



THE NIMJ GAZETTE

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Awards

NIMJ's 2022 Kevin J. Barry Award winner is Prof. Saira Mohamed, University of California (Berkeley). The award honors NIMJ co-founder Kevin Barry a retired Coast Guard judge advocate, and mentor to many of us.

Saira Mohamed, entitled [Abuse by Authority: The Hidden Harm of Illegal Orders](#). 107 Iowa L. Rev. 2183 (2022).

Books

Fidell, Fissell, Rosenblatt, and Sullivan, *Military Justice: Cases and Materials*, Carolina Academic Press (2023). A teacher's manual is forthcoming. [Details here](#).

Symposium

NIMJ is planning an event for the Fall. More to come.

(State) Legislation

You may now be familiar with legislative changes to the [Indiana military law code](#). The changes got attention because the new law removed the right to refuse Article 15 punishment. Now GMJR reports on proposed changes in Wisconsin. The [changes appear designed to align](#) the state code with the UCMJ more. NIMJ links to the various state codes [here](#).

New cases

Harvey: The standard of review for factual sufficiency has changed for offenses committed after 1 January 2021. See *Section 542(e) of the F.Y. 2021 National Defense Authorization Act* Appellate cases are starting to pop up. It would be best to read [United States v. Harvey](#), 83 M.J. ___, 2023 CCA LEXIS 220 (N-M. Ct. Crim. App. 23 May, 2023). The court discusses some arguments on interpreting the language used in the statute. (Post at [CAAFlog](#).)

[Kelly v. United States](#), (Fed. Cir. 2023). "We hold that the Record Correction Board's failure to review or evaluate the effect the upgrade change in Mr. Kelly's record had on his eligibility for military retirement disability pay was arbitrary and capricious."

Worth a look (new and old)

Melissa Hendrickse, [*Closing a Legal Gap on Crimes Against Humanity*](#). OpinioJuris, 16 April 2023.

Tiffanie Turnbull, [*Ben Roberts-Smith: Top Australian soldier loses war crimes defamation case*](#). BBC News, 1 June 2023. GMJR suggests there may be efforts to begin investigations and prosecutions in the Australian Defence Force for alleged war crimes.

Yvonne Dutton and Milena Sterio, [*The ICC's 2022 Gender Persecution Policy in Context: An Important Next Step Forward*](#). Just Security, 1 June 2023.

Jada Loutoo, [*Ex-coast guard tries to block court martial over damaged vessel*](#). Newsday (Trinidad & Tobago), 2 June 2023. This appears to be a case of court-martial jurisdiction over a former servicemember, and challenges to the decision to prosecute. However, it seems he had been “forced” or “ordered” to resign instead of a court-martial or other adverse action (an editorial interpretation).

Are you translating [military slang into Ukrainian from English](#)? A bit harder than translating military language into American. I would note that the author refers to the term “bulkhead,” meaning a court-martial. As any “squid” will tell you, a bulkhead is a wall dividing compartments or spaces on a ship.

Cheers, Phil Cave, Editor