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Reliance on Normative Behaviour of the Canadian Army Reserve to Address Institutional Requirements

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Address Institutional Requirements**

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RELIANCE ON NORMATIVE BEHAVIOUR OF THE CANADIAN ARMY RESERVE TO ADDRESS INSTITUTIONAL REQUIREMENTS

INTRODUCTION

The Regular Force component of the Canadian Army (CA) has over 8000 personnel vacancies and continues to shrink by an average of 600 soldiers a year¹. Considering recruitment and training system capacity issues, largely impacted by the phenomenon referred to as the “missing middle” which affects the drastically understrength middle ranks of the CA, reconstitution is estimated to take a minimum of 10 years². When considered in light of a tenuous global security situation, largely based on Russia’s invasion of Ukraine in February 2022, there are clear indicators of need for continued and potentially, increased Reserve Force contributions in the forms of both institutional and operational support. Historically, the CA Reserve has proven itself time and again that it can be depended upon to answer the call, whether it be in support of domestic operations such as the Quebec Ice Storm in 1998 or expeditionary missions such as the war in Afghanistan, where at times upwards of 20 percent of the total CAF contribution was fulfilled by Reservists³. Unless obligated to deploy through an Order in Council by invoking Section 31 of the National Defence Act, which hasn’t occurred since World War II, members of the Reserve must consent to serve on operations, often putting their livelihood or education on hold to do so⁴. Given that individual right, the question of how the

¹ National Defence. “Canadian Army Warning Order on Reconstitution”. Commander Canadian Army, Ottawa, On. 14 December 2021. p. 3-5.

² National Defence. “Canadian Army Warning Order on Reconstitution”... p. 3-5; Missing Middle – Refers to the understaffed ranks of the CA, in particular those in the middle ranks from Master Corporal to Warrant Officer (averaging 60% at strength) and Captains (73% at strength).

³ Rob Roy MacKenzie and Howard G Coombs. "Canadian Armed Forces: A New Vision for the Reserves". The Canadian Military Journal, Volume 20, No. 3, Summer 2020.

⁴ Canada. "National Defence Act". Revised Statutes of Canada. 1985, last edited 22 Mar 2022. Section 31, p. 27; Canada. “Employment Protection”. Last modified 12 September 2019. Reserve Service Tab. <https://www.canada.ca/en/department-national-defence/services/benefits-military/supporting-reservists-employers/job-protection-legislation.html>

Reserve Force continues to answer the bell in the name of operational support remains. Are regulatory protections in place to facilitate Reserve force generation sufficient? Are the institutional expectations for Reserve force generation realistic? Do the regulatory protections in place work in concert with the expectations placed on Reservists in order to enable the achievement of institutional objectives? Using Scott's pillars of institutional analysis, this paper will seek to argue that despite the existence of employment protection legislation at both Federal and Provincial levels, there remains a disconnect between the regulatory framework that enables Reserve service on operations and training and the cognitive expectations placed on the CA Reserve which in turn results in a reliance on the personal norms and values of Reserve members to fulfill institutional requirements.

SCOTT'S PILLARS FOR INSTITUTIONAL ANALYSIS

Scott's Pillars are a sociological approach to Institutional Analysis which focuses on three pillars of legitimacy for an institution⁵. The first pillar, the Regulative, is equivalent to the rules and regulations within an institution that can be invoked for justifying decisions. The second, the Cognitive Pillar, addresses the common thought patterns and world views within an institution. The Normative Pillar, "is based on the norms and values found within an institution that prescribe behaviour in order to maintain social cohesion and order"⁶. In addressing the Regulative Pillar, this paper will review the extant legislation which enables the commitment of CAF elements on operations as well as the employment protection legislation intended to support Reserve members when volunteering for service. Canada's Defence Policy, specifically the revamped "Vision for the Reserves" and the associated Strong Secure Engaged (SSE) Initiatives

⁵ Devin Conley and Eric Ouellet. "The Canadian Forces and Military Transformation an Elusive Quest for Efficiency". The Canadian Army Journal. 14, no. 1 (Spring 2012). p. 74-75.

⁶ Conley and Ouellet. "The Canadian Forces and Military Transformation an Elusive Quest for Efficiency"... p. 75.

75 and 77 will be reviewed in order to demonstrate the disconnect that exists between the Regulatory protections for members and the Governmental and Institutional expectations placed on Reservists⁷. The Normative Pillar will be addressed through deductive reasoning based on demonstrated success of the Reserve Force, despite the disconnect that exists.

The Regulative Pillar

The regulatory framework that enables reserve force participation on operations spans National and Provincial legislation, policy and institutional orders and directives. First in the order of precedence is the National Defence Act, which under Section 31 empowers the Governor in Council in the event of a national emergency for the defence of Canada to place “the Canadian Forces or any component, unit or other element thereof on active service”⁸. These powers also extend to events “undertaken by Canada under the United Nations Charter ...North Atlantic Treaty, the North American Aerospace Defence Command Agreement or similar instrument to which Canada is party”⁹. The scope of this legislation ensures that Canada is able to activate any serving member for operations should the need arise but its use is reserved for in-extremis cases. For example, during the 13 years of conflict in Afghanistan, where thousands of Canadian Reservists contributed to the mission, Section 31 of the NDA was not invoked for the purposes of compelling reservists to serve on operations¹⁰. In fact, Reservists have not been compelled to do so since the Second World War¹¹. In its stead, Reservists were relied upon to

⁷ Canada. “Department of National Defence. Strong, Secure, Engaged: Canada's Defence Policy”. Ottawa: Department of National Defence, 2017. P. 67-68.

⁸ Canada. “National Defence Act”...p. 27

⁹ Canada. “National Defence Act”...p. 27-28

¹⁰ Assessment of “thousands” of Reservists is a figure based on deductive reasoning given more than 40,000 total CAF members deployed and a peak reserve contribution rate of 20 percent. Assuming as little as 3 percent of the total CAF contribution were Reservists would see 1200 deploy.

¹¹ Canada. “Employment Protection”. Last modified 12 September 2019. Reserve Service Tab. <https://www.canada.ca/en/department-national-defence/services/benefits-military/supporting-reservists-employers/job-protection-legislation.html>

volunteer for active service to which they dutifully complied. It stands to reason that unless Canada is facing some form of global conflict where the nation is directly threatened, that Section 31 of the NDA will remain a “break glass in case of emergency” option and that reservists will continue to be relied upon to volunteer to fill operational requirements. In doing so, Reservists commit to putting their lives on hold while serving their country. It wasn’t until 2012 that employment protection legislations existed for each Province and Territory. This meant that until that time, volunteering for service often came at significant risk to their livelihood due to the lack of adequate employment protection. Yet, Reservists continued to volunteer despite the lack of regulatory protections. Even now, the degree of employment protection available to Reservists varies based on the province or territory the member is employed¹². All Provincial and Territorial employment protection legislation follows a format similar to the Federal legislation ensuring each article covers much of the same basic information; definition of service; statement on entitlement to leave and written notification requirements to employer. In general, as of 2012, all Reserve members who reside within Canada can expect employment protection should they volunteer for operations, provided they have been in the employ of their civilian employer for the stipulated period of service, the length of which varies between each region. For example, military members employed in federally regulated civilian agencies need only be employed for 3 months prior to being entitled to military employment protection, but Reservists subject to Provincially regulated employment in Quebec must be employed with their civilian employer not less than 12 months before being entitled to

¹² Canada. “Employment Protection”. Last modified 12 September 2019. <https://www.canada.ca/en/department-national-defence/services/benefits-military/supporting-reservists-employers/job-protection-legislation.html>

military employment protection¹³. Regarding length of permitted absence in the event of an expeditionary operational deployment, each Province/Territory provides time for designated pre-deployment and post-deployment activities as well as flexibility to allow for scalable deployment time, should the need arise to extend tour lengths. For most Provinces the designated leave period is left undefined, but tied to a stipulation indicating the length of absence must be “required by the Canadian Forces” vice designated by the members themselves. Quebec is the lone exception where the length of employee absence is not to exceed 18 months¹⁴. Regardless, the regulatory framework is sufficient to support Reserve participation on operations whether it be compulsory, affected through an Order in Council, or voluntary in nature. Service however constitutes more than just operations. It also includes training as well and the largest discrepancy between Provincial/Territorial employment protection legislation is not tied to leave accessed for the purposes of operational deployments but instead the leave entitlements for annual and individual training members must undertake in order to remain an effective member of the force generation base. Reservists, like any Regular Force member must participate in annual training in order to remain on effective strength¹⁵. They must also periodically throughout their career achieve individual training milestones necessary for progression in rank and trade. The provinces of Newfoundland and Labrador, Ontario and British Columbia, all fail to recognize the

¹³ Canada. "Canada Labour Code". Revised Statutes of Canada. 1985, last amended, 29 December 2021. Section 247.5; Quebec. "An Act Respecting Labour Standards". Quebec Official Publisher. Updated to 1 November 2021. Section 81.17.1(1).

¹⁴ Quebec. "An Act Respecting Labour Standards". Quebec Official Publisher. Updated to 1 November 2021. Section 81.17.1(1)

¹⁵ Chief Military Personnel Instruction. “Administrative Policy Of Class "A", Class "B" And Class "C" Reserve Service”. CF Mil Pers Instr 20/04. Last amended 22 July 2009; Res F member shall be declared [Non-Effective Strength] when their unauthorized absence from duty has exceeded 30 days, during which time no fewer than three duty periods were conducted by the unit. A period during which a member has been declared NES does not count toward qualifying service for promotion, incentive pay, Canadian Forces' Decoration or clasp...”.

need for employment protection for Reserve members to attending annual training¹⁶. Quebec, provides protection for up to 15 days, 20 days for Alberta, and New Brunswick allows for up to 30 consecutive days¹⁷. The remainder, provide for an undefined entitlement to Reserve employment protection to which members who are knowledgeable of their entitlements can access this leave¹⁸.

The regulatory framework which exists in support of CAF operational force generation indicates that while the Governor in Council has the power and authority to activate any element for service, precedent has demonstrated that barring a direct threat to Canada, the government in power are unlikely to request the Governor General to invoke Section 31 of the NDA in favour of reliance on Reserve augmentation to operations through voluntary service. Given the universal implementation of employment protection legislation at Federal and Provincial levels as of 2012, Reservists undertake far less risk to their employment when volunteering for operational deployments to named missions than they once did but the lack of similarly universal protections that allow Reservists to attend annual training and individual coursing detrimentally impacts Reservist ability to attend training which in turn comes at the cost of institutional preparedness. This disparity in regulation demonstrates a lack of understanding of what the institution demands of members. They enable Reserve participation on operations but not the associated training that

¹⁶ Newfoundland and Labrador. "Labour and Standards Act", Queen's Printer, St. John's, Newfoundland and Labrador, RSNL 1990. Last amended 2020; Ontario. "Employment Standards Act". 2000, current to 1 January 2022.; British Columbia. "Employment Standards Act". Queen's Printer, Victoria British Columbia. Act Current to 30 March 2022.

¹⁷ Quebec. "An Act Respecting Labour Standards". Quebec Official Publisher. Updated to 1 November 2021. Section 81.17.1(3); Alberta. "Employment Standards Code". Revised Statutes of Alberta 2000, Chapter F-9. Current as of December 2, 2021. Section 53.2(1)(c); New Brunswick. "Employment Standards Act". S.N.B. 1982, last amendment 2019. Section 44.031(4)

¹⁸ Saskatchewan. "The Saskatchewan Employment Act". Current as of 30 November 2021. Section 39.2-53(2); Manitoba. "The Employment Standards Code". Last amended 26 February 2022. Section 59.5(2)(c); Nova Scotia. "Labour Standards Code". Chapter 246 of the Revised Statutes, 1989. Last amended 2020. Section 60H(1)(b)(ii); Prince Edward Island. "Employment Standards Act". Legislative Counsel Office. Last amended 17 November 2021. Section 23.1(1)(b) and 23.1(2)(c)

allows them to maintain currency in perishable skills intended to be used on operations nor the opportunity to attend training which supports career progression, and could eventually alleviate pressures presented by the phenomena known as the missing middle. In the next section, the cognitive framework that is at odds with the established regulations will be examined.

The Cognitive Pillar

Canada's Defence Policy "envision[s] a transition towards a highly-integrated CAF – a Total Force"¹⁹. In order to realise this Total Force, SSE also outlines a new vision for the Reserve Force Building on 2015 direction to the CA to implement a program intended to "Strengthen the Army Reserve" (StAR)²⁰. In doing so, SSE envisioned a Primary Reserve that goes beyond the recent precedent of individual augmentation to deployed operations. Expanding the expectations placed on Reservists imparted through StAR, SSE initiative 77 seeks to "Employ the Reserve Force to deliver select expeditionary missions in a primary role such as Canadian Armed Forces capacity building"²¹. While this is a departure from historical norms, in this instance the regulative framework required to enable CA Reserve deployment on operations, regardless of what element is in the lead, exists. If appropriately planned, resourced and supported by the force employer, this initiative could present an option to alleviate a portion of the force generation demands currently placed on a Regular Force which is focused on reconstitution. However, the new vision for the Reserves does not stop at SSE Initiative 77. The policy also seeks a Reserve Force which can "provid[e] full-time capability through part-time service"²². This is in part to be achieved through SSE Initiative 75, which aims at assigning new

¹⁹ Rob Roy MacKenzie and Howard G Coombs. "Canadian Armed Forces: A New Vision for the Reserves". The Canadian Military Journal, Volume 20, No. 3, Summer 2020;

²⁰ Canada. "Strengthening the Army Reserve". Last modified 2 April 2019.

<https://www.canada.ca/en/army/corporate/reserve/star.html>

²¹ Canada. "Department of National Defence. Strong, Secure, Engaged: Canada's Defence Policy"...p. 69

²² Canada. "Department of National Defence. Strong, Secure, Engaged: Canada's Defence Policy"...p. 67

roles to the Reserve Force which are not present within Regular Force units. The roles include humanitarian assistance capabilities such as Light Urban Search and Rescue (LUSAR) as well as unique combat enablers such as Pioneers, Mortars and Direct Fire Support Platoons²³. The result is a CA Reserve that is being asked to develop unique capabilities which, when at full operating capability, will be expected to harmoniously integrate into the Regular Force as a part of the Total Force. This translates to reserve units eventually providing a “24/7 defined readiness capability”²⁴. To realise the assigned mission tasks, the associated units require significantly more individual training in order to develop the designated competencies in addition to generic corps competencies already demanded by their trades. For example, when the Calgary Highlanders and Loyal Edmonton Regiment were tasked in 2018 to establish a Mortar Platoon and subsequently ensure they were prepared to deploy to Latvia as part of Operation REASSURANCE in 2020, they were forced to build the capability from ground zero²⁵. Without considering replacements, to meet the individual training demand for deployment, they needed a minimum of 50 soldiers trained on the weapon system (2 weeks), 12 soldiers qualified on the intermediate mortar course (5 weeks) and six of those twelve to progress on to the advanced course (8 weeks)²⁶. When considering the need of for a replacement pool, significantly more than the 50 personnel who eventually deployed needed to be qualified as well. In fact, the force generation ratio identified to support mission tasks requires seven personnel to hold the requisite specialist competencies to one person who occupies a position within a designated mission task

²³ Canada. “Department of National Defence. Strong, Secure, Engaged: Canada's Defence Policy”...p. 68

²⁴ Canada. “Department of National Defence. Strong, Secure, Engaged: Canada's Defence Policy”...p. 68

²⁵ Allan Joyner. “Making a mortar platoon from scratch”. Canadian Army Today, 21 April 2020.

²⁶ Canadian Army. “Training Plan – Artillery Mortar Detachment Member” last modified 13 January 2022; Canadian Army. “Training Plan – Infantry Intermediate Mortar”. Last modified 4 November 2020; Canadian Army. “Training Plan – Infantry Advanced Mortar”, last modified 13 July 2021.

platoon²⁷. As stated, the individual training demand is significant and does not account for dedicated collective training with Regular Force units in order to ensure the assigned mission tasks can be successfully integrated into the unit which will ultimately be responsible to employ said capabilities.

The Mortar Platoon deployment on Operation REASSURANCE was a unique occurrence, a proof of concept perhaps but has not been replicated since. Once fully realised though, the existence of unique combat enablers within the Reserve Force, could raise the question of Reserve contribution to high readiness training cycles and potentially, assignment of a role in the Canadian Army Managed Readiness Plan in support of contingency operations. Though unlikely to be realized given present employment protection legislation, the topic of Reserve contribution to “Build Phase” Enhanced Warfighting Proficiency (eWP) training has been discussed at formal CA governance activities²⁸. The CA staff explanation regarding why this is not achievable at this time was attributed to the lack of employment protection legislation for CA Reservists to attend training, as the Build Phase is designed as an elevated training progression for contingency, vice named operations²⁹. While the extant employment protections are sufficient to support members deploying on named operations, most applicable legislation includes a qualifier that operations must have already been designated by the CDS prior to a Reservist seeking a leave of absence. This in effect precludes Reservists accessing employment protection in support of contingency

²⁷ Canadian Army. “Fragmentation Order 002 – Mission Tasks Tranche 2 to Canadian Army Op Order 27 June 2017 – Strengthening the Army Reserve”. Ottawa, Ontario. 25 May 2019. p. 9.

²⁸ Build Phase refers to the first phase of the Canadian Army Managed Readiness Plan in which the designated Division undergoes training dubbed enhanced Warfighting Proficiency (eWP) training intended to ensure the designated elements are prepared for assignment to contingency operations over the following 12 months should the need arise; The specific governance activity referred to was the CA Combined Army Conference conducted on 23 February 2022. The meeting, chaired by COS Army Ops and attended by Division G3’s is used to discuss divisional outputs in accordance with the Managed Readiness Plan.

²⁹ Explanation provided by Lieutenant Colonel Malcom Day, a senior Director General Army Reserve staff member in attendance at the Combined Army Conference, 23 February 2022.

operations and their associated preparatory training cycles. Complicating matters, in the unlikely event a Reservist was able to access employment protection for the purposes of participating in Build Phase training activities, several provinces also have limitations on accessing employment protection a subsequent time without respecting a designated waiting period. For example, New Brunswick requires a period of “at least 12 months [to] have elapsed since the date the employee returned to work”, which would effectively preclude the member from participating in a contingency operation after attending the associated eWP training which occurs in the months immediately preceding the commencement of the Contingency Phase of the Managed Readiness Plan³⁰.

Normative Behaviour, Bridging the Gap

The regulatory framework designed to enable Reserve service and the expectations which are placed on the CA Reserve given the intent to integrate fully into the “Total Force” are at odds³¹. Members are offered protection to serve on operations but the same protections are not universally applied in order to enable the member to advance their career, nor satisfy Governmental objectives such as SSE Initiative 75. They are asked and expected to deploy on operations but not afforded the regulatory protections to achieve the competencies they are asked to perform when deployed. This places the burden of institutional responsibility on the Reservist themselves who are forced to make a choice which includes balancing of the needs of the institution over that of their families and civilian employers. Do they choose to attend their next career course and leave their civilian employer scrambling for a temporary replacement during a busy period? Do they bank their vacation time over several years in order to ensure they can

³⁰. New Brunswick. "Employment Standards Act...section 44.031(3)(b).; The Contingency Phase of the Managed Readiness Plan is the 12 month period in which the elements of the CA which have most recently completed eWP training are responsible to force generate for potential contingency missions.

³¹ Canada. “Department of National Defence. Strong, Secure, Engaged: Canada's Defence Policy”...p. 68

attend the 15 weeks of training required to become Advance Mortar qualified, knowing full well by doing so there is the added expectation that they make themselves available to train with Regular Force units for the purpose of integration? By instituting policies such as SSE initiative 75 which adds significant training demand, both individual and collective, in the absence of a regulatory framework to support its success, Reservists are forced to make a choice; support the initiative at the potential cost to their civilian employment or abstain from participation, which in turn, could result in the failure of the initiative should enough members choose the latter option. The result is that initiatives such as Mission Tasks are entirely reliant on the Reservist choosing to volunteer in spite of a regulatory framework which is not designed to support them nor enable institutional success. The successful development and deployment of the Reserve Mortar Platoon as part of Operation REASSURANCE in 2022 demonstrates that Reservists will, under the right circumstances, choose to enable policy success despite the lack of a regulatory framework which is designed to enable their success.

CONCLUSION

This paper has examined the regulatory framework established to support CA Reserve participation on operations and training as well as the cognitive expectations placed on the Reserve Force based on SSE policy initiatives intended to instill a new vision for the reserves which sees the Reserve force being integrated in the Total Force. While employment protection regulations exist to support SSE Initiative 77, they do not universally exist to support the training demand that SSE initiative 75 requires. In order to support the initiative, the institution is forced to rely upon the normative behaviour of the Reservists themselves. Looking to the Future, should the Mission Task initiative ever reach full operating capability, enduring success will depend on the establishment of a regulatory framework which supports Reservists as opposed to one which

forces them to risk their civilian employment to satisfy institutional goals. Future research should consider the extent of regulatory support required in order to achieve institutional goals including where change can be affected.

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