

## Events

**April 8, 2022, *JUSTICE IN WAR: Accountability for Battlefield Misconduct*.** More details at [here at this link](#), and note the change of location. The event is now co-sponsored with the Univ. of Virginia Law School. Pre-registration is not required.

March 18, 2022. Quarterly Board of Directors Meeting. Our discussion included the ongoing vaccine litigation in federal courts, the unanimous “jury” verdict litigation, and concerns about the post-service effects of adverse administrative discharges. We have also implemented a change to blogging. You can now find CAAFlog at

<https://www.nimj.org/caaflog>.

The March 10, 2022: NIMJ Zoom webinar: Accountability for American War Crimes, Up Close and Personal: A Conversation, went well. This webinar might be the start of a ‘Conversation With’ series. Thoughts on future webinars?

## Policy Statements

February 28, 2022. NIMJ submission to the Office of The High Commissioner for Human Rights Working Group on the Use of Mercenaries.

## People

Please welcome Steven Salva, Georgetown Law Class of ‘24, as a summer intern. Steven is a former submarine officer.

## Litigation and Cases



Phil Cave and Frank Rosenblatt gave an oral presentation for NIMJ as amicus in *Prosecutor v. Ongwen* at the ICC on February 16, 2022. We discussed the issue of cumulative convictions. We had also briefed a lack of mental responsibility. Paul Behrens, Edinburgh Univ., was there on the cumulative convictions point.

*In re Abd Al-Rahim Muhammed Al-Nashiri*. A new C.A.D.C. filing suggests the government reassesses the admissibility of evidence obtained through torture. (Thanks to Michel Paradis for this.)

## Unanimous court-martial verdicts

United States v. Scott, Petition at the CAAF denied March 3, 2022.

In *United States v. Dial* and *United States v. Ferriera*, writs are still pending at ACCA, with the trial proceedings stayed. The Army Court of Criminal Appeals has scheduled an oral argument for April 14, 2022 (en banc) (case [documents here](#)). In *United States v. Westcott*, No. ACM 39936, 2022 CCA LEXIS 156 (A. F. Ct. Crim. App. Mar. 17, 2022) (memorandum op.), at least one judge of the court would hold that the Appellant was denied the right to a unanimous “jury” finding of guilt. Slip op. at \*108.

## Updating the MANUAL FOR COURTS-MARTIAL

The President signed an Executive Order creating a specific offense of sexual harassment. The prior practice was to charge sexual harassment as an orders violation. (Still not available on the [JSC website](#).)

## Call for Papers

INTLAWGRRRLS report that,

The *American Journal of International Law* has a call for papers for an Agora symposium to be published in the October 2022 Journal issue. Topic, “*The War in Ukraine and the Future of the International Legal Order*.” Papers should not exceed 5,000 words, inclusive of footnotes. *Submissions-June 20, 2022*. Information [here](#).

The *University of Jyväskylä (Finland)* invites abstract submissions for the (October 13-14, 2022) online seminar entitled *Lights and Shadows in the Ongwen Case at the International Criminal Court: Inter- and Multi-Disciplinary Approaches*. The organizing committee plans to publish selected seminar papers in an edited collection or a special issue in a peer-reviewed international journal. Abstract submissions are due May 2, 2022. For more information, click [here](#).

## Worth a look (new and old)

SEXUAL ASSAULT. DoD and Coast Guard Should Ensure Laws Are Implemented to Improve Oversight of Key Prevention and Response Efforts. [Report, GAO-22-103573](#).

Orin Kerr, *The Fourth Amendment and Geofence Warrants: A Critical Look at United States v. Chatrie*. Lawfare, March 12, 2022.

Diane Marie Amann, *Time for a New War Crimes Commission?* Articles of War, Lieber Institute at West Point, March 18, 2022.

Eugénie Delval, *The Kunduz airstrike before the European Court of Human Rights: a glimmer of hope to expand the Convention to UN military operations, or a tailored jurisdictional link.* 59(2) MIL. L. & LAW OF WAR REV. 244-275, December 31, 2021.

Brian McAllister Linn, *Atrocities, Abuses, and Adjudication: Military Law Meets Military History.* THE ARMY LAWYER, No. 5, 2021 at 71.

Cave, Christensen, Fidell, Fissell, and Maurer, *The Division of Authority Between the Special Trial Counsel and Commanders Under the Uniform Code of Military Justice: Planning Now for the Next Phase of Reform.* Lawfare, February 28, 2022.

Amy Semet, *Statutory Interpretation and Chevron Defense in the Appellate Courts: An Empirical Analysis.* 12 U.C. IRVINE L. REV. 621 (2022). Yes, *Chevron* comes up in military cases (at least 42). See, e.g., *United States v. Alkazahg.* 81 M.J. 764 (N-M Ct. Crim. App. 2021); *United States v. Johnson,* 76 M.J. 673 (A. F. Ct. Crim. App. 2017) rev. denied 77 M.J. 17 (C.A.A.F. 2017).

Eric Bjorge, *Unilateral and Extraterritorial Sanctions Symposium: The Human Rights Dimension of Unilateral Sanctions.* OpinioJuris, February 3, 2022.

The Geneva Academy of International Humanitarian Law and Human Rights has posted an *IHL Talk about Russia and Ukraine* focused on the justifications given by Russia.

Tom Dannenbaum, *The Legal Obligation to Recognize Russian Deserters as Refugees.* JustSecurity, March 2, 2022.

Geoffrey S. Corn, *Congress Needs to Amend the War Crimes Act 1966.* Lawfare, March 2, 2022.

Ezéchiél Amani Cirimwami, *Special Courts in the Central African Republic: Procedural Aspects.* MAX PLANCK ENCYCLOPEDIA OF INTERNATIONAL PROCEDURAL LAW.

Kyle Rempfer, *Eight Green Berets quietly disciplined after Afghan prisoner's beating.* Army Times, March 29, 2022.