



## CONFERENCE MATERIALS

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### PD Session # 1 “A Year in Review - Rapid-fire “

#### Legislative developments of interest

##### 1.1 Government Initiatives\*

1.1.1 C-394, *An Act to Amend the Criminal Code and the National Defence Act (Criminal Organization Recruitment)* - Senate First Reading

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=5372401&View=0>

[http://www.justice.gc.ca/eng/news-nouv/nr-cp/2012/doc\\_32739.html](http://www.justice.gc.ca/eng/news-nouv/nr-cp/2012/doc_32739.html)

1.1.2 C-54, *Not Criminally Responsible Reform Act*, Referral to House Standing Committee on Justice and Human Rights

<http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=5972161>

- CBA Submission [www.cba.org/CBA/submissions/pdf/13-20-eng.pdf](http://www.cba.org/CBA/submissions/pdf/13-20-eng.pdf)
- CBA appearance before Standing Committee on Justice and Human Rights expected to be scheduled in early June

1.1.3 C-15, *Strengthening Military Justice*, Referral to Senate Standing Committee on Legal and Constitutional Affairs

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=5156729>

##### Related Reports:

1.1.4.1 Lesage Report, 2011

<http://www.forces.gc.ca/site/reports-rapports/patrick-lesage/index-eng.asp>

1.1.4.2 Lamer Report, 2003

<http://www.forces.gc.ca/site/reports-rapports/antonio-lamer/index-eng.asp>

1.1.4 C-425, *An Act to Amend the Citizenship Act (Honouring the Canadian Armed Forces)*, referred to House Standing Committee on Citizenship and Immigration

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=5608832>

- CBA Submission [http://www.cba.org/CBA/sections\\_military/pdf/13-19-eng%20%28%29.pdf](http://www.cba.org/CBA/sections_military/pdf/13-19-eng%20%28%29.pdf)

1.1.5 C-472, Introduction of Private Member's bill re: death benefits for parents of CF members and veterans

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=5958293>

1.1.6 Minister MacKay responds to recommendations on compensation for military judges

<http://www.forces.gc.ca/site/news-nouvelles/news-nouvelles-eng.asp?id=4706>

\* New changes to the NMLS webpage include a “Government News” tab. An example of what you will find there has been reproduced, in part, above.

##### 1.2 Canadian Bar Association Advocacy

The following submissions have been made by the CBA since June 2012, and may be of interest NMLS members.

#### Submissions

1.2.1 [Bill C-54 - Not Criminally Responsible Reform Act](#)

1.2.2 [Bill C-425– Citizenship Act amendments \(honouring the Canadian Armed Forces\)](#)

1.2.3 [Bill C-55: Response to the Supreme Court of Canada Decision in R. v. Tse Act](#)

1.2.4 [Draft Report on the Use of Technology in the Criminal Justice System](#)

1.2.5 [Federal Court Rules Consultation: Submission to Federal Court Rules Committee](#)

1.2.6 [Bill C-37 — Criminal Code Amendments](#) (Increasing Offenders' Accountability for Victims Act): Letter to Senate Committee on Legal and Constitutional Affairs

1.2.7 [Bill S-7- Combating Terrorism Act](#): Letter to Standing Committee on Public Safety and National Security

1.2.8 [Bill C-43 — Faster Removal of Foreign Criminals Act](#): Submission to the Standing Committee on Citizenship and Immigration

1.2.9 [Bill C-37 — Increasing Victim Fine Surcharges](#): Letter to Standing Committee on Justice and Human Rights

## **Interventions**

- 1.2.10 [Investigative Hearings \(Re:Application under Criminal Code s. 83.28\)](#)
- 1.2.11 [Lawyer's Right to Withdraw \(R. v. Cunningham\)](#)
- 1.2.13 [UN Convention Against Torture — Application in Canada \(Suresh v. Minister of Citizenship and Immigration\)](#)

## **2. Appellate Decisions of significance**

### 2.1 Court Martial Appeal Court

#### **Decisions**

- 2.1.1 [O'Toole v. The Queen - 2012 CMAC 5 - 2012-12-14](#)  
[O'Toole c. La Reine - 2012 CACM 5 - 2012-12-14](#)
- 2.1.2 [Tomczyk v. The Queen - 2012 CMAC 4 - 2012-12-03](#)  
[Tomczyk c. La Reine - 2012-12-03](#)
- 2.1.3 [Souka v. The Queen - 2012 CMAC 2 - 2012-08-10](#)  
[Souka c. La Reine - 2012 CACM 2 - 2012-08-10](#)  
[Souka v. The Queen - 2012-08-10](#)
- 2.1.4 [Clark v. The Queen - 2012 CMAC 3 - 2012-07-30](#)  
[Clark c. La Reine - 2012 CACM 3 - 2012-07-30](#)
- 2.1.5 [Rivas c. La Reine - 2012 CACM 1 - 2012-07-03](#)
- 2.1.6 [R. v. MacLellan - 2011 CMAC 5 - 2011-10-28](#)
- 2.1.7 [Leblanc v. R. - 2011 CMAC 4 - 2011-10-12](#)  
[Leblanc c. R. - 2011 CACM 4 - 2011-10-12](#)
- 2.1.8 [R. v. Day - 2011 CMAC 3 - 2011-06-24](#)
- 2.1.9 [Leblanc v. R. - 2011 CMAC 2 - 2011-06-02](#)

#### **Cases Under Appeal:**

- 2.2.1 R. v. Courneyea, CMAC-554 - scheduled for 09:30 on 14 Jun 13 in Edmonton.  
**CRIMINAL LAW: INTENT; AUTOMATISM**  
Assault with a weapon, of pointing a firearm, and of uttering threats  
Mens rea not present; automatism caused by PTSD.  
R v Courneyea, [2012 CM 4013](#), June 18, 2012 (201153), LCol J-G Perron, M.J.
- 2.2.2 R. v. Moriarty, CMAC 560 – hearing yet to be scheduled.  
**CRIMINAL LAW: SEXUAL ASSAULT; SEXUAL EXPLOITATION; INVITATION TO TOUCH**  
Cadets; position of trust; constitutionality; NDA s. 130; overbreadth  
(a) R. v. Moriarty, [2012 CM 3022](#), December 5, 2012 (201229), LCol L.-V. d'Auteuil, M.J.  
(b) R. v. Moriarty, [2012 CM 2018](#), October 18, 2012 [verdict]  
(c) R. v. Moriarty, [2012 CM 2017](#), October 18, 2012 [Charter challenge, s. 7]
- 2.2.3 R. v. Wehmeier, CMAC 553 – ongoing [Ottawa] – CMAC has ordered factums to address issue of military nexus.  
**CRIMINAL LAW: SEXUAL ASSAULT; ASSAULT; THREATS**  
Deployed civilian personnel; venue;  
(a) R. v. Wehmeier, [2012 CM 1005](#), June 1, 2012 (201212), Col. M. Dutil, C.M.J.  
*[Plea in bar of trial – whether accused subject to service discipline]*  
(b) R. v. Wehmeier, [2012 CM 1006](#), June 5, 2012  
*[Charter, s. 7 – whether NDA s. 60(1)(b) and (f) overly broad]*  
(c) R. v. Wehmeier, [2012 CM 1007](#), June 10, 2012  
*[Decision to prefer: abuse of process; prosecutorial discretion; disclosure]*

For more information on CMAC matters that are currently under appeal, see: [http://www.cmac-cacm.ca/DocketQueries/dq\\_queries\\_e.php](http://www.cmac-cacm.ca/DocketQueries/dq_queries_e.php)

### 2.3 Federal Court of Appeal

#### 2.3.1 GRIEVANCE; JUDICIAL REVIEW; FAIRNESS; APPROPRIATE RELIEF; ACTION

Early repatriation; Medically unfit; suitability of relief; judicial review and actions  
Meggeson v Canada, [2012 FCA 175](#) (A-242-11)349 D.L.R. (4th) 416; June 13, 2012

#### 2.3.2 GRIEVANCE; JUDICIAL REVIEW; DISCLOSURE; FAIRNESS

Medical discharge; Grievance process; disclosure; fairness

(a) McBride v. Canada, [SCC Leave Application](#) dismissed (34963), December 13, 2012

(b) McBride v. Canada (National Defence), [2012 FCA 181](#) (A-343-11), June 15, 2012

(c) McBride v. Canada (National Defence), [2011 FC 1019](#) (T-83-11), August 25, 2011

(d) McBride v. Canada (National Defence), [2008 FCA 268](#) (A-585-07), September 16, 2008

(e) McBride v. Canada (National Defence), [2008 FCA 111](#) (A-585-07), March 26, 2008)

#### 2.3.2 For more information on the Canadian Forces Grievance System [key legislative, regulatory and policy documents underpinning the system with explanations]

Director General Canadian Forces Grievance Authority (DGCFGA) - Policies and Directives

<http://www.cfga-agfc.forces.gc.ca/pd/index-eng.asp>

<http://www.cfga-agfc.forces.gc.ca/pd/index-fra.asp>

DGCFGA - Frequently Asked Questions

<http://www.cfga-agfc.forces.gc.ca/faq/index-eng.asp>

<http://www.cfga-agfc.forces.gc.ca/faq/index-fra.asp>

### 3. Canadian and Foreign Decisions of significance

As one Canadian author has stated, “all military justice systems...find their primary *raison d’être* in the necessity for the maintenance of discipline.” This sentiment is echoed in other countries that share “Anglo-American” military justice systems – that is, “those founded...in Great Britain and her former colonies.” Amongst these countries, namely the United Kingdom, Australia, Canada and the United States, the chain of command is charged with the responsibility to maintain discipline within the ranks with the commanding officer often cited as the “heart of discipline” within this unique justice system.

While the aforementioned countries share a common historic lineage, the degree of reform toward “civilianization” – a term where traditional aspects of a military justice system are reformed to resemble its civilian criminal justice counterpart - has served to radically alter “traditional” military justice. Beginning primarily in the 1990’s, legislative reform to military justice systems in Canada, the United Kingdom and Australia have resulted in an increasing trend towards a civilianized system. More recently, a “second wave” of civilianization is evident with legislation recently passed in the United Kingdom and other proposed reforms currently before the Australian and Canadian Parliament respectively.

In a comparative context, this presentation will examine the historic and current trends toward the civilianization of military justice systems in the United Kingdom, Canada, Australia and the United States respectively. The presentation will attempt to reconcile whether the respective legal traditions of a chain of command-centric military justice system can adequately balance the disciplinary requirements of an armed force while increasingly incorporating civilian criminal justice practices. The presentation will conclude by arguing that those entrusted with the superintendence of the military justice system in these countries must pay heed to the effect of civilianization while examining whether such changes serve the best interests of the armed forces.

#### Decisions

##### 3.1.1 US v. Lt Col James Wilkerson

<http://www.foia.af.mil/reading/thewilkersonfoiacase.asp>

##### 3.1.2 24951951 Sergeant Danny Harold NIGHTINGALE The Duke of Lancaster’s Regiment (King’s, Lancashire and Border)

<http://www.judiciary.gov.uk/Resources/JCO/Documents/Judgments/nightingale-proceedings-0607112012.pdf>

##### 3.1.3 Australian Commando case, GCM

[http://www.defence.gov.au/foi/docs/disclosures/321\\_1011\\_20May11.pdf](http://www.defence.gov.au/foi/docs/disclosures/321_1011_20May11.pdf)

#### Links of Interest

##### 3.2.1. Arne Willy Dahl, Address at the Global Military Appellate Seminar (Yale Law School): *International Trends in Military Justice* (Apr. 1 2011), available at [http://www.law.yale.edu/2011-04\\_International\\_trends.pdf](http://www.law.yale.edu/2011-04_International_trends.pdf)

- 3.2.2 Michael R. Gibson, *International Human Rights Law and the Administration of Justice through Military Tribunals: Preserving Utility while Precluding Impunity*, 4(1) *Journal of International Law and International Relations* 10 (2008)
- 3.2.3. Ministry of Defense (U.K), *Manual of Service Law*, Joint Services Publication 2(b), Jan. 31, 2011. Available at <http://www.mod.uk/NR/rdonlyres/59A700FA-13A8-4D2B-BE91-6D87BD3966B3/0/Vol1Section1Ver1.pdf>
- 3.2.4. Brian Dickson, *Report of the Special Advisory Group on Military Justice and Military Police Investigation Services* (Mar. 14, 1997)
- 3.2.5. Robinson O. Everett, *The Civilianization of the Military Justice System*, *Army Law*. 1, 3 (1980).
- 3.2.6. Government of Australia, Department of Defence, *Changes to the Military Discipline System*, available at <http://www.defence.gov.au/mjs/reform.htm> ; See
- 3.2.7. Relevant Legislation:
  - (a) Armed Forces Act 2011, c.18, 2011 (U.K.);
  - (b) An Act to amend the National Defence Act and to make consequential Amendments to Other Acts, C-15, 41st Parl., 1st Sess.(2011) (Can.); and, An Act to Amend the National Defence Act, S.C. 1998, c.35;
  - (c) Military Court of Australia Bill 2012 (Cth) (Austl).
  - (d) Defence Legislation Amendment Act 2006 (Cth) (Austl.)
  - (e) Armed Forces Act 1996, c. 46 (U.K.)

**PD SESSION # 2 - Prosecuting Genocide, Crimes against Humanity and War Crimes in Canadian Courts - Poursuivre le génocide, les crimes contre l'humanité et les crimes de guerre devant les tribunaux canadiens**

This presentation will explore the manner in which Canada has implemented some of its obligations under international criminal law and, in light of recent developments, how it has dealt with its legal and moral obligations in the fight against impunity for genocide, crimes against humanity and war crimes. It will present the historical context of the adoption of the *Crimes against Humanity and War Crimes Act* and explain the complex relation that Canada has traditionally entertained with war criminals present on its territory. It will offer an assessment of the role of the Attorney General of Canada in the exercise of criminal jurisdiction and analyse the criteria that guide the decision to prosecute, in light of the other (non-criminal) remedies available to ensure that the country does not harbour suspected war criminals.

The presentation will discuss the Canadian definitions of genocide, crimes against humanity and war crimes, highlighting potential difficulties in their interpretation or tensions between international law and Canadian criminal and human rights law. It will present the Canadian approach to modes of participation to international offenses and refer to the difficulties linked to the applicability of domestic criminal law to the particular – collective and massive – nature of crimes against humanity, war crimes and genocide. It will present how defences and sentences are applied in prosecutions in Canada for international crimes.

- 3.1 Fannie Lafontaine, *Prosecuting Genocide, Crimes Against Humanity and War Crimes in Canadian Courts* (Toronto: Carswell, 2012): <http://www.carswell.com/product-detail/prosecuting-genocide-crimes-against-humanity-and-war-crimes-in-canadian-courts/> [promo code **50% off**: 67533]
- 3.2 Fannie Lafontaine – Legal Frontiers: McGill's Blog on International Law: Fannie Lafontaine – <http://www.legalfrontiers.ca/2011/06/%e2%80%9cwanted-war-criminals%e2%80%9d-the-challenge-of-ensuring-justice-for-canada%e2%80%99s-unwanted-war-criminals/>
- 3.3 Fannie Lafontaine, “The Unbearable Lightness of International Obligations: When and How to Exercise Jurisdiction Under Canada’s *Crimes Against Humanity and War Crimes Act* », *Revue Québécoise de Droit International*, Vol. 23, Issue 2, pp. 1-50, 2010, online : [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2117944](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2117944)
- 3.4 Fannie Lafontaine & Edith-Farah Elassal “La prison à vie pour Désiré Munyaneza – Vers un « développement durable » de la justice pénale internationale”, *Le Devoir* (2 November 2009) online: <http://www.ledevoir.com/societe/justice/272108/la-prison-a-vie-pour-desire-munyaneza-vers-un-developpement-durable-de-la-justice-penale-internationale>
- 3.5 Canada's Program on Crimes Against Humanity and War Crimes, 12<sup>th</sup> Report, 2008-2011, online: <http://cbsa.gc.ca/security-securite/wc-cg/wc-cg2011-eng.html>

**PD SESSION # 3 – The child soldier in International Law**

*Presented in Collaboration with the Canadian National Group of the International Society for Military Law and the Law of War (ISMLLW)*

The International Society for Military Law and the Law of War is an international organization that seeks to promote the study of issues of military law, including military justice, operational law and procurement law. The website of the ISMLLW may be accessed at: [www.ismllw.org](http://www.ismllw.org).

The Canadian National Group of the ISMLLW pursues these same goals on the national level. It may be contacted at: [CanNatlGroupISMllw@gmail.com](mailto:CanNatlGroupISMllw@gmail.com).

*A child soldier is defined as, "any person below 18 years of age who is or who has been recruited or used by an armed force or armed group in any capacity, including but not limited to children, boys, and girls used as fighters, cooks, porters, messengers, spies or for sexual purposes. It does not only refer to a child who is taking or who has taken a direct part in hostilities."* [Paris Principles (2007)]

**Keynote Presentation: Reimagining Child Soldiers in International Law and Policy** - Professor Mark Drumbl - Author of the recently published, *Reimagining Child Soldiers in International Law and Policy*, Oxford University Press.

The international community's efforts to halt child soldiering have yielded some successes. But this pernicious practice persists. It may shift locally, but it endures globally. Preventative measures therefore remain inadequate. Former child soldiers experience challenges readjusting to civilian life. Reintegration is complex and eventful. The homecoming is only the beginning. Reconciliation within communities afflicted by violence committed by and against child soldiers is incomplete. Shortfalls linger on the restorative front.

The international community strives to eradicate the scourge of child soldiering. Mostly, though, these efforts replay the same narratives and circulate the same assumptions. Current humanitarian discourse sees child soldiers as passive victims, tools of war, vulnerable, psychologically devastated, and not responsible for their violent acts. This perception has come to suffuse international law and policy. Although reflecting much of the lives of child soldiers, this portrayal also omits critical aspects. In his recent book, Professor Drumbl pursues an alternate path by reimagining the child soldier. It approaches child soldiers with a more nuanced and less judgmental mind. In his presentation, Professor Drumbl will discuss his recent book and his aspiration to refresh law and policy so as to improve preventative, restorative, and remedial initiatives while also vivifying the dignity of youth. Along the way, he questions central tenets of contemporary humanitarianism and rethinks elements of international criminal justice.

Professor Drumbl's ground-breaking study is an essential read for anyone committed to truly emboldening the rights of the child. It offers a way to think about child soldiers that would invigorate international law, policy, and best practices. Where does this reimagination lead? Not toward retributive criminal trials, but instead toward restorative forms of justice. Toward forgiveness instead of excuse, thereby facilitating reintegration and promoting social repair within afflicted communities. Toward a better understanding of child soldiering, without which the practice cannot be ended. Through his book and presentation, Professor Drumbl will offer fresh thinking on related issues, ranging from juvenile justice, to humanitarian interventions, to the universality of human rights, to the role of law in responding to mass atrocity.

#### **Panel Discussion on Child Soldiers in International Law**

Following Professor Drumbl, Senator Romeo Dallaire and Dr. Shelly Whitman will discuss additional perspectives on the issues of child soldiers in international law. Following these presentations, there will be a panel discussion with the three presenters.

Senator Romeo Dallaire:

Senator Dallaire's presentation will be based on his recent book, *They Fight Like Soldiers but Die Like Children: The Global Quest to Eradicate the Use of Child Soldiers*, which is also the subject of a recent documentary film.

Dr. Shelly Whitman:

Dr Whitman will be presenting on the Responsibility to Protect and Child Soldiers.

#### **Links of Interest:**

- 3.1 The Roméo Dallaire Child Soldiers Initiative at: <http://www.childsoldiers.org/the-issue/>
- 3.2 UNICEF, The Paris Principles (2007) ; <http://www.unicef.org/emergencies/files/ParisPrinciples310107English.pdf>

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For more information, please visit the conference website: [www.cbapd.org/details\\_en.aspx?id=NA\\_mil13](http://www.cbapd.org/details_en.aspx?id=NA_mil13)

## **SPEAKER BIOGRAPHIES (in alphabetical order)**

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### **Lieutenant-General The Honourable Roméo A. Dallaire, O.C., C.M.M., G.O.C, M.S.C., C.D., (Retired), Senator \***

Roméo Dallaire is a retired lieutenant-general, Senator, and celebrated humanitarian. Senator Dallaire has had a distinguished career in the Canadian military, achieving the rank of Lieutenant-General and becoming Assistant Deputy Minister (Human Resources) in the Department of National Defence in 1998. In 1994, General Dallaire commanded the United Nations Assistance Mission for Rwanda (UNAMIR), where he bore witness to the Rwandan genocide.

His book on his experiences in Rwanda, entitled *Shake Hands with the Devil: The Failure of Humanity in Rwanda*, was awarded the Governor General's Literary Award for Non-Fiction in 2004. It has garnered numerous international literary awards, and is the basis of a full-length feature film released in September 2007.

Since his retirement, he has become an outspoken advocate for human rights, mental health and war-affected children. He founded the Roméo Dallaire Child Soldiers Initiative, an organization committed to ending the use of child soldiers worldwide, and is the author of two best-selling books.

Senator Dallaire has also worked tirelessly to bring an understanding of post-traumatic stress disorder to the general public. He has also been a visiting lecturer at several Canadian and American universities, and has written several articles and chapters in publications on conflict resolution, humanitarian assistance and human rights. While a Fellow of the Carr Center for Human Rights Policy, Kennedy School of Government at Harvard University, he pursued research on conflict resolution and the use of child soldiers.

He has also been named a Fellow of the Ryerson Polytechnic University, an Honorary Fellow of the Royal College of Physicians and Surgeons of Canada and has received honorary doctorates from a large number of Canadian and American universities. As a champion of human rights his activities include:

- ✓ Advocacy for the Canadian Forces mission to Afghanistan;
- ✓ Speaking engagements on issues relating to human rights and genocide prevention;
- ✓ A Senior Fellowship at Concordia University's Montreal Institute of Genocide Studies;
- ✓ Membership in the United Nations Secretary General's Advisory Committee on Genocide Prevention;
- ✓ Leadership in a project to develop a conceptual base for the elimination of the use of child soldiers;
- ✓ Leadership in activities aimed at the non-proliferation of nuclear weapons.
- ✓ Senator Dallaire is currently researching and writing a book on the subject of child soldiers

\* Biography courtesy of: <http://www.romeodallaire.com/biography.html>

### **Professor Mark A. Drumbl**

**Class of 1975 Alumni Professor at Washington & Lee University School of Law.**

Professor Drumbl serves as Director of its Transnational Law Institute. He has held visiting appointments with a number of law faculties, including Oxford, Paris II (Pantheon-Assas), Trinity College-Dublin, Melbourne, and Ottawa. Drumbl has lectured and published extensively on public international law, international criminal law, and transitional justice. His first book *Atrocity, Punishment, and International Law* (CUP, 2007) has been widely reviewed and critically acclaimed. He initially became interested in international criminal justice through his work in the Rwandan genocide jails. Drumbl holds degrees in law and politics from McGill University, University of Toronto, and Columbia University.

### **Captain David Duggins, C.D.**

**Directorate of Law/Administrative Law, Canadian Forces**

Captain David Duggins joined the Canadian Forces in 1993. He was an Infantry Officer in the Royal Canadian Regiment until he released from the Canadian Forces in 2006 to undertake studies in law. His service included numerous domestic operations and a deployment to Bosnia-Herzegovina in 2001. In 2008, he re-enrolled in the Canadian Forces as an Infantry Officer in the Army Reserve, while completing the last year of his LL.B. In 2012, Captain Duggins transferred to the Regular Force to become a Legal Officer with the Office of the Judge Advocate General.

Captain Duggins was a law clerk for the Federal Court and Court Martial Appeal Court. He subsequently articulated with the Ministry of the Attorney General of Ontario, Constitutional Law Branch. He was then employed as litigation counsel with the Department of Justice, Immigration Law Division, handling judicial reviews of immigration and citizenship decisions, and security certificate litigation.

Captain Duggins is currently serving with the Directorate of Law/Administrative Law advising on grievances at the Final Authority level, the organization of the Canadian Forces and providing assistance to Department of Justice counsel for judicial reviews.

Captain Duggins is a graduate of the Royal Military College of Canada (B.A. History) and the University of Manitoba (LL.B.). He is currently pursuing his LL.M. from the University of Ottawa. He is called to the Bar of Ontario.

### **Colonel Michael Gibson**

**Deputy Judge Advocate General Military Justice, Canadian Forces**

Colonel Michael Gibson joined the Canadian Forces in 1980. He initially flew as an Air Navigator in the Royal Canadian Air Force doing passenger, cargo, VIP and air-to-air refueling missions.

Since becoming a Legal Officer, he has been prosecution, defence and appellate counsel, and has had significant involvement in recent legislation affecting the military justice system as policy architect, instructing counsel for the drafting of legislation, and as a witness before Parliamentary committees. He has also published several articles on international human rights law and the administration of justice by military tribunals.

Colonel Gibson is currently the Deputy Judge Advocate General Military Justice, responsible for military justice policy, legislative reform and strategic initiatives concerning the Canadian military justice system.

Colonel Gibson has served in a variety of field and headquarters positions, including Director of Military Justice Policy and Research, and Director of International and Operational Law. His service as an officer in the Canadian Forces has taken him to over 60 countries around the world. He has done numerous operational deployments abroad, including being Deputy Legal Advisor at the NATO SFOR Headquarters in Sarajevo, Bosnia-Herzegovina, and Senior Military Law Advisor for the Rule of Law Unit of MONUC, the United Nations Mission in the Democratic Republic of Congo.

Colonel Gibson is a graduate of the Royal Military College of Canada (Honours B.A. Political Science and History), the University of Toronto Faculty of Law (LLB) and the London School of Economics and Political Science (M.Sc. International Relations, and LLM Public International Law). He is called to the Bar in Ontario.

Colonel Gibson is a member of the Board of Directors of the International Society for Military Law and the Law of War, as well as being President of the Canadian National Group of the Society.

### **Professeure Fannie Lafontaine**

**Avocate, Professeure agrégée, Faculté de droit**

**Directrice de la [Clinique de droit international pénal et humanitaire](#) [English follows]**

Fannie Lafontaine est professeure agrégée à la Faculté de droit de l'Université Laval, avocate et membre régulier de l'Institut québécois des hautes études internationales, où elle agit également comme chercheure au Programme Paix et sécurité internationales (PSI). Elle est la fondatrice et la directrice de la Clinique de droit international pénal et humanitaire. Avant de se joindre à l'Université Laval, elle a entre autres été conseillère et spécialiste en droits de l'homme au cabinet exécutif de la Haut-Commissaire des Nations Unies aux droits de l'homme à Genève, adjointe au Président et spécialiste en droits de l'homme au sein de la Commission internationale d'enquête sur le Darfour, avocate au Centre de justice globale (Justiça Global) à Rio de Janeiro au Brésil, auxiliaire juridique auprès de Mme la juge Louise Arbour à la Cour suprême du Canada et avocate au cabinet McCarthy Tétrault à Montréal. Elle est diplômée de l'Université nationale d'Irlande Galway (Ph.D. 2011), avec honneurs de *1st class* de l'Université de Cambridge (LL.M. 2004) et avec distinction de l'Université Laval (LL.B.1999). Elle publie principalement dans les domaines de droit international pénal, de droit criminel canadien et du droit international et canadien des droits de la personne. Elle est l'auteure de l'ouvrage *Prosecuting Genocide, Crimes Against Humanity and War Crimes in Canadian Courts* (Toronto: Carswell, 2012) et co-auteure de la publication annuelle *Chartes des droits de la personne* (Wilson & Lafleur). Elle est membre notamment du Barreau du Québec, du Conseil d'administration d'Avocats sans frontières Canada, du Conseil canadien pour le droit international et du comité éditorial du *Journal of International Criminal Justice*, où elle agit également comme éditrice des recensions.

Fannie Lafontaine is Associate Professor at the Law Faculty of Laval University, a lawyer and a Regular Member of the *Institut québécois des hautes études internationales*, where she also acts as researcher for the International Peace and Security Program. She is the Founder and Director of the International Criminal and Humanitarian Law Clinic. Before joining Laval University, she worked as special adviser and human rights officer in the Executive Office of the United Nations High Commissioner for Human Rights in Geneva; as human rights officer and special assistant to the President of the International Commission of Inquiry on Darfur; as a lawyer for the Global Justice Center (Justiça Global) in Rio de Janeiro, Brazil; as a law clerk to the Honourable Louise Arbour at the Supreme Court of Canada and as a Barrister at McCarthy Tétrault law firm in Montréal. She graduated from the National University of Ireland Galway (Ph.D. 2011), with first class honours from Cambridge University (LL.M. 2004) and with distinction from Laval University (LL.B.1999). She publishes mainly in the fields of international criminal law, Canadian criminal law and international and Canadian human rights law. She is the author of the book *Prosecuting Genocide, Crimes Against Humanity and War Crimes in Canadian Courts* (Toronto: Carswell, 2012) and co-author of the annual publication *Chartes des droits de la personne* (Wilson & Lafleur). She is a member notably of the Quebec Bar, of the board of administration of Lawyers Without Borders Canada, of the Executive Committee of the Canadian Council of International Law and of the Editorial Board of the *Journal of International Criminal Justice*, where she also acts as book reviews editor.

### **LCdr Marc P. Létourneau,**

**Directorate of Defence Counsel Services**

(Biography to be added when available)

Prior to joining the Canadian Forces in 2006, LCdr Mark Létourneau acted as a provincial prosecutor with the Directeur des poursuites criminelles et pénales in Montréal. Since becoming a Legal Officer, he has been prosecution and defence counsel. LCdr Létourneau is currently the Appellate Counsel in the office of the Director of Defence Counsel Services. LCdr Létourneau is a graduate of the University of Montréal Faculty of Law (LLB). He is currently pursuing his graduate degree at Osgoode Hall Law School (LLM Criminal Law and Procedure). He is called to the Bar in Québec.

### **Lieutenant-Colonel Steve Strickey - BPE, BA, LLB, LLM.**

**Directeur juridique/Justice militaire – Stratégique / Director of Law/Military Justice – Strategic**

LCol Strickey joined the Canadian Forces in January 2002. He has completed a number of postings including Deputy Judge Advocate in Halifax, Nova Scotia (2002-2005); Directorate of Law Military Justice Policy and Research (2005-2008) and the Military Justice Strategic Implementation Team (2009) at National Defence Headquarters in Ottawa, Ontario. LCol Strickey is currently the Director of Law/ Military Justice – Strategic, that is

responsible for the development and implementation of a strategic military justice vision for the Office of the JAG. He is currently providing legal support to the JAG and Deputy JAG for Military Justice in furtherance of Bill C-15, *Strengthening Military Justice in the Defence of Canada Act* currently before the Canadian Parliament.

Operationally, he acted as the Senior Legal Advisor on two Canadian Task Force deployments to Afghanistan in 2005-06 and 2009 where he advised the operational commander on the full spectrum of legal issues related to the law of armed conflict. LCol Strickey is the recipient of the South West Asia Service Medal (with Afghanistan Bar), the General Campaign Star - South West Asia and the Queen's Diamond Jubilee Medal.

He received his LL.M. from Duke University School of Law in 2012 where he graduated *magna cum laude*, was a staff editor on the *Duke Journal of Comparative and International Law* and was selected as the degree marshal for the LL.M. class. His paper on the civilianization of "Anglo-American" military justice systems was presented at Cambridge Law School on 21 May 2013 at a conference hosted by the *Cambridge Journal of International and Comparative Law*.

#### **Major Anthony Michael Tamburro, C.D.**

##### **Regional Military Prosecutor Central 1 / Procureur militaire régional centre 1**

Major Tony Tamburro hails from Ottawa and joined the Canadian Forces in 1985 as a Gunner with 30th Field Regiment, Royal Canadian Artillery (RCA). In 1986, he transferred to the Regular Force and entered the Royal Military College of Canada at Kingston. In 1990, after receiving a B.A. in Military and Strategic Studies, he was posted to 1st Regiment, Royal Canadian Horse Artillery (RCHA) in Lahr, Germany. Two years later, Major Tamburro was transferred to Montreal's 2nd Field Regiment, RCA. In 1994, he was posted to 2 RCHA in Petawawa where he served in a variety of positions including Forward Observation Officer, Forward Air Controller, Battery Captain, and Adjutant.

In 1998, he deployed to Bosnia and Herzegovina with 1st Battalion, The Royal Canadian Regiment. As the battle group's Civil-Military Co-operation Officer, Major Tamburro's responsibilities included economic development and liaison with international and non-governmental organisations. In 1999, Major Tamburro began studies at Osgoode Hall Law School. In 2000, he commenced a yearlong sojourn with 7th Toronto Regiment, RCA, while continuing with his legal education. After receiving his LL.B. and completing articles with the Office of the Crown Attorney in Toronto, Major Tamburro was called to the Bar in March 2004.

After his call, Major Tamburro served with the Directorate of Law Training where he assisted in the delivery of legal training to Canadian Forces members. In July 2005, he was posted to the Canadian Military Prosecution Service where his primary duties are the prosecution of courts martial and the provision of legal advice to the Canadian Forces National Investigation Service in the conduct of investigations.

En 1990, après avoir obtenu un B.A. – Études militaires et stratégiques – il est posté au 1er Régiment, Royal Canadian Horse Artillery (RCHA) à Lahr, en Allemagne. Deux ans plus tard, le major Tamburro est transféré au 2e Régiment, ARC, de Montréal. En 1994, il est posté au 2 RCHA, à Petawawa, où il sert dans une variété de postes, à titre d'officier observateur avancé, de contrôleur aérien avancé, de capitaine de batterie et de capitaine-adjutant.

En 1998, il est déployé en Bosnie-Herzégovine avec le 1er Bataillon du Royal Canadian Regiment. En qualité d'officier du groupement tactique de la coopération civilo-militaire, les responsabilités du major Tamburro comprennent le développement économique et la liaison avec les organisations internationales et non gouvernementales.

En 1999, le major Tamburro entreprend des études au Osgoode Hall Law School. En 2000, il entreprend un séjour d'un an avec le 7e Régiment de Toronto, ARC, tout en poursuivant ses études en droit. Après avoir obtenu un LL.B. et avoir complété des stages au cabinet du procureur de la Couronne à Toronto, le major Tamburro est admis au barreau en mars 2004.

Après son admission au barreau, le major Tamburro sert à la direction juridique de la Formation où il aide à la prestation de la formation juridique des membres des Forces canadiennes. En juillet 2005, il est posté au Service canadien des poursuites militaires où il agit principalement à titre de procureur des cours martiales et il travaille à la fourniture d'avis juridiques pour le Service national des enquêtes des Forces canadiennes.

#### **Dr. Shelly Whitman**

##### **Director of the Child Soldiers Initiative.**

Dr. Whitman took up the post of Director of the Initiative in January 2010. Prior to this she has had an academic career teaching in International Development Studies and Political Science at Dalhousie University, Saint Mary's University and the University of Botswana. Her research interests have been broadly focused on issues related to peace, development and human security. More specifically she has conducted research on small arms and light weapons in Southern Africa, gender and conflict, children and conflict, the international criminal court, the Great Lakes region and peace and reconciliation efforts in post-conflict societies.

From 2000-2002, Shelly worked as Head of Research on the inter-Congolese dialogue, under the direction of Former Botswana President, Sir Ketumile Masire. Previous to this post, she was a Research Consultant at UNICEF, NY and worked under the direction of Ambassador Stephen Lewis on the OAU Rwanda Genocide Report. Shelly recently introduced a new course on Children and Armed Conflict at Dalhousie University and took on the additional role of Director of the Child Soldiers Initiative in November 2009.

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