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## BRIDGING GAPS AND BREACHING OBSTACLES: AN EXAMINATION OF LABOUR RELATIONS WITHIN THE CANADIAN DEFENCE TEAM

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## ABSTRACT

Canadian Armed Forces (CAF) officers frequently occupy leadership and managerial positions which involve the supervision of unionized civilian employees of the Department of National Defence (DND). Although CAF officers receive extensive training on how to lead their military subordinates on operations, these same officers frequently face complex labour relations issues while in garrison, having practically no formal training in dealing with unions. As such, the question becomes whether or not CAF officers are properly equipped to deal with a unionized labour force.

This paper explores labour relations in DND within the context of contemporary military leadership. It will be shown that military leaders, trained in dealing with a variety of complex military human resources issues, have already developed many skills which are directly translatable and transferable for success in the realm of civilian personnel management and labour relations. However, this paper also identifies significant shortfalls and makes significant recommendations from an institutional perspective to facilitate labour relations within the department, including the integration of specific labour relations training and relevant experiences into CAF officer career development while inculcating an inclusive DND/CAF professional culture.

## Introduction

In the modern Canadian defence establishment, not only do Canadian Armed Forces (CAF) officers lead uniformed men and women on operations, many are called upon at some point in their careers to lead unionized civilian employees of the Department of National Defence (DND). While CAF officers receive extensive training throughout their careers on how to lead their military subordinates on operations, they frequently face complex labour relations issues with practically no formal training in dealing with unions or complex civilian human resources (HR) issues. Because collective agreements are negotiated at the federal government level, and given a highly complex civilian personnel management framework, both of which are further complicated by the unique challenges facing DND/CAF, conflict between local level management and unions often arises.

As a result, military officers may find themselves on the frontlines of a new kind of conflict, immersed in labour relations battles where neither the rules of engagement, nor the strategic objectives, are clearly defined. There are many parallels that can be drawn between leading soldiers, sailors, airmen and airwomen on military operations and leading civilian employees within the DND. While the governing rules and regulations may be different, many of the fundamental concepts of leadership are universal. This paper will prove that CAF officers possess the fundamental leadership skillsets necessary to ensure highly effective labour relations throughout the Defence Team.

Canada's defence establishment is a diverse and dynamic organization, comprised of two distinct institutions: the DND, led by the Deputy Minister of National Defence (DM) and the CAF, led by the Chief of the Defence Staff (CDS). However, about two



thirds of DND's full time civilian workforce is actually employed within the military structure, working in collaboration with military personnel in a variety of contexts, including on military bases, on operations, in military academic settings, in defence research and at National Defence Headquarters.<sup>1</sup> Moreover, civilian employees represent a highly diverse workforce, including doctors, university professors, scientists, financial experts, administrative and clerical staff, vehicle mechanics, firefighters, plumbing and heating specialists, cooks, supply technicians, information technology specialists, truck drivers, and general labourers, amongst many, many others. Unlike their military counterparts, the vast majority of DND civilian employees are represented by elected officials, from one of eighteen distinct unions, which engage with the military chain of command on a variety of issues. However for some military commanders, union participation within the traditional construct of a hierarchical chain-of-command may not be widely understood or appreciated, which often leads to conflict and a subsequently poor labour relations climate.

Outside of the military context, the multidisciplinary field of labour relations has seen extensive academic research and has been greatly development over the past sixty years. The areas of industrial relations, conflict management, labour law, organizational culture and behaviour, just to name a few, have all been areas of significant research in the private and public sectors outside of DND/CAF. Likewise, military theories of leadership and conflict are equally diverse in scope. For example, the classic works of Sun Tzu's *The Art of War*, Machiavelli's *The Prince* and Clausewitz's *On War* each provide fundamental theories for the military commander in leadership and conflict.

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<sup>1</sup> Irina Goldenberg, Angela R. Febbraro and Wayne H. Dean, "Military-Civilian Integration in Canada's Defence Establishment," in *The Defence Team: Military and Civilian Partnership in the Canadian Armed Forces and the Department of National Defence* (Kingston: Canadian Defence Academy Press, 2015), 1.

More recently, counter-insurgency theories (COIN) and CAF military leadership doctrine have been greatly developed and highly refined, providing the philosophical framework for the military commander to address the human aspect of military operations. However, until this point, there has been no significant research into labour relations challenges between military leaders, civilian employees, their union representatives and those leadership theories and precepts that may apply to this unique context.

As indicated above, this paper will explore modern labour relations theories with contemporary CAF approaches to military leadership. The overlying premise is that CAF officers have already developed skillsets needed in the conduct of military operations which can be directly transferable to a civilian context, thereby equipping them for success in the realm of labour relations. Moreover, recommendations will focus largely on *tactical* level interactions between civilian employees, their local level union representatives and the local level force employer, namely, the unit Commanding Officer, as differentiated from the role of Treasury Board and national level unions in the collective bargaining process. As such, the primary target audience for this discussion lies mainly with military sub-unit, unit and formation level commanders, as well as, their local and regional union equivalents. This paper should also be of keen interest to all civilian and military members of the Defence Team who are invested in ensuring effective labour relations.

Concerning methodology, firstly, an examination of the status of unions within DND will be necessary to provide a solid foundation from which to launch the discussion. This will include a historical review of the evolution of collective bargaining in Canada and the establishment of the federal public service. Next will be a detailed

exploration of the fundamental similarities and differences between military and civilian professional cultures within DND/CAF in order to establish a baseline from which to compare various approaches to leadership. Finally, DND/CAF labour relations will be discussed and will include, the DND consultation framework, dispute resolution, unit discipline and performance management, amongst others. As such, this paper will link and extrapolate from a variety of labour relations theories to indicate what is most critical for military commanders. This approach will support a new perspective on military leadership - one that incorporates the human resource management practices of the federal public service within a framework of CAF military leadership.

## CHAPTER 1 – RISE OF UNIONS IN THE CANADIAN PUBLIC SERVICE

### **History of the Canadian Labour Movement**

The labour movement in Canada can trace its roots as far back as the 19<sup>th</sup> Century. According to Desmond Morton (2007), many Europeans immigrated to Canada in search of a better life and the prospect of decent working conditions; many hoping they could earn enough as labourers to later become independent farmers or business owners.<sup>2</sup> As Canada entered the Industrial Revolution, poor wages and in-existent workers' rights were a source a much preoccupation amongst the working class.<sup>3</sup> Moreover, the working

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<sup>2</sup> Desmond Morton, *Working People: An Illustrated History of the Canadian Labour Movement* (Montreal and Kingston: McGill-Queen's University Press, 2007), 22.

<sup>3</sup> Desmond Morton, *Working People: An Illustrated History of the Canadian Labour Movement* (Montreal and Kingston: McGill-Queen's University Press, 2007), 23. See also: Douglas Cruikshank and Gregory S. Kealey, "Strikes in Canada: 1891 – 1950," *Labour / Le Travail* 20, (Fall 1987): 118; and also David Jay

conditions in many industries, such as in mining and manufacturing, were often extremely dangerous. Until 1887, there were no Canadian laws or government regulations requiring safety standards for safe working conditions.<sup>4</sup>

Prior to 1872, trade unions were not even recognized as being legal in Canada. Convinced that Canada's growth as a nation depended on emigration from Britain, Canada's first Prime Minister, Sir John A. MacDonald, identified two critical reasons why Canadian law needed to support the labour movement:

...first, that trade union activity in Canada had matured to the point where existing law failed to reflect the importance of that activity and, hence, unconscionably repressed what had come to be socially legitimate purposes; and second, that if the existing law were allowed to persist, British workers might be dissuaded from emigrating to Canada.<sup>5</sup>

Under the leadership of Prime Minister MacDonald, the federal government enacted the *Trade Unions Act*, receiving royal assent on 14 June, 1872. From the early days of confederation, the labour movement in Canada proved to be of critical importance to national economic growth and shaping societal values. Indeed, MacDonald foresaw a role for unions as a nation-building institution.

Politics played a major role in the newly formed Canadian government's relationship with unions. A condition of the *Constitution Act, 1867*, MacDonald's government received much pressure to complete the inter-colonial railroad. While the railroad was certainly crucial to the industrial and economic growth of the country, political pressures from the voting working class were also a concern.<sup>6</sup> Not only was a

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Bercuson, "Labour Radicalism and the Western Industrial Frontier: 1897 - 1919," *Canadian Historical Review* 58 (1977): 154-155.

<sup>4</sup> Desmond Morton, *Working People: An Illustrated History of the Canadian Labour Movement* (Montreal and Kingston: McGill-Queen's University Press, 2007), 23.

<sup>5</sup> Mark Chartrand, "The First Canadian Trade Union Legislation: An Historical Perspective," *Ottawa Law Review* 16, no. 2 (1984): 268.

<sup>6</sup> *Ibid.*, 291.

railroad necessary for physically connecting the regions geographically, the project was a major source of employment. Since the working class comprised a significant portion of the electorate, which MacDonald personally relied upon heavily as his electoral base, the government was further compelled to work with the trade unions to complete the project. As a result, MacDonald was personally criticized for the generous terms offered to Canadian Pacific Railway, resulting in the first major post-confederation political scandal in Canada.<sup>7</sup>

This period of industrial expansion and railway construction in Canada saw the arrival of two British craft unions in Canada: the *Amalgamated Society of Engineers* and the *Amalgamated Society of Carpenters and Joiners*. Don Taylor and Dow Bradley (1988) explain, "...American unions had also begun to recruit Canadian members and the British offshoots were eventually absorbed."<sup>8</sup> During the years which followed, many attempts to organize labour unions met with varying degrees of success. For example, the *Canadian Labour Union*, formed in 1872 became a national centre for the movement but ceased to exist within three years. Moreover, local organizations, like the *Toronto Trades Assembly* established in 1871, were more successful at the time because they did not rely as heavily upon a widespread communications network like national organizations. These were the prototypes for today's local labour councils.

The years leading into the First World War would prove to be another significant period for organized labour. Deplorable working conditions across the country fostered the growth in support of both socialism and communism within the Canadian labour

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<sup>7</sup> Canadian Encyclopedia, "Railway History", <http://www.thecanadianencyclopedia.ca/en/article/railway-history/>.

<sup>8</sup> Don Taylor and Dow Bradley, *The Rise of Industrial Unionism in Canada – A History of the CIO* (Kingston: Queen's University Press, 1988), 1.

movement. Common complaints throughout the working-class included high rates of unemployment, extremely low wages, terribly unsafe and unsanitary working conditions, employer blacklists, non-recognition of unions and a refusal of collective bargaining, amongst others.<sup>9</sup> The political unrest resulting from poor working conditions became national in character.

To put this in context, unrest among the working class was much more than just a North American phenomenon during this period. In 1917, a Marxist-inspired proletarian revolution transformed Russia from a capitalist and imperial autocracy to a state-directed socialist state - the Union of the Soviet Socialist Republic (USSR). According to Marxist theory, the call, "...workers of the world, unite. You have nothing to lose but your chains," aimed to inspire a revolt against capitalist oppression in order to create a world run by and for the working class.<sup>10</sup> In this view, proletarian revolutions were considered both necessary and inevitable. As will be shown, the perceived threat to the developed and industrialized states of the world from such a proletariat revolution was a growing concern in the world which would affect the way many governments reacted to the labour movement.

In Canada, several political and labour-based groups with socialist and communist ideologies were forming.<sup>11</sup> In fact, membership in certain labour unions, such as the Industrial Workers of the World (IWW), was banned by the Canadian government during

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<sup>9</sup> Gregory S. Kealey, "1919: The Canadian Labour Revolt," *Labour/Le Travail* 13 (Spring 1984): 12. See also: Desmond Morton, *Working People: An Illustrated History of the Canadian Labour Movement* (Montreal and Kingston: McGill-Queen's University Press, 2007), 23; and Douglas Cruikshank and Gregory S. Kealey, "Strikes in Canada: 1891 – 1950," *Labour / Le Travail* 20 (Fall 1987): 118.

<sup>10</sup> Karl Marx and Frederick Engels, "Manifesto of the Communist Party," in *Karl Marx and Frederick Engels: Selected Works in One Volume*, translated by Samuel Moore (Moscow: Progress Publishers, 1969), 67.

<sup>11</sup> Don Taylor and Dow Bradley, *The Rise of Industrial Unionism in Canada – A History of the CIO* (Kingston: Queen's University Press, 1988), 3.

the First World War due to the radical communist views of their members.<sup>12</sup> The Socialist Party of Canada (SPC) also espoused strong Marxist views and contributed greatly towards the founding of the One Big Union (OBU), a syndicalist union operating primarily in Western Canada which gained much support during the labour / government clashes of the Winnipeg General Strike of 1919.<sup>13</sup>

The aftermath of the First World War saw much economic, political and social upheaval throughout the world, including Canada. In his book entitled, *Seeing Reds: The Red Scare of 1918-1919, Canada's First War on Terror*, Daniel Francis (2010) depicts the Winnipeg General Strike of 1919 as the culmination of terrible working conditions and perceived widespread injustices which had fuelled growing discontent within the Canadian working class. Canada's elites saw the wave of unrest that was spreading across the country as a direct threat to the very fabric of capitalist society. Seeing the growing protests and demonstrations as the potential beginnings of a communist revolution similar to what had occurred in Russia less than two years previously, the Canadian government, under Prime Minister Robert Borden, used its wartime powers to defeat unionized protests, labour strikes and worker dissent. As Francis concludes, "...when faced with perceived threats to security, the Canadian government, with the support of the press and much of the public, had responded...with Robert Borden's stern hand of repression."<sup>14</sup> In order to rally public support behind mainstream political and economic policies, the Canadian government branded radical union leaders as the equivalent of Marxists and

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<sup>12</sup> *Ibid.*

<sup>13</sup> Gregory S. Kealey, "1919: The Canadian Labour Revolt," *Labour/Le Travail* 13 (Spring 1984): 37.

<sup>14</sup> Daniel Francis, *Seeing Reds: The Red Scare of 1918-1919, Canada's First War on Terror* (Vancouver: Arsenal Pulp Press, 2010), 246.

Bolsheviks who threatened Russian-style revolt. In short, the labour movement was considered a national security threat.

Furthermore, as David MacKenzie (2001) points out, any Canadian suspected of having allegiance to the Soviet Union or portrayed communist beliefs became the focus of suspicion and the target of much hostility by the Canadian government:

...within a few years of the 1917 Russian Revolution, the Royal Canadian Mounted Police (RCMP) carved out a domestic intelligence role, becoming actively engaged in the surveillance of the Canadian Communist Party, immigrant workers' organizations and generally, any radical group in Canada...During [World War II], the RCMP fingerprinted some two million Canadians in an effort to detect criminals, communists and potential saboteurs in Canadian industry. The screening proved effective in monitoring the workforce and in curbing dissent and labour unrest (which was seen by some as a form of sabotage).<sup>15</sup>

Convinced that the labour movement was being driven by communist ideology and was therefore a threat to national security, the federal government took measures to monitor and, on occasion, physically suppress the labour movement in Canada.<sup>16</sup>

Several decades later, similar tensions would again resurface in Canada's second Red Scare. The hard fought years the Second World War had left Canadians and their allies very much sensitive to democratic societies being threatened by the spread of totalitarian regimes. Prime Minister Louis St-Laurent remarked while speaking at the University of Toronto that, "...we have come as a people to distrust and dislike governments which rule by force and which suppress free comment on their activities."<sup>17</sup>

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<sup>15</sup> David MacKenzie, "Canada's Red Scare: 1945 – 1957," Ottawa: The Canadian Historical Association, 2001, 3.

<sup>16</sup> One such occasion came to be known as *Bloody Saturday*. On 21 June 1919, about 25,000 strikers assembled in front of City Hall at Winnipeg's Market Square. Troubled by the growing numbers of protestors, Mayor Charles Gray read the *Riot Act* following which mounted police charged in on horseback, beating the crowd with clubs and firing several shots. Two protestors were killed, about 45 injured and many others were arrested.

<sup>17</sup> Louis St-Laurent, (speech, *The Foundations of Canadian Policy in World Affairs*, Toronto: University of Toronto Press, Duncan and John Gray Memorial Lecture, 1947), 21.



In fact, St-Laurent's speech mirrors much of the anti-communist sentiment that was being expressed by other national leaders at the time.

For example, just ten months preceding St-Laurent's speech, Winston Churchill had delivered his famous *Iron Curtain* speech in Fulton, Missouri on 5 March, 1946. The former British Prime Minister warned of the spread of Soviet communism:

...from Stettin in the Baltic to Trieste in the Adriatic an *iron curtain* has descended across the continent...The Communist parties, which were very small in all these Eastern States of Europe, have been raised to pre-eminence and power far beyond their numbers and are seeking everywhere to obtain totalitarian control. Police governments are prevailing in nearly every case, and so far, except in Czechoslovakia, there is no true democracy.<sup>18</sup>

Like Churchill's speech, St-Laurent inferred parallels to the threat of communist expansion in Europe as a threat to our own way of life. In fact, St-Laurent's lecture in Toronto can readily be seen to have been influenced by Churchill's famous speech, delivered less than a year earlier. Any hint of communism within the labour movement in Canada was met with resistance by the government of the day.

South of the border, US President Harry Truman delivered another famous speech on 12 March, 1947 to the US Congress where he introduced what would become known as the Truman Doctrine. This was a call for US political, military and economic support to both Turkish and Greek governments in support of their struggles against communism. A defining moment for US foreign policy, the Truman Doctrine officially launched the US against the spread of communist expansion and arguably marked the start of the US involvement in the Cold War. In essence, the Truman Doctrine effectively reoriented U.S. foreign policy away from an isolationist stance and refocused the US towards direct involvement in regional conflicts and communist containment.

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<sup>18</sup> Winston Churchill, "The Sinews of Peace," in Mark A. Kishlansky, ed., *Sources of World History* (New York: Harper Collins, 1995), 300.

From these three famous speeches, a clear connection can be drawn of mutually supporting grand strategies among the US, the British Empire and Canada against the spread of communism. Churchill's call for the "fraternal association of the English-speaking peoples" in his 1946 Iron Curtain speech can arguably be seen as the defining moment which cemented the allies into the Cold War. Churchill requested that all the British Commonwealth nations join with the US in order to achieve "an overwhelming assurance of security" against the threat of communist expansion.<sup>19</sup> Perceiving this alliance as a threat to their own security, however, the Soviet response was to match this military build-up, causing perpetuating political uncertainty and instability worldwide.

The most important lesson from the waves of political tensions following both world wars and during the Cold War was that socio-political turmoil in other parts of the world must not prejudice the Canadian government's approach to the way it deals with internal social issues. In reality, the labour movement was never synonymous with the communist movement, even if some of their stated objectives appeared similar and some individuals were members of leftist political parties. In essence, the federal government allowed itself to be perceived as biased and insensitive towards the needs of the working class largely from exaggerated fears of communist expansionism and political radicalization in other parts of the world.

Arguably, the key difference in outcomes between the birth of the Soviet Union in 1917, post-Second World War communist expansionism, and the socio-political unrest amongst the Canadian working class can be attributed to the effects of representative democracy. In the first case, the overthrown Russian Tsarist autocracy had been replaced

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<sup>19</sup> Winston Churchill, "The Sinews of Peace" in Mark A. Kishlansky, ed., *Sources of World History* (New York: Harper Collins, 1995), 301.

by a weak provisional government composed predominantly of former nobles and aristocrats. Exhausted from the raging war, the Russian people, especially the military, felt completely isolated and abandoned by their government. Similarly, the post-Second World War socio-political situation in countries like Turkey and Greece fostered much social unrest and subsequent support for radical alternatives. But in Canada, the working class had always been able to voice their complaints to elected officials who were and are not totally deaf to their plight. Fundamentally, the *perceived* credibility of the democratically elected federal government to fairly represent the interests of the working class has proven to be the defining factor in effective relations between the government and the labour unions. This important lesson remains relevant in labour-management relations today.

As a parliamentary democracy, Canada's government derives its authority from an elected parliament. These elected representatives are entrusted to enact laws that represent the people that voted for them. Even today, labour laws in Canada continue to evolve as Canadian voters continue to influence the political agenda. Likewise, Canada's judiciary plays an important role in interpreting laws which can also be further modified through legal precedence.

### **The Development of Fundamental Canadian Labour Laws**

Arguably, a defining milestone for organized labour in Canada resulted from the United States *National Labour Relations Act* (1935), often referred to as the *Wagner Act* after its main proponent, Senator Robert Wagner. Although the US developed the

Wagner model as a means towards achieving economic recovery after the Great Depression, Canadian federal and provincial governments adopted legislation based on the Wagner model a few years later, "...as a way to ensure order and stability after the Second World War."<sup>20</sup> At its foundation, the principles of the Wagner model comprise seven main principles and remain at the core of Canadian labour laws today. These principles include:

1. The right to organize and form unions;
2. The certification of a union as the sole representative of workers in a particular work unit if it has been able to demonstrate majority support;
3. The requirement that unions and employers engage in good faith collective bargaining;
4. The right to strike or to third party dispute resolution should collective bargaining fail;
5. Compulsory arbitration of differences during the life of a collective agreement;
6. Prohibitions on the right to strike or lockout during the term of an agreement; and
7. The administration of laws pertaining to these rights by a labour management board or equivalent body.<sup>21</sup>

Although not specifically expressed in this exact format, these Wagner principles can be found at the philosophical foundation upon which all Canadian labour laws are based. As a point of interest, while a key piece of Canadian legislation, the *Canadian Charter of Rights and Freedoms*, does not specifically detail labour rights, the rights of *Freedom of Expression* and *Freedom of Association* afford constitutional legitimacy for organized labour and have been so interpreted and upheld in the protection of rights to secondary picketing and collective bargaining.<sup>22</sup>

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<sup>20</sup> John Godard, "Labour Law and Union Recognition in Canada: A Historical-Institutionalist Perspective," *Queen's Law Journal* 38, no. 2 (2013), 400.

<sup>21</sup> *Ibid.*, 392.

<sup>22</sup> *Ibid.*, 401.

At the national level, the fundamental legal framework in the contemporary Canadian context is detailed in the *Canada Labour Code* (1985), defining the guiding principles for collective bargaining, obligations related to strikes and lockouts, occupational health and safety, standards for hours, wages and vacations, amongst others. The *Canada Labour Code* provides the legal foundation for the establishment of the Canada Industrial Relations Board (CIRB), an independent, representational and quasi-judicial tribunal charged with the mandate to contribute to and promote harmonious industrial relations for federally regulated employment sectors.<sup>23</sup> Due to constitutional division, the *Canada Labour Code* does not supersede provincial law, or decisions from provincial regulatory boards, for sectors which fall under provincial jurisdiction. In Canada, jurisdiction over labour relations has been constitutionally afforded to both federal and provincial governments, each having developed independent legislation to govern labour relations within their jurisdictions for both the private and public sectors.

In sectors that bridge several provinces, as well as, public and private industries in Canadian territories, the Canadian Industrial Relations Board (CIRB) administers and oversees the implementation of the *Canada Labour Code*.<sup>24</sup> Federal public servants, however, are additionally subject to the *Public Service Labor Relations Act* (PSLRA), the *Public Service Employment Act* (PSEA), amongst others, and are likewise supported by the *Public Service Labour Relations and Employment Board* (PSLREB), which came into force on 1 November, 2014.<sup>25</sup>

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<sup>23</sup> Canada Labour Relations Board, last or accessed 4 January 2015, <http://www.cirb-ccri.gc.ca/eic/site/047.nsf/eng/00124.html>.

<sup>24</sup> Hugh MacIntyre and Charles Lammam, "Labour Relations Laws in Canada and the United States: An Empirical Comparison," Vancouver: Fraser Institute (2014), 4. <http://www.fraserinstitute.org>.

<sup>25</sup> Public Service Labour Relations and Employment Board, last accessed 11 August 2015, [http://pslreb-crtefp.gc.ca/index\\_e.asp](http://pslreb-crtefp.gc.ca/index_e.asp).

At its core, labour relations in Canada are founded upon and firmly rooted within established laws. Although collective agreements between the employer and the bargaining agent are negotiated, they too have the force of law once ratified. In fact, all employer policies, directives, terms of collective agreements and even Canadian statutes can all be interpreted and subject to judicial review. The fact that labour laws, like all laws in Canada, are subject to judicial review and legal challenge promotes a culture of negotiation and debate between unions and employers. Although federal labour laws have been enacted by parliament, they will continue to evolve via legal challenge and the precedence of adjudicative, arbitral and judicial decisions.

In a similar manner, collective agreements can be challenged at various labour relations boards. For military commanders, this is in stark contrast to the typical relationship that they have with their military subordinates, where obedience to lawful commands and established policies and directives is considered unquestionable. As such, military commanders must not only be thoroughly versed in the relevant policies, directives, collective agreements and labour laws governing the employment of civilian employees, they must also understand and accept that negotiation is deeply entrenched within the very heart of the Canadian labour system.

### **The Modern Canadian Public Service and DND**

The precursor to the modern Public Service of Canada, the Civil Service of Canada, found its origin with the enactment of the *Civil Service Act* in 1868. Recognizing the unique relationship that civilian employees share with the federal government, key

provisions were established to ensure that worker's rights were respected while maintaining the continuity of government services. Just as labour relations in the private sector have continued to evolve, so too have the conditions in the federal public service. For instance, in 1967, the Canadian parliament enacted two significant pieces of legislation, the *Public Service Employment Act (PSEA)* and the *Public Service Staff Relations Act (PSSRA)* which together have formed the foundation of the modern Canadian public service and the contemporary labour relations environment. The PSEA gave the renamed Public Service Commission the responsibility to regulate staffing and personnel assessment within the federal public service while the PSSRA ensured collective bargaining rights.

In 2003, the modern Public Service of Canada was revitalized with the enactment of the *Public Service Modernization Act* which included two subordinate pieces of legislation, the *Public Service Labour Relations Act (PSLRA)*, which replaced the PSSRA, and a revised *Public Service Employment Act (PSEA)*. This renewed legislative framework provides both the Canadian government and its employees with a legal foundation from which to base labour relations. For example, the new PSLRA requires every federal department and agency to establish labour-management consultation committees in cooperation with the appropriate bargaining agents. Moreover, the *PSLRA* improved upon the PSSRA in several ways, such as, by clarifying what constitutes unfair labour practices and by creating a more comprehensive grievance and adjudication process. In constant evolution, the PSLRA has been updated on several occasions, most recently in June 2015, which included highly controversial modifications to the

nomination process of essential services and the practical elimination of binding arbitration.<sup>26</sup>

The modern federal public service is divided throughout government into departments, agencies, commissions and crown corporations. The Clerk of the Privy Council, the most senior non-political official in the government of Canada, provides professional, non-partisan advice to the Prime Minister on all policy and operational issues that may affect the Government of Canada. Responsible for government level oversight of the federal public service, the Privy Council Office (PCO) manages the appointment process for senior positions in federal departments, crown corporations and agencies and also establishes government level policies on human resource management issues.<sup>27</sup> In effect, the PCO is the government level coordinator of the public service, working with all other government departments and agencies to ensure effective policies in accordance with Canadian laws.

Under the authority of the *Financial Administration Act* (FAA), Treasury Board has been given the role as employer for the core public administration, which includes approximately 200,500 employees in the more than 80 departments and agencies named in Schedule I through IV of the FAA.<sup>28</sup> While the core public administration does comprise a large portion of the federal public service, Treasury Board is one of nineteen

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<sup>26</sup> In her article entitled, "PSLRA: Fair and Balanced Harper Style," Public Service Alliance of Canada (PSAC) President Robyn Benson describes *explosive* changes to contemporary labour relations with the enactment of aptly named Bill C-4. Some of the key changes to the PSLRA included giving the government unilateral power to designate essential services and the practical abolition of binding arbitration, except in certain exceptional cases. Benson explains that even in such rare cases, Bill C-4 has stacked the deck in the government's favour. Last accessed 10 August 2015.

<http://www.aec-cea.ca/2013/10/fair-and-balanced-harper-style.html>.

<sup>27</sup> Privy Council Office website, last accessed 10 August 2015.

<http://www.pco-bcp.gc.ca/index.asp?lang=eng&page=about-apos>.

<sup>28</sup> Treasury Board of Canada Secretariat website, last accessed 10 August 2015.

<http://www.tbs-sct.gc.ca/tbs-sct/abu-ans/tbs-sct/abu-ans-eng.asp>



different employers of government of Canada employees.<sup>29</sup> The Treasury Board, having full authority for the management of its federal civilian employees, is therefore responsible for negotiating collective agreements for approximately 166,000 unionized employees with the twenty-eight different bargaining agents that represent these public service employees.<sup>30</sup> Treasury Board is also responsible to determine appropriate compensation for all non-unionized employees in the federal public service.

At present, there are a little over 22,000 civilian employees within DND who are represented by eighteen of the twenty-eight bargaining agents in the public service.<sup>31</sup> In Canada, unionization amongst government employees is significantly higher than in the

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<sup>29</sup> The Public Service Labour Relations and Employment Board recognizes the following employers of the Public Service of Canada: Canada Revenue Agency (CRA); Canadian Food Inspection Agency (CFIA); Canadian Nuclear Safety Commission (CNSC); Canadian Security Intelligence Service (CSIS); Communications Security Establishment, DND (CSE); House of Commons (H of C); Library of Parliament (L of P); National Capital Commission (NCC); National Energy Board (NEB); National Film Board (NFB); National Research Council of Canada (NRCC); Office of the Auditor General Canada (OAGC); Office of the Superintendent of Financial Institutions (OSFI); Parks Canada Agency (PCA); Senate of Canada (SEN); Social Science & Humanities Research Council (SSHRC); Staff of the Non-Public Funds, Canadian Forces (SNPFCF); Statistical Survey Operations (SSO); and Treasury Board of Canada Secretariat (TB). Website last accessed 19 July 2015.

[http://pslreb-crtefp.gc.ca/collectivebargaining/employers\\_e.asp](http://pslreb-crtefp.gc.ca/collectivebargaining/employers_e.asp).

<sup>30</sup> The Public Service Labour Relations and Employment Board recognizes the following bargaining agents within the federal public service: Association of Canadian Financial Officers (ACFO); Association of Justice Counsel (AJC); Canadian Association of Professional Employees (CAPE); Canadian Federal Pilots Association (CFPA); Canadian Merchant Service Guild (CMSG); Canadian Military Colleges Faculty Association (CMCFA); Canadian Union of Public Employees, Local 2656 (CUPE); Federal Government Dockyard Chargehands Association (FGDCA); Federal Government Dockyard Trades and Labour Council East (FGDTLC-E); Federal government Dockyards, Trades and Labour Council (Esquimalt) (FGDTLC-Esq); House of Commons Security Services Employees Association (HCSSEA); International Brotherhood of Electrical Workers, Local 2228 (IBEW); Professional Association of Foreign Service Officers (PAFSO); Professional Institute of the Public Service of Canada (PIPSC); Public Service Alliance of Canada (PSAC); Research Council Employees' Association (RCEA); Senate Protective Service Employees Association (SPSEA); Syndicat général du cinéma et de la télévision (SGCT); Unifor (UNIFOR); Unifor, Local 2182 (UNIFOR 2182); Unifor, Local 588-G (UNIFOR local 588G); Union of Canadian Correctional Officers (UCCO); United Food and Commercial Workers Union, Local No. 175 (UFCWU-175); United Food and Commercial Workers Union, Local No. 832 (UFCWU-832); United Food and Commercial Workers Union, Local No. 864 (UFCWU-864); United Food and Commercial Workers, Local 1400 (UFCW-1400); United Food and Commercial Workers, Local 401 (UFCW-401); and United Food and Commercial Workers Union, Local 1518 (UFCWU-1518). Website last accessed 19 July 2015.

[http://pslreb-crtefp.gc.ca/collectivebargaining/agents\\_e.asp](http://pslreb-crtefp.gc.ca/collectivebargaining/agents_e.asp).

<sup>31</sup> Department of National Defence, Assistant Deputy-Minister (Human Resources – Civilian), Labour Relations, DND Intranet, last accessed 5 January 2015.

<http://hrciv-rhciv.mil.ca/en/h-labour-labour-collective-bargaining.page>.

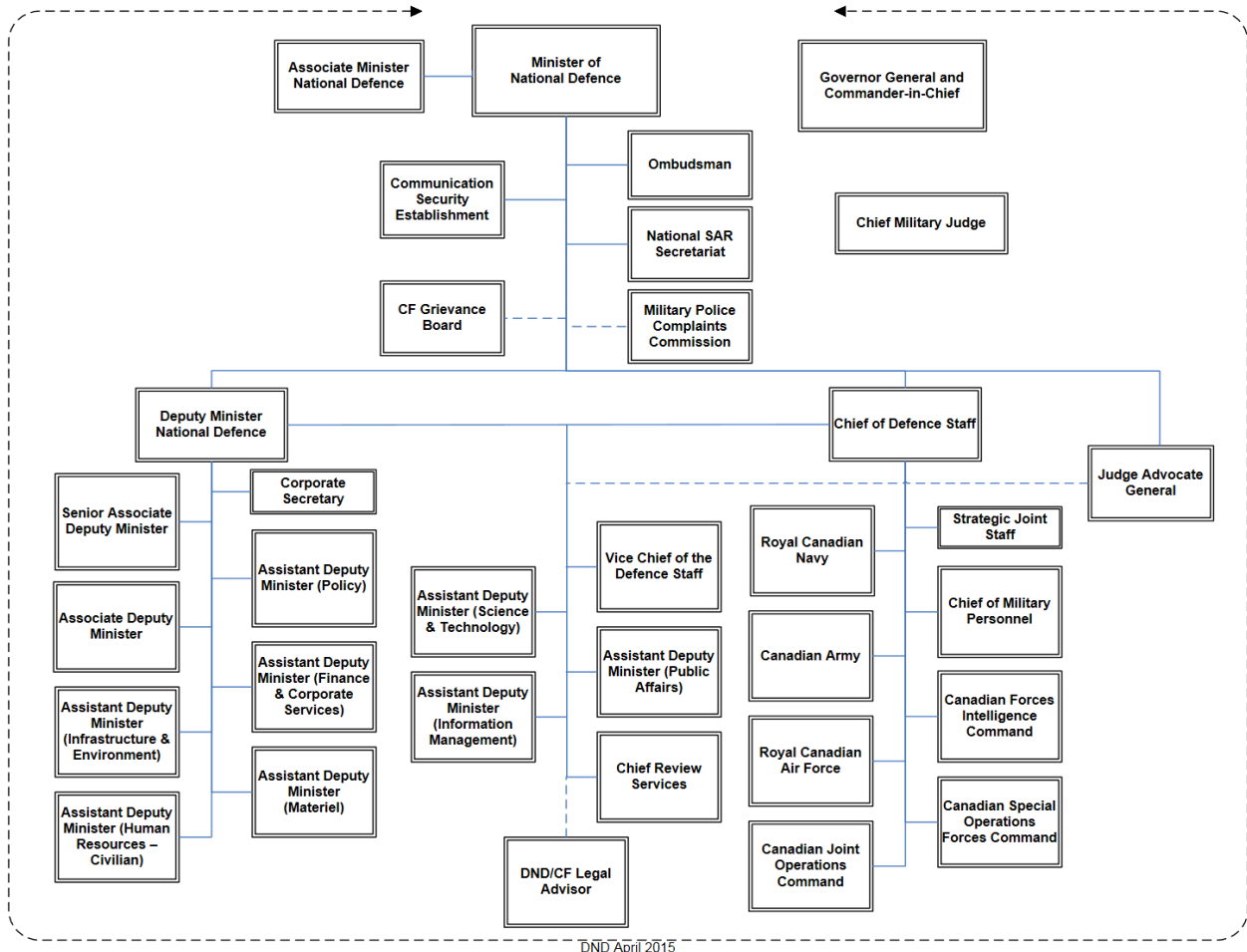
private sector. While the overall rate of unionization in Canada appears to be decreasing slightly overall, there remains a significant majority of unionized workers (71%) in the public sector as compared to the private sector (16%).<sup>32</sup> From a labour relations perspective, the Treasury Board function as the employer of DND civilian employees will become of critical importance later in this paper as it applies to the CAF military chain of command's role with regards to DND civilian employees.

The establishment of the DND/CAF is defined by the authority of the *National Defence Act* (NDA). As a democratically elected Member of Parliament and member of cabinet, the Minister of National Defence (MND) is the senior elected official in the department responsible to parliament for the management and direction of both the DND and the CAF. The Deputy Minister (DM), as the senior serving civil servant within DND, is responsible for the department's day-to-day operations, including the management of civilian human resources. In order to accomplish these responsibilities, the DM has several subordinate associate and assistant deputy ministers (ADMs) to head the various sections within the department. The Chief of the Defence Staff (CDS) is the senior military officer with the CAF, responsible to the MND for the command and control of the CAF. Within the department, the CDS and DM are considered at the same level and often collaborate on matters of departmental importance. The organizational relationships of key DND personnel can be seen at Figure 1-1.

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<sup>32</sup> Statistics Canada, Labour Force Survey, last accessed 5 January 2015.  
<http://www.statcan.gc.ca/pub/75-006-x/2013001/article/11878-eng.htm>.

Figure 1-1: Organizational Structure of DND/CAF



Source: DND/CAF Website, last accessed 8 June 2015.

<http://www.forces.gc.ca/en/about-org-structure/index.page>.

Although military managers usually do not participate in the negotiation of national level collective agreements, they may on rare occasion attend as observers. However, all military managers are legally obligated, as government representatives, to abide by the terms and conditions that have been ratified in collective agreements as ordered by the PSLRA.<sup>33</sup> Therefore, it is imperative for military commanders that have been delegated with management authority over civilian employees to understand that

<sup>33</sup> Canada, *Public Service Labour Relations Act*, Part 1, Division 7, Section 114, 41.

these collective agreements are legally binding and their decisions must adhere to the agreed conditions and relevant statutes regarding the employment of these civilians. As will be explored later in this paper, conflict between employees and the military chain of command frequently arrives when managerial decisions are made that do not respect the collective agreement or when interpretations differ regarding the intent of the collective agreement and the regulations that govern its application.

In the wake of the global economic recession, the Harper Government, having achieved a parliamentary majority in 2011, has been carrying out its Economic Action Plan (EAP) with little effective hindrance from opposition parties. The resulting economic belt-tightening and reduction of federal programs with the stated aim of a balanced federal budget has been highly criticized by public service unions.<sup>34</sup> However according to the government, Strategic Review has resulted in over \$5.2 billion in savings, including a 4.8% reduction in federal employment or 16,220 public service positions, across all departments (9,390 eliminated through attrition) as of 31 December 2012.<sup>35</sup> While public sector jobs in Canada have been significantly reduced, the overall full-time and part-time employment rates in Canada have slightly increased from 2010 to 2014, meaning that reductions in public sector employment have transitioned into the private sector.<sup>36</sup>

As the government announced program efficiencies that reduced program spending, public servants viewed this as across the board job cuts, increases to pension

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<sup>34</sup> A PSAC announcement highly criticized the Conservative EAP, citing a forecasted reduction of 67,000 jobs across Canada by 2017 and a \$150 Billion increase in national debt since 2008, last accessed 4 August 2015. <http://psac-ncr.com/conservative-economic-action-plan-success-or-disaster>.

<sup>35</sup> Canada, Economic Action Plan, 2013, 261, last accessed 11 August 2015. <http://www.budget.gc.ca/2013/doc/plan/budget2013-eng.pdf>.

<sup>36</sup> Statistics Canada, "Labour Force Characteristics in Canada," last accessed 5 January 2015. <http://www.statcan.gc.ca/tables-tableaux/sum-som/l01/cst01/econ10-eng.htm>.

contributions, the elimination of severance benefits and a current plan to reduce sick leave benefits. In essence, previously negotiated benefits have now been legislated away or severely reduced. As the government aims for a balance budget, Maya Bhullar notes that, "...public sector workers, approximately 70 per cent of whom are in unions, are under attack: their benefits are being stripped and their wages frozen."<sup>37</sup> As local management and representative of the employer, military commanders will naturally receive the backlash from DND unionized personnel for such government reductions, which greatly impacts labour-management relations at the unit level.

In the contemporary political climate, the Harper government has been reputed among labour proponents to have, "...the public service squarely in the cross-hairs. The assault on unionized workers is becoming more and more intense in Canada and precarious work has become a key feature of the employment landscape."<sup>38</sup> In fact, the recent and ongoing government spending reduction strategies have eroded a once held belief that public sector jobs were secure and are now being considered amongst typically precarious jobs that were once believed to be the realm of the private sector.<sup>39</sup> The result is a growing sentiment amongst public sector workers that previous achievements in collective negotiations by their unions are being gradually dismantled by the current government, resulting in a renewed call-to-arms to defend worker's rights in the public service.<sup>40</sup>

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<sup>37</sup> Maya Bhullar, "Addressing Competition: Strategies for Organizing Precarious Workers. Cases From Canada" in *Trade Unions and the Global Crisis: Labour's Visions, Strategies and Responses* (Geneva: International Labour Office, 2011), 203.

<sup>38</sup> *Ibid.*, 216.

<sup>39</sup> Precarious jobs are defined as those which may be uncertain in duration, low paid, poor social benefits, vulnerable to changing working conditions, or even suffer discrimination and abuse by management.

<sup>40</sup> Gerry Rodgers, "Precarious work in Western Europe: The state of the debate," in *Precarious jobs in labour market regulation: The growth of atypical employment in Western Europe* (Geneva: International Institute for Labour Studies, ILO, 1989), 3.

This decreased sense of security in public service employment and government decisions related to the Economic Action Plan has resulted in much anxiety and uncertainty within public service unions, further contributing to increased tension and strained labour-management relations throughout government.<sup>41</sup> In the context of the Defence Team, strained labour relations within the DND/CAF will undoubtedly impact the entire organization, affecting the military commander's ability to accomplish their mission. Effectively, decisions are made well above a commander's control that significantly impact the economic security and morale of civilian employees within the unit. In the next chapter, fundamental similarities and differences between military and civilian employees will be examined in order to identify the nature of employment in either the federal public service or the profession of arms in order to identify key issues germane to labour relations within DND/CAF and to better understand issues affecting each group.

## CHAPTER 2 – PROFESSIONALISM & CULTURE IN DND/CAF

The defence of Canada, the defence of North America and contributing to international peace and security, as detailed in the Canada First Defence Strategy (CFDS) are the three primary roles of the CAF.<sup>42</sup> The capacity of Canada's soldiers, sailors, airmen and airwomen to collaborate effectively with the civilian members of the Defence

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<sup>41</sup> For example, in a recent internal memorandum to the board of directors, the national president of the Public Service Alliance of Canada (PSAC), Robyn Benson, called for a union-wide boycott of the National Public Service Week which recognizes the importance of the contributions of federal public servants in Canadian society. In this memo, Ms Benson cited that, "...in the current climate of distrust, considering the ongoing assaults coming from the government and upcoming contract negotiations for thousands of our members, the relevance of such activities is non-existent." Last accessed 11 August 2015. <http://psacatlantic.ca/national-public-service-week>.

<sup>42</sup> Department of National Defence, *Canada First Defence Strategy*, Ottawa: DND Canada, 2010, 7-9.

Team is critically important to the success of this vital institution. The CFDS underscores that in order to accomplish its assigned roles and missions:

...the CAF will need to be a fully integrated, flexible, multi-role and combat-capable military, working in partnership with the knowledgeable and responsive civilian personnel of the Department of National Defence. This integrated Defence Team will constitute a core element of a whole-of-government approach to meeting security requirements, both domestically and internationally.<sup>43</sup>

But, in order to ensure the successful accomplishment of these roles and missions, the nature of this partnership within the Defence Team must be clearly defined. Furthermore, fundamental commonalities and differences between military personnel and civilian employees must be clearly understood in order to ensure alignment of effort of these groups within a unified team concept.

As a theoretical framework for this comparison of the military personnel and civilian employees of the DND/CAF, this chapter will undertake a close examination of the professional ideologies that define each of these groups within context of the Defence Team. Bernd Horn (2008) defines professional ideology of an organization as:

...the underlying set of principles that define its core identity and determine the manner in which its mission is achieved. The expression of these principles varies among nations and is specific or anchored to a number of factors such as culture(s), history, geography, economic prosperity, politics, social values and beliefs of the nation. In essence, the professional ideology of an armed force is the expression of its institutional identity.<sup>44</sup>

This chapter will explore the significance of each of these factors which comprise professional ideology within DND/CAF as it concerns the integration of both military personnel and unionized civilian employees within the Canadian Defence Team.

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<sup>43</sup> Department of National Defence, *Canada First Defence Strategy*, Ottawa: DND Canada, 2010, 3-4.

<sup>44</sup> Bernd Horn, "Preface," in *Professional Ideology & Development: International Perspectives* (Kingston, ON: Canadian Defence Academy Press, 2008), v.

## **Professionalism, Ethics and Values: A Model to Unite the Defence Team**

While most modern definitions of a profession focus on similar criteria, a cornerstone CAF publication defines a profession as:

...an exclusive group of people who possess and apply a systematically acquired body of knowledge derived from extensive research, education, training and experience. Members of a profession have a special responsibility to fulfill their function competently and objectively for the benefit of society. Professionals are governed by a code of ethics that establish standards of conduct while defining and regulating their work. This code of ethics is enforced by the members themselves and contains values that are widely accepted as legitimate by the society at large.<sup>45</sup>

By and large, military uniformed personnel belong to an easily distinguishable, exclusive group that apply a common body of knowledge required in the planning and conduct of armed conflict. The evolution of both western society and warfare throughout history has led to a changing view of what we now call the profession of arms. Especially with recent operations in Afghanistan, both the government and citizens of Canada have come to recognize the specialized knowledge, skillsets, code of ethical conduct and relevant legal frameworks that are required by the modern military professional in the contemporary operational environment.

For the profession of arms in Canada, the significance of instilling a solid ethical foundation based upon core values is a fundamental aspect of military professional ideology. Bill Bentley further explains that a professional ideology consists of, “...specialized, theory based knowledge that is authoritative in both a functional and cognitive sense, and a commitment to a transcendental value that guides and adjudicates

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<sup>45</sup> Department of National Defence. A-PA-005-000/AP-004, *Leadership in the Canadian Forces: Conceptual Foundations* (Kingston: Canadian Forces Leadership Institute, 2005), 6.



the way that knowledge is employed.”<sup>46</sup> Military commanders must instil a solid ethical framework from which their soldiers can operate in order to ensure ethical conduct under difficult conditions and ensure the highly disciplined and controlled use of force to achieve strategic aims as directed by the government. Richard Gabriel (2007) explains that, “...without a strong ethical compass, the soldier not only can become an indifferent destroyer of human life, but, under the stress of battle he or she may also collapse psychologically and lose sight of the reasons for doing what he or she has been asked.”<sup>47</sup> As with all professions, the military profession in Canada is governed by a specific code of ethics and established standards of conduct which all members of the profession must adhere. While the Canadian military is renowned for valiant and distinguished service in both World Wars, Korea, the former Yugoslavia, Afghanistan and many others, ethical failures have in the past resulted in some less than shining moments for the CAF, staining the record of this great institution forever.<sup>48</sup>

Critical to achieving the highest standards of military professionalism, the modern CAF has at its heart a strong military ethos. Former Chief of the Defence Staff, General (ret’d) Rick Hiller (2010), remarked that:

...having poorly focused or misunderstood values can be as dangerous as having no values at all. We faced just such challenge in the Canadian Forces in the 1990s.

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<sup>46</sup> Bill Bentley, “Professional Ideology in the Canadian Forces,” in *Professional Ideology & Development: International Perspectives* (Kingston, ON: Canadian Defence Academy Press, 2008), 2.

<sup>47</sup> Richard A. Gabriel, *The Warrior’s Way: A Treatise on Military Ethics* (Kingston, ON: Canadian Defence Academy Press, 2007), 7.

<sup>48</sup> One well known example, the Somalia Affair, was a 1993 military scandal which erupted over reports of the brutal beating death of a Somali teenager at the hands of two Canadian soldiers participating in humanitarian efforts in Somalia. The release of grisly photos shocked the Canadian public and brought to light severe internal problems within the Canadian Forces. Military leadership from the CDS down came into sharp rebuke over allegations of altered documents and cover-up. A public inquiry cited severe leadership problems within the Canadian Forces. In the end, the Somalia Affair greatly damaged the morale of the Canadian Forces and scarred the reputation of Canada’s military, both at home and abroad. For further information, see: Report of the Commission of Inquiry into the Deployment of the Canadian Forces to Somalia. Ottawa: Minister of Public Works and Government Services, 1997.

We had managed, over decades during which loyalty was taught and instilled in our air, land and sea combat units, to create somewhat conflicting demands when loyalty to the unit and to Canada pulled in different directions. This is because we had not taught our units loyalty to the Canadian Forces, and through that, loyalty to our country, assuming it to be self-evident.<sup>49</sup>

In order to ensure that the CAF remains a respectable institution, loyal to Canada and Canadian interests, inculcating sound military values is a fundamental responsibility of leaders at all levels.

In the CAF, the *military ethos* is the fundamental unifying concept within the military professional ideology. As noted in CAF leadership doctrine, the Canadian military ethos acts, "...as the centre of gravity for the military profession and establishes an ethical framework for the professional conduct of military operations."<sup>50</sup> The cornerstone CAF publication, *Duty with Honour: The Profession of Arms in Canada*, details three basic components of the Canadian military ethos: beliefs and expectations about military service, Canadian values and core Canadian military values.<sup>51</sup>

The first component of the military ethos, military beliefs and expectations, includes accepting unlimited liability, fighting spirit, discipline, teamwork and physical fitness.<sup>52</sup> Unique to the CAF, these military beliefs and expectations contribute greatly towards distinguishing military service from that of the public service.<sup>53</sup> The second

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<sup>49</sup> Rick Hillier, *Leadership: 50 Points of Wisdom for Today's Leaders* (Toronto: HarperCollins, 2010), 47.

<sup>50</sup> Department of National Defence. A-PA-005-000/AP-004, *Leadership in the Canadian Forces: Conceptual Foundations* (Kingston: Canadian Forces Leadership Institute, 2005), 25.

<sup>51</sup> Department of National Defence. A-PA-005-000/AP-001. *Duty with Honour: The Profession of Arms in Canada* (Kingston: Canadian Forces Leadership Institute, 2009) 27-33.

<sup>52</sup> *Ibid.*, 27.

<sup>53</sup> Unlimited liability is a concept in which military members accept that they may be ordered into harm's way, possibly even killed, within the conduct of the mission. A fighting spirit refers to the moral, physical and intellectual characteristics required to accept any challenge and see it through to completion. Discipline, especially in the military context, is necessary to build cohesion and enables the group to operate during the most difficult and challenging conditions while ensuring a high degree of trust and confidence that each member will perform their role. Likewise, the belief in the importance of teamwork enables a group to achieve remarkable results by working in synergy, far surpassing the sum of individual

component of the military ethos, Canadian societal values, includes those values expressed for all Canadians in the *Constitution Act* of 1982 and the *Canadian Charter of Rights and Freedoms*. Being members of the same society, both CAF military and DND civilian employees should expect to find common ground in Canadian societal values. For military personnel, it is imperative that the profession of arms be solidly grounded within the values of the very society that it is mandated to defend. Canadian societal values guide not only how CAF personnel conduct themselves at home, but also guides their actions while representing Canadian interests on international missions abroad.

Finally, the Canadian military ethos also incorporates the values of duty, loyalty, integrity and courage.<sup>54</sup> Duty ensures to motivate military personnel, “...both individually and collectively to strive for the highest standards of performance while providing them with purpose and direction throughout the course of their service.”<sup>55</sup> It is through a sense of duty that military leaders inspire their military followers to accomplish their mission with pride and honour. For the military professional, the concept of duty entails service to Canada, self-sacrifice and the primacy of operations. Loyalty, immensely important to the profession of arms in Canada, ensures that military objectives will always serve Canadian society above all. Integrity calls for honesty and an adherence to established ethical standards. Courage can have both a physical and a moral dimension. Physical courage is the quality that allows a person to overcome fear in the face of danger, potential injury or even death in the conduct of their duty. Moral courage allows an individual to make the right choice amongst difficult alternatives despite fears of the possible consequences.

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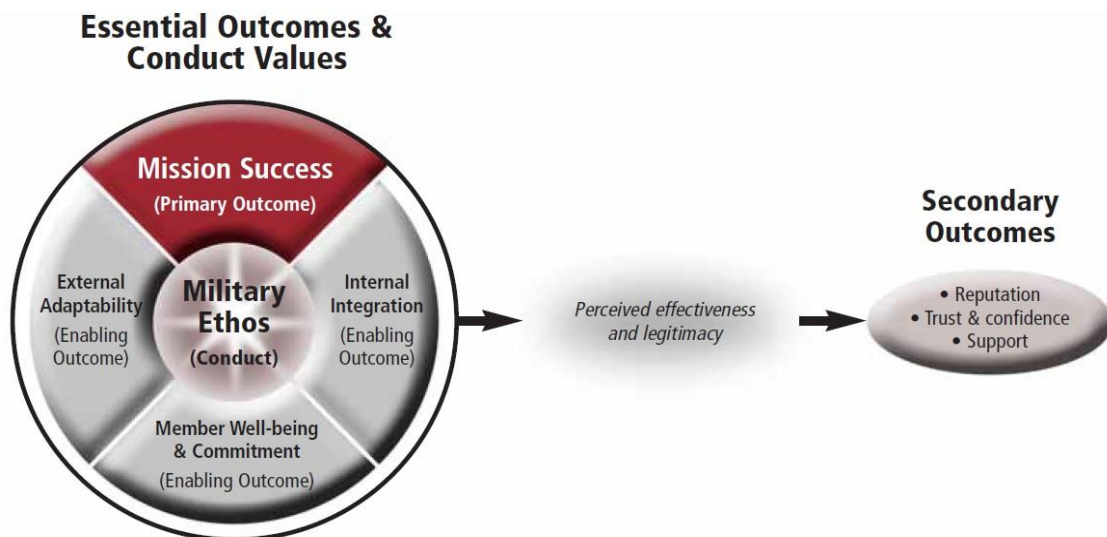
effort. Finally, the expectation of physical fitness ensures that military personnel remain fully capable to achieve mission success during great hardships.

<sup>54</sup> Department of National Defence. A-PA-005-000/AP-001. *Duty with Honour: The Profession of Arms in Canada* (Kingston: Canadian Forces Leadership Institute, 2009), 32-33.

<sup>55</sup> *Ibid.*, 32.

The military ethos has proven to be at the heart of the profession of arms in Canada, forming the foundation from which the institution operates both domestically and on international operations. As highlighted in Figure 2-1, the application of the military ethos leads not only to mission success, but promotes several other essential and secondary outcomes such as member well-being and commitment and ensures the reputation of the institution. Just as the military profession begins with the military ethos, so begins the fundamental difference between military personnel and DND civilian employees.

Figure 2-1: CAF Effectiveness Framework



Source: Leadership in the CF – Conceptual Foundations, 2005, 19.

For civilian employees in DND, the concept of belonging to a profession is not such a clear or obvious feature of working life as it is for military personnel. Civilian employees often associate with professional organizations outside of DND which are related to their occupation, such as engineers, lawyers, health professions, amongst

others; but not so distinctly with members of other DND occupations. In order to ensure optimal collaboration between military and civilian employees, DND civilian employees should associate with the Defence Team in a similar way that military members associate with the profession of arms.

With a view towards instilling a professional ideology throughout the public service, Treasury Board of Canada published *Values and Ethics: Code for the Public Service* with the stated intent to, "...guide and support public servants in all their professional activities."<sup>56</sup> This statement of public service values consists of *democratic values, professional values, ethical values* and *people values* and aims towards creating a common professional ethical culture for all federal public service employees. However, uniting all these employees under a single code of ethics and values may be perceived as a divisive point between military personnel and civilian employees within the Defence Team construct. In order to effectively integrate military members and DND civilian employees within a single Defence Team, both groups should possess at least *compatible* professional ideologies; which include, ethical principles, values and expected behaviours that are complementary and united in focus.

Since its inception in 1997, the Defence Ethics Program (DEP), has attempted to provide this common foundation of ethical conduct for the entire Defence Team. As such, the CDS and DM have jointly endorsed the DND/CAF Code of Values and Ethics which not only provides a common standard for ethical behaviour within the department:

...for DND employees, it reinforces and expands on the values and expected behaviours found in the *Values and Ethics Code for the Public Sector* promulgated by the Treasury Board. For CAF members, it complements the

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<sup>56</sup> Treasury Board of Canada Secretariat, *Values and Ethics: Code for the Public Service* (Ottawa: Public Works and Government Services Canada, 2003), 6.

values and ethics that constitutes the Canadian military ethos reflected in Queen's Regulations and Orders as well as CAF customs and practices described in *Duty with Honour: the Profession of Arms in Canada*.<sup>57</sup>

These shared values and expected behaviours, as detailed at Table 2-1, represent a significant policy shift within DND/CAF. Instead of two separate and distinct codes of ethical conduct and expected behaviours for CAF military personnel and DND civilian employees, the DND/CAF Code of Values and Ethics aims to provide a common ideological foundation for a united military / civilian Defence Team.

However, this DND/CAF Code of Values and Ethics does not alone have the force to compel such an extreme paradigm shift. For military personnel, failure to comply with these principles, values and expected behaviours constitutes a violation of the Code of Service Discipline, as described in the NDA, and may result in administrative and/or disciplinary action. For civilian employees, on the other hand, noncompliance with this departmental policy may not necessarily result in such certain consequences. As indicated earlier in this paper, labour relations in Canada are based upon a model of negotiation and challenge. Any disciplinary or administrative action rendered in contravention of this policy would have to be supportable in labour law or could be overturned by one of several review processes. So, while this shared model of ethics and values may be intended to help bridge any professional disparity between the military and civilian personnel within the department, there remains major differences in the mechanism by which each group might internalize (or perhaps challenge) such policy.

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<sup>57</sup> Department of National Defence, *Department of National Defence and Canadian Forces Code of Values and Ethics* (Ottawa: DND, 2012), 3.

Table 2-1: Values and Expected Behaviours of DND Civilian Employees and CAF Members	
Specific Values	Expected Behaviours
1. INTEGRITY	<p><i>DND employees and CAF members shall serve the public interest by:</i></p> <ul style="list-style-type: none"> <li>1.1 Acting at all times with integrity and in a manner that will bear the closest public scrutiny; an obligation that may not be fully satisfied by simply acting within the law.</li> <li>1.2 Never using their official roles to inappropriately obtain an advantage for themselves or to advantage or disadvantage others.</li> <li>1.3 Taking all possible steps to prevent and resolve any real, apparent or potential conflicts of interest between their official responsibilities and their private affairs in favour of the public interest.</li> <li>1.4 Acting in such a way as to maintain DND's and the CAF's trust, as well as that of their peers, supervisors and subordinates.</li> <li>1.5 Adhering to the highest ethical standards, communicating and acting with honesty, and avoiding deception.</li> <li>1.6 Being dedicated to fairness and justice, committed to the pursuit of truth regardless of personal consequences.</li> </ul>
2. LOYALTY	<p><i>DND employees and CAF members shall always demonstrate respect for Canada, its people, its parliamentary democracy, DND and the CAF by:</i></p> <ul style="list-style-type: none"> <li>2.1 Loyal carrying out the lawful decisions of their leaders and supporting Ministers in their accountability to Parliament and Canadians.</li> <li>2.2 Appropriately safeguarding information and disclosing it only after proper approval and through officially authorized means.</li> <li>2.3 Ensuring that all personnel are treated fairly and given opportunities for professional and skills development.</li> </ul>
3. COURAGE	<p><i>DND employees and CAF members shall demonstrate courage by:</i></p> <ul style="list-style-type: none"> <li>3.1 Facing challenges, whether physical or moral, with determination and strength of character.</li> <li>3.2 Making the right choice amongst difficult alternatives.</li> <li>3.3 Refusing to condone unethical conduct.</li> <li>3.4 Discussing and resolving ethical issues with the appropriate authorities.</li> </ul>
4. STEWARDSHIP	<p><i>DND employees and CAF members shall responsibly use resources by:</i></p> <ul style="list-style-type: none"> <li>4.1 Effectively and efficiently using the public money, property and resources managed by them.</li> <li>4.2 Considering the present and long-term effects that their actions have on people and the environment.</li> <li>4.3 Acquiring, preserving and sharing knowledge and information as appropriate.</li> <li>4.4 Providing purpose and direction to motivate personnel both individually and collectively to strive for the highest standards in performance.</li> <li>4.5 Ensuring resources are in place to meet future challenges.</li> </ul>
5. EXCELLENCE	<p><i>DND employees and CAF members shall demonstrate professional excellence by:</i></p> <ul style="list-style-type: none"> <li>5.1 Continually improving the quality of policies, programs and services they provide to Canadians and other parts of the public sector.</li> <li>5.2 Fostering or contributing to a work environment that promotes teamwork, learning and innovation.</li> <li>5.3 Providing fair, timely, efficient and effective services that respect Canada's official languages.</li> </ul>

Source: Department of National Defence and Canadian Forces Code of Values and Ethics (2012), 10-11.

Furthermore, beyond the challenges of enforcing these DND/CAF Code of Ethics and Values from a legal standpoint, there remain fundamental differences in the

professional ideologies of military personnel and DND civilian employees that will impact how the military commander effectively leads both these groups. These differences will be particularly noticeable when both military and civilian employees work side-by-side in similar roles, which is often the case within support organizations on CAF bases and garrisons in Canada.

The first major difference is that civilian employees do not share the same fundamental beliefs and expectations of military members as detailed in *Duty with Honour: The Profession of Arms in Canada*. Civilian employees are not legally bound by the concept of unlimited liability like military members. Most civilian employees are not required to put themselves in harm's way, risking personal injury or even death in the accomplishment of their duties, with exception of professions like police and firefighters who often have a strong professional affinity with military personnel.

Another difference is that established ethics and values for DND civilian employees do not include the military value of duty. A fundamental military value, it is from an instilled sense of duty that military personnel subordinate their own personal objectives to that of their assigned mission. It is through a strong personal belief in the imperative to do one's duty that permits military personnel and others to subject themselves to dangerous conditions in the accomplishment of their mission. Alan Okros (2009) highlights the importance of an instilled sense of duty by pointing out that:

...the obligation for the CAF to be able to undertake a wide range of government tasks requires a significant degree of flexibility in order to respond in a timely manner... The nature of these tasks requires that individuals work in conditions of extreme physical, psychological and ethics demands to the point of both putting one's life at risk or taking another's life with each individual held responsible for his/her personal conduct.<sup>58</sup>

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<sup>58</sup> Alan Okros, "Becoming an Employer of Choice: Human Resource Challenges Within DND and the CF," in *The Public Management of Defence in Canada* (Toronto: Breakout Educational Network, 2009), 5.



For military members, performing one's duty is held in the highest regard and is socialized from the moment of enrollment, instilled during initial training and reinforced in military culture throughout a military career.

For civilian employees, the confines of a defined job description and a collective bargaining agreement often supersede what might be considered a duty in the military context. Working overtime hours, weekends or statutory holidays for civilian employees must be compensated in accordance with relevant collective agreements. Military members have a fixed salary with a possibility to be called to service anytime (24/7) for legitimate operational reasons. Even further, those civilian employees that are paid on an hourly basis can typically refuse additional hours, if they so choose, in spite of what may be the operational imperative at the moment. Even for salaried civilian employees, the requirements to work above and beyond a fixed schedule, if any, will be detailed in a collective agreement which a military commander has no authority to exceed.

For managers of both civilian employees and military members performing similar roles, consideration should be given to the uniqueness of each group and the advantages and disadvantages of each. Frequently, military and civilian employees are employed together offering support services, such as supply technicians, mobile equipment operators, vehicle technicians, administrative and financial clerks, engineering specialists, amongst many others. In these cases, the civilian employees are often considered as the consistent, stable workforce, performing routine functions and the holders of organizational knowledge. This is due in large from the fact that they remain in position for many years. On the other hand, military personnel who are posted in and out

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of positions regularly require training in local procedures. However, military are often much more flexible when it comes to changes in schedules, working conditions and will accept tasks that exceed the typical mandate of the position.

While managers may consider leveraging the unique advantages of each group depending on the operational requirements, employing civilians and military in similar functions may lead to tensions between the two groups. Civilian employees, who acquire years of experience in a single position, may view the newly posted military member as a training burden, who often do not understanding local practices and procedures. If the newly posted in military member is a supervisor, civilian subordinates can become resentful of the cyclical requirement to repeatedly *train* their military supervisor on local procedures and institutional knowledge.

On the other hand, a military member who gets called upon to do more dangerous work, or to work during undesirable periods, such as holidays and weekends, might be resentful of civilian employees who, in their eyes, may not be seen as shouldering their fair share of hardships. Even more, the civilian employee or union representative may legitimately complain that the collective agreement has been violated by the use of military personnel in the place of unionized employees, thereby, denying the opportunity for overtime time pay to union members.

Managers in such cases must strive to strike an appropriate balance, ensuring that military and civilian employees are properly employed to their potential and with the confines of their working conditions. These managers, both military and civilian, often find that balance only after acquiring much experience working with both groups and after developing an understanding of their professional similarities and differences.

## Organizational Culture in DND/CAF

The previous discussion regarding differences in professional ideology, ethics and values collectively point towards the root element germane to the thesis of this paper; that is, there are fundamental differences in the organizational cultures of the DND and CAF that significantly impede military and civilian employees from forming a truly integrated and unified Defence Team. As a theoretical framework, organizational culture is a dynamic, complex phenomenon which is difficult to define succinctly but seems to be intuitively understood by everyone in one way or another. Orla O'Donnell and Richard Boyle (2008) define organizational culture as:

...the climate and practices that organizations develop around their handling of people, or to the promoted values and statement of beliefs of an organization...culture gives organizations a sense of identity and determines, through the organization's legends, rituals, beliefs, meanings, values, norms and language, the way in which things are done around here.<sup>59</sup>

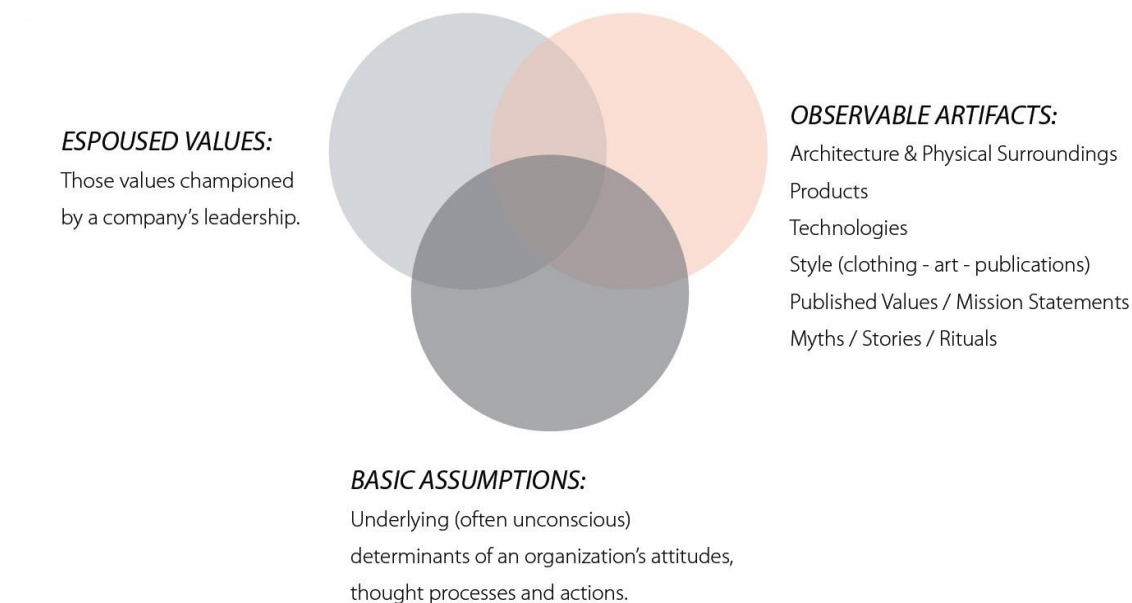
Referred to as the “bedrock of military effectiveness,” culture is vital to the success of any organization.<sup>60</sup> As detailed in Figure 2-2, the aspects of organizational culture include often visible characteristics, referred to as artefacts, as well as deeper, less tangible aspects which include espoused values and basic assumptions about an organization's underlying attitudes, thought processes and actions. It will be shown that substantial differences in organizational cultures create serious gaps and significant obstacles to fully optimizing military / civilian integration into a unified Defence Team.

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<sup>59</sup> Orla O'Donnell and Richard Boyle, “Understanding and Managing Organizational Culture,” (Dublin: Institute of Public Administration, 2008), 4.

<sup>60</sup> Walter F. Ulmer et al., “American Military Culture in the Twenty-First Century,” (Washington: CSIS Press, 2000), xv.

Figure 2-2: Aspects of Organizational Culture



Source: Bruce Tharp, "Defining Culture and Organizational Culture: From Anthropology to the Office," 4. [http://www.thercgroup.com/files/resources/Defining-Culture-and-Organizationa-Culture\\_5.pdf](http://www.thercgroup.com/files/resources/Defining-Culture-and-Organizationa-Culture_5.pdf). Last accessed 10 August 2015.

Even in academic circles, CAF military culture has been recognized as being divisive and isolationist. For example, recognizing the need to bridge cultural gaps between military officers and civilian university professors in the CAF academic community, Adam Chapnick and Barbara Falk (2010) remarked that, "...there is an uncomfortable divide between academics and members of the Canadian Forces (CF) that every so often leads to miscommunication and unnecessary misunderstandings."<sup>61</sup> Despite this recognition, organizational culture has not been comprehensively studied within the DND/CAF context and what little has been done has focused primarily on defining only military culture.<sup>62</sup>

<sup>61</sup> Adam Chapnick and Barbara Falk, "Academics 101: An Introduction for the Military Community," *Canadian Military Journal* 10, no. 4 (Autumn 2010), 26.

<sup>62</sup> Sarah A. Hill, "Corporate Culture in the CF and DND Descriptive Themes and Emergent Models," (Department of National Defence, Director General Military Personnel Research and Analysis, 2007), 17.

In general terms, modern academic research in the field of organizational culture has produced a multitude of definitions and theories, which are more or less applicable to the DND/CAF model. Allan English (2001) describes Canadian military culture as having its roots deeply planted within pre-confederation colonial militias, where Canada's vast geography, European ties and proximity to the United States have all contributed to shaping the Canadian military identity. Moreover, English explains that Canada's military culture has continued to mature through several major conflicts, including two world wars.<sup>63</sup> English also identifies Paul Hellyer's 1968 unification of the three services (Army, Navy and Air Force) into a single joint CAF as a major shift in military organizational culture.<sup>64</sup>

Initially, unification was widely regarded as being detrimental to the traditions and cultures of each of these services.<sup>65</sup> Although senior generals and admirals of the day raised much concern over the potentially negative effects that unification might bring, J.L. Granatstein (2004) explains that, "...Hellyer dismissed such things as *buttons and bows*. The traditions of the services meant little to the Minister."<sup>66</sup> Having experienced first-hand the inefficiencies and lack of cooperation between the three services, Hellyer was convinced that uniting the three services under a single command structure would produce many efficiencies and synergistic effects.<sup>67</sup> Arguably, as a unified tri-service, the

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See also; Allan English, "Understanding military culture: A Canadian perspective," (Montreal: McGill-Queen's University Press, 2001), 77.

<sup>63</sup> Allan English, "Understanding military culture: A Canadian perspective," (Montreal: McGill-Queen's University Press, 2001), 72.

<sup>64</sup> *Ibid.*, 76.

<sup>65</sup> Daniel Gosselin, "Hellyer's Ghosts: Unification of the Canadian Forces is 40 Years Old," *Canadian Military Journal* 9, no. 2, (Summer 2009), 6.

<sup>66</sup> J.L. Granatstein, *Who Killed the Canadian Military?*, (Toronto: HarperCollins Publishers, 2004), 78.

<sup>67</sup> In his book, *Who Killed the Canadian Military*, J.L. Granatstein (2004) explains how a young Paul Hellyer joined the RCAF in early 1944 to be a pilot, only to be released nine weeks later after the RCAF determined that it had a surplus of aircrew. Ironically, the army was desperate for infantry reinforcements

CAF have since developed many shared customs, traditions and identity which have been fostered through individual and collective joint training, the development of joint doctrine and collaboration on various joint deployments. In the contemporary operational environment, a joint approach to operations has also become a fundamental tenant of military operations for many of Canada's allies, where joint operational effects require a mix of defensive and offensive maritime, land, air, and Special Forces capabilities.

However, recent decisions to return to pre-unification naming conventions for the Royal Canadian Navy (RCN), Royal Canadian Air Force (RCAF) and Canadian Army (CA); as well as, their former rank insignia, are clear testimony to the importance and historical significance of these subcultures. Moreover, "the bureaucratization and civilianization of DND," according to English (2001), "...have led to an ethos within the CAF that has focused more on business practices than the virtues of the warrior necessary in a military culture."<sup>68</sup> In effect, organizational subcultures within the CAF not only distinguish the RCN, RCAF and CA from one another, they present significant cultural barriers that could be divisive throughout the entire department.

For those in uniform, the significance of many aspects of organizational culture is readily observable. In the military, there are a plethora of uniforms, badges, insignia, ceremonies, parades and rituals that define the military experience and inculcate a unique military identity. Although there are some commonalities, the cultural practices that distinguish military personnel from DND civilian employees can create cultural barriers

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at that time. Upon re-enrollment into the army, Hellyer was required to repeat all the basic training and administration...even the vaccinations. Although obvious inefficiencies existed between the services that understandably outraged Hellyer, Granatstein points out that Hellyer never really understood that, "...army training and discipline aimed to prepare men to work together in large numbers under enemy fire. Aircrew training, in contrast, was more individualistic." Hellyer's early experiences with the RCAF and CA would later influence how he approached his role as Minister.

<sup>68</sup> Allan English, *Understanding Military Culture: A Canadian Perspective* (Montreal: McGill-Queen's University Press, 2001), 76.

when not shared by both groups. More recently, social identity theory purports that, “...shared identity among team members is recognized as a key feature of high-performance teams.”<sup>69</sup> While the establishment of a common code of ethics and values for the DND/CAF was an important step to bridging gaps between these two divides, there remains significant cultural differences that may create division between civilian employees and CAF members.

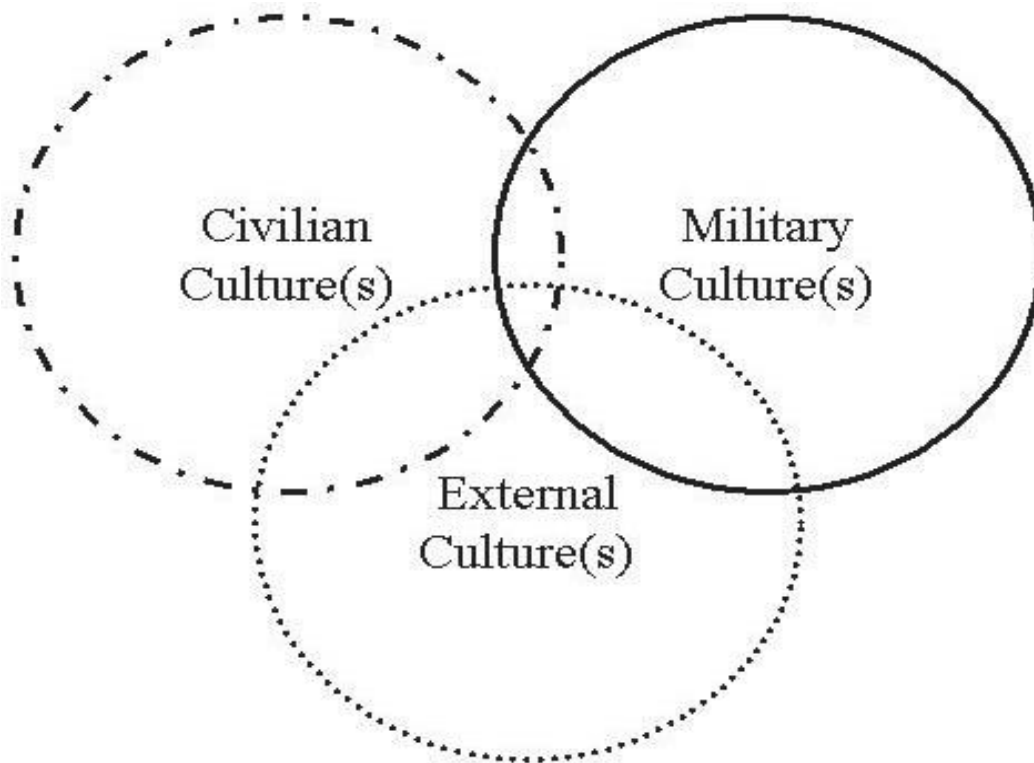
Culture can be an instrument of socialization, cohesion and inclusion, facilitating the integration of new members and promoting effective cooperation within the organization. In the military context, routine activities such as morning physical training (PT), unit ceremonial parades and formal mess dinners are only a few such examples. However, Sarah A. Hill (2007) also notes that culture can be exclusive, separating military members and DND civilians apart from both Canadian society generally, from other government departments and even from each other.<sup>70</sup> In examination of the corporate aspect of DND/CAF, figure 2-3 illustrates that while military culture is notably the least permeable to outsiders, external cultures, including other government departments (OGDs), are only permeable to the extent that senior decision makers in the DND/CAF and select liaison officers typically have access.

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<sup>69</sup> Irina Goldenberg, Waylon H. Dean and Barbara D. Adams, “Social Identity and the Defence Team,” in *The Defence Team: Military and Civilian Partnership in the Canadian Armed Forces and the Department of National Defence* (Kingston: Canadian Defence Academy Press, 2015), 183.

<sup>70</sup> Sarah A. Hill, “Corporate Culture in the CF and DND Descriptive Themes and Emergent Models,” (Department of National Defence, Director General Military Personnel Research and Analysis, 2007), 46.

Figure 2-3: Emergent Model of Corporate Culture within DND/CAF



Source: Sarah A. Hill – Corporate Culture in the CAF and DND, 46.

Linking it all together, military commanders need to appreciate the effects that cultural similarities and differences have upon their organization in order to foster an effective, integrated team. Indeed, O’Donnell and Boyle (2008) suggest, “...the only thing of real importance that leaders do is to create and manage culture...it is the ultimate act of leadership to destroy culture when it is viewed as dysfunctional.”<sup>71</sup> Military commanders, as institutional leaders and custodians of the profession of arms, would contribute greatly to the Defence Team concept by expanding their organizational influence to incorporate DND civilian employees into a common DND/CAF professional culture.

<sup>71</sup> Orla O’Donnell and Richard Boyle, “Understanding and Managing Organizational Culture,” (Dublin: Institute of Public Administration, 2008), 4.



In this regard, Hill (2007) suggests the creation of, "...a cadre of purposefully developed, defence specialists with a professional orientation and commitment to a richly developed career in the national security domain."<sup>72</sup> From a leadership perspective, this would imply uniting military and DND civilians towards a common focus. Grounded in the DND/CAF Code of Values and Ethics, this reconceptualised profession of military and civilian national defence specialists would facilitate collaboration amongst the entire Defence Team. To facilitate a stronger alignment of military and civilian organizational cultures within the DND/CAF, military and civilian leaders should promote an inclusive atmosphere, encouraging civilian employees to participate in CAF customs and traditions (and vice-versa) where possible. Furthermore, the creation of new, shared traditions and customs may further strengthen this team.

A profession of defence specialists, possessing a heightened level of commitment to supporting operations and an enhanced understanding of defence issues at the tactical, operational and strategic levels, would foster a shared organizational culture that would be conducive to the attainment of CFDS primary roles.<sup>73</sup> However, this proposed model cannot overlook that DND civilian employees also belong to the federal public service. The fundamental legal framework governing public service employees will always be significantly different than for military personnel. DND is not the legal employer of their civilian employees; Treasury Board is the employer as detailed in both the FAA and PSLRA. Therefore, a profession of defence specialists must be considered within the

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<sup>72</sup> Sarah A. Hill, "Corporate Culture in the CF and DND Descriptive Themes and Emergent Models," (Department of National Defence, Director General Military Personnel Research and Analysis, 2007), 33.

<sup>73</sup> André Fillion, "The Integration of Defence Civilians with the Defence Team: How Far Can We Go?" (Paper presented to the Canadian Forces College, NSSP 9, June 2007), 30. See also; Lorne W. Bentley, *Canadian Forces Transformation and the Civilian Public Service Defence Professional* (Kingston: Canadian Forces Leadership Institute, February 2007), 12.

context that DND civilian employees associate with several other groups simultaneously, including the federal public service, their occupational professional association (as applicable), and also their union. Recognizing these fundamental organizational and cultural differences, the issue to be examined below involves the feasibility for this theorized profession of defence specialist to accommodate such a diverse set of loyalties.

### **Dual Commitment: The Defence Team versus Union Solidarity**

Since the mid-twentieth century, social scientists have shown much interest in the concept of organizational commitment, due in large by, "...an apparent concern that the rapid growth of unionization might compete with the employees' commitment to their employing organizations."<sup>74</sup> Early research by Lois R. Dean (1954) and Theodore T. Purcell (1960) indicates that most workers show some degree of allegiance to both their union and management, simultaneously. While intuitively it might seem that an employee's support of union activity is in direct opposition to loyalty to their employer, Lois R. Dean (1954) suggested that rank-and-file loyalty to the union may not preclude loyalty to management. Even further, she claimed that workers who are highly satisfied with management can be among the most devout union supporters.<sup>75</sup> This leads to another possibility – dual commitment to both the employer and the union simultaneously.

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<sup>74</sup>Harold Angle and James Perry, "Dual Commitment and Labour-Management Relationship Climates," *The Academy of Management Journal* 29, no. 1 (March 1986), 33.

<sup>75</sup> Lois R. Dean, "Union Activity and Dual Loyalty," *Industrial and Labor Relations Review* 7, no. 4 (July 1954), 526.

Research into the nature of organizational commitment has produced several conceptualizations. In *calculative* commitment, for example, an individual's loyalty results from, "...linking the relationship to extrinsic outcomes on the basis of costs and benefits."<sup>76</sup> Howard S. Becker (1960) defined commitment in terms of an aversion to bearing the costs of social sanctions, suggesting that secondary social interactions, which he called "side bets", played a contributing factor.<sup>77</sup> However, researchers such as Becker who promote this conceptualization of commitment, which focuses on individual behaviours, do not address the affective or moral aspect of loyalty and devotion.

On the other hand, the concept of *moral or attitudinal* commitment emerges when the, "...goals of the organization and those of the individual become increasingly integrated or congruent."<sup>78</sup> Of particular interest, Harold Angle and James Perry (1986) characterized moral commitment by three related factors:

1. A strong belief in and acceptance of the organization's goals and values;
2. A willingness to exert considerable effort on behalf of the organization; and
3. A strong desire to maintain membership in the organization.<sup>79</sup>

Moral commitment is more than a learned behavior aimed in achieving an individual's social objectives. It involves an internalization and assimilation of the organization's values where the individual's actions are equally aimed towards the attainment of personal goals in conjunction with the organization's goals. This view of commitment on a moral domain makes it possible to conceptualize individual commitment to multiple

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<sup>76</sup> Harold Angle and James Perry, "Dual Commitment and Labour-Management Relationship Climates," *The Academy of Management Journal* 29, no. 1 (March 1986), 33.

<sup>77</sup> Howard S. Becker, "Notes on the Concept of Commitment," *The American Journal of Sociology* 66, no. 1 (July 1960), 33.

<sup>78</sup> Richard T. Mowday, Richard M. Steers and Lyman W. Porter, "The Measurement of Organizational Commitment," *Journal of Vocational Behavior* 14, (1979), 225.

<sup>79</sup> Harold Angle and James Perry, "Dual Commitment and Labour-Management Relationship Climates," *The Academy of Management Journal* 29, no. 1 (March 1986), 33.

organizations at the same time, so long as the fundamental goals and objectives of each organization do not come into direct opposition.

For the most part, the majority of evidence presented by researchers, Dean (1954), Angle and Perry (1986), Becker (1960), and Fullagar and Barling (1991), would support the claim that allegiance to multiple organizations is not only possible, but that it universally exists in varying degrees since most employees find themselves associated with various organizations; employer, union, professional association and others. In fact, the phenomenon of multiple-commitment can be commonly seen within the military. Military members frequently belong to external professional organizations, such as the case with doctors, lawyers and engineers who maintain membership in their professional associations while at the same time serving in the CAF. But even further, all military members will be expected to demonstrate a degree of commitment to their regiment, unit, ship, branch, occupation, not to mention the CAF and Canada, as well. In short, military members have already proven that commitment to multiple organizations is not only possible, it is the norm.

But, as described by Clive Fullagar and Julian Barling (1991), earlier research had ignored the full range of patterns of commitment between employer and union which include: (1) loyalty to *both* employer and union; or (2) loyalty to *neither* employer *nor* union. Likewise, negative correlations between employer and union would include: (3) loyalty to the employer but not the union; or (4) loyalty to the union but not the employer.<sup>80</sup> Within each of these possibilities, multiple factors contribute to the degree to which individuals associate with either group which does not appear to be readily

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<sup>80</sup> Clive Fullagar and Julian Barling, "Predictors and Outcomes of Different Patterns of Organizational and Union Loyalty." *Journal of Occupational Psychology* (1991), 130.

predictable. In fact, it should be expected that in the contemporary labour environment, employees may associate with multiple organizations simultaneously; the permutations of possible loyalties become endless.

Likewise, when the fundamental principles or objectives of multiple organizations come into opposition, the employee might be unable to ratify loyalties to both groups and may even be forced to choose one over the other. Angle and Perry (1986) point out that, "...social-psychological theories of cognitive consistency predict, for example, that individuals who try to be loyal to two conflicting social systems will encounter considerable cognitive dissonance."<sup>81</sup> Even further, Dean (1954) concluded that:

...management need not fear that the presence of a union in their plant will necessarily cause workers to become disloyal to the company; but if union-management conflict prevails, the most active unionists are likely to be the conflict-oriented workers with strongly one-sided loyalty.<sup>82</sup>

Simply put, if the values or objectives of management and union come into direct and irresolvable opposition, employees may be forced to make a choice. On a single, resolvable issue, this disagreement would likely have no long-term effects on commitment. While the overall labour-management relationship climate is positively correlated with dual-commitment, an employee's personal commitment to either group will be more a function of their own association to the values and objectives of each organization.

From a management perspective, there are several phenomena that can affect an employee's commitment to the organization and could actually shift loyalty toward other groups. The first, as discussed by Angle and Perry (1986), concerns, "...the dilemmas

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<sup>81</sup> Harold Angle and James Perry, "Dual Commitment and Labour-Management Relationship Climates," *The Academy of Management Journal* 29, no. 1 (March 1986), 35.

<sup>82</sup> Lois R. Dean, "Union Activity and Dual Loyalty," *Industrial and Labor Relations Review* 7, no. 4 (July 1954), 526.

facing professionals whose values and loyalties to organizations and professions sometimes collide.”<sup>83</sup> In this instance, an employee’s commitment to values and principles of the organization must remain congruent with those of their chosen profession. A particularly poignant example of the potential for conflict between professional and organizational commitment can be seen within the controversy arising from the former Canadian Airborne Regiment’s deployment to Somalia. During this mission, the Task Force surgeon, Major Barry Armstrong, faced the dilemma of ratifying his loyalty as a member of the Canadian Airborne Regiment, with his commitment to his professional oath as a doctor, as well, his professional responsibilities as an officer in the Canadian Forces. Major Armstrong chose loyalty to his profession as a doctor, and arguably as a Canadian Forces officer, over loyalty to his regiment when he testified to the illegal torture and killing of Shidane Arone during the mission in Somalia.<sup>84</sup>

A second phenomenon effecting organizational commitment, referred to as *role theory*, results from uncertainty in the member’s role with the organization. In particular, *role conflict* occurs where an individual, “...simultaneously occupies two or more roles that may make incompatible demands.”<sup>85</sup> A related derivative of role conflict, *role ambiguity*, results from, “...a lack of the necessary information available to a given organizational position.”<sup>86</sup> In either of these instances, the employee may experience increased stress, job dissatisfaction and become less effective.

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<sup>83</sup> Harold Angle and James Perry, “Dual Commitment and Labour-Management Relationship Climates,” *The Academy of Management Journal* 29, no. 1 (March 1986), 34.

<sup>84</sup> Somalia Commission, *Report of the Commission of Inquiry into the Deployment of the Canadian Forces to Somalia: Volume 1* (Ottawa: Minister of Public Works and Government Services, 1997), 33.

<sup>85</sup> Harold Angle and James Perry, “Dual Commitment and Labour-Management Relationship Climates,” *The Academy of Management Journal* 29, no. 1 (March 1986), 34.

<sup>86</sup> John R. Rizzo, Robert J. House, Sidney I. Lirtzman, “Role Conflict and Ambiguity in Complex Organizations,” *Administrative Science Quarterly* 15, no. 2 (June 1970), 151.

Easily recognizable from a military command perspective, two fundamental principles of organizational theory that directly contribute to role conflict are a lack of both a singular *chain of command* and the principle *unity of command*. As explained by John R. Rizzo, et al. (1970):

...organizations set up on the basis of hierarchical relationships with a clear and single flow of authority from the top to the bottom should be more satisfying to members and should result in more effective economic performance and goal achievement than organizations set up without such an authority flow.<sup>87</sup>

Theoretically, a singular, unified command structure not only provides senior commanders with more effective control and coordination over the organization's activities, but also provides employees at all levels clear direction and guidance towards organizational objectives. Moreover, *unity of command* ensures all levels of the chain of command are mutually supporting, avoiding conflicting priorities and directions. The key remains that organizational values remain congruent with those internalized and supported by the employee.

One particular group that may experience difficulties with dual-commitment is lower-level supervisors, in particular, those actively involved with unions. A study by Charles E. Davis and Jonathan P. West (1979) of supervisors in the public sector revealed that, depending on the labour-relations climate, conflicting organizational and union objectives can result in conflicting loyalties amongst rank-and-file supervisors. From a management perspective, union-affiliated supervisors could possibly feel an obligation to *go easy* on their unionized subordinates during personnel evaluations and grievance processes, for example. Conversely, these rank-and-file supervisors might be inclined to assume a dominant position within the union, using their positional authority to stifle

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<sup>87</sup> *Ibid.*, 150.

internal union debate.<sup>88</sup> As such, there could be argument from both management and union to limit supervisor participation in union activities due to a theoretically inherent conflict of interest.

Nevertheless, Davis and West (1979) suggest positive benefits from supervisor participation in unions, concluding that:

...supervisors were slightly more likely to support public employees' right to engage in collective bargaining than their rank-and-file counterparts, it was not surprising that they were more likely to describe departmental personnel procedures as effective and impartial (in accordance with merit principles), more predisposed to characterize existing grievance procedures as open, efficient, and fair, and more satisfied with their work.<sup>89</sup>

In fact, supervisors that actively participate in union activities can bring positive benefits to both sides of the discussion. During interactions with management, these supervisors will be able to better represent the perspectives of employees. Similarly, during internal union discussions, these supervisors can clarify misunderstandings about managerial policies and decisions at the employee level.

In the next section, the concepts discussed to this point, namely, professional ideology, ethics and values, organizational culture and commitment will coalesce to form the foundation from which to examine the overarching theme of this paper, labour relations in the DND/CAF. Only from this comprehensive understanding of these similarities and differences between military personnel and unionized civilian employees can an effective analysis of labour relations be launched.

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<sup>88</sup> Charles E. Davis, and Jonathan P. West, "Attitudinal Differences among Supervisors in the Public Sector," *Industrial and Labour Relations Review* 32, no. 4 (July, 1979), 496.

<sup>89</sup> *Ibid.*, 505.



## CHAPTER 3 – LABOUR-MANAGEMENT RELATIONS IN DND/CAF

*Like it or not, you are a negotiator.*  
— Fisher and Ury, *Getting to Yes*

### **Foundation of Labour Relations**

Military commanders should recognize that harmonious and cooperative relations with DND civilian employees and their bargaining agents cannot be achieved by using the same methods used for leading military personnel. The very nature of collective bargaining between the federal government and national level union representatives suggests that unit level labour relations climate will be both dynamic and affected by multiple internal and external factors. For example, federal government decisions and contemporary politics may influence employee attitudes towards management, thereby permeating into local level discussions. Although unit level managers likely cannot affect government policy, local unions may still manifest their discontent towards the chain of command. As such, not only will military commanders deal with local issues that are typically within their sphere of influence as managers, issues at the regional and national level may also impact the local labour relations climate. In order to ensure productive labour relations, military commanders must develop robust and meaningful relations with their employees that can withstand national-level disagreements.

Lucille Yarrington, et al., (2007) point out that from the manager's perspective, engaging with unions is often considered voluntary, aimed at improving workplace relations. However, unions often perceive engagement with management as an

unavoidable necessity that can only be achieved through the strength of membership.<sup>90</sup> In general, the engagement strategies of both management and unions can be either adversarial or collaborative in nature. According to Peter Haynes and Michael Allen (2001), cooperation as a union engagement strategy is fiercely debated within the union movement, "...it is seen as either a potentially effective strategy for restoring union influence, or as fatally flawed," suggesting that cooperation with management may be viewed by some as weakness and effectively surrenders bargaining power.<sup>91</sup>

In order to foster an overall collaborative climate, factors such as trust, communication, employee voice, respecting rules and professional credibility all play an important role.<sup>92</sup> Military officers in management roles can work towards positive relations by adapting these internal factors within an effective labour-management relations framework and by understanding the effects of perceived power. However, Haynes and Allen (2001) caution that even cooperative relationships, "...remain vulnerable to external shocks and to poorly specified or matched expectations and motivations."<sup>93</sup> This means that even after effective collaboration has been established, the relationship will remain fragile and can be easily affected by external or internal factors. For example, the frequent posting of military officers every few years normally adds strain on labour relations, especially given the frequency and short duration of military postings. Newly posted-in military commanders must work hard to establish good labour relations and employees must adjust to new approaches to management.

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<sup>90</sup> Lucille Yarrington, Keith Townsend, and Kerry Brown, "Models of Engagement: Union Management Relations for the 21<sup>st</sup> Century," (Brisbane: Queensland University of Technology, 2007), 6.

<sup>91</sup> Peter Haynes and Michael Allen, "Partnership as Union Strategy: A Preliminary Evaluation." *Employee Relations* 23, no. 2 (2001), 164.

<sup>92</sup> Lucille Yarrington, Keith Townsend, and Kerry Brown, "Models of Engagement: Union Management Relations for the 21<sup>st</sup> Century," (Brisbane: Queensland University of Technology, 2007), 5.

<sup>93</sup> Peter Haynes and Michael Allen, "Partnership as Union Strategy: A Preliminary Evaluation." *Employee Relations* 23, no. 2 (2001), 181.

Over time, employees may become discouraged by this instability and may become dissuaded from investing in labour-management relations.

Significant differences between military members and civilian employees appear to impact the ability of military managers to lead their civilian subordinates. Referring to data collected from an internal DND/CAF survey, Irina Goldenberg (2015) states that:

...83% of civilians supervised by military supervisors indicated that military managers are placed in positions of authority over civilians without receiving the training required to manage them properly... Similarly, a large portion agreed that military managers are often confused about the role of civilian employees and do not make the most of what civilian employees have to offer.<sup>94</sup>

The results of this survey suggest that military supervisors and managers often do not understand the differences between managing civilian and military subordinates, resulting in friction in labour relations. In general terms, the Defence Team Survey revealed that a significant percentage of civilian employees feel that military personnel receive special workplace advantages, that civilian skills and experience are not recognized to the same degree as their military counterparts, that military postings and deployments negatively impact their work and that communication between military managers and union officials is at times inadequate.<sup>95</sup>

In order to establish and maintain enduring union-management cooperation, Haynes and Allen (2001) have identified three necessary elements. Firstly, there must be, "...mutual legitimization of sometimes differing interests."<sup>96</sup> That is, both parties need to acknowledge and respect that each side represents differing perspectives that are equally

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<sup>94</sup> Irina Goldenberg, "What Defence Team Personnel Say: Empirical Results from the Defence Team Survey," in *The Defence Team: Military and Civilian Partnership in the Canadian Armed Forces and the Department of National Defence* (Kingston: Canadian Defence Academy Press, 2015), 107-108.

<sup>95</sup> *Ibid.*, 96.

<sup>96</sup> Peter Haynes and Michael Allen, "Partnership as Union Strategy: A Preliminary Evaluation." *Employee Relations* 23, no. 2 (2001), 181.

valid. In this regard, labour-management relationships can remain collaborative in search of mutually satisfying solutions, even if the overall objectives are adversarial in nature. Secondly, each party's expectations regarding roles and behaviours must be clearly defined, requiring a high degree of mutual trust. Finally, all parties involved must find collaboration as mutually beneficial. This implies that union members feel they can influence outcomes without being consistently trumped by managerial prerogative.

Although trust is certainly crucial to the establishment and maintenance of collaborative relations, it should also be understood that certain levels of distrust are to be expected. Margaret Levi et al. (2000) explain that:

...distrust of management by labour is often the effect of a significant imbalance in bargaining power and in access to critical information...Managers, too, can suffer from what appears to be intractable distrust of unions, if not the workers. They fear that unions will gain too much power, disrupting the workplace arbitrarily, destroying rapport and good will among the managers and workers, undermining profits severely, and ultimately destroying the business itself.<sup>97</sup>

The underlying distrust by employees and their unions is primarily a function of a power imbalance which favours the employer. Similarly, in their quest to ensure the overall operational effectiveness of the organization, managers may harbour a certain degree of distrust towards the motives of union members. Fundamentally, each of these groups have their own unique perspective and interests.

To be fair, organizational tension and conflict are not uniquely military-civilian phenomena in DND/CAF. In fact, wide-scale distrust, disobedience and even mutiny within the ranks of the CAF have occurred on several occasions, largely due to the chain of command being perceived as out of touch or inconsiderate of the welfare of the troops. For example, protesting the inappropriately harsh and brutal discipline by their

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<sup>97</sup> Margaret Levi, Matthew Moe and Theresa Buckley, "Institutionalizing Conflict: The Transaction Costs of Ameliorating Labor-Management Distrust," (Seattle: University of Washington, December 2000), 5.

Commanding Officer during the Second World War, the 1<sup>st</sup> Canadian Parachute Battalion organized a three-day hunger strike from 20-23 October, 1944.<sup>98</sup> In another instance, the largest mutiny in Canadian naval history occurred on the HMCS Iroquois on 19 July, 1943 where, “190 sailors barricaded themselves in their mess decks and refused duty until their grievances were heard by senior officers ashore.”<sup>99</sup> Rachel Lea Heide (2007) points out that group protests in the military have frequently been about, “...restoring or improving acceptable living conditions and challenging officers in command who cared little about their men’s welfare and even less about effective communications.”<sup>100</sup> In principle, military members and civilian employees are not that different when it comes to defending their own interests. Military commanders must accept that fostering an environment of respect and trust amongst both their military and civilian subordinates is vital for effective working relationships and is a fundamental responsibility of leaders at all levels.

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<sup>98</sup> Bernd Horn, “Good Men Pushed Too Far? The First Canadian Parachute Battalion Hunger Strike, 20-23 October 1944,” in *The Insubordinate and the Non-compliant*, edited by Howard G. Coombs (Kingston: Canadian Defence Academy Press, 2007), 43.

<sup>99</sup> Michael Whitby, “Matelots, Martinets and Mutineers: The Mutiny on HMCS Iroquois, 19 July 1943,” in *The Insubordinate and the Non-compliant*, edited by Howard G. Coombs (Kingston: Canadian Defence Academy Press, 2007), 211.

<sup>100</sup> Rachel Lea Heide, “After the Emergency: Demobilization Strikes, Political Statements, and the Moral Economy in Canada’s Air Forces, 1919-1946,” in *The Insubordinate and the Non-compliant*, edited by Howard G. Coombs (Kingston: Canadian Defence Academy Press, 2007), 175.

## DND Consultation Framework

The establishment of labour-management consultation committees within each federal department and agency has been legally mandated by the PSLRA.<sup>101</sup> As part of *La Relève* initiative, the DND developed a Union-Management Consultation framework in 1998 in cooperation with bargaining agents within the department.<sup>102</sup> A pillar of labour-management relations in the public service, consultation committees facilitate the exchange of information on workplace issues between management and the unions.<sup>103</sup> The consultative approach, further detailed by the collective agreement which has been ratified between Treasury Board and the Public Service Alliance of Canada, is designed to avoid a climate of mistrust and confrontation and to foster a climate of cooperation and mutual respect.<sup>104</sup> To achieve objectives set out by the PSLRA and the collective agreement (which also has the force of law), labour-management consultation within DND has been defined as,

...full disclosure, to the maximum extent possible, of contemplated actions to the representatives of the other party, prior to decisions being taken, with a view to ascertaining the full implications of those actions on the legitimate interests of the other party and resolving any problems which are identified.<sup>105</sup>

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<sup>101</sup> Canada, *Public Service Labour Relations Act*, Part 1, Division 3, Section 8, 7.

<sup>102</sup> In 1997, the Canadian federal Public Service initiated *La Relève* Task Force which included Deputy Ministers from every federal department and agency and was chaired by the Clerk of the Privy Council. The goal of this committee was to renew human resource management in the Public Service. Their focus was on eight key areas: 1. Recruitment, Employment Equity and Retention Strategy; 2. Compensation; 3. Universal Classification Standard; 4. Staffing Reform; 5. Pride and Recognition; 6. Labour Relations; 7. Corporate Development Programs; and 8. Values and Ethics.

<sup>103</sup> In 2007, DND clarified the departmental consultation framework with DAOD 5008-0 Civilian Labour-Management Relations and DAOD 5008-2 Civilian Labour-Management Consultation.

<sup>104</sup> Treasury Board of Canada Secretariat, *Agreement between the Treasury Board and the Public Service Alliance of Canada* (Ottawa: PWGSC, 2011), art 21.01.

<sup>105</sup> Consultation Framework between the Department of National Defence and Unions Representing National Defence Employees, May 1998, (Revised November 2009), 3. Last accessed 12 August 2015. [http://unde-uedn.com/e/images/Consultation\\_Framework\\_signed\\_English.pdf](http://unde-uedn.com/e/images/Consultation_Framework_signed_English.pdf).

While military commanders must understand that consultation with unions is a legal obligation, it is important to note that consultation does not require agreement or consent from the other party. The consultative approach is about transparency, mutual respect and fostering cooperation with a view to minimizing distrust and conflict. It is not power sharing. But it is equally not about communicating decisions *after* they are made prior to implementation. The PSLRA directs management-union co-development of workplace solutions by their collaborative participation, "...in the identification of workplace problems and the development and analysis of solutions to those problems with a view to adopting mutually agreed to solutions."<sup>106</sup> A key element, union representatives must be afforded the opportunity to contribute to the *analysis* of problems and the *development* of solutions and not simply comment on those solutions which have been developed by management in isolation.

In DND, Labour-Management Consultation Committees (LMCC) are held at the departmental, regional and local levels and meet to address issues appropriate to that forum. The departmental committee is co-chaired by the Deputy Minister, involves members of the Defence Management Committee and includes union representatives from all bargaining agents within DND. As appropriate, formation commanders will co-chair intermediate level LMCCs to discuss regional level issues within their area of responsibility. Finally, the local level LMCCs are co-chaired by the appropriate Base/Wing/Unit Commanding Officer and the local level union president(s) with membership from both senior management and elected union representatives. In fact, the main theme of this paper focuses on concepts and principles related to this level of labour-management relations.

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<sup>106</sup> Canada, *Public Service Labour Relations Act*, Part 1, Division 3, Section 9, 7.

For comparison, it may be useful to note that variations in approach to labour relations outside of Canada have produced interesting results that are germane to this discussion. For example, in response to a persistently hostile and ineffective labour relations climate, Australian Prime Minister John Howard's right-wing conservative government introduced the *Workplace Relations Act* (1996). This highly controversial legislation gave Australian managers legal provision for employee direct voice relations, designed to override the collective negotiation process.<sup>107</sup> In essence, management in both the public and private sectors could legally bypass negotiation with unions and deal directly with the employee; if the employee so accepted in writing. Critical of this approach, Rae Cooper and Bradon Ellem (2008) comment that, "...the new laws attacked the old regulatory institutions...the attack on arbitration, collective bargaining and unions was comprehensive... [They] placed more restraints on union activity."<sup>108</sup> Certainly, the power of collective bargaining will be significantly reduced in such arrangement as progressively more employees abandon the union to engage directly with management.

A cautionary tale, this Australian example demonstrates that extreme and perpetual conflict is neither beneficial for the employer nor for the union and will likely not be tolerated by employees. David Peetz and Ann Frost (2007) argue that workers want their union representatives to establish:

...an ongoing negotiated relationship with the employer, with greater levels of cooperation emerging, though conflict will not disappear. It is essential that

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<sup>107</sup> Amanda Pyman, Peter Holland, Julian Teicher and Brian Cooper, "Industrial Relations Climate, Employee Voice and Managerial Attitudes to Unions: An Australian Study," *British Journal of Industrial Relations* 48, no. 2 (June 2010), 462.

<sup>108</sup> Rae Cooper and Bradon Ellem, "The Neoliberal State, Trade Unions and Collective Bargaining in Australia," *British Journal of Industrial Relations* 46, no. 3 (September 2008), 541.



unions bed down the relationship so they can move on. A union cannot afford perpetual conflict.”<sup>109</sup>

In this regard, union strength depends on the ability to convince union members that collective negotiations are indeed producing results that are in the best interest of the employees. The Australian example demonstrates that extremely adversarial strategies will likely be viewed by employees as counterproductive and may produce a series of undesirable outcomes from a labour relations perspective for both the union and the employer.

Interestingly, Amanda Pyman, et al. (2010) remark that employee direct voice arrangements have been associated with favourable employee perceptions of industrial relations, especially where it has been otherwise hostile. Furthermore, the authors assert that direct voice is consistent with a reduction in employee workplace problems, reduced absenteeism, increased information sharing, increased commitment and job satisfaction.<sup>110</sup> While this research is not conclusive, it suggests that despite the reduced power to negotiate collectively, employees in Australia responded favourably to direct engagement with management in order to directly address their concerns which had been sidelined by an apparent adversarial union agenda. Direct voice arrangements must be both meaningful and effective for employees to be considered an acceptable alternative.

These broader implications must be interpreted cautiously. Pyman et al. (2010) acknowledge that measures of union strength, union effectiveness and union responsiveness, have been shown to be, “...important influences on favourable employee

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<sup>109</sup> David Peetz and Ann Frost, “Employee Voice in the Anglo-American World: What Does It Mean For Unions?” in R. B. Freeman, P. Boxall and P. Haynes (eds.), *What Workers Say: Employee Voice in the Anglo-American Workplace* (Ithaca, NY: Cornell University Press, 2007), 152.

<sup>110</sup> Amanda Pyman, Peter Holland, Julian Teicher and Brian Cooper, “Industrial Relations Climate, Employee Voice and Managerial Attitudes to Unions: An Australian Study,” *British Journal of Industrial Relations* 48, no. 2 (June 2010), 470. See also; John Purcell and Mark Hall, “Voice and Participation in the Modern Workplace: Challenges and Prospects” London: University of Warwick (March 2012), 3.

perceptions of the industrial relations climate and have also been identified as conditions underpinning sustainable co-operative employer-union relationships.”<sup>111</sup> These findings support direct dialogue between management and employees, while equally encouraging co-operative relations with unions, facilitating a positive labour relations climate. The Australian example demonstrates that the union representatives should also aim for an effective relations climate, avoiding perpetual conflict without support from their membership. Furthermore, the Australian example underscores the importance for management to ensure open and transparent consultation with unions in order to foster mutual trust and cooperation.

In the contemporary DND/CAF, Transformational Leadership, taught to all Canadian military officers, will naturally facilitate a highly desirable labour relations environment *if* used effectively. In this approach, leaders engage directly with subordinates, ensuring a sense of connection.<sup>112</sup> As highlighted in Figure 3-1, the Transformational Leadership approach draws upon a wide range of leader influence behaviours in order to, “. . .alter the characteristics of individuals, organizations, or societies in a fairly dramatic or substantial way so that they are more complete or else are better equipped to deal with the challenges they face.”<sup>113</sup> This values-based leadership approach has, at its heart, a firmly established relationship of mutual trust between the leader and the follower.

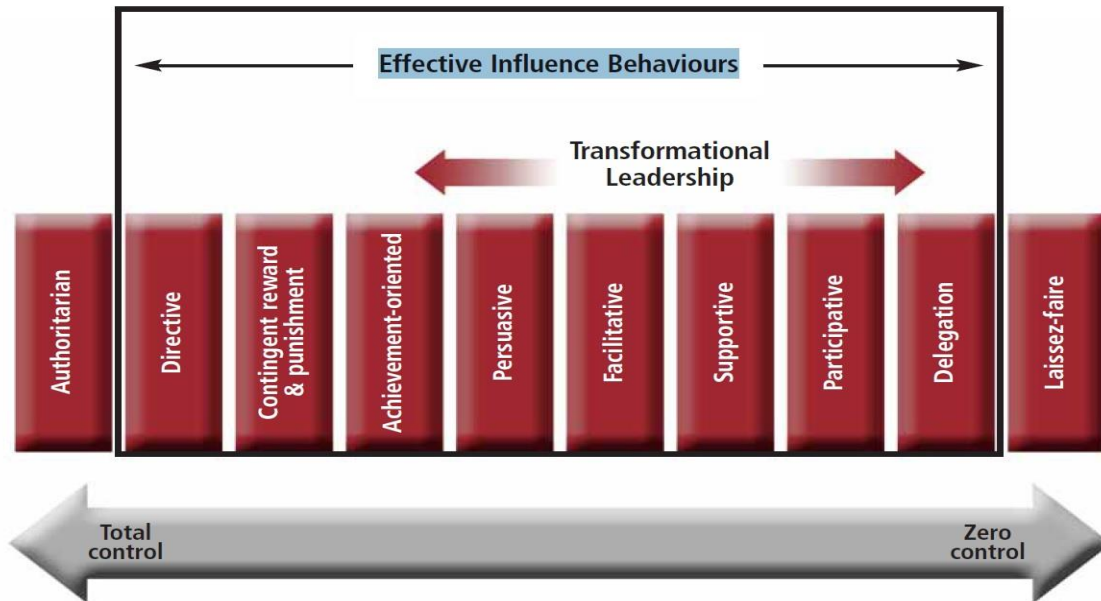
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<sup>111</sup> Amanda Pyman, Peter Holland, Julian Teicher and Brian Cooper, “Industrial Relations Climate, Employee Voice and Managerial Attitudes to Unions: An Australian Study,” *British Journal of Industrial Relations* 48, no. 2 (June 2010), 473.

<sup>112</sup> Department of National Defence, A-PA-005-000/AP-003, *Leadership in the Canadian Forces: Doctrine* (Kingston: Canadian Forces Leadership Institute, 2005), 21.

<sup>113</sup> *Ibid.*, 23.

Figure 3-1: Spectrum of Leader Influence Behaviours



Source: *Leadership in the Canadian Forces: Doctrine*, 2005, 21.

Although the Australian government used aggressive legislation to counter an excessively combative union, the CAF model of Transformational Leadership can facilitate highly positive relationships with employees directly *without* side-stepping the union. Transformational leadership encourages positive labour relations by fostering effective interpersonal communications and promoting trust throughout the organization. In fact, an effective leadership approach should address employee concerns upfront even before the employee feels the need to complain, which promotes a healthier labour relations climate for all involved. The CAF model of Transformational Leadership provides military officers a highly effective skillset that is directly applicable to labour relations.

Moreover, the contemporary CAF leadership model goes far beyond single channel communications between managers and union representatives. Military

commanders at all levels often seek the *ground truth* from both their military subordinates and civilian employees. Just like military members, civilian employees must feel comfortable speaking *truth to power*, that is, to their military supervisors. Interestingly, John Purcell and Mark Hall (2012) indicate that research shows, “...employees want some form of voice at work which will help them deal with problems...they want more cooperative styles of engagement with management which help improve their firm’s performance and their working lives.”<sup>114</sup> Ensuring that employees are afforded the opportunity to voice their opinions and engage in decisions helps to foster an improved labour relations climate.

The use of town hall style meetings, where senior managers address large groups of employees, often accompanied by a question and answer period, is a classic method of direct communication with employees. Another method is the use of written communiqués, such as letters or emails, to transmit a variety of information at large. These methods can produce varying degrees of success. Purcell and Hall (2012) contend that while these can be effective methods of *downward* communication, there are structural limits to the degree of *upward* communication that can be achieved.<sup>115</sup> With these forms of communication, employees are often limited in their ability to influence management decisions, especially in large organizations with offsite head offices. So, while town hall meetings add a human quality to the passage of information, such

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<sup>114</sup> John Purcell and Mark Hall, “Voice and Participation in the Modern Workplace: Challenges and Prospects” London: University of Warwick (March 2012), 2-3. See also; Amanda Pyman, Peter Holland, Julian Teicher and Brian Cooper, “Industrial Relations Climate, Employee Voice and Managerial Attitudes to Unions: An Australian Study,” *British Journal of Industrial Relations* 48, no. 2 (June 2010), 476.

<sup>115</sup> John Purcell and Mark Hall, “Voice and Participation in the Modern Workplace: Challenges and Prospects” London: University of Warwick (March 2012), 5.

meetings do not afford meaningful engagement. It usually takes more than simple one-way communication to improve the organizational climate.

The use of technology, and in particular social media, are taking direct engagement to new levels. There are many social media platforms currently available, linking an unlimited number of individuals within a potentially world-wide *virtual community*. As noted by Stuart Smith and Peter Harwood (2011), social media allows the interactive engagement of senior management with every member of the organization in ways which far exceed other passive forms of broadcast media.<sup>116</sup> Particularly relevant to industrial communications, social media platforms such as *Facebook*, *Twitter* and *YouTube* allow instant sharing of vast quantities of data across organizational hierarchies.

The potential benefit of large scale engagement is not limited to employers; union executives can also access such powerful communication media to reach their membership to further their agenda at relatively low cost. From a collective bargaining and employee engagement perspective, Smith and Harwood (2011) point out that social media can rapidly facilitate the organization of geographically isolated individuals throughout dispersed workspaces, can spread union messages instantly and can also help unions connect with the younger generation who are typically comfortable with social media.<sup>117</sup> In a labour-relations context, union executives can equally use social media to engage their membership as management can use this media as part of their employee engagement strategy.

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<sup>116</sup> Stuart Smith and Peter Harwood, "Social Media and Its Impact on Employers and Trade Unions" London: University of Warwick (September 2011), 2. See also; John Purcell and Mark Hall, "Voice and Participation in the Modern Workplace: Challenges and Prospects" London: University of Warwick (March 2012), 5.

<sup>117</sup> Stuart Smith and Peter Harwood, "Social Media and Its Impact on Employers and Trade Unions" London: University of Warwick (September 2011), 8.

The use of social media platforms in the workplace, by both military and civilian employees, alike, presents new challenges that raise certain legal and ethical questions concerning acceptable use. Smith and Harwood (2011) point out that common problems with employee use of social media has resulted in disciplinary action for posting inappropriate comments, photos or videos which were determined to be contrary to corporate policy, damaging to the company's reputation or were considered as a form of harassment.<sup>118</sup> In the DND/CAF, both information security and the appropriate use of information technology resources remain major considerations.

In modern society, Canadians must understand that there should be no legal expectation of privacy in the use of social media and inappropriate comments can result in disciplinary action by the employer or even legal action depending on the nature of the alleged offence.<sup>119</sup> While the ongoing evolution of legislation and corporate policies in Canada support the establishment of acceptable use policies for social media, there remains a general misunderstanding over what constitutes private versus professional use. In fact, the very term *social media* should highlight that such comments are in the public domain. Joseph Cohen-Lyons (2011) explains that:

...courts in Canada have held that an individual does not have a strong privacy interest in the content he or she posts on social media websites. In this regard, courts have focused on the fact that the content on social media sites is self-posted and, therefore, subject to the poster's direct control...social media sites are, by their very nature, designed to facilitate the publishing of information to the (sometimes controlled) public. Given this underlying purpose, courts, and other

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<sup>118</sup> *Ibid.*, 5.

<sup>119</sup> A recent, widely publicized example involved inappropriate and sexually explicit comments on Facebook by Dalhousie dental students in an intended private forum called "Class of DDS 2015 Gentlemen." The group of men posted disturbing, misogynistic comments that promoted sexual violence towards female students. The fact that the Facebook forum was intended for a select audience did not excuse the comments once they were made public and the students faced disciplinary action by the university. In place of punitive consequences, the university offered a restorative justice approach which was accepted by the male and female students involved.

adjudicators are unlikely to view the content of social media sites as the private information of an employee.<sup>120</sup>

The use of social media in the workplace requires clear, concise and effective policies regarding acceptable use by both employer and employee in the workplace.

In order to facilitate effective labour-management cooperation, military commanders and DND union representatives, alike, have access to several resources designed to foster a healthy, productive workplace. For example, the Joint Learning Program (JLP) is a collaborative partnership between the Public Service Alliance of Canada (PSAC) and the Treasury Board which aims to provide both union representatives and public service managers the tools needed to ensure efficient and effective labour-management relations.<sup>121</sup> The JLP core program consists of the following seven workshops delivered to both union and management representatives in order to foster effective labour-management relations:

1. Creating a Harassment-Free Workplace;
2. Duty to Accommodate;
3. Employment Equity;
4. Labour-Management Consultation;
5. Mental Health in the Workplace;
6. Respecting Differences/Anti-Discrimination; and
7. Understanding the Collective Agreement.<sup>122</sup>

This training provides both parties with the tools necessary to collaborate effectively, improving communications and facilitating open and transparent interactions.

In resume, military commanders must accept that fundamental differences between military and civilian employees require both multiple and different approaches

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<sup>120</sup>Joseph Cohen-Lyons, "A Legal Perspective on Off-Duty Social Media Use," *Public Sector Digest*, November 2011, 3.

<sup>121</sup> Government of Canada / Public Service Alliance of Canada, *Joint Learning Program*. Last accessed 10 August 2015. <http://www.jlp-pam.ca/aboutus-anotresujet-eng>.

<sup>122</sup> Government of Canada / Public Service Alliance of Canada, *Joint Learning Program - Workshops*. Last accessed 10 August 2015. <http://www.jlp-pam.ca/workshops-ateliers-eng>.

to labour relations. In particular, consultative engagement with local union representatives and employees greatly contributes towards establishing and maintaining cooperative labour-management relations. Although collective bargaining occurs at the national level, much labour-management conflict will be affected by activities which are outside the chain of command's control or influence. In the end, when labour-management disputes arise, local level military commanders will likely find themselves on the frontline of organizational conflict resolution and must be prepared to act appropriately.

### **Conflict Resolution, the Grievance Process and Strike Management in DND**

In practically every organization, conflict in some form is inevitable and thus requires a conflict management strategy. Mary Lou Coates, et al (1996) describe conflict as:

...a form of competitive behaviour involving actual or perceived differences in interests or limited resources. Managers and employees have divergent interests. The same holds true between workers themselves, between departments, and between organizations...A moderate amount of conflict, if handled properly, is, in fact, critical to maintaining an optimum level of individual, group and organizational effectiveness.<sup>123</sup>

The key to successful labour-management relations is having the ability to effectively discuss disagreements, negotiate mutually beneficial settlements and manage all forms of workplace conflict effectively. Vijay K. Verma (1998) points out that in the behavioral (or contemporary) view, workplace conflict is considered "...natural and inevitable in all

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<sup>123</sup> Mary Lou Coates, Gary T. Furlong and Bryan M. Downie, "Conflict Management and Dispute Resolution Systems in Canadian Nonunionized Organizations," Industrial Relations Centre, Queen's University, Kingston: Queen's University Press, 1996, 10-11.



organizations and that it may have either a positive or a negative effect, depending on how the conflict is handled.”<sup>124</sup> In fact, a certain level of workplace conflict may be productive and should be managed, rather than suppressed. Moreover, how conflict is handled will say a great deal about the leadership abilities throughout the organization. Military commanders must understand that union representatives and civilian employees will not always accept their decisions unconditionally and will at times question, disagree or even resist decisions made by the chain of command.

From a legal perspective, the PSLRA obliges DND/CAF to establish an informal conflict management system, intended to resolve conflicts at the lowest appropriate level and reduce the need to access formal dispute resolution processes.<sup>125</sup> As such, the DND/CAF has implemented a robust Interest-based Alternative Dispute Resolution (ADR) framework for this purpose.<sup>126</sup> Reinforcing positive relations by addressing disputes early, Brad Coates (2006) remarks that, “...at its most basic level, ADR is aimed at empowering individuals to deal better with conflict that, in turn, should enhance unit effectiveness and overall operational performance.”<sup>127</sup> Interest-based conflict resolution seeks to avoid the adversarial paradigm of more formal resolution methods. As such, ADR seeks to identify and address the underlying needs (interests) of participants and seeks mutually satisfactory resolution through shared understanding and consensual agreement. However, an Interest-based approach is not always well suited in situations where participants are unmotivated to participate or when organization-wide policy

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<sup>124</sup> Vijay K. Verma, “Conflict Management,” From the *Project Management Institute Project Management Handbook*, Ed: Jeffrey Pinto. 1998, 385.

<sup>125</sup> Canada, *Public Service Labour Relations Act*, Part 2, Section 207, 69.

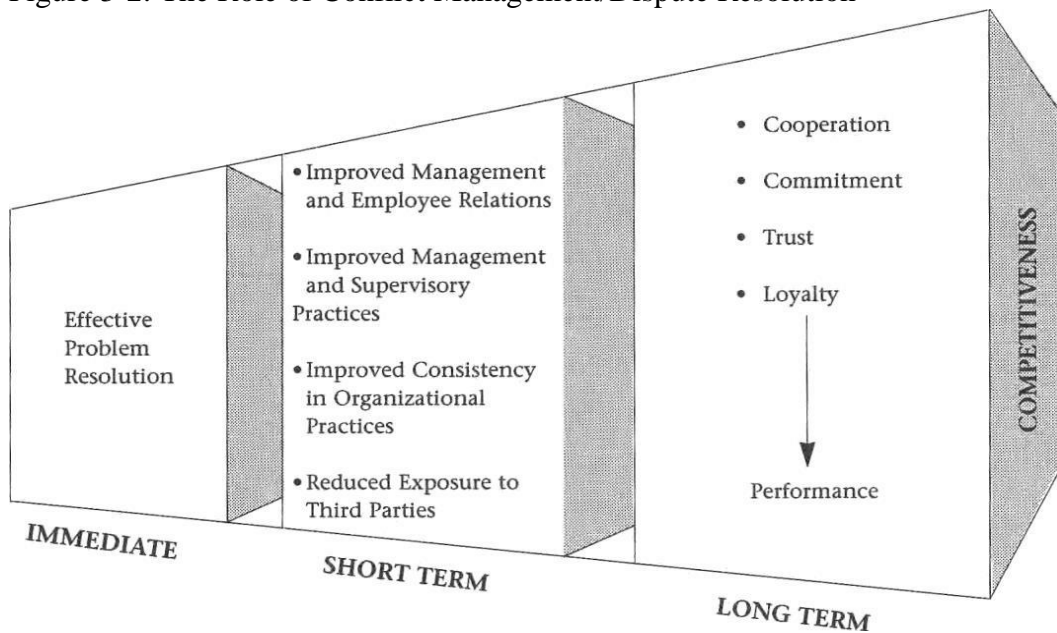
<sup>126</sup> Department of National Defence, Conflict Resolution Program – Alternative Dispute Resolution, website accessed: 26 July, 2015.

<http://www.forces.gc.ca/en/caf-community-dispute-resolution-centres/index.page>

<sup>127</sup> Brad Coates, “Alternate Dispute Resolution in the Canadian Forces,” *Canadian Military Journal*, Summer 2006, 43.

decisions will result. As indicated at Figure 3-2, there are immediate, short term and long term benefits for managing conflict and resolving disputes effectively, resulting in increased performance and effectiveness of the entire organization.

Figure 3-2: The Role of Conflict Management/Dispute Resolution



Source: Mary Lou Coates, et al, "Conflict Management and Dispute Resolution Systems in Canadian Nonunionized Organizations," 11.

From a leadership or managerial perspective, the use of effective engagement strategies and negotiation techniques can often prevent or significantly reduce conflict, fostering positive labour-management relations. Roger Fisher and William Ury (2011) advocate a method of *principled negotiation* to decide issues on their merits rather than arguing from firmly rooted positions.<sup>128</sup> This highly effective Interest-based negotiation method does not seek to win an argument, defeat an opponent's position, nor does it even attempt to seek compromise. Principled negotiation is a method which removes

<sup>128</sup> Roger Fisher and William Ury, *Getting to Yes: Negotiating an Agreement Without Giving In* (New York: Penguin Publishing Group, 2011), 6.

emotionally-driven, substantive positions and focuses solely upon the interests of the involved parties in order to generate viable options. Furthermore, principled negotiation contributes to a working relationship, "...where trust, understanding, respect and friendship are built up over time, [making] each new negotiation smoother and more efficient."<sup>129</sup> Military commanders will notice improved labour relations and decreased organizational conflict if they adopt principled negotiation techniques into their routine discussions with their personnel, both civilian and military.

There will be times, however, when negotiation and informal conflict resolution will fail to produce results and formal dispute resolution will be required. Within the federal public service, the *Public Service Labour Relations and Employment Board* (PSLREB) is responsible for governing the collective bargaining and grievance adjudication systems in the federal public service for those issues that cannot be dealt with at the department level.<sup>130</sup> The DND/CAF maintains a robust framework that supports conflict resolution at the lowest possible level and provides, to the greatest extent possible, an impartial process to address grievances.

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<sup>129</sup> *Ibid.*, 14.

<sup>130</sup> The *Public Service Labour Relations and Employment Board* (PSLREB) was established on 1 November, 2014 as an independent quasi-judicial, statutory tribunal established by the *Public Service Labour Relations and Employment Board Act* (PSLREA). The PSLREB is responsible for administering the collective bargaining and grievance adjudication systems in the federal public service and in Parliament. It is also responsible for the resolution of staffing complaints related to internal appointments and layoffs in the federal public service. It can also receive complaints about appointments that were made to comply with an order in a previous PSLREB decision, as well as revocations of internal appointments. The PSLREB is also responsible for dealing with pay equity complaints filed by, or on behalf of, groups of employees pursuant to the *Canadian Human Rights Act*. The PSLREB was created by a merger of the former Public Service Labour Relations Board (PSLRB) and the Public Service Staffing Tribunal (PSST). The PSLREB deals with matters that were previously dealt with by those former tribunals under the *Public Service Labour Relations Act* and the *Public Service Employment Act*, respectively. The current PSLREB provides two main services within the federal public service:

1. Adjudication - hearing and deciding grievances, labour relations complaints and other labour relations matters as well as dealing with staffing complaints related to internal appointments, layoffs, the implementation of corrective measures ordered by the Board and revocations of appointments.
2. Mediation - helping parties reach collective agreements, manage their relations under collective agreements, and resolve disputes and complaints without resorting to a hearing.

Website last accessed on 10 August 2015. [http://pslreb-crtefp.gc.ca/index\\_e.asp](http://pslreb-crtefp.gc.ca/index_e.asp).

While there are several complex mechanisms by which civilian employees and their unions may address complaints, the most common are labour relations grievances which are treated in accordance with the National Standardized Grievance Process (NSGP). The PSLRA indicates three categories of labour relations grievances, namely individual, group and policy grievances. As detailed in the DND Deputy Minister's Instrument of Delegation of Labour Relations Authorities matrix, labour relations grievances are frequently decided by senior military officers at the first and second levels within the unit (typically at the ranks major and lieutenant-colonel, respectively), with the third and final level within DND/CAF being the Director General Labour Relations and Compensation (DGLRC) in ADM (HR-Civ). However, there are times when the department level process fails to achieve results and the PSLREB must either adjudicate or mediate a resolution.

As an additional framework for labour-management collaboration, the National Joint Council (NJC) was established under the authority of the Governor General of Canada on 16 May, 1944 as a medium for cooperation between Treasury Board and the Public Service of Canada bargaining agents.<sup>131</sup> The central role of the NJC is the co-development of directives, policies and procedures, through Interest-based negotiation, that have an implication across the entire public service. Intended to supplement and expand upon the negotiated collective agreements, NJC policies are collaborative in nature and are agreed upon by both Treasury Board (the employer) and the bargaining agents. Therefore, military commanders must abide by NJC policies and directives when

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<sup>131</sup> National Joint Council of the Public Service of Canada. Last accessed 12 May 2015. <http://www.njc-cnm.gc.ca/index.php?lang=eng>.

making decisions that affect their public service employees just as they are constrained by the collective agreement.

Similar to the process for labour relations grievances, employees that disagree with management interpretations and decisions regarding NJC policies may submit a grievance through the chain of command. However, it is the NJC and not the Director General Labour Relations and Compensation (DGLRC) that acts as the final authority for resolution. The NJC hearing committee, co-chaired by representatives of the employer and the participating bargaining agent, analyzes the employee's grievance with respect to the intent of the NJC policy. In short, the NJC is a collaborative organization where Treasury Board and participating bargaining agent(s) seek to jointly develop policies and provide a supportive environment to jointly resolve disputes within their area of influence.

More than simply a process to resolve complaints, Sean Doyle (1999) describes four major roles for the grievance procedure within the federal public service.<sup>132</sup> First, as a compliance function, the grievance process helps ensure that both parties adhere to relevant laws, policies and the collective agreement. Second, the grievance procedure serves an adjudicative role, serving as a dispute resolution mechanism for disagreements. Thirdly, it serves an administrative role, by helping to ensure that collective agreements are administered correctly and consistently throughout the organization. Finally, the grievance process may serve as a forum for *fractional bargaining* where one party (often the union) seeks to secure concessions that it could not have otherwise secured at the bargaining table.

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<sup>132</sup> Sean C. Doyle, "The Grievance Procedure: The Heart of the Collective Agreement," Kingston: Queen's University Press, 1999, 1-2.

While senior military officers involved in first and second level labour relations grievances are supported by ADM (HR Civ) labour relations advisors throughout the grievance process, these officers typically do not receive any specific training in labour relations or civilian discipline. Highly critical of the grievance procedure in the federal public service, Grant LoPatriello (2012) remarks that:

...very often, adjudicative decision-makers are tasked with such responsibility and are provided no formal training. Furthermore, management's adjudicative decision-making responsibilities are likely to be tertiary. Therefore, it is very likely that the manager will have no experience drafting reasons. This invites unnecessary error into a process already fraught with it.<sup>133</sup>

Delegated military commanders must possess a comprehensive understanding of both the grievance process and the relevant civilian personnel management framework in order to effectively contribute to positive labour relations. In short, military officers must be provided adequate training and experience in order to become effective managers of civilian employees.

Ultimately, the result of failed labour-management negotiations can result in a strike or job action by the union. In general terms, strikes are intended to pressure the employer in order to gain better terms during the collective bargaining process. The *PSLRA* details several conditions required for bargaining agents to organize a strike as a legitimate part of the collective bargaining process. In short, there must be no collective agreement in effect, notice to bargain collectively has been given by the certified bargaining agent, no request for conciliation has been made by either party and the represented employees must be afforded the opportunity to vote by secret ballot before a

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<sup>133</sup> Grant LoPatriello, "Oppression, Suppression, and Injustice: A Critical Evaluation of the Grievance Procedure in the Federal Public Service," *Comparative Research in Law & Political Economy*. North York: York University, 2012, 17-18.

strike can be declared legal.<sup>134</sup> Once a legal strike position has been achieved, bargaining agents may employ a variety of strike-related activities, including work-to-rule campaigns, rotating strikes or calling for a general strike by all union members.

Having particular relevance to the current labour relations climate in the public service, recent changes to the PSLRA, resulting from *Bill C-4*, have practically removed binding arbitration as a method of dispute resolution.<sup>135</sup> As such, public service unions may be forced to either accept whatever offer has been presented by the federal government or vote for strike action. This sets the stage for very intense collective agreement negotiations at the national level between the federal government and public service bargaining agents. As strikes are fundamentally a result of failed negotiations between national level unions and the employer (Treasury Board in the case of DND), this discussion is limited only to the impacts of labour strikes at the local level.

In fact, military commanders will have practically no influence over the results of national level negotiations, nor will they be able to negotiate the resolution to a strike. However, they will be required to manage the impacts of a strike within their own area of responsibility with a view to returning to normal labour-management relations after the strike has ended. In the event of a lawful strike, the *DND Strike Handbook for Military and Civilian Managers* (2014) indicates the position of DND as follows:

1. The DND/CAF will maintain those services that are considered to be essential for the safety or security of the Canadian public;
2. The National Strike Committee will communicate with Regional / Intermediate and Local Strike Committees to ensure consistent management and response of strike situations;

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<sup>134</sup> Canada, *Public Service Labour Relations Act*, Part 1, Division 14, Section 194, 61-63.

<sup>135</sup> *Ibid.*, Part 1, Division 6, Section 104, 27.

3. Government employees, clients, consultants working on-site, property and facilities will be adequately safeguarded;
4. Accurate and timely information pertaining to the strike will be transmitted as expeditiously as possible through the strike communication network;
5. Through a positive attitude and communications, good relations with employees and employee organizations will be maintained. Employees are entitled to receive information in the official language of their choice; and
6. Departmental managers will liaise with their civilian Human Resources Officer (HRO) who can advise on local strike management and appropriate actions.<sup>136</sup>

During a strike, military commanders may be required to integrate into a Departmental Strike Management Monitoring Team at the appropriate level. Working with ADM (HR-Civ) labour relations experts, management responsibilities within DND/CAF include informing employees of the distinction between lawful and unlawful strike activities, maintaining essential services, safeguarding personnel and property and maintaining constructive relations with union representatives in order to reintegrate employees into the workplace following the end of the strike.<sup>137</sup>

Importantly, additional amendments to the PSLRA as a result of the previously mentioned *Bill C-4*, gives the employer the exclusive right to determine whether any service, facility or activity of the Government of Canada is essential; that is, determined to be or will be necessary for the safety or security of the public or a segment of the public.<sup>138</sup> In this highly contested modification to the PSLRA, the federal government now has the exclusive right to determine which positions are to be considered essential

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<sup>136</sup> Department of National Defence, *DND Strike Handbook for Military and Civilian Managers and Supervisors* (Ottawa: DND Canada, 2014), 5.

<sup>137</sup> Treasury Board Secretariat, *Strike Management: Guide for Excluded and Unrepresented Managers*, September (Ottawa: Treasury Board Secretariat of Canada, 2014), 4.

<sup>138</sup> Canada, *Public Service Labour Relations Act*, Part 1, Division 8, Section 119, 32.



for up to 80% of public service positions within a particular bargaining unit.<sup>139</sup> In the past, each position that the government deemed to be essential for public safety was identified in advance, giving the bargaining agent opportunity to make representations if in disagreement. In the event that the parties failed to agree if a position should be deemed essential, the PSLRB made the final decision.

From the union perspective, *Bill C-4* delivered a major blow to fair and transparent collective bargaining. The unilateral ability of government to determine which positions are declared essential has a real potential to be abused. In the past, no bargaining agent in the public service has contested the principle that public safety must not be jeopardized from the bargaining process. Under the revised law, the role of the union in determining which positions are considered essential has been rendered meaningless. Moreover, the ability of government to unilaterally determine the limits of essential services means that the government could all but negate the effects of a strike by declaring more positions essential. These drastic changes to the PSLRA have been perceived by public service unions as an attempt to limit their rights and undermine the power of unions to bargain collectively.<sup>140</sup>

To be clear, military commanders will likely have no input into the politics that shapes national level collective bargaining, nor will they be able to influence whether or not a strike will occur. During a strike, military managers and non-represented civilian managers in DND/CAF are responsible for providing leadership in maintaining

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<sup>139</sup> Canada, *Bill C-4* (2013), Part 3, Division 17, Sections 302 and 305. Last accessed 12 August 2015. <http://www.fin.gc.ca/pub/c4/c4-eng.pdf>.

<sup>140</sup> Public Service Alliance of Canada, "Submission to the House of Commons Finance Committee on Bill C-4, the Economic Action Plan 2013" 26 November 2013, 4-5. [http://psacunion.ca/sites/psac/files/attachments/pdfs/psac\\_submission\\_to\\_fina\\_re\\_bill\\_c-4\\_eng.pdf](http://psacunion.ca/sites/psac/files/attachments/pdfs/psac_submission_to_fina_re_bill_c-4_eng.pdf).

designated essential services and monitoring strike activities as detailed in the local strike plan. Once a strike has been resolved, managers must work quickly to ensure normal operations resume, restore working relationships and ensure that any resentment that may have developed during the strike does not allowed affect the workplace.

Not only do military commanders shoulder the burden of contributing to effective labour relations with their organizations, they must do so while maintaining good order and discipline within their units, both military subordinates and civilian employees included. In the next section, the nuances of military and civilian discipline will be explored to better equip both military commanders and union representatives to collaborate in this highly complex and important area of labour-management relations.

### **Code of Conduct and Discipline**

The CAF possess more potential for destructive power than any other segment of society; and therefore, the requirement for discipline is paramount. In recent years, DND civilian employees have been given increasing responsibilities within the defence team, often working alongside uniformed military personnel on operations. During recent missions in Bosnia and Afghanistan, civilians have been deployed to operational theatres in variety of functions.

There is a legal foundation for which a code of conduct is established and subsequently, discipline is enforced within both the CAF and DND. Fundamentally, the *Canadian Constitution Act, 1867* gives exclusive authority to the Canadian parliament to

make laws relating to matters of the state, including the, “militia, military and naval service and defence.”<sup>141</sup> As such, the *National Defence Act* (NDA) provides for not only the organization, command and control for the CAF, but also provides the legal foundation for the military justice system. Likewise, the *Code of Service Discipline*, a significant component of the NDA, prescribes service offences, provides for courts martial and the summary trial process, as well as, details who can be held accountable under the military justice system. While the *Code of Service Discipline* does allow for rare occasions where a civilian may be tried at court martial, the military justice system at primarily focuses on summary trials and courts martial for officers and non-commissioned members of the CAF.

Commanding Officers (CO) are ultimately responsible for unit level discipline. In 1997, a Special Advisor Group, formed to examine the Canadian military justice system, stated that, “...the CO is at the heart of the entire system of discipline. By statute, regulation, custom and practice of the service, the CO has been given authority...to conduct summary proceeding or recommend the matter for court martial.”<sup>142</sup> Of note, the military justice system does not allow a CO to conduct summary trials for civilian employees. Civilians charged with service offences can only be tried by court martial.<sup>143</sup> From a military justice perspective, the CO is limited in maintaining unit discipline concerning matters of civilian misconduct.

The *Financial Administration Act* (FAA) authorizes every Deputy Minister (DM) within the core public administration to establish standards of conduct and prescribe

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<sup>141</sup> Canada, *Constitution Act, 1867*, s.91(7).

<sup>142</sup> Canada, “Report of the Special Advisory Group on the Military Justice System and Military Police Investigation Services,” March 1997, 9.

<sup>143</sup> NDA ss. 163(1)(a) and 164(1)(a).

penalties for breaches in discipline, misconduct or unsatisfactory performance which have been further delegated in DND.<sup>144</sup> As indicated at Table 3-1, COs have been delegated disciplinary powers via two completely separate and distinct processes to maintain discipline within their units, the military justice system as derived from the *NDA* and Code of Civilian Conduct and Discipline, derived from the *FAA*. In essence, the powers afforded by the *FAA*, although administrative in nature, would seem to parallel the military justice system with respect to maintaining discipline. Nevertheless, there are several major differences which must be considered.

Table 3-1: Punishments Available to a Commanding Officer

Military Personnel (Sgt and below)		Civilian employees	
Authorized Punishment	Maximum Amount	Authorized Punishment	Max Amount
Detention	30 days		
Reduction in rank	One substantive rank		
Reprimand	N/A		
Fine	60% of monthly pay	Financial penalty (fine)	20 days
Confinement to ship or barracks	21 days	Suspension without pay	20 days
Extra work and Drill	14 days		
Stoppage of Leave	30 days		
Caution	N/A	Written Reprimand	N/A

Source: QR&O 108.24

Source: DND, "Instrument of Delegation of Labour Relations, Compensation and Benefit Authorities," 2007.

At summary trial, there are four generally accepted goals guiding the use of punishment: general deterrence, specific deterrence, rehabilitation and retribution.<sup>145</sup>

<sup>144</sup> Canada, *Financial Administration Act* 12(1). See also; Department of National Defence. DAOD 5016-0, Standards of Civilian Conduct and Discipline.

<sup>145</sup> Department of National Defence, B-GG-005-027/AF-011, "Military Justice at the Summary Trial Level," (Ottawa: DND Canada, February 2006), 14-1.

While specific deterrence and rehabilitation focus purely on the offender, general deterrence and retribution goals aim at ensuing discipline within the entire unit, setting standards of conduct and limitations of what will be excepted.<sup>146</sup> Unlike summary trials and courts martial, civilian disciplinary matters are treated confidentially, with only a few members in the chain of command aware of any details regarding civilian discipline. In this regard, civilian discipline does not offer a general deterrence effect within the unit like military discipline which aims to prevent other members from repeating the same behaviour.

On the other hand, the nature of civilian discipline, "...is to be corrective, rather than punitive, and its purpose is to motivate employees to accept those rules and standards of conduct that are desirable or necessary to achieve the organization's goals and objectives."<sup>147</sup> In this regard, civilian discipline resembles more closely the administrative, remedial measures process for military personnel where shortcomings are identified and appropriate levels of counselling are made available to help the member correct the fault.<sup>148</sup> Typically, a probationary period is put in effect during which time the military member is closely monitored by the chain of command, giving opportunity to correct the performance or conduct deficiency. Similarly, civilian discipline remains on the employee's file for only two years. In this regard, military remedial measures, just

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<sup>146</sup> *General deterrence* is based on the concept that legal sanction against an offender will discourage potential offenders. General deterrence is often given a particular weight when there is a prevalence of a specific offence within a community. *Specific deterrence* has the goal of dissuading the offender from re-offending. *Rehabilitation* is emphasized in relation to an offender who has demonstrated a reasonable probability that he can become law abiding member of society. *Retribution* will be highlighted to demonstrate society's aversion towards morally reprehensible conduct. Retribution is linked to denunciation as a sentencing objective. For more information see: Department of National Defence, B-GG-005-027/AF-011, "Military Justice at the Summary Trial Level," Ottawa, February, 2006, 14-1.

<sup>147</sup> Canada. Treasury Board Secretariat. *Guidelines for Civilian Discipline*. Last accessed 17 May 2015. <http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=22370&section=HTML>

<sup>148</sup> Department of National Defence. DAOD 5019-4, Remedial Measures.

like civilian discipline, are not considered punitive, but are intended to be corrective in nature.

Another significant difference, military commanders receive specific legal training in order to preside at summary trials; but often they receive no formal training in the conduct of civilian disciplinary proceedings. In many cases, civilian disciplinary processes are conducted simply as another administrative process. As a result, there is much more potential for procedural error during civilian disciplinary matters. Moreover, military commanders may hesitate to take disciplinary action due to a lack of confidence in their knowledge of civilian disciplinary procedures. This could result in a perceived double standard within the unit in the application of discipline for military and civilian employees, further straining labour relations and morale.

Another difference is that the powers of punishment afforded a CO over civilian employees are significantly less than that for military subordinates. The ability to sentence an offender to detention or the reduction in rank are significant forms of punishment. For civilian matters, the CO is limited to a fine approximately equivalent to an amount for military offenders, as reflected in Table 3-1. If an alleged offence is deemed severe enough, the CO may refer the civilian matter to higher levels where demotion and even termination of employment are possible, which presently requires DM authority. In a way, this could be viewed as analogous to referring a military case for court martial, where the appropriate powers of punishment exceeds the CO's authority.

As a point of interest, a reprimand is considered a higher level punishment for military discipline; however, a written reprimand is considered the most minor punishment for civilian employees as detailed at Table 3-1 above. For military members,

a reprimand almost certainly prohibits promotion, selection for various career opportunities and remains on file indefinitely. For civilians, a reprimand has no monetary impact and is removed from the employee file after two years if there is no reoccurrence.

Finally, civilian employees have the right to submit a grievance, up to and including the final authority, as detailed under the PSLRA, which could even include third-party adjudication.<sup>149</sup> At summary trial, military members may request a review authority to set aside a finding of guilt based that it is unjust or may request to alter any punishment that is deemed unjust or too severe.<sup>150</sup> However, the military member has no right to submit a grievance against any military tribunal proceeding or results.<sup>151</sup>

In summary, the administrative nature of civilian discipline, while less structured when compared to military summary trials, allows for a more robust grievance process and options for external review and ultimate adjudicative resolution. The CO, responsible for maintaining unit discipline, has been delegated far less authority to enforce discipline over civilian employees than for military personnel and does not usually receive sufficient training to be proficient in the application of civilian discipline.

## **Performance Management in DND**

The concept of performance management was first proposed as a means for private enterprise to develop strategies to improve individual employee performance with a view to increasing overall corporate performance. Fundamentally, performance management theory (Beer, et al., 1978) aims to establish and link together organizational

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<sup>149</sup> Canada, *Public Service Labour Relations Act*, Part 2, Section 209, 70-71.

<sup>150</sup> QR&O 108.45(1).

<sup>151</sup> QR&O 19.26(5.1).

strategic planning, individual performance measurement and quality assurance while encouraging employees to aim towards a gradual increase in organizational performance.<sup>152</sup> A recent Public Service Employee Survey (2011) noted that supervisors did not respond positively towards having effective mechanisms in place to deal with poor performance by their employees.<sup>153</sup>

In today's federal public service, performance management is a concept within the Management Accountability Framework (MAF), which is a tool of oversight for the Treasury Board of Canada Secretariat (TBS) to ensure that federal departments and agencies are well managed. In essence, performance management aims to clearly communicate organizational objectives, set clear and achievable work objectives, conduct performance evaluations and identify employee development opportunities as appropriate.<sup>154</sup> On 28 May 2013, Treasury Board issued the *Performance Management Directive* requiring mandatory performance management activities for all employees in the core public administration with a view towards:

...sustaining a culture of high performance in the public service...[where] employees are productive, provide excellent service to Canadians and demonstrate the required knowledge, skills, behaviours, competencies and engagement to perform their duties...[and] cases of unsatisfactory performance are addressed expeditiously within organizations.<sup>155</sup>

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<sup>152</sup> Michael Beer, Robert Ruh, Jack A. Dawson, B.B. McCaa, and Michael J. Kavanagh, "A Performance Management System: Research, Design, Introduction and Evaluation." *Personnel Psychology* 31, no. 3 (September 1978), 505-535.

<sup>153</sup> Treasury Board of Canada Secretariat, *2011-12 Human Resources Management Annual Report to Parliament* (Ottawa: Treasury Board of Canada, 2012), 6.

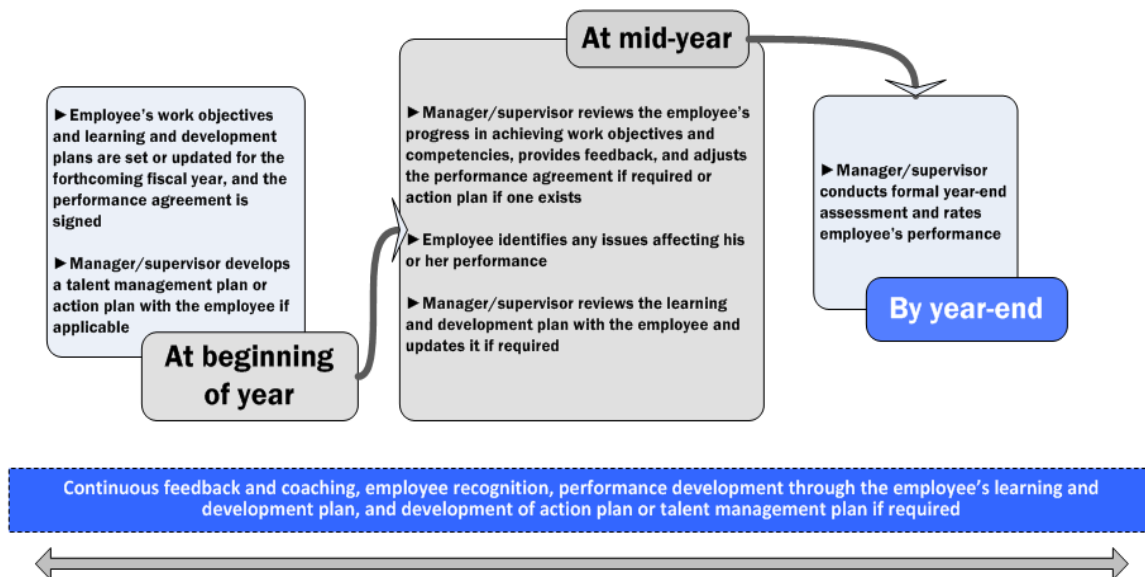
<sup>154</sup> *Ibid.*, 5.

<sup>155</sup> Treasury Board Secretariat. *Directive on Performance Management*. Last accessed 18 May 2015. <http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=27146&section=HTML>.



As depicted at Figure 3-3, performance management is designed to be an annual cycle where the supervisor and the employee establish work objectives, while integrating personal learning plans (PLP), action plans and talent management plans, as appropriate.

Figure 3-3: Performance Management Annual Cycle



Source: Treasury Board of Canada Secretariat website, last accessed 25 May 15.  
<http://www.tbs-sct.gc.ca/pmc-dgr/index-eng.asp>.

Fundamental to performance management is the establishment of work objectives that are in line with overall unit objectives and the employee's role with the hierarchy. Moreover, when employee performance is evaluated below the determined standard, an action plan is developed, in concert between the supervisor and employee, to make necessary adjustments. Furthermore, employees that consistently exceed expectations and are assessed as having potential for greater responsibilities may be offered a talent management plan to foster the employee's progression and retention within the

organization. Finally, employee learning plans are developed to ensure that employee has all the required skillsets to meet their challenges. This performance management annual cycle is codified within the performance agreement signed by employees, their supervisors and managers.

A significant change with this performance management framework involves the introduction of action plans to address performance deficiencies. Whenever a significant performance deficiency arises, managers and supervisors work with the employee to develop a specific action plan designed to provide specific guidance to correct the problem. If the employee's performance does not improve as a result, consequences may include possible sanction such as withholding their next scheduled pay increment, demotion or even termination.<sup>156</sup> Amongst the points raised by unions against the governments approach to performance management, the Professional Institute of the Public Service of Canada (PIPSC) commented that, "...the directive contemplates the withholding of a pay increment as an appropriate response to poor performance. This contravenes our collective agreements."<sup>157</sup> Human Resource staff should be consulted to provide advice and guidance about available options. Employees dissatisfied after having received such an action plan may submit a labour relations grievance in accordance with the process previously discussed.

Conversely, under this performance management framework, superior performers that demonstrate potential to attain higher levels within the organization may be offered a

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<sup>156</sup> Department of National Defence, DAOD 5006-1, Performance Management Program for DND Employees.

<sup>157</sup> Professional Institute of the Public Service of Canada (PIPSC), "Managing Performance Management", PIPSC, 4 February, 2014. Last accessed 28 July, 2015.  
[http://www.pipsc.ca/portal/page/portal/website/issues/performance\\_management/F19BF1A232606D37E04400144FEEFF10](http://www.pipsc.ca/portal/page/portal/website/issues/performance_management/F19BF1A232606D37E04400144FEEFF10).

talent management plan. This selective approach acknowledges potential and fosters retention of the very best employees within the organization by offering opportunities for professional development. Myrna Hellerman and Jim Kochanski (2012) differentiate this selective approach from the previous expansive approach in DND, where virtually every employee receives equal training and development opportunities. They note that, "...the expansive approach does not support an organization's overall performance. It discourages and disengages high performers...eventually creating an entitlement culture that drives away the best performers."<sup>158</sup> DND's newly implemented talent management program, still in its infancy, will allow managers and supervisors to focus attention on developing a new cadre of skilled leaders that are committed to the organization with grass roots experience within the department as they rise up the ranks.

Talent management is not without its critics, claiming that, "differentiation results in favoritism and creates a difficult to penetrate group."<sup>159</sup> From an equality of opportunity perspective, it is critical that managers and supervisors provide fair and honest evaluations of their employees, recognizing good performance without bias or prejudice. Naturally, any perceived favoritism or unfairness will have a negative effect on unit morale and the labour relations climate, likely increasing the number of grievances submitted. Moreover, disenfranchised employees with valuable skillsets could leave the organization seeking recognition elsewhere.

The labour relations climate will play a critical role in how performance agreements are received by unions and their members. Jie-Sin Lin and Po-Yu Lee (2011) comment that as a result of the, "complex internal and external environments of

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<sup>158</sup> Myrna Hellerman and Jim Keochanski, "How to Keep Your High Performance Talent," *Workspan Magazine* (May 2012), 56.

<sup>159</sup> *Ibid.*, 58.

organizations...pluralistic actor opinions cause conflicts due to the different interests from participants during the promotion of performance management in public organizations.”<sup>160</sup> Within DND, the best approach includes an active and direct engagement strategy with both union representatives and employees. Even though the performance management model has been directed by the highest levels of government, the previously discussed consultation framework remains a critical model for local level labour relations. Consultation with union representatives and employee direct engagement strategies should be developed by commanders at all levels to address the mechanisms by which performance management will be adopted, transparency and perceived fairness being fundamental.

## **RECOMMENDATIONS AND CONCLUSION**

The Canadian Defence Team is a diverse, complex and highly integrated organization, comprised of both military and civilian personnel, responsible to protect Canada and Canadian interests around the world. This paper has demonstrated that labour relations in DND/CAF is a particularly complex phenomenon, as military and civilian components have very profound differences, having been derived from completely different governing legal frameworks. Moreover, the federal public service and the Canadian Armed Forces each espouse distinct professional cultures among their members.

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<sup>160</sup> Jie-Shin Lin and Po-Yu Lee, “Performance Management in Public Organizations: A Complexity Perspective,” *International Public Management Review* 12, no. 2 (2011), 94.

Despite these differences, the fundamental thesis of this paper remains. Canadian military officers do possess the fundamental leadership and management skillsets necessary to lead civilian employees alongside their military subordinates. At its foundation, military leadership is cemented within solid principles, such as, "...treat subordinates fairly, respond to their concerns and represent their interests."<sup>161</sup> In fact, this should be considered both an axiom and common ground for military leaders and elected union representatives, alike in their quest for the fair and equitable treatment of those they lead and represent. In principle, both military leaders and union representatives should naturally find that the fair and equitable treatment of employees is a shared objective from which to build a cooperative working relationship.

However, there are several areas for improvement that have been identified throughout this paper. In fact, there are many aspects from both the military and civilian components of DND/CAF which can be leveraged to unite and further integrate these two great divides. With a view to improving the overall labour relations climate within DND/CAF, there are several recommendations that should be considered. Firstly, all CAF officers should receive comprehensive training in civilian personnel management, including labour relations, as part of their core professional competency. Just as the leadership and management of military subordinates has been inculcated within Canadian military officer professional development, management of civilian personnel should be equally developed. A *just-in-time* approach to training will not be sufficient. In order for CAF officers to be prepared for success at each developmental period, they must develop

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<sup>161</sup> Department of National Defence, A-PA-005-000/AP-003, *Leadership in the Canadian Forces: Doctrine*, Kingston: Canadian Forces Leadership Institute, 2005, 32

the skillsets required to effectively manage the civilian personnel for which they will be responsible.

While the conduct of military operations is the fundamental *raison d'être* of the CAF, leading all members within a fully integrated Defence Team while off the battlefield is also the realm of military officers. The Canadian military officer professional development must be redefined to include the requisite management principles while in garrison, including a variety of human resource issues such as staffing, compensation and benefits, the grievance process, disciplinary procedures, amongst others. In order to ensure standardized training for all officers in the army, navy and air force, introductory training in leading civilian employees should be included during basic officer training, with intermediate and advanced topics introduced at other common career points, such as during Joint Command and Staff Program (JCSP) and again at the formation commander / executive level.

Furthermore, the Canadian military officer professional development system should include employment opportunities that provide junior and senior officers valuable experience at appropriate levels, providing a critical foundation for future responsibilities at higher levels of management. Postings at the junior officer, senior officer and general/flag officer should each include opportunities for civilian personnel management experience; however, must at the same time be considerate of the instability that frequent rotations create for civilian employees that see military supervisors come and go frequently. This delicate balance of affording important managerial development for military officers while simultaneously ensuring organizational stability for employees can be achieved and will contribute significantly towards highly effective labour relations.

These proposed additions to CAF officer professional development will contribute greatly to developing military officers that possess multi-disciplinary, cross-functional expertise that is highly valuable in the contemporary, whole-of-government approach to operations. As noted by André Fillion, "...an army officer who brings only war-fighting expertise to an operation at the strategic or operational level is of limited value to the team in the new security context."<sup>162</sup> However, if that same army officer has participated in a full range of deployed operations, from humanitarian assistance through peacekeeping up to and including warfighting; as well, has experience collaborating with Other Government Departments (OGD), Non-Government Organisations (NGOs) and also managed civilian employees within the Defence Team concept, that officer would be a significant asset.

From an efficiency perspective, current training programs available to the DND/CAF should be exploited wherever practical. For example, the previously discussed Joint Learning Program provides valuable training for unionized public servants and their managers in the federal government in order to promote, "...improve workplace relationships and deepen understanding of the respective roles and responsibilities of the union and the employer in the workplace."<sup>163</sup> At present, the Joint Learning Program is composed of seven different workshops designed to further enhance the labour relations climate. These workshops include subjects that are of critical importance for CAF officers in managerial roles, namely: creating a harassment-free workplace, duty to

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<sup>162</sup> André Fillion, "The Integration of Defence Civilians with the Defence Team: How Far Can We Go?" (Paper presented to the Canadian Forces College, NSSP 9, June 2007), 24-25.

<sup>163</sup> Treasury Board / Public Service Alliance of Canada. *Joint Learning Program*. (Website accessed 6 June, 2015). <http://www.jlp-pam.ca/home-accueil-eng>

accommodate, employment equity, labour-management consultation, mental health in the workplace, anti-discrimination and understanding collective agreements.

As demonstrated earlier in this paper, leading civilians involves more than simply giving orders. Negotiation, as an extension of the collective bargaining process, remains an integral part of the civilian personnel management framework. Since collective agreements are negotiated between Treasury Board and national level bargaining agents, military leaders and local level union representatives need only collaborate to apply these agreements appropriately within the confines and spirit of government regulations. Any local disputes concerning the interpretation or application of the collective agreement, or any other law or directive for that matter, should be negotiated using an Interest-based approach, avoiding positional arguments which are often fuelled by emotion.

As such, military officers and union representatives must be equipped with the skills needed to successfully negotiate effective resolutions to disagreements and avoid positional arguments that frequently result in conflict. When conflicts do arise, effective intervention is key. As such, leaders, both military and union, would benefit tremendously from the Conflict and Effective Leadership Intervention (CELI) training that is given at regional Conflict Resolution Centres within DND. As highlighted previously in Figure 3-2, the long term objectives of effective conflict resolution include increased cooperation, commitment, trust, loyalty and ultimately, increased organizational performance.

An improved labour relations climate cannot be realized only by changes to the military side of the Defence Team; it takes two to tango. Union representatives at the local, regional and national levels, in fact all civilian employees in the department, must



embrace their roles towards the attainment of national defence objectives. To achieve this, civilian employees should be given increased opportunities to learn about the entire department in order to understand and appreciate the significance of their individual contribution to the entire Defence Team. This conceptual *buy-in* by employees as national defence professionals can be fostered over time, but only through encouragement and opportunities afforded by the chain of command.

Most importantly, leaders at all levels, both military and civilian, must seek out opportunities to promote a shared organizational cultural, entrenched in shared values, ethics and professional identity. Referring to the Defence Team Survey (2013), Irina Goldenberg, et al (2015) point out that, "...research suggests that National Defence should focus on simultaneously promoting a unified super-ordinate identity; the Defence Team, while also promoting distinct subgroup identities."<sup>164</sup> This does not mean that the subcultures of the RCN, CA, RCAF and a joint CAF need be diminished. On the contrary, the Defence Team will be stronger through diversity.

From an institutional perspective, CAF military culture must be considered as a subculture within a larger, integrated Defence Team. In the end, fostering a shared Defence Team identity, serving Canada and Canadian interests at home and abroad, will go far towards bridging gaps and breaching obstacles in today's labour relations climate. In 1968, MND Paul Hellyer united the army, navy and air force with total disregard to the impacts of organizational culture. Ironically, it is only through embracing and promoting a shared organizational culture will a truly unified Defence Team be achieved.

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<sup>164</sup> Goldenberg, Irina, Dean, Waylon H. and Adams, Barbara D. "Social Identity and the Defence Team." in *The Defence Team: Military and Civilian Partnership in the Canadian Armed Forces and the Department of National Defence* (Kingston: Canadian Defence Academy Press, 2015), 190.

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