

The Dr. Evan R. Seamone Memorial Award

NIMJ has established [a new annual award in honor of Dr. Evan R. Seamone](#). The first award was presented at a recent symposium at George Washington Univ. Law School on military justice transparency.

New Rules

You can find many new rules in the now-published [MANUAL FOR COURTS-MARTIAL \(2023\)](#), which is a temporary measure. The JSC promises the 2024 edition “no later than the end of the year.” The USMC prepared a [flow chart to accompany the manual](#) on navigating from reporting an offense through referral under the new STC system.

Proposed New Rules

The latest proposed Rules changes to the Manual for Courts-Martial are [here](#). The [JSC requests comments](#) on or before 18 December 2023, and a public meeting will be held on 14 November 2023 at CAAF.

Meetings and Symposia

6 October 2023: NIMJ [Conference on Transparency in Military Justice](#).

National Guard

- Darcy Spears, [Guarding the guardsmen: Disorder and discipline in the Nevada National Guard](#). KTNV Las Vegas, 6 October 2023.
- Dennis Wagner, [National Guard scandals in these 13 states raise questions about culture and accountability](#). USA Today, 28 November 2021. Some specific issues by state are noted below.

International Developments

Rory Fowler and Pascal Lévesque posted on current cases of significance to the Canadian military justice system.

- [Military justice and judicial independence at the Supreme Court of Canada](#). GMJR, 14 October 2023. Rory also has some interesting history [in a 2021 Retrospective](#).

- [Canada: A Civilian Judge Orders a Stay for Unreasonable Delay in a Former CAF General's Case](#). GMJR, 15 October 2023.

The Irish Defence Forces will likely see significant changes in sexual assault prosecutions.

- The Irish Examiner article [Courts martial \[are\] designed to 'make problems go away' and avoid scandal](#), refers to a new Bill that addresses how sexual assault offenses are to be dealt with in the Irish Defense Force. According to the Irish Department of Justice, the [Criminal Law \(Sexual Offences and Human Trafficking Bill 2023\)](#), with strengthen the law and improve protections for victims.

Books

Delgado James P., *The Curse of the Somers: The Secret History behind the U.S. Navy's Most Infamous Mutiny*. New York, NY: Oxford University Press, November 202. A review at this [link](#). (Amazon has better pricing options.)

The greatest controversy in the history of the U.S. Navy of the early American Republic was the revelation that the son of the Secretary of War had seemingly plotted a bloody mutiny that would have turned the U.S. brig Somers into a pirate ship. The plot discovered, he and his co-conspirators were hastily condemned and hanged at sea.

The repercussions of those acts brought headlines, scandal, a fistfight at a cabinet meeting, a court martial, ruined lives, lost reputations, and tales of a haunted ship "bound for the devil" and lost tragically at sea with many of its crew. The "Somers affair" led to the founding of the U.S. Naval Academy and it remains the Navy's only acknowledged mutiny in its history. The story also inspired Herman Melville's *White Jacket* and *Billy Budd*. Others connected to the Somers included Commodore Perry, a relation and defender of the Somers' captain Mackenzie; James Fenimore Cooper, whose feud with the captain, dating back to the War of 1812, resurfaced in his reportage of the affair; and Raphael Semmes, the Somers' last caption who later served in the Confederate Navy.

The Curse of the Somers is a thorough recreation of this classic tale, told with the help of recently uncovered evidence. Written by a maritime historian and archaeologist who helped identify the long-lost wreck and subsequently studied its sunken remains, this is a timeless tale of life and death at sea. James P. Delgado re-examines the circumstances, drawing from a rich historical record and from the investigation of the ship's sunken remains. What surfaces is an all-too-human tale that resonates and chills across the centuries.

Worth a look (new and old)

Saikrishna B. Prakash, [*Deciphering the Commander-in-Chief Clause*](#). 133 YALE L. J. 418 (2023).

The conventional wisdom is that the Commander-in-Chief Clause arms the President with a panoply of martial powers. By some lights, the Clause not only equips the President with exclusive control over military operations, but also conveys the powers to start wars, create military courts, direct and remove officers, and wield emergency wartime powers. Under such readings, the meaning of “commander in chief” is as obvious as it is unequivocal—it confers some measure of absolute and unchallengeable authority upon the President. Yet, seemingly paradoxically, proponents of this stance cannot say where the Commander in Chief’s power begins and ends. In particular, establishing the Clause’s limits is an acute and persistent problem.

Using eighteenth-century understandings as a yardstick, this Article topples the orthodox reading of the Clause and demarcates the Clause’s elusive frontiers. . .

Ayesha Yousuff Abbasi, [*Legal Framework of Civilian Trial in the Military Courts of Pakistan Viz-a-Viz International Fair Trial Standards*](#). 7 ISLAMABAD L. REV. 180 (2023). From the Intro.,

Pakistan has a long history of trying her civilians in the military as well as in the special courts. In the backdrop of religious riots in 1953, many civilians were tried in the military courts under military laws.¹ Some special tribunals² were also established to try civilians over the charges of terrorism and rebellion in 1975. Some of the military courts established by the civilian government were challenged on the basis of their constitutionality³ and were later declared unconstitutional by the apex court of Pakistan.⁴ To deal with the crimes related to terrorism, special anti-terrorism courts⁵ have also been working in the country since 1997. However, the procedures and laws followed in these special courts are outside the domain of this paper. The focus of this paper is mainly on the procedures and laws followed by the military courts.

Dan Sabbagh, [*Inquiry to open into claims British soldiers summarily killed 80 Afghans*](#). The Guardian (UK), 8 October 2023.

Abdul Majeed Ibrahim & Md. Zahidul Islam, [*Soldier's Constitutional Rights and Military Justice: Comparison Between the Republic of Maldives, Malaysia, and Other Jurisdictions*](#). 9 J. Asian & Afr. Soc. Sci. and Humanities 1 (2023).

Cheers, Phil Cave, Editor