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Rick Hillier: A not so silent soldier

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Introduction

Rick Hillier, Canada's Chief of the Defence Staff (CDS) from 4 February 2005 through 1 July 2008, had a significant public profile. He was the most outspoken and popular CDS that Canada had seen in years. The role of the CDS in Canada is unique. As the country's senior military officer, he is the central figure in the relationship between the Canadian Forces (CF) and Canadian society as represented by its federal government.¹ Having summarized and commented on his career, this paper explores the role of the CDS and some of what Hillier said in public during his time in the office. Headlines about him highlight the profile that Hillier enjoyed:

War and Politics: the chief of defence staff has led Canada's government by the nose for too long²

Gen. Hillier steps out of bounds³

Old soldiers never die – and won't shut up, either⁴

Liberal slur worst insult Hillier says⁵

Let the General speak⁶

New chief of defence decries underfunding⁷

¹ This paper uses the male pronoun throughout when speaking of the CDS, the minister of national defence and the prime minister. No woman has served as CDS and only one, Kim Campbell, has served both as minister of national defence and as prime minister. The choice of pronoun reflects the reality that women do not hold these appointments now and past appointments of a woman were exceptional. However, the choice of the gender pronoun should in no way be construed as implying that women should not hold these offices going forward.

² Gar Pardy, "War and Politics: the chief of defence staff has led Canada's government by the nose for too long" *The Ottawa Citizen*, 27 February 2008, A.15.

³ Editorial, *The Globe and Mail*, 26 February 2008.

⁴ Lawrence Martin, "Old soldiers never die – and won't shut up, either", *The Globe and Mail*, 8 November 2007, A. 23.

⁵ Mike Blanchfield, "Liberal slur worst insult Hillier says", *The Globe and Mail*, 1 March 2007, A.5.

⁶ Editorial, *National Post*, 18 April 18 2006.

⁷ James Gordon, "New chief of defence decries underfunding", *National Post*, 5 February 2005, A.4.

The not-so-civil servant and the ‘scumbags’ who hate us⁸

These national headlines also point to a frequent criticism that Hillier did not respect the boundaries of his role as CDS in making public statements. His significant media presence gave rise to concern that Hillier was exceeding the mandate of a CDS. This paper considers whether Hillier really was out of bounds.

The purpose of this paper is to test a selection of Hillier’s English language comments made to, or repeated in, the press during the time he was CDS. Most of the comments are drawn from *The Globe & Mail*, the *National Post* and *The Ottawa Citizen*. These sources represent the two major English language national newspapers in Canada, supplemented by *The Ottawa Citizen* because of the perspective it provides to a politically sensitive readership in the nation’s capital. The comments do not encompass all Hillier said to the media, but they do demonstrate a range of notable comments over time that can be used to assess his remarks and comment on their appropriateness. The selected quotes appeared more than once in the press; editorials and letters commented on them, often recalling the remarks long after they were made.

In evaluating what he said, this paper assumes that Hillier knew or ought to have known that his comments could be reported in the press. Since the scope of this analysis does not extend to a detailed examination of Hillier’s accomplishments as CDS, the paper does not attempt to judge the effectiveness of the remarks he made in the attainment of his objectives. Its focus is on words, not action, so the paper excludes some statements by

⁸ Michael Nickerson, “The not-so-civil servant and the ‘scumbags’ who hate us”, *The Globe and Mail*, 20 July 2005, A.15.

Hillier that supported potentially controversial activities if those statements were not, in themselves, noteworthy.⁹ This evaluation will demonstrate that Hillier exceeded the boundaries established for a CDS, particularly when he expressed opinions that impinged on responsibilities of other actors. However, statements that went too far have to be distinguished from many notable pronouncements that connected Canadians to their military using distinctive or unusual discourse that was appropriate.

The paper develops a framework against which to test the selected remarks, describing the role of the CDS and the expectations that are relevant when considering his public statements. The discussion begins with civil-military relations because of Hillier's pivotal role in maintaining the civilian control over the military that is characteristic of liberal democracies. Civil-military relations theory points to the importance of a senior military officer, but does not fully describe how an officer in the position of CDS deals with issues that involve elements of both military operations and government policy. Canada relies on a range of legal instruments, constitutional conventions and policies to define roles and responsibilities in a complex and changing contemporary security environment. For this reason, the framework incorporates provisions of legal instruments such as the *National Defence Act* and the *Queen's Regulations and Orders* that delineate the functions of the CDS, the policies and doctrine of the CF and Department of National Defence (DND), and the conventions that shape expectations of him. The roles of other political or bureaucratic actors like the minister of

⁹ For example, Hillier created a charity to help soldiers' families. One might argue that this was inappropriate advocacy, but the words used to announce the charity were not in themselves controversial, see: Bruce Ward, "'Thick Wallets' needed to launch charity for military families; Chief of defence unveils emergency fund to fill voids, grey areas," *The Ottawa Citizen*, 18 April 2007, C.1.

national defence also create boundaries for the CDS. Taken together, the elements described in the framework provide an objective basis for what Canada expects of its CDS when participating in public discourse and a foundation for this paper's evaluation of Hillier's words.

Background

Rick Hillier was born and raised a Newfoundlander. He served thirty-six years in the CF until his retirement, holding a variety of command and staff positions at home and abroad. Before being appointed commander of the Army in 2003, he had served as the first Canadian Deputy Commanding General in the U.S. Army in Fort Hood, Texas and had commanded part of NATO's Stabilization Force in Bosnia-Herzegovina. In the fall of 2003, Hillier commanded the NATO-led International Security Assistance Force in Kabul, Afghanistan. Prime Minister Paul Martin appointed him Chief of the Defence Staff in February 2005.¹⁰

Hillier's predecessor and successor as CDS have not had the same profile and have not been criticized for saying too much. Yet despite the controversy, Hillier garnered praise from the press that reflected well not just on Hillier the man, but on the CF as an institution. In describing Hillier's accomplishments, one newspaper editorial at the time of his retirement suggested: "It is like our own Camelot has ended."¹¹ Another

¹⁰ CTV News, "The essential Rick Hillier: Facts and quotes", http://www.ctv.ca/servlet/ArticleNews/story/CTVNews/20080415/hillier_in_brief_080415/20080415?hub=Specials; Internet; accessed 3 July 2009. Hillier's biography as CDS is no longer on the Department of National Defence website, however CTV refers to DND as a source.

¹¹ George Petrolekas, "Why Gen. Hillier was so loved by his troops", *The Ottawa Citizen*, 1 July 2008, A.9.

commented that: "... his legacy may be that he reintroduced Canadians to their soldiers and instilled a pride in both."¹²

Reporters have not been the only ones to notice Rick Hillier. Douglas L. Bland, a retired lieutenant-colonel who chairs the Defence Management Studies program at Queen's University, has written extensively in the field of civil-military relations. In a 2008 article, he characterized Hillier's role in the following terms:

Hillier is a strong advocate for his views on war and peace and the Canadian Forces, and he is unusually popular – for a Canadian General – with many Canadians. These circumstances, and [sic] the General Hillier's skill at presenting them, appear to critics to give the CDS an inappropriate and disproportionate influence over Canada's foreign and defence policies, and even over who might be appointed minister of national defence.¹³

In their account of Canada's recent experiences in the Kandahar Province of Afghanistan, academic Janice Gross Stein and political insider Eugene Lang describe in detail the instrumental role that Hillier played in relation to the war. He is the "most important and influential CDS in living memory," they argue, and they credit his appointment with having changed the Canadian Forces philosophy, organization, strategy and culture.¹⁴ Hillier gave the CF charismatic leadership, redefining its strategic purposes and articulating its challenges.¹⁵

¹² John Ward, "He rallied the troops - and the Canadian public", *The Globe and Mail*, 28 June 2008, A.15.

¹³ Douglas L. Bland, "Hillier and the New Generation of Generals: The CDS, The Policy and the Troops", *Policy Options* 29, no.3 (March 2008): 56; [journal on-line]; available from <http://www.irpp.org/po/archive/mar08/bland.pdf>; Internet; accessed 20 May 2009.

¹⁴ Janice Gross Stein and Eugene Lang, *The Unexpected War: Canada in Kandahar* (Toronto: Viking Canada, 2007), 151.

¹⁵ *Ibid.*, 260.

Academic work by Thomas J. Ring, a former Assistant Deputy Minister at the Department of National Defence, mentions Hillier in the context of a theory of civil-military relations. Noting the suggestions that Hillier's comments had a negative impact on civil-military relations, Ring reports that when interviewed, Hillier denied that his public comments were inappropriate. He claimed that the roles and responsibilities required clarification, (without specifying which ones).¹⁶ Ring's work does not examine Hillier's comments in detail, but he nevertheless concludes that changes in the influence of the military during Hillier's time as CDS were not problematic for civil-military relations in Canada.¹⁷ This paper examines Hillier's actual words more closely.

Civil Military Relations

The following review of literature on civil-military relations situates the role of the CDS. The democratic principles that make the military subject to civilian authority are critical to understanding the context in which a senior military officer works. These principles also have some bearing on the oversight that the Canadian government exercises. The review then considers the theory that shapes senior military officers as individuals. The notion of professionalism continues to influence expectations of them. Taken together, the ideas that situate the role and shape the military professional provide the theoretical underpinnings for the legal instruments, policies and conventions that define the role of the CDS as discussed in the section that follows this one.

¹⁶ Thomas J. Ring, "Civil-Military Relations in Canada A Cluster Theory Explanation", (master's thesis, Royal Military College, 2009), 111.

¹⁷ *Ibid.*, 134.

Most recent among the articulations of theory on civil-military relations in Canada is Tom Ring's Cluster Theory, which identifies three sets of relationships that are part of an ever-changing dynamic.¹⁸ The first "National" cluster is composed of non-specific actors, the people, the government and the military, that choose the direction the country follows in relation to defence. The second, "Governmental" cluster develops defence policy choices and includes, among others, the prime minister, Cabinet and the defence establishment. The third, "Defence Department" cluster advises on the detailed implementation of the policy that is developed by the second cluster in accordance with the national direction from the first cluster. It includes the Minister of National Defence, (MND), the CF and the civilian public service within the Department of National Defence, (DND).¹⁹ The forces that affect the dynamic include the Canada-US relationship, the threat environment, the domestic political situation and military professionalism and the defence institution. Ring asserts that a perception of a highly professional defence institution will mean that institution has a significant impact on the way the civil-military dynamic works across all three clusters.²⁰

It is reasonable to conclude that the CDS operates as part of the second and third clusters. Ring's interview with one of the defence ministers who served with Hillier reveals that Hillier was involved in formulation of policy, as distinct from the approval of that policy.²¹ Gross Stein and Lang describe a 21 March 2005 meeting with then Prime Minister Paul Martin, officials and various cabinet ministers that Hillier attended to

¹⁸ *Ibid.*, 12-13.

¹⁹ *Ibid.*, 66-74.

²⁰ *Ibid.*, 77-79.

²¹ *Ibid.*, 56.

discuss defence priorities. Hillier laid out the options for Afghanistan, arguing it should be Canada's focus for the next two years and described the political and military benefits.²² Ring's theory highlights the role of leadership in changing the dynamic and attributes the increase in the military's influence in 2004-2006 to a shift of influence towards the military within the Defence Cluster. This was not a case of disobedience or insubordination by military leaders; he characterizes the military as doing what the government wanted, providing both public support and the means to implement its wishes.²³ Consistent with the Cluster Theory, recent experience confirms that in addition to implementation of the national policy, the role of the CDS includes providing input when it is being formulated.

Douglas Bland has articulated a theory of shared responsibility for civil-military relations. The sharing occurs in policy decision-making, defence management, the employment of forces and the control of forces. Bland says that the degree of sharing depends on changing variables that include the nearness of threats and crisis, domestic politics, the organization of the armed forces and the defence establishment and the quality of leaders.²⁴ Bland sees the shared responsibility and development of consensus between the civil and military authorities as being the means by which politicians control the leadership of the armed forces. Underlying the theory are two assumptions related to the existence of a national regime. First, the military has no right to act on its own, because its direction and actions must be derived from civilians. A corollary is that there

²² Janice Gross Stein and Eugene Lang, *The Unexpected War: Canada in Kandahar ...*, 191.

²³ Thomas J. Ring, "Civil-Military Relations in Canada A Cluster Theory Explanation",... 126-127.

²⁴ Douglas Bland, "Who decides what? Civil-military relations in Canada and the United States", *Canadian-American Public Policy*, 41 (February 2000), 1, 2.

is a distinction between the military and the state. Second, Bland assumes that civil control is a “...dynamic process susceptible to changing values, conditions, issues and personalities.”²⁵

Using Bland’s model, the CDS is one of the leaders whose quality will have an impact on the sharing of responsibility and his personality will influence the civil control dynamic. Among the classic issues of civil-military relations that the senior leadership of the armed forces will help to manage are: curbing the political power of the military establishment, maintaining good order and discipline in the military, protecting the armed forces from political partisanship and supporting a minister who depends upon the expertise of the armed forces.²⁶ The CDS can play an important role in dealing with these issues. In a separate article, Bland also points out that civil control is embodied in individual attitudes and beliefs and can be seen in acts and decisions. The CDS sets an example and has to ensure that his public behaviour reinforces good civil-military relations.²⁷

A recent text on military law and operations in Canada necessarily includes a review of the features of civilian oversight. Chris Madsen remarks that civilian control is not clear-cut and highlights the limitations on military expertise in matters of state.²⁸ In describing the various means by which civilians exert control, Madsen says: “The senior military person accepts subordination to civilian authority and encounters its

²⁵ *Ibid.*, 4.

²⁶ *Ibid.*, 6.

²⁷ Douglas Bland, “Patterns in Liberal democratic Civil -Military Relations”, *Armed Forces and Society*, 27, no.4 (Summer 2001): 525-540, 525; [journal on-line]; available from <http://web.ebscohost.com/ehost/pdf?vid=4&hid=9&sid=a15335d3-7b71-47d3-9e98-1c949ece4fb3%40sessionmgr7>; Internet; accessed 20 May 2009.

²⁸ Chris Madsen, “Civilian Oversight”, Chap. 3 in *Military Law and Operations*, (Aurora, Ontario: Canada Law Book, 2008), 3-1.

manifestation almost every day.”²⁹ The CDS is expected to navigate the various dimensions of civilian control as part of the government in Ottawa on a regular basis. Madsen offers examples of instances where Hillier’s engagement in advocacy inappropriate to the role of CDS undermined civilian control.³⁰ Specific statements are analyzed later in this paper. His views on Hillier are a stark contrast with those of Ring.

American writers have advanced other theories about civil-military relations that can situate the role of the CDS. Most notable is the work of academic Peter Feaver, who suggests that civilian control of the armed forces occurs on a day-to-day level because the military is an agent of the state.³¹ He sees a strategic interaction between civilian principals and military agents and suggests agency theory as an alternative to the traditional notion, discussed below, that professionalism of the military is what ensures civilian control.³² Feaver describes civilians as morally and politically competent decision makers even when they lack technical competence. The military expert might understand the issue better, but cannot determine what value the people will attach to different outcomes. After the military has identified the threat and possible responses for a given level of risk, then civilians must determine what level of risk is acceptable. In doing so, the civilian has the right to be wrong.³³ Feaver’s model underscores the

²⁹ *Ibid.*, 3-5.

³⁰ *Ibid.*, 3-8 and 3-9.

³¹ Peter D. Feaver, “Introduction,” in *Armed Servants Agency, Oversight, and Civil-Military Relations*, (Cambridge, Massachusetts and London, England: Harvard University Press, 2003), 1.

³² *Ibid.*, 2. In an earlier article criticizing the focus on professionalism, Feaver calls for a theory of civil-military relations that incorporates interest-based and external mechanisms, see: Peter D. Feaver, “The Civil-Military Problematique: Huntington, Janowitz, and the Question of Civilian Control,” *Armed Forces and Society* 23, no.2 (Winter 1996), 149-178, 165.

³³ *Ibid.*, 6.

constraints on the expert as an agent of the state, a consideration to which the CDS must be sensitive.

In his seminal work, *The Soldier and the State: The Theory and Politics of Civil-Military Relations*, American academic Samuel P. Huntington describes the limitations on military authority imposed by civilian agencies or groups within government that operate at roughly the same level of authority and carry out parallel activities.³⁴ The highest professional officer advises the political level and commands the military, but does not engage in other administrative aspects that are distinguished as civilian responsibilities.³⁵ Responsibilities reserved for civilians maximize professionalism and civilian control. Canadian Forces Doctrine identifies the military profession as having to adhere to a military ethos that reflects the values of western democracy and to remain subordinate to the civil authority.³⁶ The CDS as a military professional would need to be sensitive to the limitations on his expertise imposed by such values and by the structures of political and administrative decision-making surrounding his office.

The idea of the military officer as a professional that has shaped the expectations of officers can be traced to Huntington.³⁷ The fundamental thesis of the *Soldier and the State* is that being an officer means being part of a profession and civil-military relations are focused on the relation of the officer corps to the state.³⁸ The distinguishing

³⁴ Samuel P. Huntington, *The Soldier and the State: The Theory and Politics of Civil-Military Relations*, (New York: Random House, 1960), 88.

³⁵ *Ibid.*, 186-187.

³⁶ Department of National Defence, A-PA-005-000/AP-001 2003. *Duty with Honour: the profession of arms in Canada*, (Ottawa: DND Canada, 1995), 7, 9, 46.

³⁷ Samuel P Huntington, *The Soldier and the State: ...*

³⁸ *Ibid.*, 3, 7.

characteristics of the profession revolve around the expertise of the officer, which is the management of violence, the special responsibility to ensure that violence is only used when society requires it and the conscious belonging to a group apart from all others.³⁹ While the military profession is regulated and turned into a monopoly by the state, the officer's behaviour is motivated by a sense of personal obligation that governs how his expertise is used.⁴⁰ Huntington likens the soldier to a physician or a lawyer who is an expert adviser concerned with only one aspect of his client's activities: "He cannot impose decisions upon his client which have implications beyond his special field of competence."⁴¹ There is a heavy reliance on custom, tradition and the continuing spirit of the profession.⁴² Huntington's work identifies constraints for an officer like the CDS. He has to remain within the sphere of military matters and accept the policy decisions of the civilian authority in matters outside his expertise. The literature contains criticisms of Huntington's explanation of civil-military relations.⁴³ Nonetheless, the idea of professionalism has remained an influential reference point in American discussions following 9/11, when both the relationship between society and the military and the threats became complex.⁴⁴

In Canada, CF Doctrine identifies service before self, the lawful, ordered application of military force and the acceptance of the concept of unlimited liability as

³⁹ *Ibid.*, 8, 11, 14.

⁴⁰ *Ibid.*, 15.

⁴¹ *Ibid.*, 16.

⁴² *Ibid.*

⁴³ Peter D. Feaver, "The Civil-Military Problematique: Huntington, Janowitz, and the Question of Civilian Control"

⁴⁴ Sam C. Sarkesian and Robert E. Connor, "Civil-military relations." in *The US Military Profession into the Twenty-First Century War, peace and politics*. 2nd ed., (London and New York: Routledge Taylor and Francis Group, 2006), 61-62.

distinguishing the profession of arms.⁴⁵ This more modern view of professional ideology as an important theme for Canada's military can be found in Lieutenant-Colonel Bill Bentley's "Professional Ideology in the Canadian Forces".⁴⁶ Bentley, a research officer with the Canadian Defence Academy, defines professionalism as devotion to the use of disciplined knowledge for the public good. It encompasses a commitment to use the knowledge in accordance with values.⁴⁷ The military ethos, an ethical framework, is meant to fulfill a number of functions, one of which is to establish trust between the CF and Canadian society.⁴⁸ Bentley asserts that the senior leadership of the CF has to focus on the establishment and strengthening of the military ethos as well as the body of core knowledge used by the profession.⁴⁹ CF doctrine identifies the CDS as leading the profession of arms in discharging professional responsibilities and as being accountable for its well-being.⁵⁰ The CDS thus has a central role to play in relation to the nurturing of his profession. Bentley concludes by noting that the profession is influenced by competing ideologies and also new roles and responsibilities brought about by an uncertain security environment. Its ideology should maintain its cohesion and ensure its future well being.⁵¹

⁴⁵ Department of National Defence, A-PA-005-000/AP-001 2003. *Duty with Honour...*, 10.

⁴⁶ Bill Bentley, "Professional Ideology in the Canadian Forces," in *Professional Ideology & Development: International Perspectives*, ed. Jeff Stouffer and Jason C. Wright 1-7, (Kingston: Canadian Defence Academy Press, 2008).

⁴⁷ *Ibid.*, 1-2.

⁴⁸ *Ibid.*, 4.

⁴⁹ *Ibid.*, 6.

⁵⁰ Department of National Defence, A-PA-005-000/AP-001 2003. *Duty with Honour...*, 47.

⁵¹ Bill Bentley, "Professional Ideology in the Canadian Forces," ... , 7.

This overview of important developments in the theory of civil-military relations as it affects Canada reveals a number of elements that form the basis of a standard against which to judge the public remarks of a CDS. They include:

1. The role of the CDS includes providing input when policy is being formulated and implementation of the national policy;
2. The CDS will have an impact on the sharing of responsibility and his personality will influence the civil control dynamic; he must therefore ensure that his public behaviour reinforces good civil-military relations;
3. The expertise of the CDS is limited by the legitimate decision-making of civilians who judge acceptable costs and risks, so the CDS must recognize the policy of the civilian authority in matters outside his expertise;
4. The CDS must be sensitive to the limitations on his expertise imposed by the structure of political and administrative decision-making surrounding his office and capable of navigating within the government's political and bureaucratic machinery; and
5. The CDS has to lead in the establishment and strengthening of both the military ethos as well as the body of core knowledge used by the profession.

The Role of the CDS

This section examines a number of sources that define the role and expectations of the CDS in Canada against the backdrop of the general civil-military relations theory discussed above. It focuses on the relevant sections of the *National Defence Act* (NDA)⁵² and portions of the *Queen's Regulations and Orders* (QR&O)⁵³ because these critical statutory instruments pertain to the role of the CDS and his public statements. The discussion incorporates relevant history, policy, doctrine and certain conventions that

⁵² *National Defence Act*, R.S. c. N-5.

⁵³ *Queen's Regulations and Orders for the Canadian Forces*, Articles 19.36 (Disclosure of Information or Opinion) and 19.44 (Political Activities and Candidature for Office).

underpin the legal framework applicable to the CDS in the context of Canadian government. Taken together, they constitute the standard that the CDS must uphold when speaking in public.

The NDA establishes the existence of DND, over which the MND, who has management and direction of the CF and all matters relating to national defence, is said to preside.⁵⁴ Through this legislation and Cabinet direction, the government determines the CF mandate, mission and roles in the defence of Canada.⁵⁵ The NDA creates the office of the CDS, an officer appointed by the governor-general on the recommendation of the prime minister (PM).⁵⁶ Subject to the regulations and direction of the MND, the CDS has control and administration of the CF.⁵⁷ Orders that give effect to the decisions, and carry out the directions of the government or the MND have to be issued by or through the CDS, making him the “professional and legal head” of the CF, responsible for the organization, leadership and command, within the constitutional and legal context of Canada.⁵⁸ His public statements need to reflect the role and responsibilities inherent in functioning on military and political dimensions at many different levels often at the same time as the “pivot of civil-military relations in Canada.”⁵⁹

The motivation for creation of the CDS was to have a single source of military advice who: “... could present one strategic view and compel his colleagues to abide by

⁵⁴ *National Defence Act*, R.S. c. N-5, ss.3,4.

⁵⁵ Department of National Defence, A-PA-005-000/AP-001 2003. *Duty with Honour...*, 12, 13.

⁵⁶ Hillier’s appointment was made by *Order in Council P.C. 2005-26*, 13 January 2005 as amended by *Order in Council P.C. 2005-0567*, 11 April 2005.

⁵⁷ *National Defence Act*, R.S. c. N-5, s.18(1).

⁵⁸ Douglas L. Bland, *Chiefs of Defence: Government and the Unified Command of the Canadian Armed Forces* (Toronto: The Canadian Institute of Strategic Studies, 1995), 7, 27.

⁵⁹ *Ibid.*, 27.

it.”⁶⁰ In 1964, each service, (army, navy and air force), had its own chief with his own access to Minister Paul Hellyer. Hellyer wanted to end the rivalry among the service chiefs. Given this history, it is not surprising that in addition to being the person who has legal authority to “... issue orders and instructions to the Canadian Forces and ... for determining how military force will be used to achieve certain objectives” the CDS is frequently described as the senior and sole military advisor.⁶¹

The NDA does not define the scope of that advice, but one former CDS has suggested that it involves issues of national defence that require “...professional insight and operational details on potential military deployments or on the military impact of significant policy changes that are often essential for a full understanding of the issues at stake.”⁶² By confining his public statements to the realm of his own professional military expertise and avoiding subjects on which he is not expert, the CDS reinforces the exclusive role he plays in advising the government. It is also reasonable to assert that his advice should not encroach on the expertise or mandate of another department. For example, the CDS must be cognizant of the role of the minister of foreign affairs, whose mandate relates to the conduct of the external affairs of Canada.⁶³

⁶⁰*Ibid.*, 69.

⁶¹ *Ibid.*, 7. See also: Department of National Defence, A-PA-005-000/AP-001 2003 *Duty with Honour...*,37-38.

⁶² Maurice Baril, “The Role of the CDS in Relations with Parliament” *Conference of Defence Associations Annual Seminar* (27 January 2000) [archived speech on-line]; available from <http://www.forces.gc.ca/site/news-nouvelles/view-news-afficher-nouvelles-eng.asp?id=459>; Internet; accessed 23 June 2009. Baril was the CDS from 1997-2001.

⁶³ *Department of Foreign Affairs and International Trade Act*, R.S., 1985, c. E-22, s. 1; 1995, c. 5, ss. 2, 10.

The relations between the MND and the CDS are defined by law, but also by the MND's political circumstances. The power of the MND depends on his relationship with the PM. Ministers have to balance their responsibilities to the PM, their departments and Cabinet colleagues.⁶⁴ Like other ministers, the MND is appointed by the PM and owes his allegiance to him; because he serves at pleasure, he can be removed from office whenever the PM chooses.⁶⁵ The CDS has the potential to undermine a weak minister who cannot achieve the optimum balance among his responsibilities. If his public statements have this effect, the CDS risks leaving the impression that civilian control of the military is compromised and may arouse suspicions as to whether he is carrying out direction from the minister and/or the prime minister, as he is required to do.

The CDS is in a difficult position when there is no political direction, a situation not uncommon in Canada.⁶⁶ In the absence of a policy framework, he may find himself making assumptions or decisions that are not properly his own, only to have to change course when political considerations need to be accommodated. Canadian politicians tend to be indifferent to defence issues and have little incentive to develop strategic policy.⁶⁷ The avoidance of contentious issues is central to control in public administration.⁶⁸ Remarks by the CDS have to be sensitive to the current and future wishes of the prime minister, the minister and Cabinet; in crafting them, he must take account of the uncertainty of their direction without implying that there is a policy vacuum because they

⁶⁴ Donald Savoie, *Governing from the Centre: The Concentration of Power in Canadian Politics*, (Toronto: University of Toronto Press, 1999), 47.

⁶⁵ *National Defence Act*, R.S. c. N-5, s.4.

⁶⁶ Douglas L. Bland, *Chiefs of Defence:...*, 22.

⁶⁷ *Ibid.*, 20- 21. Madsen describes national defence as a divisive political issue that Canadian PMs prefer to keep behind the scenes; see: Chris Madsen, "Civilian Oversight," in *Military Law and Operations...*, 3-8.

⁶⁸ Donald Savoie, *Governing from the Centre:...*, 53-54.

failed to make a decision. He has to leave space to make future course corrections that will reflect political imperatives.

There is little room for ongoing dialogue between the PM and the CDS following his appointment. The CDS usually advises the minister, but he can, as required, provide advice to the prime minister and Cabinet as a whole.⁶⁹ Although there are numerous examples of PMs and CDSs that rarely met, they can interact and their relations can be critical in times of crisis.⁷⁰ The CDS and the PM do not discuss strategic matters often; discussion is incremental and spontaneous. The CDS rarely has the opportunity to provide his opinion to the prime minister.⁷¹ The impact of the relationship on the defence policy process in peacetime depends on the personalities and political instincts of the CDS and the PM. Without prime ministerial support, the CDS will be unable to get anything approved by Cabinet.⁷² Only the CDS can issue orders to the CF, but since the PM can fire him, the CDS' use of the operational authority over the CF will usually coincide with the PM's wishes.⁷³ Whether exerting his influence through giving advice, or giving orders to the CF, the CDS must remain attentive to the relative strength of his minister while taking care to discern and align with the direction set by the PM. His behaviour should take into account his unique legal and historical position as advisor and commander.

⁶⁹ Maurice Baril, "The Role of the CDS in Relations with Parliament"... . Baril was the CDS from 1997-2001.

See also: Department of National Defence, A-PA-005-000/AP-001 2003 *Duty with Honour...*,37-38.

⁷⁰ Douglas L. Bland, *Chiefs of Defence*:... 134, 144.

⁷¹ *Ibid.*,143-144.

⁷² *Ibid.*, 133.

⁷³ *Ibid.*, 129.

The conventions of collective responsibility and ministerial responsibility dictate that advice to ministers be confidential and given in private. If the government loses Parliament's confidence, it must collectively resign.⁷⁴ Cabinet endorses major policies, accommodating regional interests; it must therefore present a coherent policy agenda. Ministers cannot disagree on policy in public.⁷⁵ Once Cabinet makes a decision, all of its members must support it or resign.⁷⁶ Academics have questioned the continuing relevance of collective responsibility because much of the power formerly exercised by Cabinet has become concentrated in the hands of the PM.⁷⁷ However, collective responsibility, Cabinet solidarity and the requirement to uphold the confidentiality of Cabinet decision-making remain clearly articulated in current descriptions of ministerial responsibilities.⁷⁸ Related to the concept of Cabinet solidarity is the expectation that Cabinet will consider the content and timing of public statements on policy and announcements of new programs and financial commitments. Ministers must ensure that communications are coordinated with the PM's office and the Privy Council Office.⁷⁹

The importance of Cabinet confidentiality is also evident in the Access to Information Act, which provides that there is no right to disclosure of government records if the documents are Cabinet confidences.⁸⁰ The advice and recommendations to a minister and information that could be injurious to the defence of Canada or the

⁷⁴ Donald Savoie, *Governing from the Centre:...*, 47.

⁷⁵*Ibid.*, 48.

⁷⁶ *Ibid.*, 50.

⁷⁷ *Ibid.*, 273.

⁷⁸ Canada, *Accountable Government, A Guide for Ministers and Ministers of State* (Ottawa: Privy Council Office, 2008), 2.

⁷⁹ *Ibid.*, 28.

⁸⁰ *Access to Information Act*, R.S. 1985, C. A-1, s. 69.

conduct of its international affairs are also exempt from disclosure.⁸¹ The CDS must ensure that his speeches do not undermine the confidential nature of the advice given to the MND or Cabinet discussions. Given the need for communications implications to be discussed and agreed in Cabinet and the expectation that statements and announcements are centrally coordinated, the CDS must also ensure that his public statements do not get ahead of anything that is intended to be announced by the PM, the MND or another politician.

The CDS should not always remain silent. In 2002, the Government of Canada declared that public servants should communicate openly with the public about policies, programs, services and initiatives for which they have responsibility.⁸² According to the policy, departments leave communications of political matters to their ministers, who are the principal spokespersons who must present and explain government policies, priorities and decisions to the public. There is also specific guidance for officials about their responsibilities when appearing before Parliamentary Committees that reinforces their role in explaining complex policy, as distinct from defending it or debating other policy alternatives. Officials support their minister by providing information and answers to questions that a minister cannot be expected to provide personally.⁸³

⁸¹ *Ibid.*, ss.21, 15(1).

⁸² Treasury Board of Canada Secretariat, *Communications Policy of the Government of Canada*, (Ottawa: Treasury Board Secretariat, 1 August 2006) [on-line]; available from <http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=12316§ion=text#sec5.19>; Internet; accessed 12 July 2009. Note that the relevant portions of this policy were also contained in earlier versions that came into effect in 2002, so there was no significant change to the policy during Hillier's time as CDS.

⁸³ Privy Council Office, *Notes on the Responsibilities of Public Servants in Relation to Parliamentary Committees*, (Ottawa: Privy Council Office, December 1990)[on-line] available from <http://www.pco-bcp.gc.ca/index.asp?lang=eng&page=information&sub=publications&doc=notes/notes-eng.htm>; accessed 12 July 2009. Note that while the title of the document refers to public servants, the

Former CDS Maurice Baril, who served from 1997 to 2001, described appearing before Parliamentary Committees to provide detailed information briefings on life in the CF, military briefings on activities of the CF internationally and on activities or programs specific to DND.⁸⁴ His description is consistent with the guidance for officials discussed above. Baril also mentioned what was in 1998 a new Public Affairs Policy, still in force today, that encourages DND employees and CF members to be as open and transparent as possible within the law when speaking with the media.⁸⁵ It reinforces the MND's role as principal government spokesperson and advocate for defence matters. While the MND is responsible for informing the public, he is assisted by various officials, including the CDS, who is the principal spokesperson for the CF.⁸⁶ This policy is clear that CF members and DND employees are expected to talk about matters where they have experience or expertise, but they cannot offer personal opinions on policy or discuss advice given to the MND, Cabinet or the chain of command.⁸⁷ A CDS must discharge his duty to speak for the CF in a manner consistent with this policy framework, which means that he should not express an opinion on policy and has to respect the prohibition against describing the advice given to the MND and Cabinet.

Aside from legislation, history, doctrine and policy, the *Queen's Regulations and Orders for the Canadian Forces*, Articles 19.36 (Disclosure of Information or Opinion) and

guidance is addressed to officials. The CDS is within the category of an official contemplated by this guidance given that he answers to the MND.

⁸⁴ Maurice Baril, "The Role of the CDS in Relations with Parliament"..., 3.

⁸⁵ Department of National Defence DAOD 2008-0, *Public Affairs Policy* (Ottawa: DND Canada, 1998).

⁸⁶ *Ibid.*, 3.

⁸⁷ *Ibid.*, 4.

19.44 (Political Activities and Candidature for Office)⁸⁸ are the legal instrument that defines the limitations on the speech of the CDS. The QR&O limitations replicate the traditional expectations of anonymity and political neutrality that apply to public servants. A minister is individually responsible to Parliament.⁸⁹ The advice and views of public servants are private and their actions anonymous by convention.⁹⁰ The rationale for this convention is that if public servants' views or actions could be attacked or applauded by a political party, it would significantly weaken their impartiality.⁹¹

Academic David Good reviews the model of relations between public servants and their political masters founded on political neutrality and ministerial responsibility.⁹² He describes challenges to confidentiality and neutrality posed by media coverage of errors in program administration, accessible documents containing policy advice and the role of public servants in facilitating complex policy consultations. Good argues that the widening gap between the ideal and actual practice demonstrates that the model requires a fundamental reappraisal.⁹³ Until such a reappraisal occurs and policy changes are given effect in amendments to regulations, the CDS must uphold the existing requirements.

The expectations of CF members as neutral and anonymous are long standing.

Following the Second World War, the newly appointed MND, Brooke Claxton, struggled

⁸⁸ *Queen's Regulations and Orders for the Canadian Forces*, Articles 19.36 and 19.44.

⁸⁹ Canada, Privy Council Office. *Accountable Government, A Guide ...*, 3, 5. Parliament makes a political judgment as to the minister's use of power, but it is the PM's prerogative to decide whether to support a minister or ask for a resignation.

⁹⁰ Donald Savoie, *Governing from the Centre ...*, 33.

⁹¹ *Ibid.*

⁹² David A. Good, "An Ideal Model in a Practical World: The Continuous Revisiting of political Neutrality and Ministerial Responsibility", in *Professionalism and Public Service Essays in Honour of Kenneth Kernaghan*, ed. David Siegel and Ken Rasmussen, 63-83 (Toronto: University of Toronto Press, 2008).

⁹³ *Ibid.*, 81.

to control his portfolio and lower the expectations of the officers who had just returned home victorious. He disciplined those who spoke against him in public. He expected officers who could not remain silent and loyal to resign.⁹⁴ He famously remarked: “I am all for silent soldiers as well as sailors.”⁹⁵ This particular expectation is effectively codified in Article 19.36 of the QR&O, which prohibits disclosure of opinion by CF members. Members cannot publically express their views on any military question that is under consideration by superior authorities. Other articles provide that CF members cannot participate in public discussion related to a superior’s orders, regulations and instructions or comment on a controversial subject that affects other government departments or pertains to public policy. The *Regulations* contain significant limitations on the free speech of CF members.

Inasmuch as the prohibitions exist to avoid a breakdown in discipline as a result of debating orders and instructions, the CDS has to consider whether his speech might leave the impression that he is engaging in debate about whether to accept direction from those in authority. To overcome the limitation on their speech, all other members of the CF can seek permission from the CDS or another authority that he designates.⁹⁶ Nothing in the QR&O requires the CDS to seek permission before expressing his views, although the Public Affairs Policy does restrict his expression of opinion. As Canada’s senior military officer, he should adhere to a standard that is at least as demanding as that for other members of the CF. His credibility depends on self-restraint in his own speech and

⁹⁴ Douglas L. Bland, *Chiefs of Defence*:...45-46.

⁹⁵ Brooke Claxton, *Claxton Memoirs*, Vol. 221, (NATO Notes), p. 1524, quoted in Douglas L. Bland, *Chiefs of Defence*:...45.

⁹⁶ *Queen’s Regulations and Orders for the Canadian Forces*, Article 19.27.

a demonstration of respect for the infringement on free speech imposed on all other CF members. While there is no requirement to seek permission from someone else before speaking on a military subject, the CDS should nevertheless reflect on whether he would give permission to any other senior officer to express himself in a similar fashion and whether he would expect to receive permission from the MND, if he had to request it.

The *Regulations* prohibit all members of the CF, without exception, from taking an active part in the affairs of a political party, making a political speech to electors or being a candidate or prospective candidate for election to Parliament or to a provincial legislature. The CDS, in common with other CF members, is prevented from engaging in partisan political activities. It follows that he cannot say things that are in the political realm and must guard against any implication that he is or might be involved politically. He must preserve his neutrality. Political neutrality is an expectation of the most senior public servants, deputy ministers, whose only permitted political activity is voting.⁹⁷ While the law recognizes the rights of many other public servants to engage in political activities, it imposes restrictions on those rights to maintain political impartiality in the public service.⁹⁸ The *Regulations* constitute a more rigid method to enforce neutrality for the CF compared with requirements imposed on public servants.⁹⁹ This difference probably reflects the ongoing concern about the need for a country's military to remain subordinate to the government of the day. Given the power of the military and the choice

⁹⁷ *Public Service Employment Act*, S.C. 2003, c. 22, ss. 12, 13, 117.

⁹⁸ *Ibid.*, s. 112. Neutrality is a one of the values espoused in the *Values and Ethic Code for the Public Service*, [document on-line] available from: http://www.tbs-sct.gc.ca/chro-dprh/pol/vec-cve01-eng.asp#_Toc46202800; Internet; accessed 9 July 2009.

⁹⁹ Public Servants can be candidates if they obtain permission from the Public Service Commission pursuant to the *Public Service Employment Act*, S.C. 2003, c. 22, s. 114.

to keep an exceptionally tight rein on its members' political activities, the CDS must be scrupulous in ensuring that his speech cannot be construed as partisan and that he is seen as impartial.

This overview of the role and responsibilities of the CDS as leader, advisor and commander, contributes the following elements to a standard against which to judge his public remarks:

1. Given the roles of politicians like the prime minister, the minister of national defence and the minister of foreign affairs, the CDS must demonstrate that he knows his limits; avoiding the risk that his remarks will fall within the mandates of politicians or call into question whether they are effective in carrying out their mandates;
2. The CDS has to be sensitive to the current and future wishes of the prime minister and the minister of national defence; his remarks must not criticize a government's choice not to make a policy decision or leave the impression that he does not accept the current or potential direction from those who have the authority to provide it;
3. The CDS must maintain the constitutional conventions and uphold the legislation of Canada by ensuring that his speech does not undermine the confidential nature of the advice given to the MND or Cabinet discussions;
4. Public statements of the CDS should not occur prior to an intended announcement by the prime minister, the minister of national defence or another politician;
5. In discharging his duty to speak for the CF, the CDS should confine himself to areas of his professional expertise, avoiding expressions of opinion on policy and descriptions of advice given to the MND and Cabinet; and
6. The CDS must be scrupulous in ensuring that his speech cannot be construed as partisan and that he is seen as impartial.

Overview of Remarks by Hillier

An analysis of Hillier’s public discourse must recognize that the media report what is out of the ordinary. The journalistic desire for a story might mean a tendency to overlook occasions where Hillier’s comments were what one would expect of the CDS. It would be wrong to leave the impression that everything Hillier said in the national press was inappropriate. Some of his colourful language put forth balanced threat assessments or expressions of military need that were well within the scope of what a CDS should say. For example, he described some countries as a “... fertile garden where ... you prepare your venom and your violence to send it worldwide.” He also described the combined threat from terrorists and organized crime as a “ball of snakes.”¹⁰⁰ Hillier referred to “big honking helicopters” when the MND announced the government’s intention to purchase the medium to heavy lift aircraft that would replace Griffon helicopters.¹⁰¹ He described a tank’s capacity to “reach out and touch somebody a long ways a way.”¹⁰² When he had to scale back the CF equipment acquisition and recruitment efforts, Hillier reported that he “had to take a bit of an appetite suppressant.”¹⁰³ Not all that will be remembered about Hillier’s speech should be characterized as exceeding his boundaries as CDS.

¹⁰⁰ Chris Wattie, “General seeks ‘Team Canada’ response to terror”, *National Post*, 32 July 2005, A.8.

¹⁰¹ Katherine Harding, “New copters unlikely to fly in Afghanistan”, *The Globe and Mail*, 29 June 2009, A.4.

¹⁰² Mike Blanchfield, “More Troops and tanks to fight Taliban: ‘We’re engaged in a war; Harper says””, *National Post*, 16 September 2006, A.4.

¹⁰³ David Pugliese, “Military scales back plans: Olympic, Afghan commitments”, *National Post*, 7 March 2007, A.6.

Hillier made other statements that were unobjectionable and ordinary. Samples include a description of air transport as “the lifeline of our missions.”¹⁰⁴ His prediction about the tactics of the Taliban was a plain reflection of his military assessment: “We think it will be a mixture of improvised explosive devices being used more frequently and... we will have more suicide bombers. They’ll try and combine more of those two things with small ambushes, hit-and-run tactics.”¹⁰⁵ At the end of his appointment, he used measured language to describe future efforts in the field following a jail break in Afghanistan: “We’ll redouble our efforts, we’ll get on with the Afghan authorities to help them carry on the normal security operations.”¹⁰⁶ There are many similar quotations from Hillier to be found in the press that are worth mentioning only because the analysis in this paper reflects the more notable, frequently repeated and potentially controversial. To be fair, some of what he said amounted to nothing more than the CDS discharging his obligation to inform the public about military policies, programs and initiatives for which he had responsibility and was not beyond the boundaries established for a CDS.

Remarks in 2005

At his change of command parade, (the ceremony where he became the CDS), Hillier made a lasting first impression. “You know”, he said, “in this country, we could probably not give enough resources to the men and women who do all the things we ask them to do. But we can give them too little, and that is what we are now doing.” He went

¹⁰⁴ Jeff Sallot, “Government to set rules for bid process”, *The Globe and Mail*, 23 November 2005, A.5.

¹⁰⁵ John Ward, “Hillier predicts renewed attacks”, *The Globe and Mail*, 28 March, 2007, A.4.

¹⁰⁶ Doug Schmidt, “Afghan Officials probe role of security force in jail break”, *The Ottawa Citizen*, 15 June 2008, A.4.

on to ask the assembled politicians to “remember them in your budgets.”¹⁰⁷ At a press conference following the event, he spoke about the need for politicians to “... understand what these young men and women need to be successful.”¹⁰⁸ These remarks were noted by then opposition Member of Parliament (MP) Gordon O’Connor, (later MND), who suggested that most generals would not have made these remarks in public.¹⁰⁹

It is no surprise that the press recalled these first public remarks at the time he announced his resignation as the CDS.¹¹⁰ Hillier was expressing an opinion prior to the government’s budget about the funding it should contain for the military’s current work. The level of military funding is set as part of an annual process that identifies fiscal, social and economic priorities for the whole federal government. The decision to spend tax dollars is a question of policy choices between competing priorities and also reflects forecast assumptions about the performance of the country’s economy. The minister of finance and his department prepare the budget based on departmental input and central agency direction. The budget is politically contentious. It is a confidence motion. At the time Hillier made his remarks, during a period of minority government, a budget defeat was a distinct possibility.¹¹¹

¹⁰⁷James Gordon, “New chief of defence decries underfunding”... .

¹⁰⁸ *Ibid.*

¹⁰⁹ Campbell Clark, “Top soldier says funds too thin”, *The Globe and Mail*, 5 February 2005, A.4.

¹¹⁰ Don Martin, “Hillier gave the military back its teeth”, *National Post*, 15 April 2008; [newspaper on-line] available from <http://www.nationalpost.com/story-printer.html?id=447911>; accessed 17 July 2009.

¹¹¹ When the budget was introduced on 23 February 2005, it was accompanied with a promise from the official opposition not to bring down the government and its leader, Stephen Harper, commented that he was pleased with the military spending, see: Brian Laghi and Steven Chase, “Martin buys some love”, *The Globe and Mail*, 24 February 2005, A.1.

Hillier's comments were therefore inappropriate. He showed no regard for the expectation that he would give his advice about defence needs and spending in private. He ignored the important role that civilian politicians play in determining the cost of the military that will be imposed on taxpayers. While the senior military officer is qualified to advise on the costs of supplying resources, only his political masters in the Cabinet can decide, in the context of the budget, whether the costs are acceptable in relation to other priorities. His specialized knowledge and experience do not give him any basis upon which to judge whether government spending contributes to the greater good of Canadians. The relative priority of defence spending is beyond his expertise and mandate. By telling politicians what to consider in making budget decisions when a minority government was about to introduce its budget, Hillier implied that a decision to spend less on the military would be unacceptable, unfair to the military and fraught with political risk. The comments undermine the civil-military relationship because the CDS appears unwilling to defer to politicians who have authority to make a decision that he will later have to implement.

Once in charge, the CDS used some blunt language to describe the CF mission in Afghanistan. These comments were made shortly after news that bombs had exploded in the London subway during rush hour. Hillier was confirming that the CF was checking its own state of readiness to deal with a similar situation and that it would provide military support to Britain, if needed. His description of how Canada was fighting terrorism abroad supplemented messages about Canada's work to better prepare for a threat at

home.¹¹² In the summer of 2005, he said: “We are going to Afghanistan to actually take down the folks that are trying to blow up men and women...that’s our job, that’s part of why Canada’s going there.”¹¹³ He elaborated further: “We’re not the public service of Canada, we’re not just another department. We are the Canadian Forces, and our job is to be able to kill people.”¹¹⁴

These comments on the role of the CF prompted editorials and comments from others. Politicians such as MP Gordon O’Connor, still in opposition, and New Democratic Party leader Jack Layton talked about what Hillier had said. Some military analysts praised his candour. Maude Barlow, chair of the citizen’s organization Council of Canadians, characterized Hillier’s remarks about the CF and the enemy in Afghanistan as “very aggressive.”¹¹⁵ The *National Post* editorial found his comments on the role of the CF “refreshing.”¹¹⁶ A commentary in *The Globe and Mail* took up the theme in its headline by referring to Hillier as a “not-so-civil servant.”¹¹⁷ By the time he retired, this explanation of the distinction between the military and the public service was remembered among the examples of Hillier’s communication style.¹¹⁸

Hillier’s comments were not the typical description of the military role, but they were accurate and within the boundaries set for him as CDS. The CF expects its members

¹¹² Chris Wattie, “Canadian Forces were ready within the first hour”, *The Ottawa Citizen*, 15 July 2005, A.3.

¹¹³ Daniel LeBlanc, “General’s talk of terrorist ‘scumbags’ praised”, *The Globe and Mail*, 16 July 2005, A.4.

¹¹⁴ *Ibid.*

¹¹⁵ Daniel LeBlanc, “General’s talk... Hillier’s remarks on the Taliban are discussed below.

¹¹⁶ Editorial, “In praise of a plain-spoken general”, *National Post*, 16 July 2005, A.18.

¹¹⁷ Michael Nickerson, “The not-so-civil servant and the ‘scumbags’... .

¹¹⁸ John Ward, “He rallied the troops – and the Canadian public”, *The Globe and Mail*, 28 June 2008, A.15. See also: CTV News, “The essential Rick Hillier: Facts and quotes”... .

to be ready to use lethal force, in a disciplined manner in accordance with lawful orders.¹¹⁹ The unique role of the military is the application of violence. While both professions involve working for the government, this characteristic is at the heart of the distinction between military service and public service. These remarks by Hillier constitute statements of fact about military operations, a domain in which the CDS has expertise. They are also consistent with the description of the role of the military contained in Canada's International Policy Statement current at the time.¹²⁰ As part of his leadership role, the CDS strengthens the military ethos; it falls to him to express what is expected of the CF as a profession in the context of military operations. This plain and direct description of what the military does in general and what it would do specifically in Afghanistan was disquieting to some observers, but it was not out of line.

Hillier did not confine his comments after the London Subway terrorist attacks to the role of the CF and what it was doing in Afghanistan and at home to fight terrorism. He went further, describing the enemy in the following terms: "These are detestable murderers and scumbags.... They detest our freedoms; they detest our society; they detest our liberties."¹²¹ He went on to add: "They want to break our society...therefore we are going to be a target in their sights."¹²² These comments were repeated in numerous

¹¹⁹ Department of National Defence, A-PA-005-000/AP-001 2003 *Duty with Honour...*, 13.

¹²⁰ Department of National Defence, *A Role of Pride and Influence in the World: Defence*, (Ottawa: 2005), 1; [on-line]; available from http://www.forces.gc.ca/admpol/newsite/Canada_Defence_2005.htm; Internet; accessed 19 July 2009.

¹²¹ Daniel LeBlanc, "General's talk... .

¹²² *Ibid.*

articles, editorials and commentaries.¹²³ The press reminded readers of them on Hillier's retirement.¹²⁴

Some of these observations were not in keeping with the role of the CDS. The comments about the Taliban motivation and the fact that Canadians would be a target reflect an assessment of the risk in being in Afghanistan. However, Hillier was not just offering an assessment of the nature of the Taliban as insurgents in a theatre of military operations; he included an opinion that they should be detested. The CDS has no expertise to recommend how people should feel about the Taliban. The importance of Hillier's description of the enemy as detestable might be questioned on the grounds that Canada was at war and most people loathe their enemies. However, his choice of adjective cannot be divorced from the implications of the other provocative words he used to describe the Taliban.

Hillier's wide-sweeping characterization, "murderers and scumbags", was also an expression of opinion on what Canada's policy on its relationship with the Taliban should be. By talking about all of the Taliban in extremely negative terms, the CDS was taking a position on a matter of international relations and potential recognition of another political actor. The minister of foreign affairs advises Cabinet on a decision to recognize other international actors and conducts and manages Canada's relationships with other

¹²³ Editorial, "In praise of a plain-spoken general" ...; see also: Daniel LeBlanc, "General's talk ..."; Michael Nickerson, "The not-so-civil servant and the 'scumbags' ..."; Andrew Cohen, "Casualties of war", *The Ottawa Citizen*, 26 July 2005, A.10; Brock Harrison, "Peacekeepers leave Canada for Kandahar: Team will join U.S. forces facing Taliban resistance", *National Post*, 27 July 2005, A. 4; Lewis MacKenzie, "Rick Hillier's right, so back off", *The Globe and Mail*, 1 August 2005, A. 11.

¹²⁴ John Ward, "He rallied the troops – and the Canadian public", *The Globe and Mail*, 28 June 2008, A.15. See also: CTV News, "The essential Rick Hillier: Facts and quotes"

governments and international organizations. Hillier's broad generalization about the Taliban could have made it difficult for the Canadian government to decide to negotiate with some or all of the Taliban. Janice Gross Stein and Eugene Lang point out that: "A sophisticated political strategy to contain the insurgency must make room for these differences ... [in Taliban members]... and for the simultaneous negotiation and fighting that is so familiar to Pashtun tribal leaders and so deeply imbedded in the culture."¹²⁵ Hillier's comments left the impression that he would be unlikely to support a future change in Canada's strategic policy towards the Taliban. Defining the enemy and choosing to fight or negotiate are decisions left to politicians. Hillier impinged on their strategic and diplomatic roles. His remarks could have made it difficult for Canadian politicians to change policy. They would have had to explain any change in relation to his perception of the Taliban as despicable or explain why Hillier remained as CDS when he was known to disagree with them on a fundamental policy question.

Remarks in 2006

One of the issues that Hillier discussed repeatedly in the media was Canada's role in Afghanistan and how long it would last. He told an editorial board at *The Globe and Mail*: "You're not going to have any success rebuilding that country in three or four or five years." He later added: "From NATO's perspective, they look at this as a 10-year mission, right? Minimum. There's going to be a huge demand for Canada to contribute over the longer period of time."¹²⁶ Similar comments appeared a few days later in an article describing an incident in Afghanistan where a bomb went off close to Hillier.

¹²⁵ Janice Gross Stein and Eugene Lang, *The Unexpected War: Canada in Kandahar...*, 218.

¹²⁶ Colin Freeze, "Afghan mission: 10 years", *The Globe and Mail*, 2 March 2006, A.1.

When he discussed the events of the day with the media, he said the international community would have to stay in Afghanistan “for a very long time, a decade or more.” He added: “This country was beaten for 25 years and you’re not going to rebuild a country like this in less than a decade or a decade and a half.”¹²⁷ Hillier made similar comments about a decade or more being the time required to rebuild in a television interview, during which he went on to say that the political and not military leaders would determine the length of the mission for the CF.¹²⁸

The remarks are significant since the *National Post* reported that Prime Minister Stephen Harper was drawn into the issue, providing a comment to the effect that the government, rather than the military, would decide on the length of Canada’s commitment. Canada had just finished redeploying its troops from the Afghanistan capital of Kabul back to Kandahar Province.¹²⁹ There had been casualties in the early part of March and opposition parties were calling for a debate and a vote on the deployment in Parliament, where the newly elected Conservative government was in a minority.¹³⁰ Hillier repeated his view of a lengthy mission a month later in a speech on equipping the forces made to the Empire Club, when he said: “I lose count of the number of ordinary Afghan people who’ve said to me ‘Sir, don’t go away – you are the only thing standing

¹²⁷ Suzanne Beaubien, “Canada’s top general in bombing scare”, *National Post*, 11 March 2006, A.8.

¹²⁸ Eric Beauchesne, “Rebuilding Afghanistan will take a decade or more: Hillier”, *National Post*, 13 March 2006, A. 7.

¹²⁹ Her Majesty the Queen in Right of Canada, represented by the Minister of Public Works and Government Services, *Independent Panel on Canada’s Future Role in Afghanistan*. (Ottawa: Public Works and Government Services, 2008), 15; [report on-line]; available from http://dsp-psd.pwgsc.gc.ca/collection_2008/dfait-maeci/FR5-20-1-2008E.pdf; accessed 21 July 2009.

¹³⁰ *Ibid.*; see also CBC News “In the Line of Duty: Canada’s Casualties”; website on-line, available from: <http://www.cbc.ca/news/background/afghanistan/casualties/list.html>; Internet; accessed 21 July 2009.

between us and chaos’.”¹³¹ Hillier’s views on the length of the mission came up again in the press during 2007.¹³²

Hillier’s remarks on the length of the mission were not in keeping with the standard he was expected to meet. His assessment of the length of time that would be required to defeat the Taliban and restore security in Afghanistan could have been a significant contribution to the formulation of advice to the government of the day on its policy position with respect to Afghanistan. However, the remarks were not couched in terms of permitting the civilian politicians to judge whether the cost and risk associated with the mission were acceptable to Canada. However astute, Hillier’s judgment should have found expression in advice that was given in confidence to the MND, the PM or Cabinet, rather than in public. If one interprets Hillier’s remarks as indicating what NATO, rather than Canada, would have to do in Afghanistan, the conclusion remains that he spoke out of turn. Hillier should have avoided commenting on international decision making by a political body such as NATO. Participation in its discussion about contributions to missions by member countries is the role of the Canada’s prime minister, a minister or an ambassador to the North Atlantic Council, not the CDS.

¹³¹ Chris Wattie, “Afghan mission needs equipment quickly, Hillier says: Ship, planes, choppers”, *National Post*, 12 April 2006, A. 7. According to its website, the Empire Club was established in 1903 and is one of Canada’s oldest and largest speakers’ forums: The Empire Club of Canada, “About the Empire Club of Canada”; [website on-line]; available from <http://www.empireclub.org/about.html>; accessed 21 July 2006.

¹³² Mike De Souza, “Hillier casts doubts on O’Connor’s timeline: Afghans won’t be able to take over so soon, top soldier says;” *The Ottawa Citizen*, 30 July 2009, A.1. See also: Editorial, *The Globe and Mail*, 31 July 2007, A.12; and Mike De Souza Cryderman, “ ‘I’m in line’ with PM on Afghanistan, Hillier says; Dissension Denied”, *National Post*, 27 October 2007, A.4; Susan Riley, “One opinion matters”, *The Ottawa Citizen*, 29 October 2007, A.10 and Editorial, *The Globe and Mail*, 2 November 2007.

By telling the press only about his part of the analysis as a senior military leader, Hillier undermined the role that others must play in setting national policy, ignoring the mandate of the MND and minister of foreign affairs. He asserted his own views, making it more difficult for politicians to decide on where and for how long Canada should deploy its troops. Expressing his forceful opinion in the public domain on more than one occasion could have left the impression that the CDS would be loathe to accept direction when and if the government decided not to extend the mission or to withdraw. Hillier was insensitive to the fact that the Harper government had a time limited commitment and that it would be likely that the MND or the PM would have to advise Canadians of the government's intentions on its future role in Afghanistan. His public pronouncements usurped their role in timing an announcement. It is not sufficient for the remarks to be tempered by a statement that it is really the government that makes the decision. By sharing his views with the press, Hillier effectively pressured the government to make a decision to extend the mission or at least to take his position into account when deciding and communicating the decision. He left little room for the minority government to differ with his assessment.

2007 Remarks

Hillier spoke to the Conference of Defence Associations in February 2007, commenting on the impact of past defence spending decisions. The Conference of Defence Associations describes itself as an advocacy group that expresses its ideas and opinions with a view to influencing government security and defence policy.¹³³ Hillier's

¹³³ Conference of Defence Associations, "CDA Menu Page", [website on-line]; available from <http://www.cda-cdai.ca/english-frame.htm>; Internet; accessed 3 August, 2009.

remarks were immediately labeled as partisan.¹³⁴ He said: “Over the past one to two years, we have begun to fully realize the immense, the negative impact of the defence expenditure reductions in 1994 and the lasting, almost negative legacy that they brought into effect that has to be put right.” His comments on the impact of the cuts also suggested that they had left “... some deep wounds in the Canadian Forces over this past, what I would call, a decade of darkness.”¹³⁵

On 21 September 2005, Hillier had used the expression “decade of darkness,” and it attracted relatively little attention. This first occasion was at a ceremony honouring Governor General Adrienne Clarkson as she retired: “It is not by accident that as the Canadian Forces started looking past a decade of darkness, past a long period of insecurity and past a lingering feeling of shame, you were our commander-in-chief ...”¹³⁶ Both newspaper accounts of this remark suggested that although he did not specifically mention scandals from the 1990s such as the killing of a Somali teenager, Hillier was making reference to them. There were no additional references to explain who or what caused the darkness. These remarks appear to have been a reflection on the state of the military during the specific period of the 1990s, one in which Hillier was an officer. As a military leader with responsibility for the military ethos, it is important that he be able to comment on the positive changes and improvements in the morale of the CF. Hillier’s

¹³⁴ Don Martin, “War among generals a deadly distraction”, *National Post*, 17 February, 2007, A.6.

¹³⁵ Mike Blanchfield, “Coderre labels Hillier a Tory party prop”, *National Post*, 17 February, 2007, A.6.

¹³⁶ Mike Blanchfield, “Forces bid fond farewell to G-G”, *National Post*, 22 September 2005, A.24; see also: Mike Blanchfield, “A grateful military salutes Clarkson”, *The Ottawa Citizen*, 22 September 2005, A.5. Adrienne Clarkson began as Governor General in October 1999, at the end of the period to which Hillier referred.

reference to the decade of darkness in this context was therefore entirely appropriate.

The same cannot be said about his use of this expression in 2007.

The *National Post* noted that Hillier had used this metaphor previously,¹³⁷ but went on to report that with a spring election looming, this language was not acceptable to members of the Liberal party. Their defence critic, Member of Parliament Denis Coderre, pointed out parts of the Liberal record on defence spending when there had been increases and characterized Hillier's remarks about the decade of darkness as "highly political."¹³⁸ A letter to *The Ottawa Citizen* from retired Brigadier-General Peter Holt defended the comments as not partisan.¹³⁹ Eddie Goldenberg, chief of staff to former Liberal Prime Minister Jean Chretien, was highly critical of Hillier's remarks during a fundraising speech in Ottawa. He commented specifically on the role of the CDS and spoke of the governmental choice to spend significantly on higher learning through what had been the same time as the decade of darkness for the military.¹⁴⁰ Hillier's comments on the decade of darkness were remembered in editorials and commentaries at the time of his retirement.¹⁴¹

¹³⁷ He also used the term in an opening statement he gave before the Standing Senate Committee on National Security and Defence in which he described a period of time when CF equipment was deteriorating to the point where the ability to carry out missions was called into question, see: Senate, Standing Senate Committee on National Security and Defence, *Proceedings of the Standing Senate Committee on National Security and Defence Issue 4, Evidence*, 21 June 2006.

¹³⁸ Mike Blanchfield, "Coderre labels Hillier a Tory party prop",

¹³⁹ Peter Holt, "Hillier shed light on decline of Canadian military", *The Ottawa Citizen*, 20 February 2007, A. 11.

¹⁴⁰ Paul Gessell, "Chretien ally to Hillier", *The Ottawa Citizen*, 22 February 2007, A.4.

¹⁴¹ Richard Foot, "General carved out uncommon forces role; 'Won The Respect'", *National Post*, 16 April 2008, A.6; see also: Jack L. Granatstein, "Canada's defence chief Hillier: The defender of truth", *The Calgary Herald*, 16 April 2008; John Ward, "Rick Hillier reconnected Canadians with the Canadian Forces", *The Canadian Press*, 26 June 2008; and John Ward, "He rallied the troops - and the Canadian public",

Hillier's 2007 remarks about the decade of darkness were not within the bounds of acceptable speech for the CDS. He spoke in detail about the negative impact of a past government decision from the point of view of the military, characterizing the CF as wounded. As the CDS, he should have recognized the basic tenet of civil-military relations that calls for politicians to judge the acceptable cost of equipping the military. By making clear that the government of the day had been responsible for spending decisions and that the military had been uncomfortable with those decisions and their consequences, Hillier was ignoring the limitations of his role and the deference owed to politicians.

Hillier's remarks called into question the wisdom of the decision of a previous government, suggesting that it had not properly carried out its mandate because things had to be put right. He made these remarks in a minority government situation, with the ever present possibility of an election. One interpretation of the comments is that the Conservative government had made the right decision about defence spending after years when the Liberal government had not. Another underlying notion is that a future Liberal government might not make decisions about spending on the military in the same way as the Conservative government had just done. The public discourse demonstrates that some interpreted Hillier's decade of darkness remark as partisan.

It is possible to argue that Hillier's description of the reality he knew as a member of the CF and later as a leader who had to deal with the impact of the decisions on defence spending was not intended to be a statement about which party's politicians had

made the right choices in the defence budget. It is also possible to argue, based on the other contexts in which he used the metaphor, that “decade of darkness” was a general description of the issues facing the military during a defined period, rather than a comment on spending alone. However, the CDS cannot make remarks that might reasonably, even if not necessarily accurately, be interpreted as an effort to take sides with a political party. He has to avoid the appearance of partisanship, whether through support or criticism of political parties and their positions, past and present. It is not sufficient for him to say that he intended his comments to be interpreted differently when the impact of his remarks gives rise to the suggestion that he was not politically neutral.

Hillier went on to discuss his reaction to the suggestion that his remarks were partisan with the media. The *National Post* reported that he responded to questions about Denis Coderre’s characterization of Hillier as a “prop for the Conservative party.” The *Post* article describes a CPAC network interview in which Hillier said:

I’ve been shot at. People have attempted to blow me up. I had a suicide bomber targeted against me when I was the commander in Afghanistan. And I’ve been called every name in the book, I’m certain. I don’t think I’ve ever been so insulted as to be called a prop for a political party.¹⁴²

Hillier’s suggestion that a politician had insulted him was itself a remark that might be seen as partisan. Rather than simply clarifying his intentions and his political neutrality, Hillier took exception to the suggestion of partisanship as an unfair criticism. He engaged himself directly in response to a politician’s accusation that his comment supported one political party. By publically disagreeing with a politician on whether his reference to the decade of darkness constituted a political remark, Hillier risked being

¹⁴² Mike Blanchfield, “Liberal slur worst insult, Hillier says”, *National Post*, 1 March 2007, A.5.

seen either as opposing the Liberal point of view or supporting the Conservative party. He left the impression that he might not be politically neutral. By making public his personal reaction to the issue, he was not speaking as an expert and was exceeding the boundaries imposed on the CDS to appear to be a willing servant to whatever group of politicians the people choose.

Hillier's comments on urban army units in July 2007 were in the news because they appeared to contradict the Conservative party's campaign commitment to create new army reserve units across Canada. He is reported as having told the CBC that: "We're not in the business of creating new reserve units. We have sufficient units... We don't need new units."¹⁴³ Numerous articles, editorials and a commentary subsequently referred to the apparent contradiction of the Conservative party promise in the 2006 election campaign to create this type of unit.¹⁴⁴ Most of the press coverage cited Hillier's words as both an apparent change in policy and one example of Hillier undermining Defence Minister Gordon O'Connor. The minister had been associated with the establishment of the territorial defence units as part of the Conservative promise to "defend Canada first" made during the election. Other examples of the rift between the two, about which DND issued a denial, included the length of mission in Afghanistan, discussed below, and payment of the funeral costs for fallen soldiers.

¹⁴³ Alan Freeman, "Hillier cool to Ottawa's reserve plan", *The Globe and Mail*, 26 July 2007, A.1.

¹⁴⁴ Editorial, *The Globe and Mail*, 27 July 2007; see also: Alan Freeman and Jane Taber, "Minister's rift with general erodes support, PM warned", *The Globe and Mail*, 31 July 2007, A.1; Alan Freeman, "Defence leaders make unlikely allies", *The Globe and Mail*, 1 August 2007, A.4' and Eugene Lang, "Commander in chief?", *The Globe and Mail*, 3 August 2007, A.15.

Hillier's casual rejection of an election commitment made by the successful party was inappropriate. While there is no question that the CDS is expert in matters related to the organization of the CF, including its reserve units, he should not have expressed his views on the matter without due regard for the limitations on his advice-giving role. Hillier's advice should have been offered in private, particularly since the governing party had already made public statements on the subject. Hillier's comment suggested that he had either caused a change in policy or that he might be unwilling to accept the policy direction associated with creating units in cities; neither impression served to uphold the civil authority that makes decisions in Cabinet based on confidential discussions.

Elections commitments are clearly political, so Hillier was both wrongly presenting his advice to the media and leaving the impression that he was weighing in to undermine or support a particular party. Politicians make the final decision, as a matter of policy, on where the CF is to base its members and how the CF is to be organized. Hillier's comment usurped this role and ignored the principle that civilians make the choices about cost and risks inherent in the decision to put more soldiers in Canadian cities. Hillier's remark on the absence of need for urban units calls into question whether the minister and government had been properly exercising their mandate. By telling the media about the decision not to go ahead with urban units, he pre-empted the politicians from communicating their decision on the matter. On many levels, Hillier said too much about urban units too soon.

The same summer 2007 time frame saw Hillier's views in the press on the subject of when the Afghan soldiers would be in a position to take over from Canadian troops in fighting the Taliban. During a CTV interview, he said: "It's going to take a long while. We've just started the process, because we've just got the first soldiers in the south in these last few months. But we're at a far better stage now than we've ever been."¹⁴⁵ When asked about O'Connor's suggestion that the role of the Canadian troops could change by the end of 2007, Hillier claimed they were on the same page. However, he went on to say: "We'd like to see that it was in that position to be able to do so by next February, but that would certainly be a significant challenge for them."¹⁴⁶ Hillier's comments and the apparent contradiction of O'Connor's optimistic assessment of the readiness of Afghan troops were the subject of commentaries, editorials and further articles, many of which pointed to a falling out between the CDS and the minister and/or the government of the day.¹⁴⁷ The discussion on the length of the Canadian mission in Afghanistan and the lack of coherence in messages from the politicians and the CDS received further coverage and comment three months later.

Because of his comments, Hillier became the focal point of discourse on the role of the CDS and his relationship with the government. The 2007 Speech from the Throne predicted the Afghan government would be able to defend its own sovereignty by

¹⁴⁵ Mike De Souza, "Hillier casts doubt on O'Connor's timeline; Afghans won't be able to take over so soon, top soldier says", *The Ottawa Citizen*, 30 July 2007, A.1.

¹⁴⁶ *Ibid.*

¹⁴⁷ Editorial, *The Globe and Mail*, 27 July 2007...; see also: Editorial, *The Globe and Mail*, 31 July 2007; Alan Freeman and Jane Taber, "Minister's rift with general erodes support, PM warned"...; Alan Freeman, "Defence leaders make unlikely allies"...; Eugene Lang, "Commander in chief?" ...

2011.¹⁴⁸ Only ten days later, Hillier said: “It’s going to take 10 years or so just to work through and build an army to whatever the final number that Afghanistan will have, and make them professional and let them meet the security demands here.”¹⁴⁹ Subsequent media coverage saw Hillier on the defensive, denying any difference between himself and the government, with Hillier stating: “I get my direction from the government of Canada... I talk to the Prime Minister. I’m absolutely clear on where he wants to go and on what he needs and I’m absolutely in line with that, otherwise I would not be his Chief of Defence Staff.”¹⁵⁰

The length of the mission was an extremely sensitive political matter. Canada was committed to be in Afghanistan until February 2009. The government was in a minority situation in Parliament and its Speech from the Throne announced that Parliament would vote on any future military deployment.¹⁵¹ Given at the beginning of a new session of Parliament, the Speech from the Throne describes the broad goals and directions of the government and its strategy to accomplish those goals.¹⁵² In the days leading up to the Speech from the Throne, the prime minister had also appointed John Manley as an advisor to chair an Independent Panel on Canada’s Future Role in Afghanistan that would

¹⁴⁸ Speech from the Throne Second Session of the 39th Parliament of Canada, 16 October 2007; [online]; available from <http://www.pco.gc.ca/index.asp?lang=eng&page=information&sub=publications&doc=sft-ddt/2007-eng.htm>; Internet; accessed 5 August 2009.

¹⁴⁹ Omar El Akkad and Alan Freeman, “Afghans need a decade to build their army: Hillier”, *The Globe and Mail*, 26 October 2007, World Section.

¹⁵⁰ Mike De Souza Cryderman, “I’m in line with PM on Afghanistan, Hillier says, Dissension Denied”, *National Post*... .

¹⁵¹ Speech from the Throne Second Session of the 39th Parliament of Canada, 16 October 2007... .

¹⁵² Privy Council Office, “Frequently Asked Questions”, *Speech from the Throne Website*, (26 January 2009); [website on-line]; available from <http://www.sft-ddt.gc.ca/eng/media.asp?id=1367#1>; Internet; accessed 10 August 2009.

make recommendations on the future of the mission for Parliament to consider.¹⁵³

Editorials and comments noted the gap between Hillier and his political masters and reported about what Hillier had been told to do and say as a result of his comments.¹⁵⁴

Janice Gross Stein and Eugene Lang cite this example of Hillier's public comments and note that the CDS has "privileged access to information and is expert at interpreting it."¹⁵⁵ They argue that it is important for this information and knowledge to be in the public domain and criticize this restriction on the military as being inconsistent with transparency. The benefits of disclosure do not change the basic rule that those who advise must do so without using the media. Hillier's comments were significant not just in the context of discourse about the length of the mission but also because there were questions about civilian control of the military and the credibility of politicians.

The remarks on the readiness of Afghan forces and the length of time Canada would need to make a difference in Afghanistan were unacceptable in 2007 for all the same reasons that they had been inappropriate in 2006. They were even more egregious because they underscored what Hillier had said before and stirred up the old controversy at a time when the issue had even greater political sensitivity, given the creation of the

¹⁵³ *Order in Council 2007- 1478*, 11 October 2007; see also the Report of the panel that describes its mandate: Her Majesty the Queen in Right of Canada, represented by the Minister of Public Works and Government Services, *Independent Panel*,....

¹⁵⁴ Susan Riley, "One opinion matters", *The Ottawa Citizen*, ... ; see also: Editorial, *The Globe and Mail*, 2 November 2007, ... ; Marcus Gee, "Rick Hillier has given the military its voice – don't shut him up", *The Globe and Mail*, 2 November 2007, A. 19; Lawrence Martin, "Old Soldiers never die ... ; and The Canadian Press, "DND Prepped lines to douse Hillier controversy: report", (8 April 2009) [on-line]; available from <http://www.cbc.ca/canada/story/2009/04/08/hillier-remarks-defence008.html>; Internet; accessed 6 August 2009.

¹⁵⁵ Janice gross Stein and Eugene Lang, "Too Few Hilliers: the general goes where Ottawa mandarins fear to tread," *The Walrus*, (April 2008), 34-39, 36.

Manley Panel, the prediction that Afghanistan could look after its own security by 2011 and the announcement of a parliamentary vote in the Speech from the Throne.

2008 Remarks

In February 2008, Hillier spoke to the Conference of Defence Associations about the length of the mission in Afghanistan. The Manley Panel had reported in January, recommending an extension of the mission beyond 2009.¹⁵⁶ The effect of Hillier's comments was to broaden and extend the observations by politicians and the press to the effect that he was out of line. It was a continuation of what had begun when he was quoted on the length of the mission previously in October. He said: "[The soldiers] do ask, from the point of view of those who accept the risk and the sacrifice of that mission, that they be given 'clarity of purpose' of what they are asked to do, and they get that clarity as soon as we can possibly give it to them."¹⁵⁷ He then commented that at the time the vote in Parliament is held on extending the mission to 2011, its members from all parties should unite and pass a resolution of support for Canada's troops, saying this was "the least our soldiers would expect."¹⁵⁸ When asked about the length of the debate, Hillier told reporters: "The Taliban will always look at us and try to assess if they can influence things back here. We take many actions to prevent that from occurring but the longer the debate goes on – if it goes on an extended period of time – the more difficult it is to do that and I just wanted to raise a cautionary flag, that's all."¹⁵⁹

¹⁵⁶ Her Majesty the Queen in Right of Canada, represented by the Minister of Public Works and Government Services, *Independent Panel...*, 42.

¹⁵⁷ Jack Aubry, "Complete Debate quickly, MPs urged; 'Clarity of Purpose' ", *National Post*, 23 February 2008, A.4.

¹⁵⁸ *Ibid.*

¹⁵⁹ *Ibid.*

Liberal party leader Stephane Dion and New Democratic Party MP Dawn Black immediately criticized Hillier's remarks as "odious" and "out of line."¹⁶⁰ One commentary in *The Globe and Mail* defending Hillier quoted him as also saying: "...we are, in the eyes of the Taliban, in a window of extreme vulnerability. And the longer we go on without that clarity, with the issue in doubt, the more the Taliban will target us as a perceived weak link."¹⁶¹ An editorial in *The Globe and Mail* the next day characterized Hillier as having "crossed the line between military official and politician as he never had before."¹⁶² *The Ottawa Citizen* criticized Hillier for behaving like a politician and quoted another statement he made at the Conference of Defence Associations: "I'm not going to stand here and tell you that the suicide bombings of the past week have been related to the debate back here in Canada. But I also cannot stand here and say that they are not."¹⁶³ Madsen characterizes Hillier's words in 2008 as an attempt to curtail debate that bordered on contempt of Parliament.¹⁶⁴

Hillier's assessment of the risks associated with the political debate on extending the mission might have been within his expertise, but was bound to be seen as a commentary on how politicians should determine that risk. By providing this assessment in public, talking about the speed with which Parliament should make its decision and indicating that the least the troops would expect is a vote of support, Hillier was telling

¹⁶⁰ *Ibid.*

¹⁶¹ Christie Blatchford, "Taliban will target Canadians if they sense political weakness", *The Globe and Mail*, 25 February 2008, A.13.

¹⁶² Editorial, *The Globe and Mail*, 26 February 2008.

¹⁶³ Gar Parfy, "War and politics; The chief of the defence staff has led Canada's government by the nose for long enough"... .

¹⁶⁴ Chris Madsen, "Civilian Oversight," in *Military Law and Operations...*, 3-11.

those elected to Parliament how to do their jobs. He showed no respect for his limits, said things that were reserved for politicians to pronounce upon and generally undermined their legitimate decision-making authority. It was the third occasion on which he spoke on the same critical defence issue that fell squarely within the purview of politicians. Once again, these comments were extremely inappropriate.

Inappropriateness in context

Hillier's remarks falling below the standard expected of the CDS reveal some common elements. Suggestions that there should be more funding for a military or that it had been insufficiently funded in the past are consistent with what military leaders usually think about their level of resources. It came as no surprise that Hillier thought the CF needed more people and equipment and that cuts to military spending had made life difficult. Likewise, Hillier's repeated suggestions that the CF needed to stay in Afghanistan were consistent with the fact that he had persuaded the government to spend its blood and treasure there in the first instance. He had spoken with great passion about the mission of the CF, so staying to finish the job was an extension of his earlier views. His lack of support for urban units reflects a vision that gave priority to Afghanistan. Madsen is correct in characterizing Hillier as advocating; however, much of what he said aligned with what the government decided to do. In the end, there was more money for the military and the government extended the mission. Although his words crossed the line because of where and when they were articulated, they were advancing an agenda and vision that the CDS shared with his political masters. At a strategic political level one

might argue, as Ring has, that the overall impact of Hillier's remarks on civil-military relations was therefore minimal.

Hillier's good reputation and apparent even-handedness in criticism deflected disapproval and attenuated concerns about civil-military relations. Honest and forthright, he seemed to gain nothing personally by articulating his views to the media. He was often praised for his devotion and support of the CF. Hillier's cultivation of the media helped to make him visible at a time when Canada was putting soldiers into harm's way and sustaining casualties on a scale that had not been experienced in two generations. While some of his remarks might be faulted for partisanship, Hillier was not involved in activities like political campaigns and his words were directed towards two different political parties. Moreover, some of the strong complaints that he was not politically neutral came from politicians whose own remarks naturally had a political spin. People knew Hillier because of his remarks. Even the inappropriate ones revealed admirable characteristics that got him more praise for telling it like it was and not backing away from his convictions, than censure for exceeding his boundaries. His public assessments of the length of the mission earned him respect and credibility for keeping the politicians honest.

The degree to which Hillier's remarks were inappropriate may be called into question because he was never fired for making them. There are a number of possible reasons that he was allowed to stay in office. In 2005, the Liberal government would have been embarrassed by dismissing their own appointee soon after his appointment.

Once elected, the Conservative government would have faced protests that removing Hillier was politically motivated. The war in Afghanistan was a new experience, perhaps leading to recognition that the public role of the CDS was evolving and to tolerance for a CDS that seemed to overstep the boundaries. With time, Hillier's stature and reputation grew. The media quoted him often and the members of the CF appreciated his efforts. Hillier's positive effect on the morale of the troops and public support for the Afghanistan mission were important reasons to retain him. Aside from his comments to the media, there was no other significant cause for dismissal being discussed in the public domain that could have explained the decision to remove him as the CDS. Likewise, there was no need to set an example by replacing Hillier, because other officers and public servants were not making public statements that were out of line. The minority government's desire to avoid public controversy by firing someone who enjoyed stronger support than political leaders probably allowed Hillier to ignore his boundaries.¹⁶⁵

It is no excuse to say that the standards outlined in this paper were obscure or impractical. The boundaries within which Hillier was supposed to operate were expressed in conventions, law, policy and doctrine that a senior military officer should have known and followed; they remain inherent in the expertise the CDS claims as the leader of his profession in Canada. Even if one accepts that the conventions are not always workable when dealing with the media, Hillier's remarks were not made in the challenging situations that Good identifies as threatening neutrality and anonymity.¹⁶⁶ He was not coping with reports about errors in administration, emails and memoranda containing

¹⁶⁵ Hillier had an unusually high public approval rating, see: Anonymous, "Hillier Commands Public Approval: Poll", *National Post*, 19 April 2008, A. 9.

¹⁶⁶ David A. Good, "An Ideal Model in a Practical World:...", 79-81.

policy advice or complex policy consultations with competing stakeholders. Hillier's inappropriate remarks cannot be defended as responding to an immediate practical imperative more important than the need to adhere to the usual expectations of the CDS when dealing with the media.

Hillier's repetition of inappropriate remarks and the government's failure to respond might suggest that the politicians accepted a change in the standard. This argument that the government was permitting Hillier to set a precedent is flawed. A true precedent provides a rational basis for future decisions and behaviour. It can be distinguished from a series of exceptions that go unchecked. Hillier was the only person who was seen to be ignoring the laws and polices, many of which apply to more actors than the CDS. The apparent acquiescence did not lead others to follow his exceptional conduct. No one offered a new alternative interpretation of what the government expected based on Hillier having made public comments that were not consistent with the established standards. It is significant that some of the requirements that Hillier was expected to uphold are essential to maintaining the CDS as the sole source of confidential and impartial military advice. Rather than relying on a series of statements by the CDS, whose correctness was widely questioned, a government would be more likely to explicitly change its policies or seek legislative amendments to redefine the office of the CDS and prescribe the limits on his speech.

An inability or unwillingness to sanction Hillier does not make his remarks appropriate. He was expected to meet consistently a standard that reflected his

responsibilities and his military expertise. As a senior officer, Hillier should have demonstrated concern for not just the results he achieved, but for the means by which they were achieved on a day-to-day basis. He may have had the advantage of his political masters, but he should have restrained himself in his role as spokesperson. As the literature on civilian control of the military points out, the leadership and professionalism of the CDS heavily influence the dynamic of civil-military relations. The CDS must speak in such a manner that sustains the civilian control of the military rather than undermining it.

Conclusion

Hillier provides a rich subject for those interested in the role of leadership in civil - military relations in Canada. There are many valid approaches to judging Hillier and his contributions over the course of his distinguished career. This paper contributes to an understanding of one leader at a time when defence issues and the Canadian Forces regained prominence. It examines one public aspect of his performance namely, what he said, as reported in particular daily newspapers. Further research could explore his remarks as reported in French language or Quebec press, or focus on different localized newspapers, whether the *Toronto Star*, with its large circulation, or a paper like the *Fredericton Daily Gleaner* published in a smaller urban centre with a nearby CF base, (Gagetown). Broader samples of reported comments with statistical validity may prove useful in understanding Hillier's impact in relation to specific issues. Although it is premature to consider whether Hillier's use of language outside the bounds established for a CDS will be copied by those who follow in that office, Hillier's legacy and the

extent to which his approach to media relations influences other senior military officers might be a theme for future academic work. While this paper characterizes some of Hillier's speech as inappropriate, it does not judge his overall performance as the CDS. How his political masters responded to his words, (in private and in public), remains a subject for further examination. An overall assessment of Hillier's career and impact should go beyond what he said, looking at actions, reactions and long term consequences.

The literature on civil-military relations underscores the importance of the relationship between the CDS and the state. Ring demonstrates that he is an important force in a dynamic influenced by military professionalism. Hillier's inappropriate comments raise concerns about his impact on the direction chosen for Canadian defence. Likewise, they leave the impression that he was not careful about the manner in which the consensus that Bland places at the heart of civilian control of the military was achieved. Over time, his speech made him appear more like an independent actor than the dutiful agent that Feaver describes. Hillier's unfettered statements went outside the professional limitations identified by Huntington that continue to inform the military ethos, one which Bentley sees as engendering trust between Canada and its military. Hillier the man got high approval ratings from the public, but his remarks disturbed profound yet delicate relationships and perceptions of military leadership surrounding the office of the CDS.

The framework developed and applied in this paper reflects not mere political correctness, but rather those fundamental principles by which Canada maintains its civil-

military relations and its parliamentary democracy. The unique role of the CDS means that he will be instrumental in upholding or undermining these principles and the nature of the office going forward will be shaped by his behaviour. The current CDS has a less prominent profile in the media, which may reflect a desire on the part of the government not to repeat the experience of having a CDS who was labeled as a “rock star general.”¹⁶⁷ The future evolution of Canada’s civil-military relations and the evolving role of the CDS may reflect Hillier’s speech in ways that cannot yet be fully understood.

This analysis demonstrates that Hillier frequently spoke to the media in a manner that was inconsistent with the expectations of Canada’s CDS. He did not do so every time he spoke, but he became recognized as a public figure in his own right; one who was likely to leave the impression that his political masters were not accepting his advice or not giving him the instructions and resources that he wanted. The three separate times in 2006, 2007 and 2008 when he spoke about the length of Canada’s mission in Afghanistan exemplify occasions where his remarks went too far. His blunt speech on the role of the military not being the same as that of the public service in 2005 illustrates that he sometimes stayed within his boundaries and got his message across in a compelling style.

Many praised Hillier for candour, applauding his choice to speak truth to power. This paper indicates that he frequently preferred to speak truth to a powerful media, rather than reserving his candid advice for politicians during confidential briefings.

¹⁶⁷ Don Martin, “Uncle Walt won’t even try to fill Hillier’s spotlight”, (Don Mills: *Canwest News*, 7 June 2008) [article on-line]; available from <http://proquest.umi.com/pdqweb?did=1492201501&sid=1&Fmt=3&clientid=65120&RQT=309&VName=PDQ>; Internet; accessed 2 May 2009.

Perhaps this choice reflects the relative importance of the media and politicians to a CDS in charge of the Canadian Forces when they are combatants in a war for the first time in two generations. The range of comments discussed in this paper shows that the media are willing to pay attention to a CDS with strong communication skills who sets out to play a role in public discourse.

Hillier was a not so silent soldier who expressed opinions; the very sort of officer that Brooke Claxton preferred not to have as the professional and legal head of the Canadian military. Politicians in the first decade of the 21st century tolerated Hillier's discourse even though it strayed beyond his boundaries. Hillier was not fired. One can only speculate as to factors that may have contributed to this tolerance, although the influence of the media on a minority government cannot be discounted. Hillier remained in office, violating fundamental principles while he attracted unprecedented attention.

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