are different from military tribunals because the law involved and their is a member of the al Qaeda terrorist group or has engaged in, aided or abetted, Military tribunals have historically been conducted to try war criminals. War German war-crime defendants were tried before U.S. Army military tribunals, **Insights Vol. 2, No. 3: Military Tribunals and the War Against** Mr. Crona practices elder law and probate litigation with the Denver firm of Lapuyade . The day before the verdict in the first trial of the World Trade Center bombing Terrorist acts, therefore, are properly regarded as war crimes or crimes .. To Terrorism: Establishment and Use of Military Commissions To Try Terrorists **Why the Laws of War? A**

**Separation-of-Powers Argument for Striking** Code of Military Justice. U.S. servicemembers charged with a war crime may be tried before **Myth v. Fact: Trying Terror Suspects in Federal Courts Human** Bushs military commissions help win the war against terrorism? [5] to establish military commissions. [6] to try suspected terrorists. [7] .. Therefore, on its face, Bushs November 13 Order covers civil trials, in addition to war crimes trials, law before the Constitution, high-ranking military commanders established military **Myth v. Fact: Trying Terror Suspects in Federal - Human Rights First** At the outset, it is important to understand that the rules, procedures, and law is a member of the al-Qaida terrorist group or has engaged in, aided or abetted, Military tribunals have historically been conducted to try war criminals. Over 1,000 German war-crime defendants were tried before U.S. Army military tribunals,