

SPECIAL FORUM ON THE CANADIAN MISSION IN AFGHANISTAN

Session Theme: Moral and Legal Responsibility with Respect to Alleged Mistreatment of Transferred Detainees in Afghanistan

Experts will make presentations (at the below-indicated times) on various issues related to the detainee-transfer issue. Questioning will be carried out by a panel consisting of:

- **Professor Craig Scott**, Chairperson of the Special Forum (Professor of Law, Osgoode Hall Law School; Director, Nathanson Centre);
- **The Honourable Bob Rae**, Member of Parliament (Toronto Centre - Lib.);
- **Colonel (Ret'd) Michel W. Drapeau**, Michael Drapeau Law Offices and Professor of Law, University of Ottawa

10:00 am Alex Neve, Secretary General of Amnesty International (Canada), English branch
Responsibility of the Canadian State under International Law and in Canadian Law: Charter Review, Public Inquiries, and Civil Liability Lawsuits

10:30 am (by video-conference) William Schabas, Dir. Irish Centre for Human Rights, NUI Galway
Individual Criminal Responsibility under International Law and in Canadian Law: From Field-level to Cabinet-level Conduct

11:00 am Paul Champ, Barrister, Champ & Associates, Ottawa
Proving Facts and Seeking Evidence in the Charter Litigation by Amnesty International against the Minister of Defence: Shadow Boxing with Ottawa

11:30 am Willem de Lint, Head of the Dept. of Sociology, Anthropology, & Criminology, U. Windsor
Situating the Colvin Testimony Within the (Non-) Documentation Practices of the Department of Foreign Affairs and Other Government Agencies

12:00 am David Schneiderman, Professor of Law and Political Science, U of T
The Law, Ethics and Politics of Invoking the Executive Prerogative Power against Parliamentary Efforts to Access Documents on Detainee Policy and Practice

1:00 pm Michael Mandel, Professor of Law, Osgoode Hall Law School
What Right Do We Have to Be in Afghanistan in the First Place? Why the Prisoner Transfer Issue Cannot be Detached from the Legality and Legitimacy of the War Itself

1:30 pm Christopher Waters, Associate Dean, Faculty of Law, U. Windsor
The Erosion of Civilian Oversight Mechanisms: How the Transfer of Afghan Detainees Represents a Betrayal of the Somalia Legacy

2:00 pm Kent Roach, Prichard-Wilson Chair of Law and Public Policy at the U of T Faculty of Law
Linking Government Refusal to Implement the Arar Commission's Recommendations on Review Mechanisms to Judicial Abstention on the Detainee Transfer Issue: How Should the Military and the Government's Conduct be Overseen?

2:30 pm Frédéric Mégret, CRC in the Law of Human Rights and Legal Pluralism at McGill
Does or Will the International Criminal Court Have Jurisdiction to Investigate and Prosecute Canadian Government Officials?

3:15 pm Michael Byers, Canada Research Chair in Global Politics and International Law at the University of British Columbia Faculty of Law
Canada's Moral Standing in the World: Does Our Detainee Transfer Record Matter?

Bob Rae - The Honourable Robert C. Rae is Member of Parliament for Toronto Centre and a former Premier of Ontario. He is a member of the House of Commons Special Committee on the Canadian Mission in Afghanistan. He has a B.A. and an LL.B. from the University of Toronto and was a Rhodes Scholar in 1969. He obtained a B.Phil. degree from Oxford University in 1971, was named a Queen's Counsel in 1984, and has received numerous honorary degrees and awards from Canadian and foreign universities, colleges, and organizations. Bob was appointed to Her Majesty's Privy Council for Canada in 1998, was appointed an Officer of the Order of Canada in 2000, and was appointed an Officer of the Order of Ontario in 2004. In the period between serving as Premier of Ontario and being elected in 2008 as MP for Toronto Centre, he initiated discussions to form the Forum of Federations, which he served as Chair for seven years, and has advised and worked on federalism and constitutional matters in Sri Lanka, Sudan and Iraq.

Craig Scott - Craig Scott is Professor of Law at Osgoode Hall Law School (York University, Toronto) where he is also Director of the Nathanson Centre on Transnational Human Rights, Crime and Security. He is editor of *Torture as Tort: Comparative Perspectives on the Development of Transnational Human Rights Litigation* (Hart, Oxford, 2001) and the Convening Editor of the journal *Transnational Legal Theory*. Prior to joining Osgoode, he was on faculty at the Faculty of Law, University of Toronto, 1989-2000, and a Jean Monnet Fellow at the European University Institute in 2000. He has just been awarded a 2010 Ikerbasque Fellowship for knowledge innovation by the Basque Government. Prior to starting his academic career, Professor Scott served as law clerk to the former Chief Justice of Canada, Brian Dickson.

Michel William Drapeau -- Michel Drapeau is a Professor of Law, University of Ottawa where he teaches military law and freedom of information law. He serves on the Board of Governors of the Royal Military College (St Jean) and is a member of the International Society for Military Law and the Law of War. He has written extensively on the subject of military law as well as freedom of information law and is the co-author of two authoritative and comprehensive legal texts: *Canadian Military Law Annotated* (2006) and *Federal Access to Information and Privacy Legislation Annotated - 9th Edition -* (2010) published by Thomson-Carswell. A member of the Bar of Ontario, his law practice focuses on military law matters. Prior to his legal career, he served for 34 years in the Canadian Forces (Army). On retirement, he was the executive secretary of National Defence Headquarters and the Secretary, Armed Forces Council. He is an officer of the Order of Military Merit.

Alex Neve, OC – Alex Neve has served as Secretary General of Amnesty International Canada's English branch since 2000. In that role he has carried out numerous human rights research missions throughout Africa and Latin America as well as within Canada. He speaks to audiences across the country, appears regularly before parliamentary committees and is a frequent commentator in the media. Alex has held other positions with Amnesty International as well, both nationally and internationally. Alex Neve is a lawyer, with a Masters Degree in International Human Rights Law from the University of Essex in the United Kingdom. He has served as a member of the Immigration and Refugee Board, taught at Osgoode Hall Law School, been affiliated with York University's Centre for Refugee Studies, and worked as a refugee lawyer in private practice and in a community legal aid clinic. He is an Officer of the Order of Canada and has been awarded an Honorary Doctorate of Laws Degree from the University of New Brunswick.

William Schabas, OC, MRIA - William Schabas is Director of the Irish Centre for Human Rights, National University of Ireland, Galway, where he is professor of human rights law. He is the author of more than 20 books and 250 articles on capital punishment, genocide and international criminal tribunals, and has been a visiting professor at universities around the world. Professor Schabas was a member of the Sierra Leone Truth and Reconciliation Commission, and sits on the Board of Trustees of the United Nations Voluntary Fund for Technical Assistance in Human Rights. He is an Officer of the Order of Canada and Member of the Royal Irish Academy.

Kent Roach – Kent Roach is Prichard-Wilson Chair of Law and Public Policy at the University of Toronto Faculty of Law, with cross-appointments in criminology and political science, and a Fellow of the Royal Society of Canada. He is a graduate of the University of Toronto and of Yale, and a former law clerk to Justice Bertha Wilson of the Supreme Court of Canada. Professor Roach has written over 110 articles and chapters published in Australia, Hong Kong, Israel, Italy, Singapore, South Africa, the United Kingdom and the United States, as well as in Canada. In recent years, Professor Roach has specialized in anti-terrorism law and policy and is the co-editor of *The Security of Freedom: Essays on Canada's Anti-Terrorism Bill* (2001) and *Global Anti-Terrorism Law and Policy* (2005). His *September 11: Consequences for Canada* was named one of the five most significant books of 2003 by the *Literary Review of Canada*. Professor Roach also served on the research advisory committee for the Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar and was Director of Research (Legal Studies) for the Commission of Inquiry into the Investigation of the Bombing of Air India Flight 182. His current research involves the comparative study of miscarriages of justice, comparative judicial review and comparative anti-terrorism law and policy.

Frédéric Mégret – Frédéric Mégret is Assistant Professor, Faculty of Law, McGill University, and the Canada Research Chair in the Law of Human Rights and Legal Pluralism. He holds a PhD from the Sorbonne and the University of Geneva and an LLB from King's College London, and is an alumnus of Sciences Po (Paris). His research focuses on the plural dimensions of international law, international human rights law and international criminal law.

Michael Byers - Michael Byers holds the Canada Research Chair in Global Politics and International Law at the University of British Columbia. His work focuses on issues of human rights, the laws of war, sovereignty and Canada-U.S. relations. Dr. Byers has been a Fellow of Jesus College, Oxford (1996-1999) and a Professor of Law at Duke University (1999-2004). He has also taught as a visiting professor at the universities of Cape Town and Tel Aviv. Dr. Byers is the author of *Custom, Power and the Power of Rules* (1999), *War Law* (2005), *Intent for a Nation* (2007) and *Who Owns the Arctic?* (2009). In 1998, he advised a coalition of London-based human rights organizations in the Pinochet Case.

Videos of the Special Forum will be uploaded after the Special Forum on the Nathanson Centre website at: <http://nathanson.osgoode.yorku.ca/events/special-forum-on-canadian-mission-in-afghanistan/>

Paul Champ – Paul Champ is a litigation lawyer with Champ & Associates in Ottawa. He studied law at the University of British Columbia (LLB) and McGill University, and holds a journalism degree from Carleton University (B.J.). He started his legal career with the Saskatchewan Department of Justice. Mr. Champ was counsel in *Abdelrazik v. Minister of Foreign Affairs*, was involved in the Iacobucci Inquiry into the torture of three Canadians abroad, and appeared before the Supreme Court of Canada in *Canada v. Khadr*. In a case seeking application of the Canadian Charter of Rights and Freedoms to detainees in the custody of the Canadian military in Afghanistan, he represented Amnesty International and the B.C. Civil Liberties Association in *Amnesty International and BCCLA v. Minister of Defence (Canada)*, which was denied leave to appeal by the Supreme Court of Canada.

Willem de Lint – Willem de Lint is Department Head, Sociology, Anthropology, and Criminology, University of Windsor. Recent publications include the co-edited *Security in Everyday Life* (Routledge, forthcoming) and the co-authored *Intelligent Control: Developments in Public Order Policing in Canada* (University of Toronto Press, 2009). His current research focuses on the flow of information between various security agencies, public order policing, and more generally politicization and power relations in security. A current focus in relation to Afghanistan is the intersection of intelligence, law, national security with particular respect to the practice of non-documentation by Canada's Department of Foreign Affairs and other agencies.

David Schneiderman - David Schneiderman is Professor of Law and Political Science at the University of Toronto where he teaches Canadian and US constitutional law. He has authored numerous articles and edited several books on Canadian federalism, the Charter of Rights, Canadian constitutional history, and constitutionalism and globalization. He most recently authored *Constitutionalizing Economic Globalization: Investment Rules and Democracy's Promise* (Cambridge University Press, 2008) and co-authored *The Last Word: Media Coverage of the Supreme Court of Canada* (UBC Press, 2006). Professor Schneiderman has been Visiting Professor of Law at Georgetown University Law Center and Fulbright Visiting Scholar at the New School for Social Research and the School of Law, Columbia University.

Michael Mandel – Michael Mandel is Professor of Law at Osgoode Hall Law School of York University, where his courses include Criminal Law, The Law of War, and Legal Politics. His primary scholarly interests are in international criminal law and constitutional law and politics. Among his many published works are *The Charter of Rights and the Legalization of Politics in Canada* (Thompson Education Publishers, 1989, 1994; French edition, Editions Boreal, 1996) and *How America Gets Away With Murder: Illegal Wars, Collateral Damage and Crimes Against Humanity* (Pluto Press, 2004; Italian edition Edizioni Gruppo Abele Editore, 2005; German edition Zweitausendeins, 2005). A member of Osgoode's faculty since 1974, Professor Mandel has also taught and lectured at several of Italy's major universities: Bologna (where he ran an exchange program for law students from 1995-2001), Torino, Trento, Padova, Napoli, Calabria, and the European University Institute in Florence where he was honoured with a Jean Monnet Fellowship in 1990-91. In 1998 he was a Visiting Professor at the Faculty of Law of the Hebrew University of Jerusalem.

Christopher Waters – Christopher Waters is the Associate Dean of the Faculty of Law, University of Windsor. His previous academic post, from 2002-2007, was at the University of Reading in the United Kingdom. In the 2006-2007 academic year he was also a Visiting Research Fellow in the Changing Character of War Programme at Oxford University. Dr. Waters has addressed military audiences on international human rights and humanitarian law in both Canada and the United Kingdom. He also has extensive field experience in the Caucasus and Balkans, including with the Organization for Security and Cooperation in Europe's Kosovo Mission in 1999-2000. Dr. Waters has published four books as well as articles in journals including the *American Journal of International Law* and *International Peacekeeping*. He has been interviewed on international issues by domestic and international media including CTV, National Public Radio, The New York Times and Agence France Presse.