

MILITARY JURISDICTION OVER CIVILIANS ROBINSON O. EVERET I INTRODUCTION N A WORLD where the existence of large armed forces and the threat of war appear almost as inescapable as death and taxes, de-*

See Article History Military law, the body of law concerned with the maintenance of discipline in the armed forces. Every state requires a code of laws and regulations for the raising, maintenance, and administration of its armed forces, all of which may be considered the field of military law. The term, however, is generally confined to disciplinary military law as defined above. In the past this was also known by the name of martial law, a term that now has the meaning of military enforcement of order upon a civil population either in occupied territory or in time of disorder. Members of armed forces do not cease under modern conditions to have duties as citizens and as human beings. Historical development The object of the disciplinary code is to ensure that the will of the commander is put into effect. Military law therefore traces its origins to the prerogative power of rulers. In Rome, just as a sector of civil law developed from the imperium of the magistrates, so did military law derive from the imperium of those same magistrates in their capacity as commanders of the military forces. The Roman historian Tacitus indicates that military justice in the 1st century ce was somewhat rough-and-ready and heavy-handed and varied much with the individual commander. But it became more formalized years later in the Digest and Codex of the emperor Justinian. With the rise of the kingdoms of the Middle Ages, the maintenance of discipline was enforced by ordinances or articles of war issued by the sovereign or by a commander authorized by him at the beginning of each campaign. The earliest now extant are those of the English king Richard I in a charter of for the government of those going to the Holy Land. With mercenary armies drawn from many nations in the wars of the 16th and 17th centuries, each national contingent tended to apply the articles of the supreme commander according to its own rules of procedure. The articles of war of Maurice of Nassau, prince of Orange, and Gustav II Adolf had a considerable influence on the national commanders who served under them, when they came to command elsewhere. On the continent of Europe, the articles of Gustav Adolf continued to be followed until supplanted by the codification of the 19th century, which established throughout those countries a generally similar system that, with revision and amendments, continues to this day. With the introduction of a standing army in England in, Parliament aimed to prevent this force coming under complete control of the sovereign by a series of mutiny acts, normally passed annually, to which the prerogative articles were subordinate. By a statute of the power to make articles was embodied in the act. In the United States in and again in, articles of war were adopted that were modeled upon the mutiny acts and articles then in force in Great Britain. In the British army, the articles of war were replaced in by an annually renewed Army Act reformed in, although they continued in the Royal Navy until Jurisdiction Persons subject to military law The jurisdiction of military law is not necessarily confined to offenses injurious to the discipline of the forces committed by members of those forces. It extends in various countries in varying degrees to all offenses committed by members of the forces and to offenses injurious to discipline committed by persons who are not members of those forces. Military personnel In countries in which an obligation to military service exists, soldiers who fail to answer their initial call-up or report for duty are liable to military jurisdiction for such offenses as desertion or self-mutilation either because the military code makes such offenses applicable to them as a class of civilians as in Belgium, France, Italy, and Israel or because under the act introducing national service they are deemed to be enlisted on the dispatch of a calling-up notice as was the case in Great Britain when conscription was in force. They continue to be liable for such offenses, even if not otherwise subject to military law, during authorized absence from the conscripted service or temporary reserve service. Reservists are also subject as in Italy to military jurisdiction for such offenses as treason, communicating with foreign countries, and revelation of official secrets. In Belgium, released soldiers remain liable for rebellion or offenses against superiors committed within one year of their release. Civilians Civilians may become subject to military jurisdiction in any number of ways. In Italy and Turkey, for example, treason or rebellion can be dealt with under the military code, and in Norway breaches by a civilian of the Geneva Conventions of and their

additional Protocols of are dealt with under military law. In other countries, civilians who instigate or participate in military crimes may themselves be triable under military law. In other countries, only civilians associated with the armed forces may be triable under service law. In Israel, for example, civilians who are employed by the army, or who have been provided with army weapons, are subject to military law, as are those held in army custody. Under British military law, civilians accompanying armed forces stationed in a foreign country including families of soldiers as well as British civilians working for or with the services are triable under offenses against the good order of the military community. In the United States, however, civilians—even those forming part of a service community abroad—cannot in peacetime be tried at all under the military process, though they may become subject to military jurisdiction in time of war. Austria and Spain are among countries in which no civilian can be liable to military jurisdiction. Prisoners of war Also among those who fall under military jurisdiction are prisoners of war. Sometimes, as in France, Belgium, and Luxembourg, they are expressly included among those to whom the ordinary military law applies; elsewhere, special regulations concerning their behaviour and trial must be passed. Prisoners of war must not be sentenced to any penalties other than those which might be inflicted on members of the forces of the detaining power for the same act. Offenses against military law The military law of the Anglo-American countries and of countries deriving their military law from them, such as India and other independent members of the British Commonwealth, differs from that of the majority of the Continental countries in that the latter tend to divide military offenses into two classes: The former group of countries and a few others recognize no such distinction, regarding all military offenses as crimes. Apart from offenses of a peculiarly military nature, such as mutiny, insubordination, desertion, and misconduct in action or in performance of service duties, when an act committed by a soldier constitutes an offense in the civil code, it will frequently constitute an offense of which military law takes cognizance. In Belgium, for example, all civil offenses committed by soldiers, except very minor ones, are tried by military court. In France, Germany, Austria, and Scandinavia, in peacetime, all crimes, military or civil, are dealt with by civil courts. Great Britain, Canada, and other countries include as military crimes all actions committed by soldiers anywhere that would be offenses against the criminal law of their own country, although the most serious of these cannot be tried by a military court unless committed abroad, or in India at specified Frontier Posts. In the United States, because of the differences between the criminal law of different states, certain civil crimes are specifically made offenses against the military code. All countries have rules to prevent the double jeopardy of an offender being punished for one act by both civil and military jurisdiction. Generally, when civil jurisdiction may be exercised, this takes precedence over military jurisdiction. Procedure Summary punishment In both Anglo-American and Continental systems, soldiers are subjected to penalties imposed summarily as well as to those imposed by courts. In the majority of countries, summary penalties can be inflicted only by officers not lower than the rank of captain, the commanding officer of the military unit being the principal source of discipline. The forms of punishment so inflicted are normally loss of privileges for a specified period, fines, or deprivation of liberty. Higher military commanders usually have power to deal summarily with officers normally up to the rank of major, though in some countries these will not be liable to loss of liberty. Appeal Under the British and some other systems of military law, if a commanding officer has it in mind to award a punishment beyond a certain degree of severity usually including deprivation of liberty, he must first offer the accused the option of being tried by a court-martial. In other countries the soldier may appeal to a tribunal; in yet others, such as Norway and Sweden, he may have a right of appeal through the chain of military command up to a certain level the brigade commander in Norway; in Sweden, the regimental commander but, beyond that, to a tribunal in Sweden, the county court. In the Continental countries, military crimes and similar offenses are also dealt with judicially. Court-martial Pretrial procedure Military courts follow judicial procedures no less formal than those of the higher civil courts. Under other military legal systems, the preliminary investigation is likely to be in the hands of a military magistrate and set in motion by a military procurator, who corresponds to the official responsible in such countries for initiating civil prosecutions on the public behalf. In Israel, whose military judicial procedures otherwise derive from the British model, the responsibility for both the investigation and the decision to proceed to trial rests with a military advocate, the commanding officer being excluded

altogether from the investigative process and forbidden to interfere with it. He must be allowed full facilities for preparing his defense, and there are normally safeguards provided to protect him from being held unjustifiably in arrest before trial. In some systems his arrest must be ordered and authorized by a magistrate, usually for a limited period only. Composition of the court Courts-martial are generally composed, depending on the type of case, of between three and seven judges; these are usually military officers, though in some countries the membership of the court may include other ranks and even civilian judges. In the United States, for instance, the accused enlisted person may require that not less than one-third of the court be made up of enlisted persons. British military law provides for the court to include civilian crown servants when the accused is a civilian, one if the court is a district court-martial and two if the trial is by general court-martial. The military courts of most countries embody at least one lawyer, who may be a legally qualified serving officer or a civilian and whose role may be either that of a participating member of the judicial tribunal sometimes its president or that of a legal adviser to a tribunal composed of lay members of the military. The judicial independence of the professional lawyers, where they serve as participating judges, is commonly safeguarded by their appointment on a fixed tenure of office. In Israel, for example, a legally qualified officer on a five- to seven-year tenure sits as president with two lay officers. The Belgian military court consists of a civilian judge on a three-year tenure sitting with four serving officers. In Italy two permanent civilian judges sit with one military officer who is selected by lot for a two-month tour of duty as a member of the court. In France the military tribunal consists, in wartime, of two civil and three military judges since French soldiers in peacetime have come entirely under civil jurisdiction. The other mode of trial, in which the lawyer is advisory to a court-martial of laypersons, is more common in countries accustomed to the Anglo-American mode of jury trial, where the professional judge, having instructed a lay fact-finding body the jury as to the principles of law they must apply, takes no part in their subsequent deliberations. In a similar manner, the legal adviser to the court-martial sums up the law and the facts in open court and then retires, leaving the members of the tribunal to their own discussions and returning only when they announce their finding. In Britain and the countries of the Commonwealth, this legal adviser to a court-martial is termed a judge advocate. The British judge advocate is almost always a member of the judicial staff of the judge advocate general, a civilian official responsible to the lord chancellor and, thus, entirely independent of the service authorities. Many Commonwealth countries also make use of a civilian judge advocate. In the United States the erstwhile legal adviser to the court-martial has been replaced by a military judge, who is a serving officer but is part of an independent military judiciary. When sitting with a court-martial, his functions remain advisory, much as already described; he has, however, also been given an alternative jurisdiction to sit, at the request of the accused, as the sole judge in the case, determining guilt or innocence and, in the event of a finding of guilty, passing sentence. Courts of varying competence In some countries there are grades of courts-martial with varying competence as regards persons whom they may try or punishment they may impose. In the United States, Great Britain, and Canada, general courts-martial composed of not less than five officers with a legal adviser military judge in the United States may deal with all persons subject to military law and pass any sentence authorized by the code; special courts-martial United States, district courts-martial Britain, and disciplinary courts-martial Canada consist of at least three officers and have limited powers. Although under the Anglo-American system, in cases of minor importance, prosecution and defense may be conducted by regimental officers of no legal qualifications, in the majority of countries, the prosecution will normally be in the hands of a legally qualified official, known variously as commissioner, fiscal general, auditor, or military procurator. Counsel for the accused A soldier being dealt with summarily, or by disciplinary procedure that is not regarded as judicial action, is not usually defended—though this right has been introduced in the Netherlands. In trials before military courts, all countries allow the accused to be assisted in his defense by an advocate, and in some countries this is compulsory. All countries permit the employment of qualified civilian lawyers. In Greece the defense may be conducted by the family or friends of the accused. The stage at which a defender may operate varies. Normally, he may assist immediately after the first interrogation, when an accused is informed of his rights. He then has rights of intervention during the process of instruction and must be present at such features of it as the interrogation of the accused. In other countries as in Greece, the

defender has no part in the instruction and appears only at the trial. They are also subject to further review at higher levels in the military chain of command. The convicted soldier is entitled to petition the confirming officer and, subsequently, any reviewing authority against either the finding or the sentence. In some systems there may be, instead of or in addition to this right, a right of appeal from the court-martial to a superior military court. In most countries there is either an immediate or an ultimate right of appeal to a court of civilian judges—in Continental countries a Court of Cassation and in Britain a Courts-Martial Appeal Court consisting in practice of judges of the Criminal Division of the Court of Appeal. In both the United States and Britain, there can in some circumstances be a final appeal to the highest court in the land—namely, to the Supreme Court. In Israel too the right of appeal from courts-martial can extend to the Supreme Court. In general, appeal courts are concerned only with the legality of conviction, not with matters of sentence, and the supreme courts only with points of law. Normally, only the defense can appeal, but sometimes the prosecution too can appeal either against the original finding and sentence of the court-martial or on a question of law. The ombudsman In a few countries, representations about conditions of service and applications for advice and help outside the normal service channels may be made through specific officials. In Norway a military ombudsman was introduced in 1945. This official sometimes raises questions on disciplinary and penal offenses. The first military ombudsman was probably in Sweden, established in 1809 to take note of the sentences of military courts, conditions in military prisons, and other matters of military administration. This office as such, however, was abolished in 1913, and the supervision of the military, including complaints by soldiers, became part of the responsibilities of one of four parliamentary ombudsmen. The route of appeal by way of an ombudsman or similar civilian official in those countries that have them including, among others, Finland has developed into an effective means of protecting the rights of soldiers within the military system. Wartime procedure Almost all countries, including those that leave the soldier in peacetime to an exclusively civilian jurisdiction, make provision for trial in time of war or emergency by military courts composed wholly or predominantly of soldiers.

Chapter 2 : Uniform Code of Military Justice - UCMJ

Military jurisdiction is exercised through the application of military law, the law of war, military government, martial law, and military orders and regulations-- Military law regulates the.

These instruments can be found in the Canadian Forces Administrative Orders and Defence Administrative Orders and Directives; they are used as direction for authorities within the CF to administer the day-to-day considerations of the Forces. For example, officer cadets attending military college are organized and subject to regulations more appropriate for their academic success than the enforcement of discipline, as might be expected of fully trained members. Volume IV, Appendix 6. In Canadian practice, armed combat is a strictly regulated environment and legal officers are a crucial part of the planning that goes into operational decisions. The Military Law Centre on the grounds of Royal Military College of Canada, staffed with military lawyers, oversees the education of officers and troops in legal matters, trains military lawyers and advises Ottawa on matters of policy and doctrine. Legal education is integrated into the regular training that CF members undergo. The military jurisdiction encompasses all military persons: However, military chaplains are outside the criminal military jurisdiction. The military jurisdiction starts from the moment when a person reports to duty or was liable to report to duty and lasts to the moment when the person has been discharged from service and, in case of conscripts and involuntarily activated reservists, has also left the military area. During wartime, also civilians serving in the Defence Forces or in civilian institutions that have been put under the direction of Defence Forces are under military jurisdiction. The military criminal law, the 45th Chapter of the penal code, encompasses only the crimes which only military persons can commit. The most important of these are various types of "service crime" Finnish: Other crimes are subject to usual civilian law. However, they are only under military jurisdiction if the crime has been committed against another military person or against the Defence Forces. During wartime, the crimes carry considerably larger sentence ranges and, if the crime causes the danger to the military unit, the sentence range is even harsher. For example, desertion carries, in the peacetime, a sentence of disciplinary punishment or up to one year in prison. During wartime, it carries a mandatory prison sentence of not more than four years, and, if the crime caused a particularly immediate danger to the unit, a mandatory minimum of one year, with a maximum sentence of ten years. The battalion commander and military police officers have also the right to arrest the suspect and to conduct searches inside a military area. The Defence Command has, in addition to the power of arrest, the power to use almost all other measures that are available to the Finnish police. If the Defence Command requires the use of the most invasive investigative measures e. If the police considers it necessary, they may always take the case over, however. After hearing the suspect, the disposing superior either frees the suspect from suspicion or gives an appropriate punishment within the range allowed to him. During peacetime, professional soldiers with the exception of certain soldiers deployed to international missions cannot be given other disciplinary punishment than a public letter of reprimand or a fine. When the brigade commander determines that he cannot give sufficient punishment, he will transfer the matter to the public prosecutor who will commence prosecution in a civilian court. However, the appeals will not prevent the execution of the punishment. The district court has a learned civilian judge and two military members. One of them is an officer and the other a warrant officer, an NCO or a private. The military members of the district court are selected by the court of appeals on the motion of the Commander of the Finnish Army. The military members of the Courts of Appeals are selected by the Ministry of Justice on motion of the Ministry of Defence. The military members of the Supreme Court are selected by the President of Finland. When the military person holds a permanent or temporary paid position as a state military servant Finnish: If the sentence is a life sentence, dismissal is mandatory. The court may also sentence dismissal with a shorter prison sentence if the crime shows that the person is unsuitable for state employment. In such cases, the former service member is investigated by the civilian police but the case is handled by a court with military members. In sentencing, disciplinary punishments cannot be used. Instead if a disciplinary punishment, an ordinary day-fine is sentenced. This can happen even if no criminal charges are pressed. Following this, the person may be declared permanently unfit for duty by the Defence Forces regional

office for safety and security reasons. Any person who is sentenced to prison for at least two years or to prison for any length of time for a crime of treasonous nature specifically, crimes in chapters 11 and 12 of the Penal Code, e. Thus, not only active military persons but also retired personnel, reservists and persons who are too old to belong to reserve may lose their military ranks for crimes of civilian nature. Partly this is due to the fact that the bar of criminality has been set consciously low. The crime of absence without leave is committed by a soldier who is even a minute late, and a slightest wilful or negligent disregard for a standing order or a regulation fulfils the indicia of the "service crime". The legislator has purposefully given the military superiors the legal tools by which to maintain discipline by punishing even the slight appearances of bad conduct if they feel it necessary. On the other hand, handing out unofficial punishments is discouraged in the extreme. An absolute majority of these are handled by summary measures, i. In year , courts of appeals handled only a total of 5 military criminal cases. The German constitution allows the federal government in art. In fact, no such laws have been enacted so far. Nonetheless, there exist numerous acts that only concern soldiers describing their special status, their rights and duties. The military penal code Wehrstrafgesetz applies to soldiers by extending the civil penal code Strafgesetzbuch to crimes that can be only committed on military duty: General offenses such as desertion, illegal use of weapons and more and offenses that interfere with the military hierarchy such as mutiny or abuse. When investigating, working for the attorney is equivalent to any German police in civil issues. In cases of both groups involved on German terrain , regular and military police cooperate. In emergencies, the regular police is authorized to maintain order until the military police has arrived. Soldiers that violate military regulations may also receive penalties in form of Non-judicial punishment or in severe cases judicial punishments by a special type of court. These procedures are defined by the military discipline code Wehrdisziplinarordnung, WDO. Note that the WDO describes how to proceed on offenses that are not yet covered by the military penal code but clearly against a military regulation. The head of the unit as immediate superior who acts as primary disciplinary master has the exclusive right to choose: The judge of such a court is a civil one, two military officers are attending every case and act as consultants to the judge. He will remain in arrest for the same time but continue serving in his unit on duty times unless the court has imposed further limits. In the case of a soldier being sentenced to jail for one year or more 6 months or more in case of bribery he will be discharged from the armed forces. All these three Acts are available on search from the official website. All such Acts draw their inspiration from the Army Act. The military courts in India are coming under extreme stress with the establishment of Armed Forces Tribunal in

Chapter 3 : Kinsella v. Krueger - Wikipedia

Military Jurisdiction Over Civilians: have been considered sufficient to permit punishment of some civilians in that area by military courts under military rules.

Hardin, [4] a neighbor and fellow West Point-educated regular Army officer. Dorothy Smith was held in the isolation ward of the 11th Station Hospital for observation. Major General William E. In December, an Army Medical Board declared her fit to stand trial. Levie, initially argued that the court had no legal jurisdiction over the wife of an Army officer. When this was rejected by the court, he argued that she was not guilty due to temporary insanity. Her personal physician, Brigadier General Rawley E. Chambers, told the court that Dorothy Smith was subject to "neurotic explosions," that she had slashed her wrists a number of times, and that she once had assaulted another Army wife. Brigadier General Adam Richmond, who had been judge advocate of the Third United States Army when it had been commanded by Krueger in the early 1950s, [6] argued that Dorothy was not sane at the time of the incident, and that the testimony that the court-martial had heard to the contrary was military rather than medical. Brosnan, Judge George W. Chief Judge Robert E. Tamm had released Mrs. Toth, a former Air Force Sergeant who had been tried by a court martial for a murder in Korea five months before he had been honorably discharged from the Air Force. But Moore declined to follow Tamm, and denied relief. As a result, Covert was on release while Dorothy remained incarcerated in Alderson. Krueger appealed to the Fourth Circuit Court of Appeals. The case became *Kinsella v. Krueger*, Nina Kinsella being the prison warden at Alderson. While the appeal was pending the Government sought certiorari from the United States Supreme Court before the 4th Circuit heard the appeal. In view of the importance of the constitutional issue presented by the case, the writ was granted without action by the Circuit Court. These include "making rules for the government and regulation of the said land and naval forces, and directing their operations". In 1950, Congress specifically extended the scope of the articles of war to cover all civilians accompanying military forces outside the United States. Writing for the majority, Justice Tom C. Furthermore, since under the principles of international law each nation has jurisdiction of the offenses committed within its own territory Foreign nations have relinquished jurisdiction to American military authorities only pursuant to carefully drawn agreements which presuppose prompt trial by existent authority. Absent the effective exercise of jurisdiction thus obtained, there is no reason to suppose that the nations involved would not exercise their sovereign right to try and punish for offenses committed within their borders. Under these circumstances, Congress may well have determined that trial before an American court-martial in which the fundamentals of due process are assured was preferable to leaving American servicemen and their dependents throughout the world subject to widely varying standards of justice unfamiliar to our people No question of the legal relation between treaties and the Constitution is presented. Article 21 of the Uniform Code of Military Justice is constitutional. Douglas and Chief Justice Earl Warren dissenting. Whittaker did not participate, [17] Justice Felix Frankfurter filed a reservation, which impelled Wiener to file a petition for a rehearing despite the fact that, as he later acknowledged, "most requests for rehearing enjoy the viability of snowballs beyond the River Styx. Since he had not participated in the earlier decisions, his replacement, William J. It was a stunning development; it was the first time since it had first sat in that it had reversed a decision without a major intervening change in its membership, [6] for even without Brennan, the verdict would have been the same. These cases raise basic constitutional issues of the utmost concern. They call into question the role of the military under our system of government. They involve the power of Congress to expose civilians to trial by military tribunals, under military regulations and procedures, for offenses against the United States thereby depriving them of trial in civilian courts, under civilian laws and procedures and with all the safeguards of the Bill of Rights. These cases are particularly significant because for the first time since the adoption of the Constitution wives of soldiers have been denied trial by jury in a court of law and forced to trial before courts-martial Now, after further argument and consideration, we conclude that the previous decisions cannot be permitted to stand. We hold that Mrs. Covert could not constitutionally be tried by military authorities. Frankfurter and Harlan wrote separate concurring opinions. When the United States acts against its citizens

abroad, it can do so only in accordance with all the limitations imposed by the Constitution, including Art. The power of Congress under Art. Under our Constitution, courts of law alone are given power to try civilians for their offenses against the United States. United States, the Court extended the ruling to dependents for non-capital offenses. Hagen extended it to civilian employees of the military for capital offenses, and McElroy v. United States to civilian employees for all offenses.

Chapter 4 : FM Chptr 5 Having Authority and Jurisdiction

Title: UCMJ Jurisdiction Over DoD Civilian Employees, DoD Contractor Personnel, and Other Persons Author: Memorandum from the Secretary of Defense.

PRESIDENT MAY PRESCRIBE RULES a Pretrial, trial, and post trial procedures, including modes of proof, for cases arising under this chapter triable in courts-martial, military commissions and other military tribunals, and procedures for courts of inquiry, may be prescribed by the President by regulations which shall, so far as he considers practicable, apply the principles of law and the rules of evidence generally recognized in the trial of criminal cases in the United States district courts, but which may not be contrary to or inconsistent with this chapter. No person subject to this chapter may attempt to coerce or, by any unauthorized means, influence the action of a court-martial or any other military tribunal or any member thereof, in reaching the findings or sentence in any case, or the action of any convening, approving, or reviewing authority with respect to his judicial acts. The foregoing provisions of the subsection shall not apply with respect to 1 general instructional or informational courses in military justice if such courses are designed solely for the purpose of instructing members of a command in the substantive and procedural aspects of courts-martial, or 2 to statements and instructions given in open court by the military judge, president of a special court-martial, or counsel. However, the person authorized under regulations prescribed under section of this title article 27 to detail counsel in his sole discretion-- A may detail additional military counsel as assistant defense counsel; and B if the accused is represented by military counsel of his own selection under paragraph 3 B , may approve a request from the accused that military counsel detailed under paragraph 3 A act as associate defense counsel. Such regulations may not prescribe any limitation based on the reasonable availability of counsel solely on the grounds that the counsel selected by the accused if from an armed force other than the armed force of which the accuse is a member. To the maximum extent practicable, such regulations shall establish uniform policies among the armed forces while recognizing the differences in the circumstances and needs of the various armed forces. The Secretary concerned shall submit copies of regulations prescribed under this paragraph to the Committees on Armed Services of the Senate and House of Representatives. An assistant trial counsel of a special court- martial may perform any duty of the trial counsel. These proceedings shall be conducted in the presence of the accused, the defense counsel, and the trial counsel and shall be made part of the record. All other proceedings, including any other consultation of the members of the court with counsel or the military judge, shall be made a part of the record and shall be in the presence of the accused, the defense counsel, the trial counsel, and in cases in which a military judge has been detailed to the court, the military judge. The military judge or a court-martial without a military judge may, for reasonable cause, grant a continuance to any party for such time, and as often, as may appear to be just. The military judge, or if none, the court, shall determine the relevance and validity of the challenges for cause, and may not receive a challenge to more than one person at a time. Challenges by the trial counsel shall ordinarily be presented and decided before those by the accused are offered. OATHS a Before performing their respective duties, military judges, members of general and special courts-martial, trial counsel, assistant trial counsel, defense counsel, assistant or associate defense counsel, reporters, and interpreters shall take an oath to perform their duties faithfully. The form of the oath, the time and place of the taking thereof, the manner of recording the same, and whether the oath shall be taken for all cases in which these duties are to be performed or for a particular case, shall be as prescribed in regulations of the Secretary concerned. These regulations may provide that an oath to perform faithfully duties as a military judge, trial counsel, assistant trial counsel, defense counsel, or assistant or associate defense counsel may be taken at any time by any judge advocate or other person certified to be qualified or competent for duty, and if such an oath is taken it need not again be taken at the time the judge advocate, or other person is detailed to that duty. PLEAS OF THE ACCUSED a If an accused after arraignment makes an irregular pleading, or after a plea of guilty sets up matter inconsistent with the plea, or if it appears that he has entered the plea of guilty improvidently or through lack of understanding of its meaning and effect, or if he fails or refuses to plead, a plea of not guilty shall be entered in the record, and the court shall proceed as though he

had pleaded not guilty. With respect to any other charge or specification to which a plea of guilty has been made by the accused and accepted by the military judge or by a court-martial without a military judge, a finding of guilty of the charge or specification may, if permitted by regulations of the Secretary concurrence, be entered immediately whither vote. This finding shall constitute the finding of the court unless the plea of guilty is withdrawn prior to announcement of the sentence, in which event the proceedings shall continue as though the accused had pleaded not guilty. Process issued in court- martial cases to compel witnesses to appear and testify and to compel the production of other evidence shall be similar to that which courts of the Unites States having criminal jurisdiction may lawfully issue and shall run to any part of the United States, or the Territories, Commonwealths, and possessions.

Chapter 5 : Military justice - Wikipedia

During wartime, also civilians serving in the Defence Forces or in civilian institutions that have been put under the direction of Defence Forces are under military jurisdiction. [2]: Â§Â§ [3]: Â§Â§ Enemy prisoners of war fall under Finnish military jurisdiction during their imprisonment.

Chapter 6 : Military Jurisdiction Law and Legal Definition | USLegal, Inc.

jurisdiction over civilians accompanying the armed forces overseas in time of peace, in time of war, and for!-ier servicemen charged with commit- ing offenses wkile on active duty.

Chapter 7 : Court-martial Jurisdiction Under Amended Article 2(a)(10), UCMJ -

Military and civilian lawyers alike heralded the law as a means of regulating contractors'actions in a the- ater of operations. 29 In practice, however, MEJA has had little visible effect.