

Foreword

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Welcome to the International and Operational Law edition of *The Army Lawyer*!¹ This issue contains not only relevant articles on current International and Operational Law topics, but also a transcript of the remarks given by the new Department of Defense General Counsel—Mr. Jeh Johnson—at a recent Rule of Law symposium co-sponsored by Georgetown University and the University of Virginia School of Law as well as the The Judge Advocate General's Legal Center and School.²

The articles in this edition cover a wide variety of topics from international agreements to detainee issues at the brigade level. Major Marie Anderson and Major Katherine Krul have written an excellent primer for use by Judge Advocates assigned to a brigade staff that will inevitably face detainee issues.³ Major Jeremy Marsh has written a superior overview of Rule 99 of the ICRC study of Customary International Humanitarian Law which examines the relationship between the Law of War and Human Rights law.⁴ Major Shane Reeves revisits the *Tadic* case, a much overlooked war crimes decision that described a more expansive definition of what it means to be a “protected person” of the Fourth Geneva Convention.⁵ As the Chair of the Department, I chose the easiest topic, a quick overview of the new Oslo Treaty banning cluster munitions and what it might mean for the U.S. military.⁶ Our Vice-Chair, Commander Trevor Rush, has written an excellent practitioner's summary of the new Security Agreement with Iraq that should be required reading for anyone deploying to Operation Iraqi Freedom in the next year.⁷ Finally, the issue concludes with an excellent piece that looks to the future of the law of war. Colonel Stuart Risch looks at the United States and the International Criminal Court.⁸

As always, it is hoped that these articles will have some relevance to our most important audience—the Judge Advocate serving in the field. It is our honest belief that the best Operational Law attorney is the general practitioner, the individual who can give timely and accurate targeting advice one minute and spot fiscal law implications of the Commander's Emergency Response Program (CERP)⁹ expenditures the next. Hopefully, the articles in this edition of *The Army Lawyer* serve a greater purpose to strengthen the foundational knowledge for our Judge Advocates on key operational law issues.

¹ The International and Operational Law Department is composed of eight resident Judge Advocates: Lieutenant Colonel Michael O. Lacey (Chair); Captain Brian J. Bill (USN); Commander Trevor A. Rush USN); Lieutenant Colonel J. Porter Harlow (USMC), Major Christopher R. Brown (ARNGUS), Major Olga Marie Anderson; Major J. Jeremy Marsh (USAF); and Major Shane R. Reeves, and our Administrative Assistant Ms. Terri Thorne. The Department would like to thank our outside contributing authors, Colonel Stuart Risch and Major Katherine Krul. We greatly appreciate their expertise and contributions. Finally, the issue has benefited greatly from diligent fine-tuning by the Legal Center and School's resident footnote gurus, Mr. Chuck Strong, Major Ann Ching, and Captain Alison Tulud. Thank you all.

² Jeh Charles Johnson, Gen. Counsel of the Dep't of Defense, Keynote Address at Georgetown University Human Rights Institute, 2009 Samuel Dash Conference on Human Rights: Rule of Law in the Context of Military Interventions (Mar. 19, 2009) (transcript available at ARMY LAW., May 2009, at 2).

³ Major Olga Marie Anderson & Major Katherine A. Krul, *Unraveling Seven Detainee Operations Issues Prior to Your Deployment*, ARMY LAW., May 2009, at 7.

⁴ Major J. Jeremy Marsh, *Rule 99 of the Customary International Humanitarian Law Study and the Relationship Between the Law of Armed Conflict and International Human Rights Law*, ARMY LAW., May 2009, at 18.

⁵ Major Shane Reeves, *The Expansive Definition of “Protected Persons” in War Crime Jurisprudence*, ARMY LAW., May 2009, at 23.

⁶ Lieutenant Colonel Michael O. Lacey, *Cluster Munitions: Wonder Weapon or Humanitarian Horror?*, ARMY LAW., May 2009, at 28.

⁷ Commander Trevor A. Rush, *Don't Call It a SOFA! An Overview of the New U.S.-Iraq Security Agreement*, ARMY LAW., May 2009, at 34.

⁸ Colonel Stuart W. Risch, *Hostile Outsider or Influential Insider? The United States and the International Criminal Court*, ARMY LAW., May 2009, at 61.

⁹ COMBINED JOINT TASK FORCE-7, FRAGMENTARY ORDER 89 TO OPERATIONS ORDER 03-036, COMMANDER'S EMERGENCY RESPONSE PROGRAM (CERP) (19 JUNE 2003).