



AUSTRALIAN
DEFENCE FORCE

Civil-Military Relations in Australia: Past, Present and Future



Profession of Arms
Seminar Series – Proceedings

Australian Defence College Weston Creek
30 June 2021

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Right: Air Chief Marshal Angus Houston (Chief of Defence Force, 2005-11), addresses the crowd at Salute to Veterans, 14 August 2005, Canberra.

Left: Dennis Richardson, Secretary of Defence 2012-17, welcomes guests to the launch of the 2016 Defence White Paper at the Australian Defence Force Academy (ADFA) in Canberra.

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Introduction

This Profession of Arms Seminar on the subject of Australian civil–military relations is intended to revive interest in a neglected but important field of study. For four decades, the field of Australian civil–military relations has been an outlier in defence scholarship, a situation which has hampered a better understanding of how policy, strategy and operations are formulated by Australian politicians, military professionals and public servants.

Little research has been conducted by Australian scholars on comparative Western democratic civil–military models to inform measurements of Australia's own civil–military model based on a diarchy. Moreover, the very term 'civil–military relations' in Australia is often narrowly employed to explain the nexus that exists in the Defence organisation between the public service bureaucracy and the Australian Defence Force (ADF) with limited focus on political dynamics.

The notion of Defence as a 'bureaucratic-military' organisation tends to encourage the pursuit of organisational techniques that are drawn from civilian management analysis – as reflected in the many reviews of Defence performance since the 1970s. In the twenty-first century, an improved and modern focus on the theory and practice of civil–military relations is required to assist Australia's policy makers, military practitioners and public servants to make more insightful and informed assessments of the ADF's sociopolitical role and of the Defence Department's organisational effectiveness.

Professor Michael Evans

General Sir Francis Hassett Chair of Military Studies
Australian Defence College
October 2021

Profession of Arms Series

On behalf of the Australian Defence College, the Centre for Defence Research conducts Profession of Arms seminars twice a year as part of its joint professional military education continuum.

These one-day seminars focus on a topic of interest within the profession of arms. Previous topics are artificial intelligence, robotics and the future of war; and future trends in professional military education.

These seminars are open to interested ADF officers, Defence civilians, interagency personnel and selected regional partners. They are an opportunity to learn from experts in the profession of arms from Australia and overseas.

The Centre for Defence Research

The Centre for Defence Research at the Australian Defence College promotes mastery in the profession of arms and guides future focused academic research that aligns with broader national and strategic policy plans for Australian defence and national security. The centre also delivers a high-quality engagement and academic outreach program through short courses, seminars and conferences as well as a range of publications.

For more information on the Centre for Defence Research visit <https://www.defence.gov.au/adc/cdr>

Welcoming Remarks

MAJGEN Mick Ryan AM, Commander Australian Defence College

MAJGEN RYAN: Great to see you all. I know we had to reduce the density in numbers, but we have still a lot of people online. So thank you for your attendance here today. Today is all about civil–military relations. And it is a topic that in this country, for probably four decades, has been a little neglected and under-theorised compared to other countries that we work with – particularly the United States, Canada and the United Kingdom. This situation, I think, has hampered a better understanding of how policy, strategy and operations are formulated by Australian politicians, military professionals and the public servants in this country at both the federal and state levels.

I think we need to be quite clear about what we are going to discuss today. Although civil–military relations are actually a very broad area of study with lots of subfields, as a subject of professional and academic study, the field clearly focuses on what leading American scholar Peter Feaver defines as ‘the control and direction of the military by the highest civilian authorities in nation states’. The subject also focuses on what my friend and expert Eliot Cohen calls the ‘unequal dialogue’ that exists between politicians and military leaders.

So, we are here today, in person and online, to examine why it is that civil–military relations, as defined by Feaver, Cohen and others such as Risa Brooks, are so under-studied in this country. It’s an area which I have asked Dr Moloney and Professor Evans in the Centre for Defence Research to make one of its priorities and it’s an area where we are going to invest in for the future of joint professional military education.

We may speculate that the weak state of civil–military relations in Australia is perhaps due to the late development of the ADF as a joint force and the lack of the identification of Western democratic civil–military models appropriate to our country. Another reason for neglect is perhaps a view of Australian civil–military relations as constituting mainly ‘bureaucratic–military relations’, that is, ‘studies of defence with politicians left out’. That is not healthy.

Other reasons for neglect may include our tradition of military dependence on our allies, our legacy of strong single-service roles and our lack of institutional self-reliance at times. Whatever the reasons are for this intellectual neglect of Australian civil–military relations, we cannot enter the 2020s and the challenges that we face as a nation without a strategic level of understanding of this vital interdisciplinary field.

We may speculate that the weak state of civil–military relations in Australia is perhaps due to the late development of the ADF as a joint force and the lack of the identification of Western democratic civil–military models appropriate to our country.

Apart from a seminal study by Air Commodore (later Air Marshal) Ray Funnell in 1980 on the civil–military challenges facing the Australian profession of arms – and I commend his article to you – there really has been a dearth of published research on the subject. The material that does exist tends to reflect the work of American social scientists – especially that of Samuel P. Huntington’s 1957 model based on notions of objective and subjective control and the creation of a separate apolitical military.

I think we might offer a view that Huntington’s model is of debatable relevance to us, given the reality of Australia’s British military heritage and our largely Westminster-style system of government. Indeed, the noted British

scholar Hew Strachan has suggested that for most Western democracies, Huntington’s model has proven profoundly dysfunctional to the waging of war in the twenty-first century. He proposes that this has occurred because the main challenges for Western democracies today do not revolve around not political control of the military but involve an urgent need to develop a coherent whole-of-government approach to strategy.

Our great need today is to integrate civil–military efforts in order achieve strategic effectiveness in national security in a highly interconnected context. We must remember that the conduct of war is not static but iterative. Strategy evolves from a dialogue between politicians and those in uniform. It may be an ‘unequal dialogue’, as Eliot Cohen proposes, but we must prepare military officers and public servants to be skilled participants in the essential debates that will occur with our elected political leaders.

The overall aim of this Profession of Arms Seminar today is to set the scene for reinvigorated research into Australian civil–military relations. We wish to begin with a set of informed conversations on research directions. Given that policy, strategy and capability in the Defence Department always involve politicians, military professionals and civilian officials, our activities must be informed by a modern and sophisticated understanding of twenty-first century civil–military relations.

We have a wonderful program assembled for you today. Several of our speakers are unfortunately trapped in south-east Queensland [by COVID-19] but they are still with us and will be Zooming or Skyping into the seminar. But we are very fortunate this morning to be joined, in person, by our keynote speaker, Mr Duncan Lewis, who is sitting to my left here.

Duncan has recently completed his term – his five-year term as Director-General of Security and Head of the Australian Security Intelligence Organisation (ASIO). This was his last appointment in a 47-year career serving our nation. He served in the Army, was the inaugural Special Operations Commander and retired from military service as a major general. He then served for 15 years in the public service.

I first met Mr Lewis when he was Brigadier Lewis and Commander of Sector West on the border in East Timor in 2000. It was a pretty exciting time actually – with our Indonesian colleagues on the other side of the border – a time when I learned a lot from Duncan’s command style. It was a command style that featured a combination of tactical patience and strategic acuity, alongside engagement with people on both sides of the [Indonesian–East Timorese] borders to the benefit of our mission and our nation.

Duncan was awarded an Officer of the Order of Australia [AO] in 2005 for his service as the inaugural Special Operations Commander. He is a graduate of the British Army Staff College and the United States Army War College, and he is a member of the Australian Institute of Company Directors. Without any further ado, I would like to welcome Mr Duncan Lewis to give his keynote presentation this morning and afterwards he will be happy to take some questions from the audience online and in the theatre here. Duncan, over to you.

Keynote Presentation:

Civil–Military Relations in Australia: A Dual Practitioner’s View

Mr Duncan Lewis AO DSC CSC, former Secretary of Defence, National Security Adviser and Director-General, Australian Security Intelligence Organisation)

MR LEWIS: Here we go. Right. I think I can take my mask off, can't I, while I am talking? That's okay. General Ryan, distinguished guests, ladies and gentlemen. Michael, thank you very much for those kind words of introduction. You're very generous. I want to thank Professor Michael Evans for your very kind invitation to be here this morning.

My theme for the address this morning is that civil–military relations are a must for the nation's security and must always be as good as they can be. Just think about this for a moment. As good as they can be. This surely implies that civil–military relations are not always as good as they can be and that perhaps they are not even as good as they should be. In 1977, I was a young officer in the Special Air Service Regiment (SASR), and we were visited in the mess, one afternoon, by Sir James Killen – Jim Killen – who was the Defence Minister at the time. He was a great raconteur, and he told a story, which I have always remembered. That day, he had been down to Garden Island in Western Australia, HMAS Stirling, which had just been built for the official opening of the base. At the end of the official part of the ceremony, Jim Killen, accompanied by the then Chief of the Defence Force Staff, General A. L. MacDonald, who – and I note a few smiles in the audience here – [was] a very irascible old CDFS, went over to the sailor's mess for lunch. They found themselves sitting on either side of the President of the Mess Committee, a young sailor, an able seaman – actually he was a leading seaman. The young man was talking to A L MacDonald for a while, but as you can imagine

with an irascible general, that conversation did not take too long and he turned his attention to Jim Killen. He asked, 'And so, sir, what do you do?' Jim Killen said, 'Well, I'm the Minister. I'm the Minister for Defence.' And the young man said to him, 'Is that a good job, sir? Are you enjoying that?' Killen replied, 'Oh, yes. It's not bad.' And the leading seaman said, 'Well, I do not understand, sir. Where do you fit in? What's your relationship with General MacDonald here? The Chief of the Defence Force Staff?' Jim put his arm 'round this guy [the leading seaman] and said, 'Listen, son. I'm his boss.' And the young fellow said, 'Well, sir, when I go home and tell my wife that I've had lunch with the Chief of the Defence Force Staff and his boss, she'll think I've been on the turps.'

To me, that story has always reflected a gap in knowledge between many in the military and the civilian side of the [Defence] house about each other's business. I have had the very great, and some might say the unique opportunity, indeed, the privilege, to serve the defence of this country – both as a senior military officer and in civilian roles, as a chameleon perhaps. As I reflect today on the single ingredient – if there is indeed a single ingredient for the success of our civil–military relations over the years – that single ingredient is trust. The presence of trust enables the lubrication of those grinding cogs in the Defence organisation. When the cogs are not aligned, when interests are not aligned, the cogs grind. Absent the element of trust, those grinding cogs of divergent interest between the civil and the military leadership begin to heat, and when they glow red, the Defence system seizes.

As you reflect on civil–military relations today, you will need to contemplate just what, in the Australian context, constitutes this exquisite relationship. Is it the relationship between the military leadership and the public service leadership on the one hand, as exemplified perhaps in the diarchy – a relationship of which I have very fond memories. Or do civil–military relationships involve the relationship between the military on the one hand and the political class – the Minister, the government of the day – on the other?

I would put it to you that you should be considering both [sets of relationships]. I think they come as a package. A broader inclusion of both these sets of dynamics permits a more holistic understanding of what is an enormously important, sometimes nuanced, frequently stressful and always complex set of relationships. I'm not trying to make this subject more difficult than it is, but after many years watching civil–military relations under numerous Secretaries and CDFs [Chiefs of the Defence Force] and even more numerous governments, I have concluded that the system or systems that have evolved have delivered effective

and successful military forces able to deliver the security outcomes that the nation has required. We have a modern, technologically advanced ADF and, in my view, an effective system of strategic control, through the committee process, up to and including the National Security Committee of Cabinet.

In short, the system works, but to continue my theme, is it as good as it can be? I am bound to say, 'No, it's not'. There is a need for continuous attention to civil–military relations, as there is with any other sort of relationship; friendship, partnership, marriage – they all require constant attention, and this relationship is no exception to that rule.

In 1990, I was the commanding officer of the SAS Regiment and we hosted a visit by the then Secretary of Defence, Tony Ayres, a very distinguished Australian. One of my soldiers asked me at the time, 'Who is this guy, sir. And what does he do?' And I am almost embarrassed to say that at the time, I was not quite sure myself, even though I later became a Secretary [of Defence]. Later in life, while still in uniform, I began to develop friendships with peers in the public service, the APS members of the Defence Department in the main. We grew up together. We fought administrative and strategic battles, both real and figuratively together, and I count these people, who had no military background, as my trusted friends.

We have one of them sitting in the audience today, Brendan Sargeant. Others include Peter Jennings, Steve Merchant, just to mention a couple of officers in the APS that I grew up with and [with who] I shared a career. I know – I certainly hope – that they, in turn, would have a number of military officers that they would count as their trusted friends and colleagues. I know that they do.

In 2011, when I was the Secretary of Defence, the relationship between myself and General David Hurley [the CDF] was one perhaps not seen before. We had both been Duntroon classmates, we were both infantry officers and we had been personal friends for 40 years by the time we became Secretary and CDF, respectively. It was said by some at the time – notwithstanding my detractors, who thought it improper that a former senior military officer should be appointed as a Secretary of Defence – that you could not get a cigarette paper between General Hurley and myself, and perhaps that was the problem with my time as Secretary.

At one point during my time as Secretary of Defence, we had a remarkable test of the civil–military relationship. It was to become known as the Skype Affair [Skype scandal] at the Australian Defence Force Academy (ADFA). Many of you will be familiar with the incident. Some of you will recall the criticism of the then

Minister for Defence for his interference in the matter and the assertion that he had interfered in what was an issue for the CDF and for military discipline.

Now, Michael Evans himself cites this incident in his excellent chapter in the 2021 *Routledge Handbook of Civil–Military Relations*, so I will not say anything more, but I do commend that piece of work to you. The assertion that one side or the other of the civil–military relationship has overreached its authority or its competence is fairly common – common enough for it to have substance – but not always as egregious as occasionally asserted.

Statistically, the view that the civil side has overreached into the military is greater. This is not to say, of course, that the military does not have its own situation or responsibility for overreaching into the civil side of the house. So let me turn to

those issues which I found commonly excited interest in the civil–military relationship.

The assertion that one side or the other of the civil–military relationship has overreached its authority or its competence is fairly common – common enough for it to have substance – but not always as egregious as occasionally asserted.

First, and in a class of its own, is the issue of the development and the acquisition of military capability. Defence or single-service leaders may argue for capability 'X', whatever it happens to be. That capability, typically, costs a lot of money. The civil side, either the Department of Defence or the ministerial office, may forcefully question the need for a given capability, the scope of the project, the cost of the project and what alternatives might exist.

This process often causes irritation and seems an affront in the military mind, which, in turn, causes the civilians to dig in even deeper because there must be

something dodgy about the capability proposal. Now how many times have you seen this? The arguments do not centre on civil control, nor government control and they do not centre on civil [political] control of the military, which, by the way, has never, in my experience, been questioned by either side.

But the capability process does centre on the issue of who is competent to make the call on acquisition. This is where trust as central to the relationship comes

to the fore. The military is, in my view, obliged to argue its case that, first, the capability is necessary and, second, that it is worth paying for. Civilian opposite members will then decide whether the arguments are of necessity, compelling and whether the cost is worth paying, given various pressures.

Now this [capability process] is an ideal world model, and we know the world is not ideal. I, for one, have never ruled out the insertion of contestable ideas from either side which might be out of lane. Surely, intellectual curiosity, as a minimum, would suggest that this is a sensible approach – even if the credibility of those out of lane ideas might need some very careful testing.

Another area of contestability that we often confront is the use of the ADF. Frequently, military commanders and leaders suggest the use of military force is either inappropriate or it is excessive for a battery of reasons. The political side will generally be pressing for more military engagement [based on] notions that they want the military involved because it’s a good look or it’s an easy solution or whatever.

This situation is most common, in my experience, in the situations of aid to the civil community and, less frequently, aid to the civil power. This point of civil–military divergence is particularly difficult, because for it to be successfully resolved, the situation requires trust – trust which, at some points, may be in short supply. At the end of the day, of course, the decision whether or not to deploy or engage the military on any mission is one for the government.

I want to turn to the nub of the disagreement between civil and military positions when they occur. If we all agree in this room, and I hope that we do, that the elected government of Australia has the mandate and the authority to determine the national interest – and from that the national security interest – then it follows that the military leadership, having made its best arguments and representations, must do the government’s bidding or resign.

The government carries the risk. If it acts contrary to military advice and it stuffs up, it is on the government’s head. At this point, I want to make clear once again that the military is not subject to APS control. The military is subject to government control, civilian government control, as indeed is the APS.

I would now like to share with you some of my views on the civil–military relationship surrounding strategic decision-making at the Cabinet level. I spent 14 years in total – with a short break while I was in Brussels [as an ambassador] – 14 years sitting around the table of the National Security Committee of Cabinet

[NSC]. As I sat in my last NSC meeting a little while ago, I realised that in the chair was my sixth Prime Minister and sitting at the table my eighth Minister for Defence. I reflected that evening on all of those long nights, sitting around the table, as we discussed procuring new air warfare destroyers, F-35 fighters, Growler aircraft, new submarines, refurbishing old submarines, Super Hornets, C-17s, P8s, helicopter landing ships and the helicopters that land on them, and the list goes on.

I would unquestionably put respect as the next most important ingredient if the civil–military relationship is to be as good as it can be.

There was no evidence around that table in my 14 years that I saw of the sort of insobriety and disrespect that was alleged in the Australian Senate only last week by the Senator from the Northern Territory. On the evening of the decision to deploy forces back into Afghanistan in July 2005, I have vivid memory of how sober and, indeed, how sobering the discussion was around the table. The Prime Minister taking advice from the CDF on what the ‘up and down sides’ of a further deployment would be. It is

at these moments when a CDF earns his money and a PM for his or her part earn their money, for that is how those decisions are taken.

My takeaway from that memorable evening in July 2005 is the need for respect. There was respect for the military advice. There was respect for the political considerations that followed that advice. There was respect during the deliberation and there was respect for the final decision. At the beginning of my address this morning, I spoke of trust being at the centre of civil–military relations. If I were to break relations out a little more, I would unquestionably put respect as the next most important ingredient if the civil–military relationship is to be as good as it can be.

Now, if you add trust and respect as two central and essential ingredients for a good relationship, you must quickly question, how do you get these qualities and characteristics into the [civil–military] mix? When I was a young captain attending the basic parachute course – an activity I feared until the end of my service, since I probably hold the Special Forces record for the least number of jumps made in a career – I read a memorable line in the history of the original British SAS in the North African desert. The line was written by some forgotten bard and it went like

this: 'Fear knocked at the door. Curiosity opened it and there was nobody there'. Isn't that line wonderful? 'Fear knocked at the door. Curiosity opened it and there was nobody there.' At least that got me out of the aircraft the first couple of days.

This line has direct application for the civil–military relationship for officers on either side as they engage one with each other. If you are fearful of your opposite number, if you are fearful of what they appear to be, the best way to get around it is to be curious – get to know the individuals, people with whom you can maintain friendship and in whom you place trust. Such people you can come to respect and work most seamlessly and with mutual understanding.

Such people understand that give and take does not make for supplicants on the one hand or for attempts at domination on the other hand. Let curiosity dispel fear. The important factor is to get to know your opposite number, whether civil or military. By doing so, you will come to appreciate that they are not actually opposite numbers at all but are on the same side. They are partners and teammates, and together you are stronger than if you are apart.

I am not trying to wear rose-coloured glasses around this issue. Where there is a difference of civil–military opinion, you are obliged to argue your case. You should do so strongly and forthrightly, but if your argument is launched in an atmosphere of distrust and disrespect then you will likely fail. A civil–military relationship conducted in such an atmosphere will not meet the nation's needs and will not be, returning to my theme, as good as it could be.

Ladies and gentlemen, I have spoken for long enough. Having been something of a chameleon moving between uniform and suit, the unkind might suggest I am a 'cross-dresser'. I have been and I have seen the civil–military relationship from both sides of the equation. I can assure you of the earnestness and sincerity of both camps, of the professional standards and the work ethic of both sides and of the commitment of all concerned. We have had a long and not always illustrious journey in Australia with civil–military relations, but we have over the years, in my view, got better – progressively and incrementally better.

We can congratulate ourselves on this point but not conclude by any means that we are at journey's end. I have a son who is a young military officer in the Special Forces. He is attached to a United States Army unit and this evening he will deploy into the Middle East. I also have a daughter who is an executive in the Australian Public Service, in the Defence Department. And the stories that they share with me about the 'damn civvies' or the 'bloody military' are quite interesting as a father to listen to. I felt the same when I was their age. But what I know now,

and what I tell them is, that if you get to know your civil and military teammates, develop respect and trust, you will get better outcomes for the security of this country and you will help make civil–military relationships the best they can be.

Now, before I finish my remarks, I want to put in a plug for this college. Where we meet today, the Australian War College at the ADC, makes a major contribution to better civil–military relations. It has been said that colleges, such as this, are designed to turn men and women of action into men and women of contemplation. The college calls on officers to reflect deeply on their profession and the wider context in which the profession of arms operates.

We have, from the ADC's inception, had small numbers of Defence APS officers attend the course here at Weston Creek. Having civilian peers sharing the learning journey has a lasting and a beneficial impact on civil–military relationships inside the department.

I only wish we had more civilian officers attend this college. Perhaps without being unkind, they could, in some cases, transform from men and women of contemplation more into men and women of action. The point I make is this, the Australian Defence College is a priceless asset. It remains for me, once again, to thank Professor Michael Evans for the very kind invitation to be here today and to wish each of you well as you discuss and explore this amazing phenomenon of civil–military relations, often misunderstood, frequently underestimated, but always critical for the defence and security of our country. I thank you and I am very happy to take your questions. Thanks, Michael.

MAJGEN RYAN: Duncan, thank you for that. We're going to take a quick five-minute break and then we will come back for Q and A. I would say that you have just had a presentation from someone who has been a general, an ambassador, a National Security Adviser and a Director-General [of ASIO], and then as a Secretary of Defence. There is almost no one in the country with the breadth of the observation and experiences than this gentleman standing before us. So if can I just, on your behalf, thank Duncan once again for that great presentation and take a quick break and we will come back and do Q and A.

Keynote Presentation: Question & Answer

Chair: Major General Mick Ryan AM

MAJGEN RYAN: All right. We'll start the Q and A session. We do have Jess [with a microphone] over on my left who will wander up and down the stairway. Please wait for Jess to ask your question because we have a bunch of people online that we want them to be able to hear both the question and the answers. So wait for the microphone. Just tell Duncan who you are and where you are from before you ask the question. That would be appreciated.

DR MOLONEY: Good morning.

MR LEWIS: Good morning.

DR MOLONEY: I hope you can hear me, otherwise I will yell. Good morning. I am Dr Cathy Moloney from the Centre for Defence Research, and I was a part of the team that put this event together. Thank you very much for giving the keynote speech. One of the questions that I have for you is in relation to your comment about sometimes there was differences of opinion in the civil–military relationship when it came to capability and purchasing and building capabilities.

My question is, as opposed to the capability differences, did you, in your time, find that there was a cultural difference of the rising ambition of young APS in the civil side trying to rise up and what conflicts that may have arisen in your time, particularly when it came to the relationship with senior officers.

MR LEWIS: If I understand your question, it relates to perhaps ambitious, young APS officers who would go into contest, toe to toe, with senior military officers. Is that, that is the kind of thrust of what you're asking?

DR MOLONEY: Yes.

MR LEWIS: I am not sure that that was ever something that kept me awake at night. Obviously, this kind of thing will happen from time to time. It's more common, actually, among young [political] staffers from the [Capital] Hill going toe to toe with a senior military figure. It is not uncommon for young staffers to show a lack of nuance and a disrespect, even if and when they're right. Even if they are right, there is a way to manage matters and they are not always able to do it.

I have always found that APS officers, generally, are working within a framework. It is not the same system as the military, but it has some similarities in that it is hierarchical and there is a Secretary at the top. But the staffers on the [Capital]

Hill are another matter altogether. I do not have a favourable view, as a general proposition, about the way in which many of those staffers behave.

To cut to the chase, what you are seeing on the front page of the newspapers for the last three or four months about behaviours on the [Capital] Hill is also reflected in some of the professional engagements that take place between sometimes disrespectful young people and more senior folks. But it also applies when young staff from the [Capital] Hill are engaging senior public servants. Don't think this [problem] is something peculiar to military officers. Sorry, that was a long but slight tangential answer to your question, but that is where the issue presented itself most commonly.

LTCOL JOHNSON: Good morning, sir. My question relates to strategic thinkers. We in the military certainly want our junior officers to be experts – technical experts in their field. Recently, General Ryan has written about developing strategic thinkers. Do you think that perhaps we're trying to develop junior people in both the Defence Force and the APS to be strategic thinkers too early, at the detriment to be tactical and technical experts?

MR LEWIS: Well, that is a good question. I mean, I am firmly of the view, with my former military hat on, that young officers should spend quality time and enough time at the coalface, whether soldiers or sailors or airmen and [air]women – aviators I think you call them now. There is a requirement which is essential that they do that. They then go into what you and I would call the regimental life. And then at some point [they attend] a college like this, which is designed to turn men and women of action into men and women of contemplation. That is a turning point. For me, personally, going to Staff College in the UK was the first time I'd really had time to think about myself and sit down and think about the profession of arms, and to widely and listen to a whole bunch of Poms going across the podium telling of their stories and their experiences. It was a wonderful thing.

Then, of course, when you get a chance to go to a war college and you do the kind of same thing but at a higher level. I remember saying to people at the college here that when you leave the [Australian] War College, you do not actually get another day's education for the rest of your life. You know, that is it. Not that learning stops, but you have reached the end of your formal development in military life. You will know as much as you are ever going to know in a professional sense. By the time you leave a war college, I think you need to have a complete and nuanced development of strategic thought processes and, particularly, the role that you as a military officer will play in the development of those processes.

To be able to engage with the civilian side of the house, either APS on the one hand or the elected government of the day on the other, and have your view given weight and hopefully carry the day with whatever it is that you are proposing, that is the acme of success. I would not want to see any reduction in the regimental experience for young officers, because that is what makes you different at the end of the day. This is what enables you to give the kind of advice you offer when you are a 50-year-old general because you have been a 21-year-old lieutenant and been toe to toe with a whole bunch of diggers doing what they do. That makes you different.

MR MONEYPENNY: Sir, thank you for your time. Steven Money Penny, currently a RAAF officer working in Strategic Policy Division. The government released its Strategic Update last year. The document brings our focus closer to this region, but there is still a healthy tension and discussion within the organisation around competition and conflict. I wonder if you could offer some reflections on how the way the ADF’s been employed in the last 20 months in support of the civil community and the vast number of our members who have been working out there in the civil community, and what benefits and challenges that will offer for the future of civil–military relations.

MR LEWIS: Steven, thank you. It would take me half a day to answer that completely, but the change in direction from fighting the wars in the Middle East, which we have been doing for, whatever it is, 15 or 17 years or something, to then start looking regionally is a natural pivot point. I mean it has to happen, and we had been talking about the winding down from the Middle East for many years, as Brendan [Sargeant] will attest. It was all well and good deploying there [the Middle East] in the first place, but it started to become a bit of a chore, if you like, from a Defence point of view in terms of the expenditure of time, energy, money and so on.

I am not saying the deployment was inappropriate. I think Rick Burr [Chief of Army] told me the last troops were coming out of Afghanistan about now. But for some years, we have been talking about a pivot back into what really matters to us – our interests here in the region – because things have changed. I applaud that and, quite frankly, you could never move too fast in making that pivot. It should be happening at the best possible speed.

To come to your particular point about the use of the ADF in the last 20 months, and I am assuming you’re talking about the use of the ADF in support of the COVID operations in Australia. That is what you are alluding to, yes?

MR MONEYPENNY: And bushfires.

MR LEWIS: And bushfires. Yes. Okay. The bushfire thing is completely unremarkable. I think the use of the ADF in bushfires is absolutely core business. Well, 'core', you cannot use that expression because the [military] purists get onto you. It is entirely proper for the ADF be used for support to the civil community in a natural disaster, such as bushfires, floods, famines, whatever. I have no problem with that. The method by which the ADF is called in because of our unusual federation is awkward and requires further streamlining. I know there is a lot of thought going into how to get the ADF onto the streets – when it is appropriate – more quickly and with less clunkiness than has been present in the past. Unfortunately, politics come into play here, as you know, between the federal government of one persuasion and state governments of another persuasion. But it is entirely appropriate that the ADF be deployed in situations of natural disaster.

COVID is really interesting because it isn't a natural disaster per se, but it's certainly the most significant thing that's probably happened in all of our lives. I am pretty relaxed about that [use of the ADF]. Although I must say I am a frequent traveller, sometimes interrupted, to Western Australia. And when I first arrived over in the west after the ADF was deployed, I found a chief petty officer sitting there, sort of giving directions on where I was to go to have my temperature taken and so on. I found that a bit confronting. The guy was a submariner, and I had a chat to him and he said, 'Oh, yeah it's a bit of a bummer but I'm here'. I can understand that.

I have got to say that if the only asset that the government has got to use [in COVID] is the ADF, then I do not have any qualms about that at all. I would just encourage the government to be judicious in its use [of the military] and to return it to its core business as quickly as possible.

ASHLEIGH: Good morning. My name is Ashleigh. I'm a logistics graduate in [indistinct] stream. My question is around trust as central to building civil–military relations. How do you think that will work as we tend to contract out, for example, maintenance, and where you have mission systems that are safety critical, how do you think that will affect civil and military relations?

MR LEWIS: Ashleigh, that is a really good question. I thought about this the other day while I was getting my thoughts together about what I would say this morning. It occurred to me that I could have discussed the issue of the commercial world and its engagement with the military.

I now sit in my kind of third life on the border that is straddling a little French aerospace company, Thales. It is interesting to watch the relationship between a company which is there to produce capability and, ultimately, to make money and its relationship with the Defence Department. I am pleased to say that the relationship between Thales and Defence is a very good one, but I am constantly confronted with the fact that those relationships could be better. As time goes by, I think we are going to find more and more civil contracting going into the delivery of Defence capability.

This first came to light, really, when we deployed into the Gulf. I am not old enough to have been around to have seen service in the Vietnam War. The first time that I got to see major forces deployed was when we first engaged in the Gulf. It was something of a surprise to me to find that companies like Brown & Root and so forth were deployed well forward, delivering capability to the front to support US forces. I think that we probably, in Australia, need to think a bit more about that. I put my military hat on again. There is a limit to which you can do that [outsourcing]. I think you need to keep certain core capabilities in uniform. But I reckon there is a lot more scope to do clever contracting to deliver military capability and I should make a comment about contracting.

It is my view that Defence lags behind best practice with contracting, and I say that as a Secretary [of Defence] where it lagged on my own watch. I think that for most of my career, we have struggled in Defence with the issue of delivering clever contracts – contracts that do not have warts on them. Contracts that deliver seamlessly the kind of thing that was intended in the first place. That’s a bit discursive, Ashleigh, but that’s kind of where I sit around your question.

MR BRUIHN-HIGGINS: Hello, my name is Liam Bruihn-Higgins, from the National Naval Shipbuilding Office in CASG [Capability Acquisition and Sustainment Group]. I was wondering if you could possibly speak a bit more about the military working not only with the Defence APS workforce but also with our colleagues in the Department of Foreign Affairs and Trade and other related agencies, particularly in the Indo-Pacific and the importance of that.

MR LEWIS: You are asking how does the military or how does Defence stand in terms of its interagency and perhaps near-regional engagement? Is that the point of the question, yes? The interagency piece is really interesting. I have lived this and spoken about the subject. One example that I use was when I was the National Security Adviser. I used to chair endless committees and interagency processes, and it was not uncommon to have Defence officers come over and

join these committees and task forces trying to address some problem. The case that I have in mind involved an Air Force officer, a pilot, and we were talking about C-130 aircraft delivering some capability somewhere. This bloke is sitting there with his legs crossed and his arms crossed, and he said, 'No, it can't be done'. And I said, 'Well look, I have been around for a while--', and he started going on about crew hours and rest. I said, 'Mate, I can go toe to toe with you about this if you want to. What I need is an answer – how do we get to "Yes"? Tell me how we actually get to "yes", rather than saying, "No, we cannot do this for one reason or another which is an arcane military [reason] or a sort of theological reason"'.

I think the interagency process has grown. I have got to say that in the last 10 to 15 years, our interagency piece has become infinitely better than it used to be. The turning point was probably Timor, when Australia, for the first time, found itself leading a coalition. All of a sudden, we needed a coordinated position between the departments of state that were involved, namely, DFAT [Department of Foreign Affairs and Trade], and Defence, AGD [Attorney-General's Department]. We had to have a coordinated position to stand up in the face of some of the partners who were not allies – partners who came along and joined a coalition of the willing. I think that was a turning point.

Later on, of course, with conflict in the Middle East there was endless committees where a coordinated government position was essential. I have found that relationships with DFAT and with AGD, like relationships within Defence, need to be worked upon. You've got all those things I said [in my address]. Get to know the people, get trust developed and explain. When you are explaining to another agency a point, it is not their obligation to understand, it is your obligation to help them understand. The onus is on you, the talker, and so I think that is an important kind of nuance around the issue of interagency.

Does that go to your point, yes? Let me digress, let me just add something here. National security strategies – there has been endless debate for years about whether we should or should not have one of these things. I remember going in to see John Howard just before the Rudd Government came in, and I was proposing to him that we have a national security strategy. Because he is a very wily fellow and a man who I respect enormously as a wonderful Prime Minister, he looked at me with some curiosity and said, 'No, I don't think we'll do that'. And you know, he had very good reason for doing it.

I did the same thing with Kevin Rudd when he came in. I was his National Security Adviser. I remember pushing a tome across his desk [on] national security strategy

and saying, ‘Well, here it is, Prime Minister. The golden bullet for our security needs’. He then pushed the file back across the desk and he said, ‘No, Duncan, I think it’s a bit premature. We won’t do that yet’. And it was because of all the hooks that are attached to such a thing. But we have got in a position now where I think we could deliver a very effective and coordinated national security strategy as a result of the interagency piece which is pretty good now.

MR BIENIEK: Sir, thank you for your keynote speech. Matt Bieniek, Chief of Army’s Initiatives Group and one of the APS who completed that Command and Staff course last year, which was [indistinct].

MR LEWIS: Congratulations. Well done.

MR BIENIEK: Yes. It was a fantastic opportunity and I promote it to everybody here if they get the chance to do it. In your speech, you made mention of contemporary military challenges – the definition of the whole-of-government and the challenge of generating national power. Do you have any suggestions based on your broad experience on how that larger strategic approach could actually be brought into being?

MR LEWIS: How you could improve it or build it? Yes. This is a bit left field, but one of the things I was proposing on leaving public service was the creation of a public service college, a public service academy. If you look at the administrative colleges of countries like France and Singapore – countries that I rate relatively highly in terms of their whole-of-government approach – most of them have some sort of learning experience that fuses all the future leaders of the country together and develops a cohort. When it is suggested here, of course, everyone starts tingling because of the money that is involved and also because of the fact that you will take very important public servants out of their careers for a period of time.

The military got over this issue years ago, obviously, and has large slabs of its demographic in and under education and training at any one time. Whereas in a public service environment, it is kind of, well, it is disrespectful to say so, but [further education] is seen as an add-on.

I think the problem may be resolved by itself because the pressures that are coming upon Australia today are greater than they have been in my working lifetime. These pressures will be the mother of necessity. We will be forced down that path [whole-of-government preparation] to have every sinew of government working in harmony and in unison and in synchronisation in order to get the best

possible outcome. There will not be any room for the kind of turf wars or the tensions and pettiness that pops up from time to time.

Western democracies, in my view, not just Australia, are under stress and strain at present. I think the citizenry are asking questions now that they have not perhaps asked, certainly in my experience in the past, about their systems of government, about what their government can and cannot provide. The failure to meet expectations on wealth – those expectations were probably not well founded, but they were real, they existed. I think that Western democracies are going to have lift their game as a general proposition.

I am delighted, therefore, when we have new groupings that appear. The Quad [Quadrilateral Security Dialogue], which I was deeply involved in when Kevin Rudd was first setting up. I remember travelling around with him and we were trying to fan the flames of the Quad. Then, as you know, it died and now it has been resurrected. I think the sort of relationships where Western democracies work together to get the best and coordinated outcomes is going to be a feature of the days and years ahead.

COL SLIGO: Graeme Sligo, Army Reserve at ADC.

MR LEWIS: Graeme, well known to me.

COL SLIGO: Sir, you have spoken a lot about attitudes. What about structures? It seems to me when you look at the journey, perhaps stretching back to the Tange era, there was a view on the civil side 'do this' and on uniform side 'do as a little as possible'. [There were issues with who did] capability development while the Minister did something else. Could I have your reflections as to whom should be doing what in that triangular relationship inside Defence?

MR LEWIS: Graeme, thank you. It's good to see you again, even though you're hidden behind that mask. I did not pick you up initially. That's why bank robbers wear them, I presume, so they can't be identified. The Tange era is a little before my time. He was the Secretary when I was a very young officer, so my understanding of the kind of tensions and the frictions that were going on during that time are not fully developed. I do remember once being told that Sir Arthur MacDonald actually threw an Army Law Manual at Sir Arthur Tange one day when they were CDFS and Secretary, respectively. And any of you who are old enough to remember the old Army Law Manual – it was a substantial document – would know it would have killed you at 10 paces.

I think we have moved on. I think there was a generation, probably around about the time of Chris Barrie as CDF and maybe Alan Hawke as Secretary, where I think things started to change and a more collegiate relationship was developed. The [Defence] product that was put in front of government, as a result of internal departmental deliberation, was a fused product, as opposed to a contested product.

It is obviously the acme of success if you can get a fused product to government, but, again, I am not a fool. I understand that from time to time, that situation will not happen, and it might be that government is required to adjudicate.

Government does not like that. They [ministers] do not like having to adjudicate but they do understand that at the end of the day they are going to have to make the decision. I think the military, and I have said this to the Staff College, you are obliged as a military officer to give the old frank and fearless advice. You are obliged to tell it as you see it.

Now, you might tell it once to a civilian kind of leader and you might tell it twice if he is your boss. You probably wouldn't do it a third time because you'd be in danger. There is a way in which you can deliver a contrary view. You can go toe to toe but if you get chucked out of the room with animosity, what does that achieve? So the acme of success is to be able to lead all these [different] bodies around and to try and get them in the same camp. In the same way that government is often described as the art of the compromise, I think it is very true that within the Defence Department. The fierce in-the-trenches debates about capabilities are something where some form of compromise is generally the way forward.

There have been cases, and I was involved in one as the Secretary [of Defence], where I and the Chief of the Defence Force gave advice to the government and it was not taken. They went in another direction. That's on the government's head if it stuffs up. Now they have been lucky and did not stuff up and got out of that one [situation]. But you do not always get your own way. The old, what was it

I do remember once being told that Sir Arthur MacDonald actually threw an Army Law Manual at Sir Arthur Tange one day when they were CDFs and Secretary, respectively.

called, the FDA? Force Development and Analysis, or the ‘forces of darkness and anarchy’, was a little coven of civilians that was set up in the Tange era to red team every idea that came out of the military and to knock it down. That was a time of very great animosity between the two sides [ADF and APS].

I believe we have moved on, and Brendan [Sargeant] will have a view on this because he has been living it more recently than I have. But my sense is that ‘Okay. There are still disagreements, I get that’, but I think they’re handled in a more effective and mature way.

MR BIKRAM: Haya Bikram. At the moment we’re kind of operating in a new [indistinct] strategic environment and you alluded. How do you think the civil–military relationship should adapt to this new [strategic] environment, because I think one of the more traditional trains of thought is that the military should have a greater role in this relationship in times of wartime or deteriorating security. What are your comments on that?

MR LEWIS: If I understand your question, it relates to when stress appears, strategic stress, and that the military should have a proportionally larger voice than they would in times of quiet and calm?

MR BIKRAM: Yeah, do you agree with that [indistinct]?

MR LEWIS: I think it is a natural thing for that to happen. It is my observation that since the conflicts began in the [early 2000s] since our deployments began in the Middle East, the voice of the Chief of the Defence Force has carried a lot more weight than perhaps it did prior to that. I am not clever enough to work out whether it is weight or whether it is just volume. You hear more from the CDF than you ever did before [and] it is true to say that the stature of the CDF – certainly the public knowledge about a CDF – is much greater now than it ever was in the past. CDFs are known. Peter Cosgrove was known, David Hurley was known, Angus Houston known and Angus Campbell [is known] most recently.

When I think back to my younger days, the CDF never appeared anywhere in the public face. You very rarely saw them in the newspapers or in the media. Mind you, you did not see public servants either. So that is probably changed a bit too. I think it is natural that a CDF is more valuable in times of strategic stress, [particularly] if the ADF is being contemplated for use. Sitting around that NSC table is always the CDF or his representative. The advice that has been given by that succession of individuals has not always been taken by the government, but it has been listened to.

It was more common, actually, around the table to have stress and strain between [government] departments than between the military and the civil side of the house. It was more a departmental thing. Defence and Foreign Affairs are not uncommonly in slightly different positions, and it requires work to get them into an agreed position. That is notwithstanding what I was saying earlier about the interagency process, but you often find that the interests of the Defence Department and the Foreign Affairs Department are not fully aligned, and they do need to be manipulated to bring them into line. But I do not think that you would want a situation where the military voice was just a standout and overwhelmingly influential in that room. If you look back through history, countries where that has happened have not ended up in a happy place.

MAJGEN RYAN: That brings us almost to the close of the session. Just a couple of closing remarks. I think what we have seen is not just an address but a master class on the formulation of trust and effective working relationships in the national security environment in this country. I think as a start to today’s addresses and conversations, I cannot think of a better person and a better content than what we have seen here this morning.

I am happy to report that since the start of 2018, we have tripled the numbers of public servants on the Australian War College course. If you are in the Australian Public Service and wish to come to the staff course or the Defence Strategic Studies course in 2022, now is the time to get your applications in. We’d love to have you out here and we will be hosting tours and briefings out here for those who might be interested. If on your behalf in the theatre here and for our online guests, if you could show your appreciation for Duncan’s address and Q and A today. [Applause]

MR LEWIS: Thanks, Michael. Thank you, ladies and gentlemen.

You hear more from the CDF than you ever did before [and] it is true to say that the stature of the CDF – certainly the public knowledge about a CDF – is much greater now than it ever was in the past.

Panel 1:

Theoretical Issues in Civil–Military Relations and Australia’s Approach to the Field

Professor Risa Brooks

Allis Chalmers Associate Professor of Political Science, Marquette University and Modern War Institute, US Military Academy, West Point

Associate Professor Cameron Moore

University of New England

Professor Michael Evans

Australian Defence College and Deakin University

DR MOLONEY: For those of you who do not know me, I am Dr Cathy Moloney and I am the Head of the Centre for Defence Research here at the [Australian Defence] College. For the rest of the day, we have two really dynamic panels and our first is coming up right now.

The first panel is on the theoretical issues surrounding civil–military relations. I am not going to go into too much detail about our speakers because I think they are more interesting than listening to me. But [I] do want to just give a brief introduction to our panellists and then you will not hear from me until after they have given their presentation. We start with Associate Professor Risa Brooks from the United States, an expert in American civil–military relations giving us theoretical perspectives from the United States.

She will be followed by Associate Professor Cameron Moore from the University of New England, who, unfortunately, was unable to make it due to COVID-19. Cameron and our own very good Group Captain Jo Brick, the Chief of Staff of the [Australian] Defence College, have co-authored a paper which is on the [Australian] Constitution and legal foundations of civil–military relations. Given time, Jo opted

for Cameron giving the presentation. But I am sure she will love to take any of your questions. Cameron will be followed up by our very own Professor Mike Evans. Many of you will know he is the General Sir Francis Hassett Chair of Military Studies here, and he was the key proponent in driving this seminar today and so we are really pleased that he will be rounding out this panel.

I will hand over to Risa now who will give her presentation. Our panellists will speak for about 15 minutes each, then, depending on time, we will have maybe just a stretch in place and then questions. Please take it away Risa, and welcome to the Australian Defence College.

Civil–Military Relations in Liberal Democracies: Some Comparative Perspectives and Lessons

Professor Risa Brooks

PROF BROOKS: Thank you so much. I am so thrilled to be with you today to talk about civil–military relations. I am going to go ahead and get my slides shared here and then I will start speaking. Today, I am going to talk about theories of civil–military relations and how they have applied in the US and, in particular, discuss current debates going on about civil–military relations here. Before I get started, I want to clarify what I mean by ‘civil–military relations’, because the term is used in different ways at times.

Essentially, ‘civil–military relations’ describe a series of relationships. The first between society and the military institution in a country – encompassing the mass of the population – as well as interest groups or specific societal constituencies, such as non-governmental actors in conflict zones. There are different actors in society. Sometimes scholars refer to civil–military relations to discuss intra-military dynamics, even when civilians are not present. But I think the most dominant focus, at least the focus of most of my own research, is on the relationship between the military and political leadership, policymakers and practitioners at the very apex of the state.

The key question to think about when looking at military and political leadership is, what is the best way to organise relationships among actors to ensure both civilian control of the military and a state’s strategic and military effectiveness should the military be called upon to be used in external conflict?

Often when I am talking about civil–military relations, people assume or think that the military is simply following orders and that healthy civil–military relations are

in place. However, in a liberal democracy, what we are talking about, or what I am talking about in civil–military relations, is a process and a set of relationships. Fundamentally, such relationships are organised to allow the elected civilian political leadership to be accountable to the population in achieving their political objectives and to create a sound strategy in support of those political objectives.

I want to begin briefly with some history to understand some of the current debates. A good starting point is to look at some of the debates that happened in the US about around military professionalisation, especially in the late nineteenth and early twentieth centuries. This is important because it ascribes a particular role to, and structure of, the military in society, which then shaped ideas of how to organise civil–military relations.

There was a debate in the US over whether we should maintain a large, standing, separate military comprised of professional officers, or should the military, as it had for most of its history, be a citizen army that could be built up in times of war and then dissolved back into society.

The debate was really won by the professional side and became encapsulated in the work of arguably the most important thinker about civil–military relations, Samuel Huntington, in a very famous book, *The Soldier and the State*, published in 1957. Building from Emory Upton’s ideas that having a large professional military was essential, Huntington grappled with how to create and ensure civilian control over the country’s security. To do this, he advocated a model called objective control of the military. Some of this may sound somewhat familiar to you when I describe what it is, even if you may not have heard Huntington’s name.

Huntington advocated that the best way to ensure healthy civil–military relations was to create a very clear division of labour and responsibility between the civilian side and the military side. There would be separate spheres, and each side would operate in its own sphere. The military would focus on, as he put it, the ‘management of violence’. The civilians would focus on politics and policy. They would come together at the very apex of the state but operate mostly separately in their own realms. Civilians would not intrude into the military’s affairs and Huntington fiercely believed that the military should have excessive autonomy to master the management of violence.

The military needed to remain outside of politics, to be politically sterile. Huntington argued that this model would create an apolitical form of military professionalism, a set of ideas and norms as we call them today, that would keep

the military out of politics, ensure civilian control and enable military effectiveness. The military would focus on its specialisation, its tactical, its operational capability.

This view of civil–military relations has really been the defining view of the United States. As [Major General] Bill Rapp, who was Head of West Point – the US

Military Academy – and also of the Army War College, described it, there was a separation of spheres. Not everyone knows Huntington, but most know the separation of spheres and the concept of being apolitical.

Basically, the argument today is that Huntington’s foundation for civil–military relations is not a very good one and we need to consider moving beyond it.

One reason this has been so resonant within the US military is that the separation really is very simple and clear-cut. The military has its job, the civilians have their side, and the separation aligns with the basic self-interest that all organisations possess.

There have been critics of Huntington from the beginning. Morris Janowitz, the very famous sociologist, argued that there was no clear division between politics and the military, especially as he described it with the civilianisation of armed conflict. Therefore, the military needed to be much more politically aware and engaged, as other thinkers such as Sir Hew Strachan argue.

There have been a variety of critiques. Eliot Cohen argues that the military should stay in its silo but that civilians should be able to intrude [to] manage its affairs. Peter Feaver has argued that you cannot have a clean division of political–military labour and challenged Huntington as well.

Today, there has been even more interest in critiquing the Huntingtonian model on several grounds. I just want to go through those quickly. Basically, the argument today is that Huntington’s foundation for civil–military relations is not a very good one and we need to consider moving beyond it. It is not a good model for three particular reasons.

First, Huntington believed that autonomy was a right and not a privilege of military organisations, and this has had cultural effects on the officer mindset on how to think about civilian oversight. Some civilians think this too, not only military

practitioners. There is a belief that when civilians try to interfere in the military, they are illegitimately micromanaging what the military’s job is.

There is also a sense of politics and political considerations as being non-military issues, in that they intrude on military considerations and that domestic political constraints somehow have negative motives. These cultural themes circulate around in different ways. In Q and A, I can describe some of the survey research that supports some of the points I am making.

Most importantly, autonomy encourages beliefs that any constraints, such as timelines or resources, are sort of illegitimate incursions into military autonomy, into the operational or tactical domain, and that has some important implications for strategic effectiveness. I will return to that in a moment.

The second issue in which we see pushback on the Huntingtonian model and its dominance has to do with maintaining a non-partisan effort. In the US, some survey research shows that while most officers maintain they are outside of partisan politics, a lot of them actually, when asked, don’t really believe it to be true. Surprising numbers in the military do not believe in non-partisanship and accept it because they know they would be sanctioned if they did not. But they do not all buy into it [non-partisanship].

The idea is that if you are [a military] professional, you are inherently and reflexively apolitical and this discourages actually thinking about the military’s role in politics and [considering] one’s relationship as an officer to politics, understanding political thinking and differentiating that from political behaviour and action. But to really remain apolitical – in the real sense of being non-partisan – you actually have to be thinking about politics and your role in politics.

This is a very subversive and unhealthy aspect of Huntington and another basis for questioning his influence. I know I am getting to time, so I am going to give you two more slides and then I will describe what I could add in Q and A if we want to go back.

The third area in which this dominant, normative Huntington framework of a separation of spheres is that it created the idea that military leaders, military officers [and] practitioners should not think about policy at all, or even domestic politics of their own country, or of their adversaries. He advocated a clear divorce, a clear line between what is the military sphere and what is the political sphere.

Now, many of you listening are probably thinking that this sounds absurd – at least to me it sounds absurd. Yet this is what Huntington argued, and it has had

deep reverberations and is a real a problem when it comes to thinking about making strategy. This is because such thinking supports a very transactional understanding of how the military and political leadership interact in the making of strategy.

In the US, the dominant conception is that civilians are expected to provide guidance about their political objectives. Military leaders then go back, consider that guidance and produce options. They present those options about what sort of means could be used to achieve the ends proposed and then, if there is some change in the political objective, then they go back and forth with the civilians. It’s very transactional, with the military leadership not really thinking and engaging in what are the goals, what are the domestic political constraints and so working in a more fluid manner with the civilians.

Civilians have obligations here too. They need to understand the constraints of military planning. So it’s not so much that each side has its separate roles and responsibilities, but rather the transactional model and the apolitical thinking are deeply contrary to the fundamental tenets of what’s required to make strategy.

To conclude, the transactional model creates a strange ambivalence toward strategy, which comes from a nexus of politics and the military by discouraging a sense of military ownership by handing off [strategic] matters to civilians. I am at 16 minutes, so I am going to stop. But I have some ideas or tips that I have developed in talking to audiences of US military officers about moving toward a healthier conception of professionalism and civil–military relationships. If that is of interest, I am happy to go back and spend a few minutes talking about that, but I am going to pause now just to keep to time.

DR MOLONEY: Thank you very much, Risa. I am sure we will get back to some of the slides and the recommendations that you have brought on during question time. Now we will move on to Cameron Moore.

The Constitutional and Legal Foundations for Australian Civil–Military Relations: Continuity and Change since Federation

Associate Professor Cameron Moore

ASSOC PROF MOORE: I should just give a brief disclaimer that, yes, I am an active Navy Reserve legal officer, but I am speaking in my academic capacity. I also apologise for not being there with you today. I’d very much like to have been present but I’m also not sorry that I’m at the coast and I can just look out there and see the waves, whales in the surf and so on. Maybe I have the best of both worlds, but I would rather be giving this presentation in person.

What I want to talk about are the constitutional principles and the law that underpin civil–military relations in Australia. I am going to deal with constitutional principles, and my overall argument is going to be that I think the principles have actually worked pretty well. We have only had the [1808] Rum Rebellion of the New South Wales Corps against Governor William Bligh in the entire history of European settlement in Australia.

I want to ask you three rhetorical questions and give you a moment to think about the answers to them. The first question is, ‘Who do you think is actually in charge of the Australian Defence Force?’ I am grateful to Mr Lewis this morning for giving some ideas about that. My second question to you is, ‘Do you know how many people the Australian Defence Force has killed in the last 20 years?’ My third question to you is, ‘Do you know what the legal authority is for doing that?’

When I pose these three questions to military law students at ANU [Australian National University], I get for ‘Who’s in charge of the ADF?’, CDF, the [Defence] Minister, the Prime Minister, the Governor-General and the Queen. Not a consensus there.

As for how many people the ADF have killed in the last 20 years, it is probably thousands, but nobody is too sure.

In terms of the question about legal authority, no one can give me any legal answer. There is no statute or case law or, indeed, publicly available order which says that the ADF can go out and kill people. We need to understand these [constitutional and legal] principles better. The ADF is the most powerful organisation in the country, certainly in kinetic terms, and we actually don’t understand the way it fits into the government system constitutionally or the basis of its authority.

With these questions in mind, I will proceed. The first point I want to make is that the principles that underpin the relationship between civil and military power in Australia are those that were settled during the English Civil War in the seventeenth century. What we inherited at Federation [in 1901] reflected the resolution of major English constitutional controversies from the seventeenth century, when the principle of military subordination to the elected civil government was settled. We did not actually think much about this at the time [of] Federation; we simply applied the principle.

Why is it set up the way that it is? Parliament permits the existence of a standing army and a navy and funds them, but it does not command them.

The ADF is the most powerful organisation in the country, certainly in kinetic terms, and we actually don’t understand the way it fits into the government system constitutionally or the basis of its authority.

Why is command placed in the hands of executive government? Well, the traditional Blackstonian legal formulation was that for the sake of unanimity, strength and dispatch that – and Blackstone puts it pretty well – if command was to be placed in the hands of Parliament, it would be subject to many wills drawing on many different ways to create weakness. The essence of military command is unity, strength and dispatch, and that’s why it’s set up the way that it is [under executive command].

Let me go through the particular provisions by highlighting the case of the 1932 China Navigation Company. It was

a Privy Council case concerned with placing British soldiers on British flagships that were suffering from piratical attacks in the vicinity of Hong Kong during the interwar period. The Privy Council made it clear – and this principle is good for Australian law as well – that the supreme command and disposition of the forces is in the hands of His Majesty and that Parliament cannot, nor ought not pretend to the same. I am dwelling on the distinction between executive and Parliament because it goes back to that idea of unanimity, strength and dispatch in the use of force.

Turning now to the Australian Constitution. The executive power of the Commonwealth [in military affairs] is the power not the legislative power, nor the

judicial power. Executive power is vested in the Queen and exercisable by the Governor-General with all of the Crown’s prerogative powers, national power, common capacities of the Commonwealth as a legal person are all in section 61. Command of the naval and military forces is picked out from that bundle of powers in section 61 and placed in its own provision in a chapter on executive power.

Section 68 gives command of naval and military forces of the Commonwealth to the Governor-General. Section 68 does not describe the Governor-General as Commander-in-Chief. It simply says, ‘The Commander-in-Chief is vested in the Governor-General as the Queen’s representative’.

This is really important, because it means that Parliament cannot take that power away; it can only be taken away by referendum and by the constitutional change mechanism in Section 128 of the Constitution. In short, command of Australian forces is separate from those other executive powers in section 61, subject to parliamentary control. Command is special and different and resides in section 68.

If you look at the provisions in the Defence Act, even under the One Defence reforms in 2016, the principles remain the same. The Minister for Defence has only general control and administration of the Defence Force, but that is not the same as command.

Let me dwell on that point for a minute.

The Minister has general control in administration but not command [of the Australian Defence Force]. What does this mean? Well, since command sits with the Governor-General, the Chief of the Defence Force is obliged to obey the commands of the Governor-General but not the commands of the Minister because the Minister has no

power of command. The sanction for a CDF not doing what a Minister wishes is administrative. A Minister could seek to have the CDF’s appointment terminated, but there are no penal sanctions attached under the Defence Force Discipline Act.

If the CDF was to disobey a command of the Governor-General, then consequences could follow under the Defence Force Discipline Act. But if the CDF decided that a Minister was trying to draw him into something political and refused, then the sanctions are only administrative.

The Minister for Defence has only general control and administration of the Defence Force, but that is not the same as command.

You might think this to be an abstract theoretical point, but I actually think it's a really important device for keeping the ADF relatively apolitical. The Minister for Defence is responsible to Parliament, has control and administration responsibilities. A Minister can tell the CDF what to do but does not have direct command of the ADF. The CDF has command, not the Minister. The CDF has to advise the Minister on matters relating to the Defence Force, so there is an obligation to advise, but command of the ADF sits with the CDF and goes through the Governor-General.

One of the things that has come up this morning already, and it comes up all the time, is, what is the difference between command and administration? This distinction is not well defined at all.

The CDF has to advise the Minister on matters relating to the Defence Force, so there is an obligation to advise, but command of the ADF sits with the CDF and goes through the Governor-General.

The Secretary and the CDF have joint administration of the Defence Force, but administration does not include matters falling within the sphere of command.

How do I distinguish between administration and command? I would say that administration includes all the things that any ordinary department of state does. Command relates to those things that only the ADF can perform. Only the ADF can use force under the war prerogative. Only the CDF has power of command; the Secretary does not have the power of command.

I think there will be a fair degree of overlap between administration and command. There are some distinct points where only the Secretary has a power of administration, and some distinct points where the CDF is issuing a command where there is no role for the Secretary. You can see the point I am making about the Governor-General when you look at the Defence Force and the civil authority provisions that have been raised already by Mr Lewis this morning. The most recent iteration, from 2018, is section 35, calling out the ADF to protect the states and territories, and the Governor-General gives the order, not the Minister.

Ministers advise the Governor-General but, as to matter of law, the order itself issues from the Governor-General, and that means that the CDF has to follow it and so does the rest of the Defence Force.

Notably too, appointments under Section 12 of the Act are made by the Governor-General. The Governor-General has command of the ADF. The Minister makes recommendations or advises the Governor-General to make an appointment, but all appointments are made by the Governor-General.

Now if you do get a constitutional controversy between the CDF and the Minister, and the CDF feels that the Minister is trying to drag the ADF into a political stoush, the interesting thing would be that since 2016, it is actually harder for the Minister to sack the CDF. In a situation where the CDF refused to do what the Minister said, they [the CDF] could offer their resignation. That [resignation] is to the Governor-General, not to the Minister. But under section 15, if a Minister’s had a gutful of the CDF – [as] insolent and does not do what he or she is told – the Minister cannot just advise the Governor-General straightaway. Instead, the Governor-General may, on the recommendation of the Prime Minister, terminate the appointment of a CDF.

The Prime Minister must receive a report from the Minister, but it is actually the Prime Minister who gives that advice, and that [provision] didn’t exist before 2016. I understand the aim was to bring matters into line with the arrangements for the Secretary, and this has actually strengthened the position of CDF somewhat.

I have a couple more provisions given the time available. Section 63 is a bit of a sleeper in the Defence Act, but the Governor-General could effectively invade Belgium if he or she so chose with the powers that are available under section 63. It is important to be aware that the Governor-General holds these powers – effectively a regulation-making power – but it is not, on its face, limited to that. Since the Defence Act of 1903, you can see that very broad powers sit with the Governor-General.

Turning now to the relationship, not so much with the Minister but with Parliament and then the judiciary. We have heard a lot about section 44, given the problem with members of Parliament having a foreign allegiance, but it is actually really significant for civil–military separation.

Section 44 means that anyone holding an office of profit under the Crown cannot sit in Parliament, but there is a proviso to subsection (4) which is effectively, if you are an [ADF] reserve member you can sit but not if you are a full-time member. And if you look at some parliaments around the world, they are stacked full of military officers. In Australia, you do not see that; you do not see uniforms sitting in Parliament. That is actually one of the important ways that the Constitution maintains military subordination.

The government is always formed out of the lower house of Parliament and full-time members of the service cannot sit in that Parliament. The [Defence] Minister is drawn from Parliament as well, and ministers cannot hold office for more than three months unless they are a member of the House of Representatives or the Senate. This is actually a key provision.

The last one I would put to you is that Section 75 of the Constitution grants a jurisdiction over the ADF, wherever it may be – wherever in the world. We cannot get a Guantanamo exception with respect to the Australian Defence Force. The M68 case in 2016 dealt not with the ADF doing things in Nauru but members of what is now Home Affairs, or the Department of Immigration as it was at that point in time.

Justice Gageler made clear in that case that, under section 75(5), a writ of habeus corpus or other constitutional risks can be sought against an officer of the Commonwealth anywhere in the world should detention occur or for any other purpose than related to administration. The ADF is always under the jurisdiction of the High Court. In conclusion, I return to my original point, which is that the constitutional provisions actually have stood the test of time really well and have been in place since the seventeenth century. We have only had the Rum Rebellion [of 1808 to remove Governor William Bligh]. I think the principles work well but they are just not terribly well understood, and I think that’s the challenge for us here today. Thank you.

DR MOLONEY: Thanks, Cameron. It is good to know that the Governor-General can invade Belgium if he so wishes. I did not realise that. So, we will move on to Professor Mike [Michael Evans].

Australia’s Civil–Military Gap: Reflections on the Lack of Academic Study into Civil–Military Relations in Australia

Professor Michael Evans

PROF EVANS: Good morning to everybody. I want to look at the reasons why we have so many weak foundations in civil–military relations in Australia. The question I pose, is there a civil–military gap in Australia? Let me try to explain that there is a gap by snapshotting three key problem areas for you as a scoping exercise. First, there is a weak understanding by the political class of this country about what civil–military relations actually represent. Second, there is a lack of APS knowledge of the modern theory and practice of civil–military relations in a Western liberal democracy. The third problem has been the strategic immaturity of the ADF, which extended over a long period of time in the twentieth century, and which is often reflected in our joint professional military education [JPME] development. I will close my remarks by explaining some of the ramifications of the three problems outlined for future Australian civil–military relations.

Some of you may wonder why civil–military relations are so important to liberal democracies. Well, we are looking at the study of two opposites in terms of agencies of civil power [government and public service] and military power [the profession of arms] but with one overall employer, namely, the state. Civil–Military relations play a very important role in providing guidance to elected civilian politicians on how to manage a professional military. Moreover, civil–military relations tend to define the character of what the British call ‘the central organisation of defence’ in modern liberal democracies. Good civil–military relations reflect, as Duncan Lewis said earlier today, a fused product. Such a product, in turn, permits a defence equation to form in balanced relationship between policy/strategy capability and organisation. These, then, are the key functions, the outputs of any proper and balanced civil–military relations structure in a democracy.

The difficulty in achieving balance in civil–military relations can be traced to the Huntington thesis, as outlined by Dr Brooks. In Australia, the Huntington thesis has been very influential, even though it’s American in origin and has limited relevance to Australia’s British-derived military heritage. In the United States, General Stanley McChrystal has referred to Huntington’s influence as representative of the ‘technician’s or Sam Huntington model’. The thrust of the model is that if you wear uniform, you stay out of politics because a political consciousness undermines the profession of arms. In 1957, Huntington wrote,

‘Politics is beyond the scope of military competence and the participation of military officers in politics undermines their professionalism’. This declaration is the foundation stone of the Huntington model of civil–military relations.

The problem with the Huntington model, as Hew Strachan has pointed out, is that it is dysfunctional when it comes to formulating and executing strategy and waging war. After two decades of strategic failure, three new realities have come to the fore in the study of Western civil–military relations and challenge the efficacy of the Huntington model. First, research now emphasises the importance not of civil–military separation but of integration and shared responsibility for strategy. Shared responsibility for strategy means you need politically sensitive soldiers and militarily sensitive civilians if you hope to be effective in the application of military power.

So, integration of effort and shared responsibility in strategy-making is an area of great importance to those of us concerned with military education. A third reality today is that of equilibrium. We may have Eliot Cohen’s ‘unequal dialogue’ between elected politician and uniformed professional, but you surely need to have some kind of equal conversation between stakeholders – what Richard Betts calls an ‘equal dialogue with unequal authority’.

In Australia, the research on civil–military relations is terribly poor. We have to go back to T. B. Millar and Desmond Ball in the 1970s and 1980s to find any scholarly writing that is important and theoretical. We have little or no updated theoretical material in our military education system, and we are really behind most of the other Five Eyes countries, as General Ryan pointed out this morning.

There is a kind of intellectual stasis in this country, because if you rely on Huntington for understanding Australian civil–military relations, you ignore Australia’s important British heritage – that three-way interaction between politician, public servant and military professional – that is rooted in our Westminster-style system of government. Australian thinking on civil–military issues tends to be rooted in the stasis of the Cold War era. As General Steve Day wrote in a DSSC [Defence and Strategic Studies Course] thesis a few years back, in Australia, civil–military relations are in need of ‘correction codification and scholarly study’. I do not think, almost 20 years on, that anyone would change those recommendations.

Let me go to the problems in terms of developing a civil–military research agenda for Australia. The first problem encountered is the extraordinary weakness of the political class in civil–military relations. This should come as no real surprise to any of us here today because most politicians are generalists not specialists. They’re certainly not elected on their military knowledge, and we have a long tradition

going back to Sir James Dickson of weak Defence Ministers. The information on my slide says it all. Since 1901, we have had 56 Defence Ministers, of which only 12 have served longer than three years. Nineteen never served longer than a year. It has not improved. Since 2001, the average tenure of a Minister has been 16 months. In such circumstances there can be little consistency of policy direction, with ministers really only concerned with administrative coordination.

There has been an astonishing inability to master our British institutional background in civil–military relations. Under the British system we have inherited, our civil–military system is descended from different models. The first is the Hankey system of decentralised committees governed by a philosophy that since the Service Chiefs would have to execute military strategy, they should be responsible for its formulation. This service and committee approach, of course, was not a really satisfactory way of doing strategy, but that’s the way we used to do it up until the 1970s.

The second British model is the Mountbatten functional system, which overturned the Hankey committee system. The Mountbatten system evolved from the late 1950s into the 1960s and was concerned with centralised policy development. Mountbatten’s philosophy extolled central organisation, joint structures and turned the Service Chiefs from executors of strategy to advisers on strategy.

Australia did not follow Britain’s modernisation of defence in the 1960s, to its detriment. Over 300 committees proliferated in Australia’s defence system, meaning that ministers with short tenures could not master the system and had to focus on administration or risk-aversion. Those of you who have read Dickens’s *Little Dorrit* might recall the infamous Circumlocution Office, designed so that nothing could come out of its tangled bureaucracy. Others in the audience might recall Kafka’s *The Castle*. Both fit Australia, so take your pick. Australia’s Department of Defence was certainly some kind of Circumlocution Office and something of a graveyard for political careers.

Australia’s Defence Department became so organisationally complex that [Defence Minister] Kim Beazley once compared its deliberations to the mysticism of an ancient church council rather than a modern democracy. A Big Sleep developed in the 1930s and ran well into the 1960s, in which the public service became a very important part in running Defence, as was noted by the press at the time – there was a transfer of responsibility in Defence from politician to official. This was the age of Sir Frederick Shedden, long-time Defence Secretary who was literally Defence Supremo for nearly 20 years.

In some ways, the public service’s domination was a natural outcome of the political class’s despairing view of the Australian defence system. If I might be satirical, the system was so complex that it brings to mind the sentiments expressed in the movie *Dr. Strangelove*. In that classic film, there is a statement: ‘War is too important to be left to politicians. They have neither the time, the training or inclination for strategic thought’. There were, and still are, many Australian politicians who fall into this Stangelovian category.

A second challenge has been the lack of public service knowledge of civil–military relations. Given political ineffectiveness in directing Defence, I believe this is where the civil–military gap exists. The long history of Defence bureaucratic and military rivalry was touched on this morning – and this long rivalry truly demonstrates an underappreciation of how an understanding of civil–military relations may assist in a better delivery of the defence equation I mentioned earlier. Again, this needs research.

The long history of ADF–APS antagonism is captured by Sir Anthony Synnot’s 1979 complaint to the [Defence] Minister that, as CDFS, he possessed responsibility but no authority over key areas of strategy and capability. This situation festered into the 1980s and is symbolised by a comparison of the Secretary’s luxurious office with the rather down-market quarters of the Chief of the Defence Force Staff – which seemed to telegraph a view that the public service was more important than the ADF in Australia’s Defence organisation.

The idea of public service control of the military was enough of an issue for Ric Smith, as Secretary, to issue that clarification in 1995 to uphold a One Defence philosophy and to point out that the government of the day controlled the ADF, not the APS. Ric Smith’s clarification was a very good one, given the suspicions that lingered between ADF and APS into the 1990s.

We come to the third problem impeding an understanding of civil–military relations in Australia, namely, the strategic immaturity of the ADF. There are no innocents in this business of Australian civil–military relations. Everybody has difficulty. In the mid-1970s, we embarked upon the integration of the services and the bureaucracy in order to create a centralised Defence Department and a joint organisation. But we did not have a Mountbatten in the Australian military. In effect, we had a civilian Mountbatten in the form of Sir Arthur Tange, the Secretary of Defence who pushed through centralised reforms. The new ADF that emerged from the Tange reforms lacked strategic-level expertise, and we came to possess a civil–military gap at the strategic level from the 1970s onwards. Strategic maturity took until the 1990s to develop in the officer corps.

Tange had a very bleak view of the military officers of his generation. He did not think they were capable of realistic strategic assessment. In some ways he was right, because the armed forces of Australia in the 1970s possessed a tactical mindset and, worse still, they squabbled over interservice resources.

Indeed, Tange put his finger on a very important point, namely, that quite often the Australian military was incapable of distinguishing between education (how to think) and training (how to do things). In the wake of the shock of the Tange reforms, there was some work done on civil–military relations inside the ADF by Ray Funnell. Funnell was the first to warn that the ‘absolutist’ Huntington model was a dysfunctional one for the new ADF. He understood the strategic challenge of joint organisation and wanted to make sure that ADF officers were educated to function inside the bureaucracy as well as on the battlefield. Much later, in 2004, Steve Day wrote a thesis for the DSSC in which he threw more doubt upon Huntington’s suitability for Australia and called for a ‘shared domain of interface’; between ADF military officers and APS bureaucrats inside Defence.

In the twenty-first century, the main reason we need [to] educate our officers in civil–military relations beyond Huntington and Janowitz is because they are modern national security professionals. They are as likely to work in interagency settings and coalitions as in regiments and squadrons. The task of Australian civil–military relations today and into the future is to master the sociology of national security and to educate officers in this field. The trick is for a military professional to be taught to *think* politically, be *in touch* politically but not to get *involved* politically. That’s the sociopolitical puzzle to be solved in future. In short, we need to educate our people, so they understand the strategic space into which they offer their military advice.

What then are the ramifications of the long neglect of Australian civil–military relations for our national security? Well, if you look at the number of reviews we have had – 35 over the period 1982 to 2015, from the Utz Review to the First Principles Review – and if you examine their recommendations, it’s almost certain that we could have improved our performance by addressing the three issues on which the documents are unanimous. First, inadequacies in ministerial control and political supervision; second, bureaucratic–military disunity creating lack of corporate effort; and, thirdly, lack of accountability and contestability of professional advice.

These areas could all be improved by better understanding of Australian civil–military relations. I am not making the case that civil–military relations will be a magic bullet for Defence. But it is clear from initial research that a proper understanding of the civil–military environment is important in understanding and conceptualising organisational problems and in finding solutions to those problems.

There have been some interesting self-critiques of the Defence organisation by various Secretaries over the years. In 2000, Alan Hawke highlighted organisational ‘learned helplessness’. In 2008, Nick Warner talked openly about ‘the broken back of Defence’.

I think the most powerful critique has come from Linda Reynolds when she was Minister. Here, it is important to note that Linda Reynolds was the only Defence Minister who has ever been educated on the DSSC at what is now the War College. Indeed, she wrote her master’s thesis on civil–military relations.

In subsequent speeches, it is telling that Minister Reynolds has been moved to compare Defence’s organisational problems in 2015 to those of 1915. In other words, we endure a kind of Groundhog Day across generations of often meaningless reviews. While Minister, her view was that while we were moving towards the right capabilities, we lack the right type of organisation to acquire capability efficiently. I believe a more nuanced understanding of how civil–military relations work could probably help improve this situation.

I would argue that Defence, as it stands now in 2021, is not ‘a requisite organisation’ – to use the leading management guru Elliott Jaques’ formulation. A requisite organisation is an organisation that creates a successful alignment between authority and accountability from base to apex. Here, again, I think a better understanding of civil–military relations can help bring about improved organisational alignment and equilibrium.

So let me conclude. I think there is a civil–military gap in Australia. This gap could be closed, and organisational competence improved if we had a stronger integration and equilibrium model of modern civil–military affairs – as opposed to our officers clinging to the outmoded theories of Huntington and Janowitz. Some areas of Australia’s defence clearly resemble Dickens’s Circumlocution Office and are non-requisite. An improved model of Australian civil–military relations might give us a better delivery of the defence equation – that equilibrium that aligns policy, strategy and capability into a more seamless process. I am not making the case that civil–military relations are a panacea for flawed organisational systems, but I do believe that a more sophisticated grasp of the subject would certainly improve our ability to conceptualise capability challenges and to better organise and streamline our overall Defence effort.

DR MOLONEY: Thanks very much, Mike. So if we just have a stretch in place for a minute while we get everybody back on board for our Q and A with Risa and Cameron.

Panel 1: Question and Answer

Chair: Dr Cathy Moloney

Head of Centre for Defence Research, Australian Defence College

DR MOLONEY: Just as before, can you introduce who you are and if you are directing a question at any one of the particular speakers – just let us know which one you’re going to direct your question to, please. Thanks.

MS McLEAN: Hello, thank you for your presentations. My name is Natalie McLean. I am from the Australian Civil–Military Centre. My question derives from civil–military relations theory. I understand that a lot of the underpinnings of how we conceive civil–military relations are from different economic models and different international relations that interact with militaries. My question is, how do we look at private sector involvement in civil–military relations? Today’s militaries cannot fight war without having private sector involvement, and that ranges all the way from the pointy end to logistics. I want to understand how you conceive of private sector influence in civil–military relations. Thank you.

PROF BROOKS: Sure. I am going to take an angle on the question that you might not have intended, but an issue that is arising in the US especially, with the shift toward new forms of technology, you are seeing the influx and the role of private industry and private corporations and consultants playing a really big role in the implementation of artificial intelligence and robotics. From my angle on the issue, what I see is a culture clash and tensions occurring with traditional conceptions of the military’s role. I imagine that that same dynamic of culture clash, of different incentive structures, applies when private sector actors are involved in armed conflict, in Iraq, or in different kinds of missions and roles. It is a piece of the puzzle that no one has quite figured out how to resolve that [clash] in the way a military operates and exists in the future. It [civilian contracting] does not seem to be going away. If anything, we are going to see more of civilianisation in the future.

ASSOC PROF MOORE: I think it is important to understand too that, with civilianisation, that there are lots of good things in terms of being able to apply capability relative cheaply – [capability] that the ADF might not otherwise have. But it is important to understand that in terms of public accountability, the ADF does not command those capabilities.

In terms of public accountability, if something goes wrong, you are off to the Federal Court; it [civilian contracting] is not a command relationship. If you want to provide ablutions or blankets or something like that [it’s easier], but if it is harder

with capability [such as] AI or remote systems. [With such systems], it is a really serious question as to where accountability lies as to the use of force. Do you want [accountability] through the law of contract or do you want it through public law processes of command and control?

PROF EVANS: I recommend to you the work of Audrey Kirk Cronin, who argues that what distinguishes capability and acquisition between the twentieth and twenty-first centuries is twentieth-century capability was a closed innovation system. In the twenty-first century, it’s more of an open system and, therefore, there is far more equipment [coming] off the shelf along inevitable civilianisation. In terms of civil–military relations, we have to get more adaptable in acquisition.

MS [inaudible]. I have a question for Risa. The way that Australia and the United States are working towards greater interoperability and possibly a greater presence of US military in the north [of Australia]. I wonder if some of your recommendations [for civil–military relations] will involve change from the Huntington model? What are the recommendations from your research and what are the things we need to take on board for Australian defence?

PROF BROOKS: Maybe it will be helpful if I just show you a few slides. I did some reading before coming today, virtually, but I did not know much about Australian civil–military relations. The public service aspect is fascinating with the navigation of bureaucracy, and it sounds like [Australia] has some different issues. But I think it might still be helpful – especially because you are going to be partnering with the US – to understand some of the cultural issues that are going on in the US military. Let me just quickly show a couple of slides.

I have to say these slides are controversial and are not things that the US military officers are always very comfortable with. But I am going to share them with you. There has been some survey research that shows some real disparagement, not just in society, but within the military itself towards politics and the act of engaging in politics and with politicians.

The military in the US likes to think of itself as a sort of apolitical thing that’s removed and outside of the other institutions of the state. This is [a] very strange thing because the US military is incredibly powerful – its resources alone, and the presence it has in the country is really substantial.

We need to think about the military as a political actor in general, rather than thinking of it as politically sterile. As Professor Evans stated, you must think as a national security professional; you do not want to think of yourself as purging politics from your thought. You want to think about yourself as engaging and

understanding political issues with political thinking as the starting point. That is not how most military officers think of themselves. They think of themselves as inflexibly apolitical, and if there’s a policy debate, the attitude is, ‘We don’t deal with that. That’s somebody else’s problem’. Culturally, that’s [a] very dominant view, and pushing back on the Huntington [apolitical] view requires substantial effort.

There is a lot of partisan politicisations going on in the US today. Some of you may be aware of the military becoming involved by civilian politicians in all sorts of controversial and difficult ways. I do not know if that [political pressure] is happening in Australia but it is certainly happening here in the US.

And then there is the point about military effectiveness. You have to think about your own domestic politics, your country, your allies. Australian officers and civilian policymakers need to understand US civil–military relations, especially if they are going to be working closely with [Americans]. You need to understand intergovernmental politics, [and] that gets to some of the points about the public service and the bureaucracy and working through some meddlesome issues.

You must also understand the skillsets that role model and legitimate the armed forces – even at lower levels when your job does not involve any sort of strategic thinking. Overall, for any military officer in a liberal democracy, it is important to really invest in developing political acumen and not think of it as an extra thing, the way that Huntington might lead you to believe. The dominance of that [Huntington] model globally, not just in the US, is interesting. It’s interesting to hear about its prevalence in Australia too.

I will stop sharing. From listening, it sounds like there needs to be a rebalancing of the civilian understanding of their role and obligation in that [Australian civil–military] relationship and more development of military sensibilities about the importance of thinking as national security professionals. That civil–military balance is one of the tensions that you are working through in Australia. From an outside perspective, I think the more that you can move toward that [a rebalance], the better.

MR McCauley: My name is Lyndon McCauley. I work out at Headquarters, JOC [Joint Operations Command], in exercises – largely domestic security, counterterrorism. Picking up on Professor Evans’ point about cultural differences in the civil–military divide.

I actually attended the staff course here as a civilian. Over 10 years later, I think it is fair to say that my colleagues in uniform, who are still in uniform and are two or three ranks higher, were the ones who listened when APS members actually noted or asset-tested their course of action with questions like, ‘How much is that going

to cost?’ Or ‘The Minister will never go for it’. We civilians served a purpose in raising their eyes to that political level, I guess. So my question is, is it [a] two-way sort of asset test between the civilian and military cohorts? What makes the best advice or actions to the government of the day?

PROF EVANS: Well, you cannot run a modern defence organisation without having the military and the public service working together. That is just the way it is. We’re not unique in running a diarchy in Australia. The British run a diarchy and they run it considerably more successfully than we have, at least in the sense of management reviews – the British have not had 35 management reviews. They have had their problems, but they started their [civil–military] approach with military buy-in at the strategic level through Admiral Lord Louis Mountbatten. In Australia, we had Arthur Tange, and he had to take on both the civilian and military roles in order to drive through the reforms of the 1970s – the reforms which set the scene for the culture that followed.

It is only since the 1990s that the ADF has really developed as a strategic organisation. ADF Headquarters and the Vice-Chief’s position were only created in the mid-1980s. The ADF is a very young and recent joint organisation. In Defence, you have to have contestability of ideas, contestability of advice. Both come from having informed civilians and expert military officers. The one area I do agree with Huntington is when he writes that civil–military relations are all about ‘the relationship of the politician to the expert’.

You may argue that the expert is a civilian both as a financial and policy manager, and yet the expert is also the military officer who functions at the operational–strategic levels. You need an equilibrium in expertise. I would hate to see Australia develop a system where we end up with two extremes – either running Defence like a military headquarters, or, at the other end, just viewing it as another department of state with public servants in control. You cannot have either extreme; the need is for a careful blend of expertise. The civil–military blend is what makes Defence so unique – that conjunction of the armed services and the public service.

DR MOLONEY: Cam, I might pass that question to you too for say from a legal perspective. What do you think?

ASSOC PROF MOORE: I have noted the comments this morning about Timor. The intervention there in 1999 is still the only time the ADF has led a foreign military intervention using force, and it was not an armed conflict. It was a lower level than that. I think that the points about strategic maturity inside the ADF organisation are

really significant. In my own experience, I first signed on as a 17-year-old in 1989, [and] I noticed a big shift from 1999 onwards in that, all of a sudden, Australians were having to make decisions that were traditionally deferred to the UK or US as the superior partner, or sometimes the United Nations. I think there was strategic immaturity amongst uniformed officers and an inability to operate with public servants at the strategic level. I do think that that the ADF has grown and changed for the better, but I also think that there have been problems on the civilian side. I am really glad that civilians go to ADC and get a sense of how the military operates, because the popular conception – what people grow up with in Australia – is the myth of Anzac, which is just all about citizen soldiers who just signed on for a particular conflict and then went home. There is not the culture that you find in the UK and the US of military professionalism that is understood in a popular sense. So I do think there is a lack of strategic maturity on both [civil and military] sides. It is improving, but it is still there.

DR MOLONEY: Thanks. Do we have a question up the back?

MR HITCHIN: My name is Bill Hitchin, from Headquarters Joint Operations Command. My question is mainly to Professor Evans. You raised the issues of both rotating Defence Ministers but also the education of the APS, especially in the light of the reference in the keynote address [on] political staff as often being an issue. Given the rotation of ministers and their staffers, what are your reflections or recommendations on how we might best educate and prepare the political class for the interaction and instil civil–military relations?

PROF EVANS: Well, there is no magic formula because politicians get elected in democracies and there are no votes in Defence, as Kim Beazley so famously said. There are, however, votes in national security. So the idea of a national security professional is a good one. We do not have a tradition in our Westminster-style system of government in this country of producing people like Sam Nunn or John McCain [American politicians] who specialised in defence and national security matters. Or if you go to Britain, a figure like Sir David Omand on national security who advised ministers as an expert. We just do not have those sorts of expert figures in politics or even in the bureaucracy.

There is no easy way [to build expertise]. One might hope that the Joint Standing Committee on Foreign Affairs, Defence and Trade might produce an informed cohort. But I have had the misfortune to appear before that committee and I can tell you the level of questioning was juvenile. So there are real problems in this area. There are some bright lights in politics, such as Andrew Hastie, but, again, we need to remember that such people left the ADF as junior officers. Having

been in uniform is not a guarantee that a politician is going to be successful at the strategic level.

I think it is incumbent on the party machines to build knowledge of military affairs. As Duncan said this morning, necessity will be the mother of invention. We will not have a choice on this in the future; our political class is going to have to do it and get better. But under a Westminster parliamentary system, professional advice is very important, and we have powerful bureaucracy which provides advice. What we need are politicians with a sense of strategic judgement and strategic assessment. How we get there remains to be seen; it is an unfolding story.

ASSOC PROF MOORE: I might offer a view there too. You might think that my concern with the relationship between the [Defence] Minister and a CDF in command and control is a bit theoretical and abstract. I can assure you it isn’t. In over 20 years of dealing with some of these issues, some of the most disturbing conversations I have had have been with ministerial staffers. I’m obviously not going to elaborate, but I have certainly had cause to tell one ministerial staffer that the Minister doesn’t command the ADF, the CDF does. And I think that that is a source of concern. I wish it were different.

PROF BROOKS: Is there any way you can elaborate there, Cameron? It sounds really intriguing now.

ASSOC PROF MOORE: Oh, read my book (laughs).

PROF BROOKS: (laughs).

ASSOC PROF MOORE: I was involved with some of the staff around Tampa and [Operation] Relex and other issues. I think that sometimes ministers, or, more particularly, their staff, just get up a head of steam about a political imperative. Sometimes that head of steam does not take a view of the ethics of the profession of arms nor of the law. It is a matter of record that in people smuggling – in the A Certain Maritime Incident Senate Inquiry – that there was a to-do between the then Chief of Defence Force, Admiral Barrie, and Max Moore-Wilton, the then Secretary of the Department of Prime Minister and Cabinet, over perceived orders to the ADF not to rescue people. That is a matter of public record, and you can get sense from that [situation] of the sort of issues that might arise.

PROF BROOKS: We are just getting a microphone up the back.

MS McLEAN: Thank you. Natalie McLean again, from ACMC [Australian Civil–Military Centre]. Just a quick question of your reflections from Operation Bushfire Assist and the way Defence was deployed into the states. What kind of effects

do you think that that might have on future Australian civil–military relations? This question is primarily for Cameron and Professor Evans, please?

ASSOC PROF MOORE: Do you want me to go first if I am named first?

PROF EVANS: Go for it.

ASSOC PROF MOORE: I think it is actually a really significant issue. All of a sudden, Australians have realised we’re a federation, not a nation. I actually think one of the strongest protectors of civil liberties in Australia is actually the federal system. No one government has complete control, and we do not have a written Bill of Rights or anything like that. Section 119 of the Constitution and the arrangements that turn on it are about providing assistance to the states and is actually really important.

I think that many people did not understand that public order is a responsibility of the states. One criticism of the Commonwealth Government was for not intervening soon enough. Yet it just was not in the Commonwealth Government’s jurisdiction. Suddenly there was an expectation that the Commonwealth Government should use the ADF. There are lots of good things the ADF can do, but it does not have the constitutional ability just to intervene in a state.

I came up with a hypothetical for how this might become an issue. Just say the AFL Grand Final is on and Victoria has to go into its fifth lockdown, you get far-right protestors on the streets complaining about the lockdown. They then kick a Chinese student who ends up in hospital. That brings out far-left groups and you get rioting on the streets. The Victorian Premier has the Victorian Police dealing with it. The Commonwealth Government’s really concerned and there is a significant pressure on the Commonwealth Government to send in the ADF.

The Premier is saying, ‘No, I don’t want you to do something.’ And then you might get a real stand-off. I am thinking about some of the Black Lives Matter protests in the United States last year, about the appropriate role of the military in a situation like that. If it [violence] started to escalate and the Commonwealth Government then says, ‘We’re really going to send troops in because it’s a matter of Commonwealth interest, not just state interest’. The Victorian Premier could then, in response, seek an injunction, and the High Court may say do not do it [intervention]. The [Prime] Minister might say, ‘I’m going to do it anyway’. Then you would have a real problem in that the legal advice to the Minister [for Defence] would be, ‘Well, now that the High Court is seized of the matter you shouldn’t really intervene because it’s a question of the jurisdiction of the High Court’. But

there might be enormous political pressure for the Commonwealth Government to intervene.

Of course, I am painting a speculative picture – a highly catastrophised and dramatic one – but what I am saying to you is that I think the ADF has a really important role domestically. I think that role is only going to grow. I think that can be a good thing, but you can see that there are pressures that could come with it where there might be a greater expectation on the ADF to do things that are normally within the jurisdiction of the states.

PROF BROOKS: I was just going to quickly chime in on that incident because I think it is a really provocative one. In the US, when in June there was pressure building to send the active military – not the National Guard, which is a state militia, a different sort of entity – the active military really, really pushed back very strongly. There was a slew of retired officers, very prominent, speaking out and within the Department of Defence and there was a lot of political pressure applied. But basically, the military said, ‘We’re not doing this [domestic intervention]’.

That dynamic, that sort of military pressure, was a really important factor in determining that the active military was not going to be sent into the streets in early June to deal with protestors. There are lots of layers of complexity involved in civil–military relations, especially in domestic issues like that. But anyway, I will let Professor Evans speak. I just wanted to share that aspect of it.

PROF EVANS: I think there are problems with our federal model, and I think the over-reliance on the ADF tells us something about the inadequacies of our civil emergency measures. We need to have a much more centralised approach. It worries me because I believe the central role of the ADF is to war fight – that’s the one task that nobody else can perform. There are others who can handle civil emergency. We should not use the ADF as a force of first choice if we can possibly avoid it. I get uneasy when there’s troops on the streets – soldiers on the streets, people in uniform on the streets – who are not police. I guess that is partly because I once served in a military where there was an unpleasant split between praetorians and professionals. I have fairly strong views on deploying the military domestically.

ASSOC PROF MOORE: If I can make two brief comments. I agree with Professor Evans. I think that it would be better to have a stronger civil emergency powers or better capability in the states, and I take Risa’s point [on deploying the active military] too. It is also important to note that in Australia, there is no Posse Comitatus Act. There is no constitutional prohibition preventing the use of

troops on the street. There is just a deep-seated constitutional convention that [that] is not what we do [in the British tradition], and it has been in place since the seventeenth century. There is certainly a longstanding, centuries-old aversion to using the army in the street.

PROF COLLINS: So I put my hand up. I’m not sure because I can’t see if there are other people in the audience with hands up. Can I ask a question?

DR MOLONEY: Yes, of course. Welcome.

PROF COLLINS: A fascinating discussion because of great interest to me. I just wanted to pick up on a few points Cameron has said. I would be interested if he wanted to elaborate a little more. Can I also pick up on your [ADF in Victoria hypothetical] example, which I think is fascinating. I think of Man Monis – the events in the [Sydney] Lindt Café siege – which raised some of those issues. What you have been talking about is a perception by the Australian public that they like Defence and they want them to come in and help wherever they can. But as Professor Evans has just said, there is a slippery slope if the military are perceived as the stopgap all the time because the military are there to deal with the external threat to the country. We have civilian police and other relevant forces to deal with internal problems.

There’s a lot going on [military assistance to the civil community] with the COVID and the bushfires. But that said, the question is really about Governor-Generals and their role in command and the more recent appointments of ex-military figures into the governor-generalship. What are your thoughts around that and command and advice from [Defence] Minister or Prime Minister? If a Governor-General were to go against that advice – 1975 [the Whitlam Dismissal] is bit of a memory – what are your thoughts around that?

ASSOC PROF MOORE: I know that 1975 is a bit of a heebie-jeebie. It seems to come up all the time and people can only think about the role of [the] Governor-General in that framework. I have read Anne Twomey’s book, *The Veiled Sceptre*, on the role of the vice-regal officeholder from Westminster systems around the world. I very much agree with her view that that vice-regal officeholder can be a bulwark in supporting democratic principles of representative government, responsible government and governments acting lawfully. I am not a fan of Governors-General wielding their power lightly, but I do think that there is something to be said in having a separation between Head of Government and Head of State, which is different to the US system. The Governor-General is actually a safety mechanism for not drawing the ADF into political matters. I think

that there is some significant value in that. Obviously, it would be a question whether a Governor-General wants to create a constitutional crisis. Because almost as soon as a Governor-General exercises the reserve powers [powers without acting on advice], there's a very strong chance of it being a constitutional crisis. It would be the same as a CDF saying, 'No, I'm not going to do that'.

In the example I gave of the [Prime] Minister wanting to put troops on the street in Melbourne, you may well have a CDF and a Governor-General who have serious qualms about doing this while a High Court is hearing the matter. It might be a situation that would trigger a constitutional crisis. As much as people don't like the idea of the Governor-General using reserve powers, I think it's a really valuable thing to have in the background for people to think, 'Well, it's the Governor-General that has command, not the [Prime] Minister.' And it may be appropriate in a very extreme situation for the Governor-General simply to say, 'No, I think that that's unlawful.' Or for the CDF to just say, 'I think that [course of action] is unlawful.'

DR MOLONEY: For those of you who did not recognise the speaker coming in, that was Pauline Collins. She will be in our panel after lunch, so thank you very much for that question, Pauline. We're coming up right on lunch, and so I'd like you all to please thank Risa, Cameron, Mike. But please do not forget that one of our co-authors was our very own [Group Captain] Jo Brick. If you would like to commandeer her for more constitutional questions of law, you can grab her at lunch. But please join me in thanking our presenters on the foundations of civil-military relations today. [Applause]

Panel 2:

Perspectives on the Practice of Civil–Military Relations in Australia

Professor Brendan Sargeant

Australian National University and former Associate Secretary,
Department of Defence

MAJGEN Steven Day DSC AM

Former Coordinator-General, Drought, Department of Prime Minister and
Cabinet

Professor Pauline Collins

School of Law and Justice, University of Southern Queensland,
Toowoomba

Mr Dan Bouchier

Presenter and Newsreader, ABC Canberra

DR MOLONEY: We are slightly changing up our line-up. There's bad weather in Queensland at the moment, so we're going to get Major General Stephen Day on the line when we can get him in. We are going to start with Brendan Sargeant. Our final panel is composed of four people, and we are looking at the perspectives in the practise of civil–military relations in Australia. Many of you will know who is on the panel and I do not need to go into all their bios, but we will start with Brendan Sargeant. Many of you will know [he] is the Head of the SDSC [Strategic and Defence Studies Centre] at ANU. We also have Dan Bouchier. Many of you will know him and his fabulous ties as anchor for the ABC nightly news at 7:00 pm, on ABC Radio, and as a media personality here in Canberra as well. We also have Pauline Collins, Professor from Queensland. She has wonderfully provided us with a pre-recorded lecture for us but will come in live for question and answer, and then hopefully we will get Major General Day online.

The Role of Public Service Leadership in Shaping Australian Civil–Military Relations

Professor Brendan Sargeant

PROF SARGEANT: Okay, can everyone hear me? Good. So today I am talking more from my former life as Deputy Secretary and Associate Secretary in Defence. I had about probably 10 years at the top table. So I saw a few diarchies and I worked for most of my Defence career in that gated suburb called Defence Headquarters. So I have had a lot of experience of Secretaries and CDFs. As a result, I have had to think about civil–military relations from that perspective for many years, because you cannot do your job in Defence, particularly in the higher policy administrative areas – command areas – if you have not thought about it and have a view.

So today I have been asked to talk about the public service role inside Defence, the role of the diarchy and the functioning of the committee system, and perspectives on the future directional defence as a civil–military organisation. I think the most important thing is to start at the beginning. The ADF is nested within the Department of Defence, which is a department of state, and the Department of Defence is part of the larger Australian public servants which comprises many different agencies – about 200 the last time I looked – governed by an enormous variety of legislation. But the core legislation is the Public Service Act and the Public Governance Performance and Accountability Act.

The ADF is an institution with distinctive features that drive its purpose and function, but it is also an integral part of the executive of government and takes its place within that broader set of institutions. The ADF cannot fulfil its functions without drawing capability and support from larger systems within which it is nested. In my view, to understand that context when thinking about the ADF is really important. It's not autonomous and is governed within the framework of legislation that also governs the public service. The ADF cannot function without the enabling support of the Australian Public Service across the full range of activities that public servants undertake, including policy advice and support.

This is not a legal discussion, but I think it is important to understand the legislative context. Under the Australian system, the Constitution establishes the defence power, which resides with the Commonwealth Government. The Governor-General is Commander of the Defence Force, but the Defence Act provides a Minister with the ability to exercise political and constitutional authority over the Defence Force.

The Minister is the decision maker for most decisions, but for significant decisions, there is a National Security Committee of Cabinet, chaired by the Prime Minister. Often you will see in a situation of stress or crisis that the Prime Minister will undertake a very close involvement. I have often thought that the Prime Minister is actually the Minister for Defence, and the Minister for Defence is a sort of second [Defence] Minister.

Under the Defence Act, the CDF commands the Defence Force, and the Service Chiefs are accountable to him. Under the Defence Act, the Secretary [of Defence] and the CDF jointly administer the Defence Force. The Defence Act also establishes the CDF as the principal military Adviser to the [Defence] Minister. The CDF is effectively in command and no other individual can assume that role. I think that is really important and that was a really good point that came out of [the discussion] this morning. The CDF exercises command within a framework, with guidance provided by the Minister. The CDF has command authority, with everything that that implies, but he does not have complete autonomy in how or for what purpose he might exercise that command. I often think of command as a capability that the organisation has.

In providing guidance to the CDF, a Minister may seek advice from the Public Service just as he or she may seek advice from the CDF. In practice, the relationships operate with the very high degree of interdependence, but the roles are distinct in the accountabilities exercised – and the accountabilities exercised by each party are very distinct.

It is important to understand in the Australian system that it is the Minister that embodies and exercises civilian control. It is not the role of public servants to do this. And you often hear in the [Defence] Department that public servants exercise civilian control. No, they do not, and public servants that believe that and ADF personnel that believe that do not understand our system of government or the way in which the public service actually operates.

I have often heard a view that Australian public servants are like public servants in the US system, but the difference is that in the US system, civil servants at a certain level are appointed by the President. They act as political agents of the President and have a political identity that public servants in Australia do not have and don't exercise. There is a big difference. An Australian public servant is employed under the Public Service Act, and they are accountable to the Secretary of the department, not to the Minister or any other entity. I have often had Secretaries say to me, 'You're accountable to me. You report to me. I'm

your boss, not the Minister'. Now, in practice, you work for the Minister, but the accountability is to the Secretary, who, in turn, is accountable under the Act to the Minister and the government.

The Secretary is employed under the Public Service Act for those provisions that govern the employment of agency heads. The job of the Secretary is to administer a department and to be accountable for the Minister for the provision of policy advice to all matters pertaining to the functions of a department. This gives Secretaries of Defence a very wide remit if they want to exercise it. Some Secretaries I have spoken to have had to make a decision when they come into the role as to what they will focus on, because the potential scope of what they might do, particularly in Defence, is pretty vast.

The Secretary of Defence is also accountable for the governance and performance of the department under the PGPA Act. So when you consider the tapestry of legislation, the Secretary has very significant accountabilities which are distinct from the CDF. The Secretary and the CDF, under this suite of legislation, are separately accountable, but they have interlocking accountabilities as well. In practise, and this is really important, neither can do their job without the other. They need each other and they need to work together.

If you look at the governance arrangements in Defence, they reflect this meshing and the underpinning processes of the governance system with an interlocking set of accountabilities that are interdependent. I can talk in detail about that later. The way these Defence accountabilities are exercised in practice is through the diarchy. What this means is that even as they exercise their different accountabilities, the Secretary and CDF also work together to provide the government with advice that embraces the full spectrum of interests that might go into supporting any single decision.

In my view, there are two sorts of decisions that Defence makes or that the government makes in relation to Defence. One set is concerned with the development of capability, primarily a policy function for which the Secretary has primary accountability. The other set of decisions is concerned with the use of that capability. Both sorts of decisions require the input of the Secretary, the CDF and of Defence governance, including the distribution of accountability, and the different parts of the senior policy administrative and command system reflect this situation.

I have said to various CDFs and Secretaries that as one of the few people who have actually reported to both directly – indeed, I was actually reporting to three

different entities. I was reporting to the Secretary, the CDF and then to this thing called the diarchy. And often they had three distinct personalities and it was quite a challenge to actually negotiate between those three entities.

The diarchy is often a conflicted creature. It often has a volatile personality, but the point about the diarchy, and this came through in Duncan's talk, is that it is a relationship between two individuals. It has all the dynamics of any personal relationship, but it exists within a set of legislative and institutional constraints.

So, my personal view, having operated in it or watched it over many years, with different personalities and having reported to a succession of Secretaries and CDFs, is that a bit of tension is good between those two people – because it creates energy and it creates discussion – and it tests ideas and proposals. When the relationship is too close that can be good, but it can create problems. When the relationship is fractured and people are fighting – as back in the days of Sir William Cole and Admiral Synnot – then it becomes very dysfunctional.

Power can shift within the diarchy at different points in relation to different issues. A Secretary who has been in the job for a long time accumulates power. Similarly, a CDF, like Air Chief Marshal Angus Houston or General Peter Gration, accumulates a lot of power due to their institutional longevity. A Secretary like Tony Ayers was very powerful because he was there for a decade, and similarly with [Sir Arthur] Tange.

The diarchic relationship can shift, issue to issue, depending on the government's interests at the time. That is normal institutional life. The reality of lived experience is that at the top [of Defence], you have a dynamic relationship embedded in a system of quite strong accountabilities. A lot of people misread the relationship and think about it in terms of power, as in 'weak CDFs and strong Secretaries' and so on. People can over interpret the institutional politics, and you can get factions forming and duplication in the organisation. But perception is not reality, and when you get perception dominating in the Defence organisation it can become very dysfunctional. I think it is really important that the top works as a team but also that the organisation thinks of itself in terms of a team.

It has been stated in different ways today, but at the highest level of strategic decision-making, our policymaking and war fighting are actually the same thing. It is a collective endeavour. It's a whole-of-government endeavour and the reality is that no one – not any single Minister – has a monopoly on the decision-making process. In that sense, the exercise of command by the CDF is not the same as war fighting as a national activity.

I always saw my job in Defence as how do I support the leadership of the CDF and the Secretary? How do I best support their capacity to do their jobs? How do I provide the policy and strategic advice to both to enable them to make and support the decisions that the government had to make? And as Duncan said earlier, you will often get argument and conflict, but my friend and former boss Dennis Richards used to say that is important, that is necessary in an organisation. You need to be able to develop the capacity for argument and to do that without burning down the house.

Another big issue is the differences in values. The ADF is not the APS. People in the ADF do not have the same rights as public servants in terms of their employment. Their conditions of service represent a heavily regulated system. People do not join the ADF to become part of the public service. The military's a very different type of career, and so I think that one of the really important things to understand and recognise is that if you're a public servant, you may be working with a different type of group and vice versa for military officers.

I remember once saying to a Secretary, 'Seventy per cent of this organisation actually doesn't know what you do or care'. They do not actually worry too much about what worries us. They have a different set of values, which are not necessarily the values which we have to adhere to as public servants. But that does not mean that they are unmanageable, or [that] they don't make a really important contribution to the work that we all do.

It is really important to have some empathy with people. Without it, the Defence system will not and cannot work. The reality of government decision-making in relation to ADF operations and capability proposals is that there is a great deal of scrutiny and involvement in shaping the decision by other parties, including other departments and other interests. No CDF ever walks into the National Security Committee of Cabinet with a blank cheque. There is always a dialogue between what is possible and what is necessary involving different calibrations and understanding of risk between the political leadership and the military command. Other ministers and departments also have views.

The challenge for any CDF and the Service Chiefs is to mediate between the demands for political environment and the demands of the institutions that they are part of and in some ways accountable to. Secretaries have this tension too, but I think that for them it is a less demanding tension than you might see with senior ADF personnel. Think that at the hard edge of this – and both Eliot Cohen and Peter Fever talk about it in their theoretical work – is where there might be a clash

of values or different calibrations of risk, whether political risk or operational risk. That is where discussions can get really challenging and difficult, and that is why it is really important that people have some sense of being in a community.

Finally, some perspectives on the future of Defence as a civil–military organisation. My view is that Australia is too small to waste energy on organisational and political demarcations that are designed to create unnecessary barriers to cooperation and collaboration. Read the 2021 Intergenerational Report – Australia is shrinking. The reality is that the ADF and the APS need to work together. The Secretary and the CDF may have separate accountabilities, but the reality of their work is that they have high degrees of interdependence.

The strategic environment that we are now in has many challenges, but I think the single biggest challenge is understanding and adapting and ensuring that we have the right organisational capability in the Defence system as a whole to achieve the strategic goals of shape, deter and respond. We do not have the luxury of time. We do not have the luxury of bureaucratic processes that can duplicate each other. The task of securing Australia's strategic future through defence is a task that belongs to everyone, not one component.

The ADF achieves capability through the support that it gains from larger systems. The political and administrative challenge is how we optimise the capacity of the system as a whole to operate effectively while not losing sight of the many specific capabilities that exist within it. Finally, the art of political management of Defence lies in the capacity of the political leadership to understand and integrate all capabilities in support of national strategic and political goals. Bureaucratic fights about, or within, Defence in this context are a waste of time.

Civil–Military relations in Australia are [a] really big issue, and I agree with those who have said that the discussion is immature and we haven't thought about it enough. One of the problems is that we think about it very instrumentally. We think about it primarily in the way that I have talked about it today – as a process of frameworks, of legislation and of relationships. But there is a deeper issue about the role of the military in society, how it operates, how it connects with the rest of the community.

There are a couple of trends which bear thinking about. We have talked about the bushfire issue and the use of the ADF. The Royal Commission report is a good read and written by a former Chief of Defence Force, Mark Binskin. But one of the issues that it raises is whether it is the role of the ADF to do that type of [natural disaster relief] work when we have really significant strategic challenges in the IndoPacific in a contested operational and strategic environment.

The other issue is the securitisation of policy in recent years. Everything is now becoming a defence issue or a national security issue. The government has elevated the military in the national discourse. Brendan Nelson [a former Defence Minister] talks about the War Memorial as being where the soul of the nation resides. I think we need to think very carefully about what this means because Australian society is much bigger much more diverse than that. So I think one of the ways in which we might test the maturity of our discussion is to make it less instrumental so that we can have a richer discussion about the contribution that the military and Defence make to the broader communal fabric of our national life.

DR MOLONEY: Thanks, Brendan. I have just found out that we actually have Major General Day now online. Good afternoon, General Day. My name's Cathy Moloney and we'd like to welcome you here to the Blamey Theatre. Thank you so much, and it is a shame that we could not get you down here from the Brisbane lockdown but we are happy to have you. And I will throw it over to you.

The Role of Military Leadership in Shaping Australian Civil–Military Relations

MAJGEN Steven Day DSC AM Rtd

MAJGEN DAY: Well, thank you, Cathy. I wanted to offer six thoughts, more principles I suppose, rather than practicalities. These are my personal perspectives, although I do think they are broadly shared amongst ADF leaders. Hopefully they'll help with the panel conversation that flows.

Firstly, civil–military relations in Australia are rarely studied or discussed. I think the fact that I have been invited to participate in today's conversation is solid evidence of that. I wrote a research essay 17 years ago on the relationship. My efforts then to find Australian published research was dispiriting, and today, the cupboard was and remains all but bare. My uniformed colleagues at the time wondered – once they discovered my area of study – whether I was having trouble sleeping. There was not much interest in the topic. Perhaps today's seminar is a sign that things are changing.

A second thought. Probably as a consequence of this lack of interest, civil–military relations are an area that doesn't appear to be well understood. There is confusion about who we are referring to when we speak about the civilian side of the relationship. Sometimes the public service can be presumed to be the simple

authority, but it is not, as Brendan was just saying. Public servants are our [the ADF's] professional colleagues.

The civil authority is comprised of those elected by the Australian people, our Parliament and ministers. Sections 51, 61 and 68 of the Constitution lay this out. Of course, the challenge is that of managing our civil–military diarchy arrangement, and that is an important area for study. But the tendency to focus on this [the diarchy] has, I think, partly served to confuse our understanding of what is civil control.

The absence of any Australian who has held elected political office in our discussion today is a reminder of this situation. That much-admired Australian Duncan Lewis, our keynote speaker this morning, has more experience than most in this area. But he was described as a dual practitioner. He is not; for that we would need to be hearing from Linda Reynolds or Andrew Hastie or others who have worn the uniform of the ADF and then, after their service, been elected to office.

A third thought. Going back in history, we, the ADF, had a false start with the Army's first commander, Major General Edward Hutton, a British officer, who saw the purpose of the Australian's military force as furthering the interests of the British Empire, regardless of the very different perspectives of the Australian politicians of the time with whom he argued publicly.

Since then, I think it is fair to say that the various Service Chiefs have stated and acted in a manner consistent with the view that the ADF is dependent on the support of the Australian people, governed by the rule of law and is subject to the direction of the Commonwealth Government as the civil authority. So being in control of the military is axiomatic – it is the start point for the ADF.

A fourth thought. The ADF must be able to serve the government of the day, regardless of the party or parties that form it. To do that, it must be and must be seen to be apolitical. Those in uniform do not want the military politicised by government or any other organ of society. The ADF is employed in the interests of the nation as a whole, determined by the government of the day. The government exercises a stewardship over the Defence Force on behalf of the nation. The Defence Force has a duty to stay out of party politics and the government has an obligation to avoid drawing the military into party political issues.

A fifth idea. The military wants to be seen and treated as a profession. The ADF is an institution with distinguishing uniforms, a hierarchy of rank and office with bureaucratic processes, educational schools, associations, journals, societies and

expertise. In short, it a profession, and an elemental yearning for any profession is the gift of autonomy.

The ADF seeks autonomy to select its members, to conduct its training and to establish a culture that optimises its chances of success in armed conflict. The military do not, however, expect to be given permission by government to be left alone to get on with it. There is an understanding that government has a need to be kept abreast in a timely manner of the relevant details of military operations, personnel matters, training and administration. But the broad preference is for this penetration to be limited to dealings at the military strategic level. As a matter of principle, military autonomy at the tactical level is sought. The granting of autonomy is a critical trust-building exercise between society and the ADF. In return for this autonomy, the ADF needs to accept certain obligations, such as a commitment to high ethical standards, the policing of those standards and an internal focus on its expertise and a responsiveness when it is called to account.

Sixth, and my final thought. Whatever the structural relationship or whatever the structural arrangement on this relationship, uniform[ed] leaders of the ADF want it to include direct, unfiltered access to the elected government of the day. Military leaders see themselves as experts in the raising, training and employment of military force. More time, effort and resources are spent in educating military officers in the art of war than any other group in Australia. Military professionals properly see themselves as a valuable source of policy advice on defence and security issues. They do not, however, expect to have their advice accepted without question or comment, nor do they seek to have their advice acted upon without alteration or amendment. But they do want that advice to be heard directly by the national government.

They do not want military advice to be filtered through a foreign military leader, or by political staffers or public servants. Direct access to Australia's elected national leadership is sought to ensure that the advice offered is received as intended and not altered by others. Direct access is an important confidence measure for the fighting men and women of the ADF. It's important for their ready acceptance of danger to know that those who are ultimately responsible for their wellbeing, the Australian Government, have been directly advised by the leadership of the ADF. That is it, I'm out of ammunition for the moment.

DR MOLONEY: That was phenomenally succinct and gave us lots to think about there. We're going to push ahead now with Pauline Collins and come back to you Steve for Q and A. Our people in the box will contact you. But we will push ahead now to Pauline, who has quite kindly pre-recorded her presentation for us.

The Australian Military as a Separate Society: Implications for the Future of Australian Civil–Military Relations

Professor Pauline Collins

PROF COLLINS: Hi, my name is Pauline Collins, and I am pleased to be with you all here today, even if it is virtually. I am talking about the Australian military as a separate society and the implications for the future of Australian civil–military relations. I would like to acknowledge the traditional owners, the Ngunnawal people, of the land on which we are gathering today and pay my respects to the Elders past, present and future.

My first slide concerns the civil–military imperative, which you are all probably very familiar with. It has two principles or aspects: functional and structural. The functional imperative requires a disciplined force strong enough to defend society. The structural imperative requires that the military must not be so strong as to threaten the very society that it seeks to protect.

Society's values and ideology include rights and behavioural expectations, and there is a structural concern to ensuring that any state that is organised according to the doctrine of separation of powers has the three institutions of government [executive, legislature and judiciary] operating within a constitutional pact honouring the separation of powers and avoiding arbitrary abuses. This formula maintains a strong fighting force and a command discipline, while at the same time ensuring the structural imperative protects the civil liberty and democratic ideals of society.

The structural imperative is prioritised by civil–military control and the principle that civilian concerns dominate. This principle is unquestioned [in democracies], but just how it is put into practice and maintained leads to much theorising. Soldiers and citizens represent the two sides of the civil–military relationship and what happens to either side affects the health of that relationship.

To touch on civil–military theory. There are two main post–World War II schools dominating understanding and they have had a lasting influence. They come from two divergent discourses. The first is that of the political scientist Samuel Huntington in 1957, who developed the professionalisation school. The second is that of the sociologist Morris Janowitz, who, in 1960, developed the civilianisation school. There is a set of hybrid evaluative theories that arose out of these two schools of civil–military theory. They do not contest the norms of the civil–military

control principle but, rather, evaluate norms and suggest how control occurs in practice.

You have heard about Huntington's civil–military approach, so I will not repeat that other than to highlight that Huntington noted that control was possible both under the functional and structural limbs that I have just described. He was focusing on the United States, and he felt the two components of the structural imperative were stable and constant and so largely he ignored the structural limb, concentrating instead on the functional. This is one critique, but the other critique of Huntington is that he ignores military personnel outside the officer corps and, therefore, does not address the discipline of soldiers as a place for civilian control. The role of discipline and punishment as a controlling mechanism of the military is somewhat left out, and this is a crucial link for civilian institutional control.

The influence of Huntington's is reflected by the courts when they overemphasise the functional imperative at the cost of considering the structural imperative at all. Janowitz in the civilianisation school and Huntington are diametrically opposed on the question of values. Janowitz maintains the idea of the citizen soldier by arguing for a convergence of civil–military values with civilian values taking priority.

Janowitz's approach takes us from authority of command to a manipulative authority, which he argues is more suited to the flattened organisational structure of the modern-day military. Janowitz also favours conscription to ensure currency of civilian values. But conscription is not likely to be politically compelling in Western democracies.

On hybrid theories, they tend to blur the functional and structural imperatives in civil–military relations. Most do not mention the role of the courts and the control process, or concern with the maintenance of democratic values. The courts get a brief moment of acknowledgement by [Charles] Moskos, who sums up his position saying the wider the stand of the military justice system, the more likely it is that offenders will be tried by civilian courts. For Moskos, this affects all-volunteer professional forces because its members perceive military service more as an occupation than a profession and have an expectation of fairness and justice.

All these theories fail to address essential problems of how to ensure civilian control at the structural level, and this is a central concern for me. I apologise demonstrating my non-existent computer drawing skills here, but hopefully you see the picture – the metaphor of the three-legged stool of a stable structure of executive, legislature and judiciary. Each leg has separate functions that are performed best when they support the other two. Through the necessary

tension of this doctrine, harmony is achieved in order to ensure citizens', including soldiers', protection. The ideal arrangement is balanced power sharing and control of institutions, which is the fundamental basis of democracy.

Any absence of the courts contains the potential for increased power in the executive. In Australia, it is important to keep in mind the separation of powers doctrine is reinforced by the requirement of the Commonwealth's judicial courts power. This rule is circumvented by virtue of this historical exceptionalism afforded [to] the military by the civilian courts, so enabling military discipline to be provided instead by the executive through legislative enablement.

The position of the courts in supporting the three-legged institutional stool is all the more significant because the division between legislature and executive is followed by the adoption of the Westminster system of responsible government in Australia. A former Minister for Defence, Peter Reith, summed this up nicely when he said, 'The government is accountable to the electorate at the polls for its performance in defence'. This suggests that both the Australian public and the military have a general lack of understanding of civil–military relations. Under the Westminster system, the Defence Minister is a member of Parliament and Parliament is obliged to create defence legislation that is valid under the Constitution.

The High Court guards against executive incursion into judicial powers and protects individual rights. Civil–Military theories that reinforce this would be a guiding light for all, perhaps preventing something like the Afghanistan Inquiry into possible illegality. The High Court's normal role of upholding constitutional and individual rights is at odds with civilian control of the military and confirms the existence of a separate military society.

The Senate Foreign Affairs and Trade References Committee and the Australian Military Justice System Senate Inquiry in 2005 sought to bring military discipline in Australia into line with rights-driven changes that have occurred in the United Kingdom. This did not occur, with the Australian Military Court being developed in 2007 and its failure in 2009 in the High Court case of *Lang v Morris*. What we see in Australia is the High Court moving further into a deferential hands-off stance.

In *Lang v Morris*, there was a charge of assault occasioning actual bodily harm under section 61(3) of the Defence Force Discipline Act in relation to his ex-partner, who was also a military member, while they were both off duty in a private Brisbane hotel in August 2015. The incident was not reported until October 2017, and the complainant discharged from the ADF in 2019.

The Defence Force Magistrate heard the matter on 12 June 2019, some four years after the incident had occurred. The plaintiff raised an objection to the Defence Force Magistrate hearing the matter, relying on the service connection test and saying the matter should be dealt with in the civilian criminal courts. The Defence Force Magistrate considered he was bound to follow a prior decision of the Defence Force Discipline Appeals Tribunal in *Williams v Chief of the Army*, which had referenced the status test. The decision was then appealed to the High Court.

On 9 September 2020, seven judges of the High Court delivered their judgement dismissing the plaintiff's claim, with the plurality adopting a position that did not finally address whether the service or status test applied in limiting the reach of military discipline. Nevertheless, they made a pendulum shift to support a preference to the status test. That is, if you are a military member at the time of the charging, then you will be dealt with under the military system.

The service test required a greater connection to the military, thus limiting the range of the military jurisdiction. In a joint judgement, Chief Justice Kiefel, Justice Bell and Justice Keane adopted the Commonwealth argument that the Defence Force Discipline Act [DFDA] section 61(3) is a law necessary for the good order and discipline of the ADF. Very clearly a functional imperative.

The majority claimed section 61(3) is valid in all its applications as a valid exercise of the defence power. While all judges agreed with the result, namely, that private [indistinct] conduct would be dealt with by service tribunals, the reasoning was not unanimous. And this leaves a less than clear outcome. The acceptance that any discipline imposed under the DFDA is within defence power adopts the widest possible reading and effectively eliminates any requirement for a limiting test.

Justice Nettle considered that a service tribunal dealing with a civil criminal offence – irrespective of the nature or circumstances in which the offence was committed – was not a law within the defence power. To do so, there would be a need to obviate consideration of how the offence affects the maintenance and enforcement of service discipline and would remove the protections of Chapter 3 courts from service personnel with no clear improvement to service discipline. I think that latter point is very important.

No attempt was made to balance military demands against the historical and arguably more important demand regarding separation of powers or the civil–military control principle. This could become a factor for the High Court in their approach to military justice. Perhaps the courts would then be encouraged to

show ideological concern for human rights and the second component of the structural imperative.

What implications does all this have for Defence? The High Court's influence on civil–military relations includes maintaining a similar separateness to that in [the] United States – that is, in isolating military personnel through the application of a discrete discipline that does not offer the normal protection that citizens receive. This situation has the potential to affect soldiers' morale, which in turn affects their disciplinary behaviour.

The High Court, in its concern for military necessity, seems to misunderstand the effect on morale. Deterrence theories suggests when unfairness or harshness is received, individuals are not necessarily more compliant with authority and can lead to the type of abuses that modern armies are experiencing, with individuals from both the civilian and the military voicing unhappiness about their treatment. Numerous Australian military scandals indicate a struggling discipline system that has seen minimal adjustment up until the last few years, when soldiers speaking on troop rights have driven a demand for change.

The military institution in Australia maintains a strong and persistent desire to avoid divesting discipline, either wholly or substantially, to civilian courts. Morris Janowitz insists that the military's first duty is to society and if society alters its strategic goals the military must adapt them, meaning greater involvement by the courts. Use of the courts could help reduce the high levels of depression and estrangement within the military, and I maintain that it's unwise to ignore the courts in the civil–military equation because failure to maintain an appropriate balance in the separation of powers denies the principle that ensures no one institution dominates to the detriment of citizen, including military personnel. The courts seem to have remove[d] themselves from matters that touch on the military through their very deferential approach to military justice issues.

There are about 59,000 Australian citizens who are subject to a process in which they are not necessarily equal under the law, and this can lead to feeling that they are treated as if they exist only to be used. This does not include members of the Reserves who may come under military jurisdiction.

Courts can encourage compliance with international humanitarian law and human rights law by requiring greater accountability at leadership levels and by holding to account senior officers for the conduct of their subordinates both under the doctrine of command responsibility and domestic law practises. As a former Australian Judge Advocate General, Len Robert Smith, notes, where the High

Court balances functional and structural imperatives in justice, it increases the faith of service men and women in the chain of command. This can only improve operational effectiveness.

The obligation to educate, not only military personnel, but lawyers, judges and citizens, is enshrined in the Geneva Convention and has to be taken seriously. As I have noted, the 2005 Senate Inquiry had decisively required maintaining the structural and functional imperatives in balance, an aspect that the High Court's jurisprudence failed to address.

The Senate Inquiry stated that all non-military offences should be removed from the military system and that the civilian authority should deal with offences that have a civilian equivalent or which involve civilian criminal elements in addition to all offences caught under section 61 of the DFDA. This would not prevent, I suggest, the disciplining of military personnel or disciplinary offences of a purely military nature or through the administrative system.

However, the High Court's case law continues to justify the historical exceptionalism of military discipline outside Chapter 3 courts. The number of individuals heading to court may be small but to ignore their grievances, I suggest, is to risk not seeing the tip of a far greater iceberg. Lastly, I would like to thank the Profession of Arms Seminar, the Defence College and Professor Michael Evans and all those who worked to try and get us all there [to Canberra]. I am very sorry that that did not happen. But I look forward to future discussions.

DR MOLONEY: Thanks very much, Pauline. We will have you on for our question and answer. And we are just going to finish off – masks are a bit painful now. They're going to rip an earring out. There, I am fine. We will finish now with Dan Bourchier, and then we can have a bit of a stretch and then Q and A.

Role of the Media in Australian Civil–Military Relations

Mr Dan Bourchier, Presenter and Newsreader, ABC Canberra

MR BOURCHIER: Good afternoon, everyone, and thanks very much for having me here today. I want to begin by acknowledging the traditional owners, the Ngunnawal people, the custodians of this land who have been managing this land and perhaps the very first strategist here for tens of thousands of years.

I also think it is important to acknowledge MAJGEN Ryan, Dr Moloney and Professor Evans for having me along today. I guess the fact that I am here as part of this discussion and talking to you goes some way to trying to improve relationships between the military and the media, where I think it is fair to say relationships have been fraught. In fact, the relationship between the government, Defence Force and the media is ‘broken, volatile and dysfunctional and defined by mistrust and antagonism’.

Now you might expect that those are my words. But what would you say if in fact I told you that they were those of a former Chief of the Army? Ten years ago, in a room not dissimilar to this, Lieutenant General Peter Leahy AC delivered a paper dealing with what he saw as the fundamental breakdown in relationships between the media and Defence. I think the point General Leahy was making is absolutely crucial. When you do not know each other, when you do not understand who each other [is], it is very easy to see people as the other, and it’s often too hard to be able to break down that barrier and have a conversation.

General Leahy went on to say that journalists within the Defence Force Public Affairs Unit have been read the riot act to not ever speak to people like me on or off the record. He also went to say that a real and ever-present risk to Australian society is that when you do not have a relationship between the media and the military, information gets dumbed down, misinterpreted and distorted. He was speaking in 2010 about some of the reporting that was at that time coming out of Afghanistan.

Over 10 years later, this begs the question, what is the relationship now? I think there is a key question here of how you see as your role as part of the military and how you see as the role of the media. And where do they interlink? Relationships are never one-sided; this is about both sides coming together and you can only ever really rebuild relationships when you say, ‘Right, whatever has happened in the past has happened and you have got to move on from there’.

This actually takes tremendous leadership from both the leadership within the military structures of which you're all a part of but also the leadership from within organisations like the ABC. General Leahy called for a no-limits embedding program of journalists in military units, a media Ombudsman in defence, military education courses for journalists and regular media briefings, better access by media to databases and for Defence to better use the media. That's a pretty long list and it's fairly skewed towards the military. But what I want to talk to you about is the other side of the equation. Trust is not between institutions of the military and the media; it is between you and me. It is between two people who get to know each other and can build a level of trust.

That is exactly why I am here today. About 10 years ago, the then Brigadier Ryan was Commander of First Brigade in Darwin at Robertson Barracks, and one of the measures he took was engaging with media across the spectrum of activities. At the time, I was working at Sky News and had a small but very influential audience, particularly at Parliament House. And part of now General Ryan's strategy, I think, was to be able to get stories about things that were happening in the brigade to a broader media appreciation. Those who are in Canberra in the halls of Parliament and likely in Russell Offices watch Sky News all the time and would be seeing positive news. Some of the stories were akin to puff pieces that were not necessarily going to win me a Walkley Award. But for me it was important in building a relationship with the military because Darwin is essentially a military town.

The second reason General Ryan concentrated on building a relationship was that if there was a story that broke about, say, a soldier on Darwin's notorious Mitchell Street behaving badly one night, he [General Ryan] would be able to call and say, 'Right. This is the context'. It was actually quite a considered way of approaching the media, and this has happened for a number of journalists working across networks in Channel 9, ABC, the NT News and, to a lesser extent I think, Mix 104.9, which is a very influential radio station.

This was all about the greater good. And 10 years later, the relationship is still mutually beneficial. Last year, I was invited to be a part of the Strategos Course, which I found to be an incredible and enlightening experience. There was a lot of views about the media on that course. Some of them I would agree with, some of them I would disagree with. What it did make clear to me is that in the shape of emerging leaders that are coming up within Defence, there is a tremendous appetite to have conversation, to have greater mutual understanding because

the reality is, right now, we consume the majority of our news and information from devices.

I thought a lot about how we got to this point in the media–military relationship, and I think it is something that all of the other speakers have touched on. Namely, the structures of our political system in Australia with ministers who are appointed after being elected. They are appointed through a Cabinet process and have a tremendous amount of power and control, and often are the ones that like to be giving messages, doing media appearances or briefings if it is not the CDF.

It is different in the United States in that members of the US Coast Guard above a certain level, for example, are able to speak to the media on the record and off the record. The Coast Guard see this as part of public relations 101. One of the challenges for the Australian military is that when you're not part of the story, you're leaving a gap in the story for someone else to fill. And regardless of what anyone thinks, having worked on the inside, I know that journalists for the most part don't have vendettas or agendas but are incredibly time poor and don't have a lot of time to be working on a story over multiple days. Usually it is a one-day turnaround. I experienced this only last year when COVID19 broke. You might remember the first case in Canberra was on International Women's Day, and it [the story] was about members of the military who had flown from Sydney to Canberra and then had a number of meetings at Russell Offices, and probably meetings at Parliament House, before going back to Sydney.

I was tasked as chief reporter that day to cover the story. I went for the news conference with the ACT Health Minister and Chief Medical Adviser, got in touch with Defence Media who immediately stonewalled. Even though the [ACT Health] Minister had just said, and in fact the Federal Health Minister Greg Hunt had also said, that the COVID-19 person was a member of the military. The response and reaction from the media unit of the Defence Force was just extraordinary. It was to almost dismiss the issue, to say not a single word. We tick-tacked throughout the day as I tried to get the information.

What Defence actually did was go past me, via someone that they had a relationship with at the ABC, to tell them what message they wanted on the record. That was great for that journo that he had the relationship with the Defence hierarchy and they felt like they could talk to him. It was even more fortunate that he had a relationship with me that I would listen to him when he came to tell me.

The point that is missing here is that direct interaction between the military and me as the journalist. I was doing that story, and it led our bulletin that night and was picked up around the nation. There was a huge opportunity for someone in Defence to stand up and be a talking head, if you will, to say, ‘This is what’s going on. Yes. We’re still trying to find out the detail perhaps, but these are the protocols that were put in place’. This would have given people a great sense of confidence about exactly what the situation was.

I want you to think about what the implications are of this incident and perhaps consider mean broader media–military relationships and interactions. There is a thing called the Edelman Trust Barometer. The one that I am referencing here is from 2018 and it found that, in Australia, there was only 31 per cent trust in the media. That was just higher than Turkey when [President] Recep Tayyip Erdoğan shut down the news service at 30 per cent trust. Clearly, there is something wrong in the trust matrix in Australia for the media.

There is not actually a comparison around military trust, so I cannot compare that for you. But what I know is that if military–media relationships are not working – and clearly the one between the media and the public also needs work – then people turn away. This all goes back to the fundamental point of why I think military–media relationships are important, because if you lose the trust of the people of Australia and they switch off from the media and do not listen to the military either, then we are in a really dangerous position.

In the news coverage around COVID-19 in recent weeks and the vaccine rollout, there is seemingly a lack of trust in the government structures that we have in Australia. In the framework of a global pandemic, I think as a nation [we] need to be really, really careful of any slide in trust because it can become a slippery slope with an unknown end. Of course, it is much easier to deal with flare-ups and tensions between institutions and individuals when you have a sense of trust.

The point that I want to make to you is that the next stock of leaders who are rising up through the ranks of the military will have the media relationship as part of their purview. I would encourage you to have conversations as much as you can in the current structures, to be asking questions and having discussions internally and externally. To round out, let me quote Gandhi, a known pacifist as it turns out. He said, ‘You must be the change that you want to see in the world’. Thank you.

DR MOLONEY: Thanks very much, Dan. So, if you want to come back in about three to five minutes and have a bit of a tea. So we’ll resume back at 2:20 please.

Panel 2: Question and Answer

Chair: Dr Cathy Moloney

DR MOLONEY: Please, as before, say who you are and if there is a question that you would like directed at any particular presenter or all of them, but just let us know who you're targeting. Thanks very much.

MAJGEN RYAN: I am going to take the prerogative of first question. Mick Ryan, Australian Army Officer, I tweet under War in the Future. I'll put this to all of our panellists. What has been, in your view, the impact on civil–military relations when we talk about the military and society. Since the end of the Cold War, when we removed conscription from a large number of democratic nations, particularly in Europe and even the United States in the 1970s. Has the removal of National Service and conscription in democratic countries had a negative or a positive impact on the relationship between military institutions and the society they recruit from and that they serve?

PROF COLLINS: Well, obviously, I favour somewhat the Janowitz school – a conscription in that you have civilian soldiers, and you then have a closer relation between the military and the society because they represent the whole range of values across society.

Coming from the legal position, because I am very focused on the discipline system, through conscription there was a lot of pushback against the harsher punishment regime at the time. I think the gap that developed with an all-volunteer force [has made] the military more separate and the civilian population are not too interested. They say, 'Well people volunteer if they want to go and join the military. They want to make that their profession; that's their choice so why should we be too bothered'.

So I think it contributes to the gap, and so the discipline system is an all-volunteer professional one. As [Charles] Moskos said, such a force might be expected to become more occupational and demand more workforce rights. Otherwise, the [military] institution remains pretty stagnant.

DR MOLONEY: Brendan?

PROF SARGEANT: I live in Canberra and that distorts your perception of reality; it is not Melbourne and Sydney or rural Australia. I live in a very rarefied world. But I have four immediate relatives who work in the ADF as soldiers. The thing that

strikes me about them was that they live in a separate world and have returned to society with varying degrees of adjustment, and just how separate their world was from society.

When I was working in Russell, we had Iraq War and Afghanistan and multiple [military] engagements. I felt that our society did not really understand what was happening, what was being done and what it meant. It was something in the background, and I certainly got that sense when I would leave to go out of Canberra for whatever reason.

The other thing that really struck me was how powerful the myth of the digger is and, having worked with the ADF all my career, what a distortion of reality that myth represents. So to me, there is a disconnection between the ADF and society. It is subtle and I think it is a problem because of the challenges that are coming at us from the world. Our society needs to understand what the ADF can and cannot do, and the ADF itself will not be able to function without really strong support from the community at large.

So I think the relationship between military and civilian society is a really significant issue. Speaking professionally, I think the debate in Australia about this issue is very narrow and I think that is a problem.

DR MOLONEY: Steve, did you have anything to jump in on?

MAJGEN DAY: I do, thank you. I want to support what Pauline and Brendan have said. I think what we have seen is an increasing remoteness between the military and society and I think that is a problem. For the reasons that both Pauline and Brendan have mentioned, but also because when government decides to send us into harm's way, I think it's important that society at large feels the commitment. It is not [an] easy decision to send off a remote [military] group who go away on behalf of the nation. The cost is personal to families and is not understood by the country.

Professionalisation has increased this sense of remoteness and I think it is a problem. When you look at our recruiting, which has changed over the decades, there [are] very small footprints now in Victoria and in South Australia, although in the latter it's started to return. There is a lack of understanding or interest in recruitment into the ADF from Victoria. The last figures I saw, which is a few years back, now were something like three per cent [of ADF recruitment from Victoria] and Victoria represents a much larger slice of our country than three per cent.

On the upside, through professionalism, we have seen an increase in our capability. I served in Africa in the 1980s and I saw some European armies, and I served in East Timor and Iraq and Afghanistan. I have seen a progression of militaries, and those that I saw in the 1980s – the conscript types – really were not very capable.

An increase in ADF capability is the upside, but I think the downside is there has been an increasing remoteness from society. You see more military families – you know, father, son, grandson, granddaughter joining the military, which is true in my family's case. They become a prominent group, but one in which I think there are less diverse skills and understanding of our country, which is a problem.

I am not sure I agree with Pauline on a solution. I do not know what the solution is, but I am not sure [Morris] Janowitz is the solution. Let me stop there.

DR MOLONEY: Did you want to weigh in on that, Dan? How do we bring the issue of the military and society forward? Can we use the media if you are the mouthpiece of society let us say?

MR BOURCHIER: I do not think I am qualified to respond to the first part of the question because given I was only born in 1985. What I do think is that any time that you have a service to a society, often it will build cohesion. I know this from friends that I have that are abroad – particularly in Finland – who have done military service. There's a much greater sense of where the nation is going and what the nation is about.

If that was the case here – notwithstanding that I do think you have got to be very careful about how you go about introducing schemes like [conscription] – you need to that make service inclusive and engaging. I think the idea is worth a conversation.

MS GRAHAM: I am Sally Graham from the Australian Army. I want to touch on Pauline's point about the military as a society not getting too strong for the civil elements, and also ask about Major General's Day point about the internal settings of professional standards. What role do you think the government and/or the media has in policing and commentating on culture within the military?

DR MOLONEY: Right. Which one would you like to start?

PROF SARGEANT: I am happy to make a comment. I think it is entirely appropriate for people not in the military to make comments on military cultures. They may be right, or they may be wrong, but I think the larger issue is that any

organisation will build a culture that can be a force for good or a force for harm. I think it is very important for any organisation to be culturally self-aware and accept and respond to outside critiques, as well as engage in a dialogue with the outside world.

From my experience, military culture is, or elements of it are, a really critical enabler of capability. Much military experience and training shapes both culture and capability. At the same time, military culture does not operate in an unconditional environment, which is why it is important that it be subject to critique and commentary.

Now some people will say silly things or even idiotic things about the military. That's part of living in a [civil] community, and a robust and strong military culture will absorb what is sensible and deal appropriately with what is not.

MAJGEN DAY: I would like to offer a comment, if I may, to Sally's question. From my perspective, it's essential that the military knows society and government expectations of us. We need to know when we fail to live up to expectations, and the media have a fundamental role in helping that voice be heard. You must have trust between the society that you seek to serve and the [military] institution itself. I think we have had some problems in that area over the last decade or two.

PROF COLLINS: I think it is a really good question and if I may just follow up on the previous one on conscription. I am not actually supporting conscription, but I can see the benefits of it. We could look to some of the European militaries and what they do with conscription in giving different opportunities for young people. But I think there is another answer, and it is the position I take with the courts which are left out of all of this discussion. I am trying to put the courts back into the civil–military equation and also as an academic into education. If the courts are engaged, they would educate us on civil–military relations. I think the generic venture should be that international and military law should be a compulsory subject, not just for military people but for all society as [a] civil–military relations topic. We need to teach young lawyers who argue these cases before the High Court a better understanding [of civil–military relations] and the structural imperative, rather than maintaining this hands-off approach of 'we'll leave that to the military'. If the civilian component does not get involve[d] for the military, it is kind of navel gazing, an echo chamber. You need a critical outside voice.

ASSOC PROF MOORE: Can I make a comment there?

DR MOLONEY: Yes, Cameron?

ASSOC PROF MOORE: I will make two comments. I agree with the comments about people not understanding Defence enough. I live in Armidale and I work as an academic. I write on military law, and an understanding of the military is really poor. People do not get what I'm talking about half the time. Maybe that is me, but I think there's a bigger problem. I would also disagree with Pauline on her assessment of military justice. It's a widely held view amongst legal academics that there's a problem because the discipline system doesn't come at Chapter 3 in the judicial system. I would make three points about that. One is that you cannot have command without discipline, and discipline is not the same as a criminal law system.

The other point I will make is that I would much rather go before a service tribunal than a civilian court and have a very experienced legal team fully funded with all the bells and whistles – appeals, petitions, reviews – that you get in a discipline system, along with the range of punishments that are available in the discipline system, which are not available in the civilian system. I also think that there's ample civilian judicial scrutiny over the system because we have had so many cases go to the High Court. They go to the Defence Force Discipline Appeals Tribunal. Defence Force Superior Tribunals are open to the public, so I do not agree that military justice is second-rate justice. I think it is seen a bit like military music; I think military musicians are fantastic and I think the military justice system's not too bad either.

DR MOLONEY: Thanks, Cameron. I'll pass over now to Dan on the media relations side.

MR BOURCHIER: On the point that was asked about culture, that culture is ultimately set by whoever is in charge of an organisation. So, if it is a company, it is a board of directors that ultimately have fiduciary responsibility and legal responsibility for the culture of an organisation. For an organisation like Defence, clearly that lands at the feet of the CDF and the senior executive team with heads of branches. Notwithstanding that there are lots of pressure points from the government and the Minister of the day.

But in terms of the actual culture of the organisation, it is the organisation's responsibility. I think scrutiny and discussion can only ever be a good thing. It will not surprise you, but I think transparency is pretty high on the agenda of the things that we need in a really active society.

There was a Quarterly Essay written by Laura Tingle, called *Political Amnesia*, about five or six years ago, and in it she writes about how one of the biggest

problems she has seen in policy circles in Australia is the churn of people from department to department. You just become an expert and then you move on somewhere else because its [policy] not an upward skill-training or development arena.

She pointed out that heads of the military and of public service departments used to routinely speak publicly. They would do set pieces at the National Press Club, would give speeches and, for some reason, that has been a bit lost. I suspect it is a bit to do with who the politicians are, which goes to the point that you made right at the start around structures.

One of the real challenges around is how do you navigate what to talk about in an organisation that's not going to step on the toes, and potentially be something that a Minister might be compromised by at question time. This has been put to me as something that might drive and motivate the way ministers allow commentary from their executives. So I think there are some pretty big challenges when it comes to culture, and you've got to navigate around those challenges. You know? Culture is like the river; you cannot be the rock in the middle of it or it will just erode you away. And that is what happens when culture is not managed.

DR MOLONEY: A question I have leading on from that. One of the main themes coming through, not only from the keynote this morning but also the panels, is about a sense of trust. Dan pointed out that the way he got here [to this seminar] was through building a relationship with General Ryan, which then got him on the [Defence Strategos] course. A lot of people felt very uncomfortable about having a member of the media on one of our courses. But over the week, people realised that trust is exactly the same for members of the media as it is for members of Defence. The Chatham House rule actually works for both.

If it is about trust – if it is about structure – how do we actually build that trust, if not for Dan being on a course of ours, or you [Professor Sargeant] having come from many years in Defence and now have having moved into academia, or Professor Mike realising that there is a vast area of [civil–military relations] research that has been ostensibly neglected? Does it come down to academics having to look into it again? Is it about doing this [seminar activity] more often? How do we build that trust and that relationship do you think?

PROF SARGEANT: Well there are a lot of issues in that.

DR MOLONEY: Yes.

PROF SARGEANT: I think you just have to assume trust, and I'll just talk from my own experience, and it's complicated. I had a succession of senior positions with access to information which was very sensitive. Everything I did or said was under scrutiny both internally and externally.

This meant that what I say is going to have a disproportionate impact, which meant that I would have to be very careful both about what I said and to whom. This goes with the territory, and even now in academia where I can say a lot more, I am careful about how I express myself. I think that one of the problems we have is that senior public servants and military personnel should be able to engage with the media and do so with confidence not to get a particular agenda out there but to raise the level of literacy in the community about issues which really matter.

And I will say why it matters. At the moment, the country knows that big things are happening in the world and that we're not going to be able to continue as we have continued for the last 70 years. The government is not talking to the community about this, and the policy elite is not having that conversation either. The internal conversation is different to the external conversation, particularly in foreign and defence and strategic policy, and I know this because I have actually walked across both worlds.

This situation means that we are going to experience some form of strategic shock, which, my view, the public will not be prepared for. They're going to say, 'What happened? Why weren't we told?' People will say they have been told; all they have to [do is] read the Defence Strategic Update on every breakfast table. But we know that that does not happen, so there is a real need to enrich the discourse.

The other group which we have not talked about which I think is just as important is Opposition politicians and backbenchers. They do not know enough, and I have seen situations where, after a change of government, the Secretary and the Minister who have both been in Canberra for decades will meet for the first time. They'll look at each other for the first time with various expressions of fear and incomprehension as they try to create a new relationship.

So to me there's not enough conversation and there's not enough trust. We have built a political and policy discourse where it's winner takes all. And it is a really big, big problem at the moment.

DR MOLONEY: Do you think there is a way around that?

MR BOURCHIER: I do not think there is a panacea. There is not one thing that is going to change everything. But I do think there is a lot in what you have just said about the challenges and perhaps the motivating factors. I think so much really boils down to relationships. I'm impressed by the point you made about wanting senior members of the military to be able to speak to the media for greater accessibility. It is always the case that if your voice is not part of the mix then it is not part of the thinking.

DR MOLONEY: I wonder if that then, if that will start feeding through our legal system and through the courts, as Pauline is arguing for – that it is not just about personal relationships and trust. What do you think about that, Pauline?

PROF COLLINS: Where I am trying to shine the light is on the structural imperative and its two components, which are the values and ideologies of society as they change. If you are stuck in the functional Huntington imperative, you are not moving with changes in a society where we have private contractors, we have got all-volunteer forces and we've got multinational peacekeeping forces. Lots of things have changed.

I think the way to build trust is to close the gap which we have discussed. We are all coming from different disciplines and different experiences – from the media, the law, the actual practice in public service with the military. Trust is a hard one to build. It can be very easily damaged, and it is very hard to regain. The more education we have – conversations like this – requires people to understand key cornerstone principles of our Constitution. I take Cameron's point that you can be talking and seem as if you are an alien from another world. People do not understand our constitutional system as as the cornerstone of our society, and I think a lot of politicians do not. Everyone needs education. If can just briefly pick up Cameron's point by right of reply? I work with people who have been subject to the military justice system and they do not find it a happy experience. It damages their life and years after they are still trying to address how they felt and how they were treated.

I recently attended a Defence Force Appeals Tribunal hearing and I saw the destruction caused to young military people in that process. We can civilianise it, but it is not the same and I have written books on this. There is no reason not to have soldiers subject to workplace administrative disciplines, just like public servants or anyone else. But the criminal system is the criminal system, and the state will bring its values in and also educate the public if there's juries those matters are heard in that space.

It is interesting that the US [military] has given up on the sexual assaults that have been happening at Fort Hood. After years and years and years saying, ‘Go fix it up’. They’ve said, ‘We’ve had it. We think we need to bring you in the civilian system’. [indistinct]

DR MOLONEY: Thank you, Pauline. And Stephen?

MAJGEN DAY: If I could perhaps go back to the original question about the media. A couple of thoughts. A first point is that having seen the business community and a range of other elements of society more recently, I am not sure the mistrust of the media by the military is any different from the rest of society. I think it’s broad. I think that is the first point.

The second point is that I think a lot of Australians, a lot of folks – it seems to be a part of our culture – have a fear of speaking to the media, as I’m sure Dan knows. Thirdly, in the military in particular, there’s not enough of an understanding of the importance of communicating the Defence narrative to our society, to our community, and that’s something that we can address.

Finally, 20 years ago, I worked for the Chief of the Defence Force, and I was called over to the [Defence] Minister’s office by one of the staffers of a new Minister. The Minister had brought his whole staff over from where he had come from and the staffer did not know whether ‘defence’ was spelled with a ‘c’ or an ‘s’. They were now in charge.

One of the things that made them uncomfortable, according to the staffer, was there were too many military people speaking to the media. Where they had come from [in government], the only person that spoke to the media was the Minister. So things were about to change, and sure enough, within about two months a new policy directive had been put out which substantially clamped down on the ability of both public servants and military people to be free to speak to the media.

That policy was sort [of] reworked over the ensuing decade and the effects of it are still being felt in the [Defence] organisation. This, I guess it is a long way of me saying what Brendan did, which is to say it is all complicated, but we continually need to talk about it and we need to do better in this area. Let me stop there.

DR MOLONEY: Thank you. Are there any questions from the floor?

COL SLIGO: Graeme Sligo, Army Reserve at the Defence College. From Professor Sargeant’s remarks, it seemed to me we have had – I am oversimplifying – ‘You ain’t got much autonomy as an ADF’. I guess from General Day’s remarks,

it seemed to me that professional autonomy is very important, although the limits of that autonomy may well be circumscribed. It has been mentioned a couple of times that we may face strategic shock in the coming decades. Therefore, is the organisation and the structures and the way accountabilities are arranged, is that appropriate for a strategic shock that may occur?

I am mindful, for example, that in 1941 to 42, we completely restructured Army, Navy and Air Force in the way that they did business and the Defence Department and the supporting departments. I welcome your thoughts on whether there was a divergence in the two presentations and how we are to deal with the future, should that occur.

PROF SARGEANT: I think that you need the most professional, well-developed, well-trained, well-educated military that you can get. It's really important because they do things and exercise skills and capabilities that no other group in society can or should. My point is not to attack that [autonomy] at all. If anything, I am an advocate of a much stronger and more capable Defence Force. But my point is it [the ADF] cannot do what it does without help.

The ADF is nested [in] what I call larger enabling systems – the public service, whole-of-government [agencies], coalition partners and the economic environment. I think it is important to understand that these systems create part of the context within which it [the ADF] operates and develops. When I talk about strategic shock, it is not just a problem for Defence. At the end of the day, Defence will operate within the limits of its capability and within the context given to it by government. How we live in the world in the future and how we operate and understand and manage our security is a whole-of-nation issue, a national interest.

To me, the difference now is that we could in the past pretend that Defence and the ADF were something 'over there', but now they are something that needs to 'be here'. I do not think that we have, as a policy or political community, quite understood or thought through what this all means. When I look at the whole system, I'm talking about all of government – state and federal – and I see a system under stress.

Why is it under stress? Because the world's changed and the way we are operating is not quite fit for purpose. Therefore, we have to change as well. But how do we change? And what do we change to? I think that is a discussion that we're struggling with, and I think that's what is causing so much stress in the current crisis.

I think we are handling three crises at the moment: COVID, that's the obvious one; climate change; and change in the regional and global strategic order. These are all big system-level changes which will challenge our capacity and structure, and that is the stress that we are all feeling at the moment.

We have to think really deeply about how we respond as a community and a government, and about the role of the ADF and its future. At the end of the day, the military is an instrument of national power, but it is nested within other instruments of national power.

DR MOLONEY: Thanks. Stephen?

MAJGEN DAY: I did not feel any contradiction with anything that I heard Brendan say. Brendan and I are fortunate to have known each other for many years, so we are well-aligned in thinking. The point I was trying to make is, is that if we want the best capability that we can get, the ADF needs to be seen as and treated as a profession, and that means extending autonomy to develop the profession.

So, it is a principle if you like. What I have seen in practice is that we often talk about government control, but in my operational experience, in my wartime experience, it was us in the main – us in uniform – who limited what we did, who controlled things, not the government. I found that in my war experience, the governments actually gave us sufficient space to do what we needed to do but we often limited ourselves.

DR MOLONEY: We have come to the end of our Profession of Arms Seminar. There's so much that's actually come out of it that we will probably have to go away and think and, maybe after a wine and a beer, have a chat about it. I have discovered that I might need to get Pauline and Cameron to write a bit of an exchange for the *Australian Journal of Defence and Strategic Studies*, because I think there were some really good points that came out of their debate.

Thank you very much for being a part of the Profession of Arms Seminar, and now we will have our closing remarks by COMADC [MAJGEN Ryan].

Closing Address

MAJGEN Mick Ryan AM

MAJGEN RYAN: I think we have assembled the tier-one experts and thinkers on civil–military relations in Australia.

I will give a summary of today because I thought every single speaker added a layer of knowledge which we will use that moving forward. In our initial talk, Duncan Lewis spoke about trust and respect, and that theme permeated the whole day. A cross-cutting theme that went through the whole is ‘don’t be fearful of your opposite number’, whether in the APS or the ADF, or whether in the ADF or the media. I thought that was a really good principle: let curiosity dispel your fear.

Risa Brooks is an eminent scholar in the United States on civil–military relations, with some extraordinary work over the last few years which commend it to you. Although focused on civil–military relations in the United States, the theoretical issues Dr Brooks talked about are, in the broad, applicable to us. She spoke about civil–military relationships being a series of relationships, and I think that is an important principle to acknowledge.

Obviously, our lawyers, Cameron Moore and Jo Brick, talked about constitutional and legal aspects of civil–military relations in what is a really important grounding for us all. One must know the laws of the land and the teaching of civics that we have let go of a bit in this country.

Doctor Mike [Evans], who always gives an amazing presentation also gives me more books to read every time I see one of his presentations. His diagnosis of the reasons for the weakness of civil–military relations, I thought, were really interesting alongside the three twenty-first-century principles of integration, equilibrium and shared responsibility, which, I think, were important.

Brendan's insightful look at his experience of government and governments in our nation, and how the ADF is a part of the government, and how the Minister exercises control of military and not the APS. This is a pretty important message, and when you work in Canberra for a while you understand that, despite some misconceptions out there at times.

Steve's six propositions were thoughtful and really good starters for a conversation in the panel. Pauline, thanks so much for participating in the panel. It's a pity we couldn't have you and Steve down here today, but that just seems to be the world we're in, but your thoughts on the legal side of things and on the military as a separate society were really useful parts of the day. And then obviously Dan on the media–military relationship. Dan is no stranger to the ADC, and that situation will continue while I am here because we must normalise relationships between military personnel and the media. They're both professions with professional outlooks and we should know each other better.

I thought that this seminar involved a really useful set of presentations. For me, the key themes that were brought out today are as follows. Firstly, Australia is different to other countries in how we perceive the relationship between the military and elements of its civil society. We need our own theory of civil–military relations for the twenty-first century.

There will, of course, be some common themes with other countries, but we have a unique quality. We do not have the Westminster system, but we do have elements of the Westminster system. We do not have an American system, but we do have elements of it with the federal system and a Senate. Because of these factors, we need our own theory of civil–military relations.

We must consider three different levels. There's obviously the military and the government. There is the military and the public service – not just the Defence public service but across the agencies, and not just at the federal layer because at the state layer the civil–military bureaucratic relationship is important.

Finally, there's civil society and the military's relationship with the community. Any twenty-first-century Australian theory of civil–military relations has to get a right balance for those three different areas. The practice of civil–military relationships is a team sport; they are not just about distinct individuals, and the subject must be comprehensible to all players so we can teach the field, understand it and make it work.

Part of that endeavour will be the elements brought out today. Trust, effective relationships and empathy must be key elements of any civil–military theory moving ahead. So, what are we going to do moving ahead? Well, we will publish the proceedings from today and have them out by the end of the year before I leave. However, most of you are probably unaware that last year we put a brief up to the Chief of Defence Force to publish a book, an edited volume on Australian civil–military relations. The CDF was an enthusiastic supporter of that idea, has endorsed the project. Next year, we will leap into making sure we get that book out as a key text of the college here. The book will be [the] first of its kind for this country – looking at all the different areas of civil–military relations in Australia and providing a guide into the twenty-first century.

I want to thank some important people who helped pull today together. Professor Mike, who really has been keen on the exploration of this area for some time now and proposed this as a concept last year. COVID got in the way a little bit but thank you, Mike, so much, for your advocacy and your drive. Thank you, Dr Cathy Moloney, one of the best hires we have ever made, as the Head of our Centre for Defence Research, and her amazing team which includes Tim [Fletcher] and Fiona [Mackrell], plus Chev [Chevaan Aroun], Kim [Muir] and Jess [Hood]. Can I thank you for your really hard work. Even in the last 48 hours, we had to make some fairly big changes to the format, the attendance and the virtual versus the in-person attendance. It has been an amazing effort.

And finally, thank you to you the participants both here live and those who are online. You are part of this community of interest, and we need your contribution, your advocacy and your knowledge about this really important aspect of not just the Australian profession of arms but the national security community in this country. Please leap in with both the development and the sharing of knowledge. Thank you very much and have safe journeys home.

SEMINAR CONCLUDED

Biographies

Professor Risa Brooks

Professor Risa Brooks is Allis Chalmers Associate Professor of Political Science at Marquette University, an adjunct scholar at West Point's Modern War Institute (2017–2020), and a non-resident senior associate in the International Security Program at the Center for Strategic and International Studies.

Professor Brooks is the author of *Shaping Strategy: The Civil–Military Politics of Strategic Assessment* (Princeton University Press, 2008). She is also co-editor (with Lionel Beehner and Daniel Maurer) of *Reconsidering American Civil–Military Relations: Politics, Society and Modern War* (Oxford University Press, 2021) and co-editor (with Elizabeth Stanley) of *Creating Military Power: The Sources of Military Effectiveness* (Stanford University Press, 2007).

Professor Brooks received her Ph.D. from the University of California, San Diego. Her professional experiences include positions as research associate at the International Institute for Strategic Studies and postdoctoral fellow at Stanford's Center for International Security and Cooperation (CISAC). She has served as associate editor for the academic journals *International Security* and *Security Studies*. Her research interests include US and global/comparative civil–military relations, political violence and militant organisations, and the Middle East and North Africa region.

Mr Dan Bouchier

Dan Bouchier presents *Breakfast* on ABC Radio Canberra as well as the 7 *pm News* bulletin on ABC TV from Monday-Thursday.

Dan grew up in the outback Northern Territory mining town of Tennant Creek and began reporting for the local newspaper when he was 14, going on to work for the *NT News*. His younger years in Tennant Creek, together with his coastal Victorian Aboriginal heritage, have instilled in him a deep interest in the culture, history and social justice issues of Australia's First Nation people.

From 2010 he was with National Indigenous Television (NITV) in Sydney and Canberra before moving to Darwin in 2012 to join Sky News as its NT bureau chief. In that role he covered stories including the fourth inquest into the death of Azaria Chamberlain, US President Barack Obama's visit to the Top End and the subsequent deployment of US Marines to the Territory. He was the first to announce the rolling of NT Chief Minister Terry Mills, breaking the news on air while the Cabinet was still in discussion. Most recently he was Political Reporter and National Indigenous Affairs Correspondent for Sky News based in Canberra.

Professor Pauline Collins

Pauline is Professor in the School of Law and Justice at the University of Southern Queensland (USQ). She teaches dispute management in the Bachelor of Laws and Juris Doctor and international humanitarian law in the Masters of Law. Pauline's PhD is in the area of civil-military relations and the role of the courts (University of Queensland).

Her books include *The Military as a Separate Society Consequences for Discipline in the United States and Australia* (Lexington Books, 2019), which also won a 2020 USQ Publication Excellence Award; Pauline Collins, Victor Igreja, Patrick Danaher (eds) *Nexus between Place, Conflict and Communication in a Globalising World*, Palgrave (Macmillan, 2019); *Civil-Military 'Legal' Relations: Where to from Here? The Civilian Courts and the Military in the United Kingdom, United States and Australia* (Brill Nijhoff, 2018, which won both the 2019 Giuseppe Caforio ERGOMAS Book Award and the USQ Book Award; Pauline Collins, Dalma Demeter, Susan Douglas *Dispute Management* (Cambridge University Press, 2021); and the forthcoming Pauline Collins and Rosalie Arcala Hall (eds), *Military Operation and Engagement in the Domestic Jurisdiction: Comparative Call Out Laws* (Brill Nijhoff, 2022).

Her publications cover legal education, IR laws, dispute management, international law, private military companies, military values and civil–military relations. Pauline's works have been cited by the Supreme Court of Canada in *R v Stillman*, 2019 SCC 40 and the Australian High Court in *Private R v Brigadier Michael Cowen & Anor* [2020] HCA 31. Prior to joining USQ Pauline was a legal practitioner in South Australia working in general practice, Parliamentary Counsel, the Crown Solicitors Office, and the office of the Director of Public Prosecution for over ten years. She has degrees in law, visual arts, public relations and is a nationally qualified mediator. Pauline conducts mediations for the Dispute Resolution Branch in the Queensland Civil and Administrative Tribunal. Pauline is a member of the International Law Association (Australian Branch) and European Research Group on Military and Society.

MAJGEN Stephen Day DSC AM (Retd)

MAJGEN Day was born into a military family in Sydney in 1960. His father and both grandfathers served with the Australian Army. He has served in the Army for 40 years and seen operational service in Africa, East Timor, Iraq and Afghanistan. He has a reputation as a distinguished and compassionate leader and has been formally recognised for his leadership by the Australian, French and United States governments.

In 2015, he left the full-time Army and for three years worked in the business world, principally with PricewaterhouseCooper. In 2018, he was asked to return to duty and was appointed the Coordinator-General for Drought working for the Prime Minister.

He is a mentor to the Australian men's cricket team, the Rio Tinto CEO and several of its executives, and Army Combat Brigade commanders. He is drafting the new ADF leadership doctrine.

In 2004, when reading for a Masters of Arts, his research thesis was on civil–military relations in Australia.

Professor Michael Evans

Professor Michael Evans is the General Sir Francis Hassett Chair of Military Studies at the Australian Defence College and a professor in the School of Humanities and Social Sciences at Deakin University. Between 2002 and 2006 he was Head of the Australian Army's Land Warfare Studies Centre at the Royal Military College, Duntroon. Professor Evans has also served on the staff of Land Headquarters in Sydney (1994-95) and in the Directorate of Army Research and Analysis in Army Headquarters in Canberra (1996-98). Born in Wales, Professor Evans is a graduate of the University of Rhodesia (BA Hons (First Class Honours), the University of London (MA War Studies) and the University of Western Australia (PhD). He has been a Sir Alfred Beit Fellow in the Department of War Studies at King's College, University of London; a J. W. Jagger Scholar at the University of Cape Town. He has held visiting fellowships at the University of York in England and at the University of New South Wales Canberra at ADFA and is an Adjunct Senior Fellow at the New Zealand Defence Force Command and Staff College. He was foundation editor of the revived *Australian Army Journal* (2003–06) and is a member of the editorial review board of the *Australian Defence Force Journal*.

Professor Evans' saw military service in the Rhodesian security forces and was later a regular officer in the post-civil war Zimbabwe Army where he worked closely with the British Army in the integration of two rival guerrilla armies into a conventional land force. He is a member of the International Institute for Strategic Studies, serves on the international editorial boards of the *Journal of Strategic Studies*; *Small Wars and Insurgencies* and *Defence and Security Analysis* and is a recipient of the US Naval War College Foundation's Hugh G. Nott Award and the US Army War College Foundation's Elihu Root Prize. Professor Evans' has been extensively published in Australia and overseas, particularly in the US, and was the lead author of the Australian Army's LWD 3-0-1, *Counterinsurgency* (December 2009) and a consultant on the Army's 2014 capstone doctrine, LWD 1, *The Fundamentals of Land Power*.

Mr Duncan Lewis AO DSC CSC

Duncan Lewis recently completed his five-year term as Director-General of Security and Head of the Australian Security Intelligence Service (ASIO). This was his last appointment in a 47-year career with the Australian government both in and out of uniform. Following Duncan's retirement from the Australian Army as Major General, Commander of Special Operations Command, he served for 15 years in the Australian Public Service in the most senior positions including as the Secretary of the Department of Defence, National Security Adviser to the Prime Minister, Australian Ambassador to Belgium, Luxembourg, the European Union and NATO. During his public service Duncan served on a number of boards and committees including the board of the Australian Criminal Intelligence Commission, the Council of the Order of Australia, the National Australia Day Committee and on the inaugural board establishing the National Security College at Australian National University. Duncan recently joined the board of Thales Australia as a non-executive director. He is a senior, non-residential fellow at the US Studies Centre at Sydney University.

Duncan was awarded Officer of the Order of Australia in 2005 for his service as the inaugural Special Operations Commander Australia. He is a graduate of the British Army Staff College and the United States Army War College. He is a member of the Australian Institute of Company Directors. He is fluent in Indonesian.

Dr Cathy Moloney

Dr Cathy Moloney is the Head of the Centre for Defence Research, Australian Defence College, editor of the *Australian Journal of Defence and Strategic Studies*, and a senior research adviser to the Department of Defence Senior Leadership Group. Dr Moloney has over a decade of academic experience in international relations, national security, and higher education teaching and learning. She has held roles as a lecturer, course convener and supervisor in international security and international relations at both the undergraduate and postgraduate levels. Dr Moloney has been a senior academic researcher on projects covering nuclear command and control, Australian nuclear policy, and Australian engagement with Asia among others.

Dr Moloney is the author of a range of publications including the nexus between strategy, politics and the political economy of nuclear policy; hypersonic weapons and deterrence theory; national security, and Australian foreign policy. She

holds a Doctor of Philosophy in Nuclear Policy and International Relations from Griffith University, Master of International Politics (1st Class) from the University of Melbourne and Bachelor of International Relations from Griffith University.

Associate Professor Cameron Moore

Associate Professor Cameron Moore is the Deputy Head of the School of Law at the University of New England in Armidale, NSW. He is also Honorary Principal Research Fellow at the Australian National Centre for Ocean Resources and Security (ANCORS) at the University of Wollongong and a visiting associate professor with the Centre for Military and Security Law and the Centre for Public and International Law at the Australian National University. His publications include the books *Freedom of Navigation and the Law of the Sea: Warships, States and the Use of Force* (Routledge, 2021), *Crown and Sword: Executive Power and the Use of Force by the Australian Defence Force* (ANU Press, 2017) and *ADF on the Beat: A Legal Analysis of Offshore Enforcement by the ADF* (ANCORS, 2004). He has also published numerous other articles and chapters on the Australian Defence Force and maritime security. Between 1996 and 2003, Cameron was a Royal Australian Navy Legal Officer. Cameron is still an active Navy reservist, with the rank of Commander. He was made a Fellow of the Royal Geographical Society in 2015.

MAJGEN Mick Ryan

MAJGEN Mick Ryan graduated from the Royal Military College, Duntroon, in 1989 as a Combat Engineer. Early career highlights included serving with the 6RAR Battalion Group in East Timor in 2000; being the lead planner for development of the first ADF Network Centric Warfare Roadmap in 2003; and serving as the Deputy J3 for the Multi-National Security Transition Command – Iraq, Baghdad in 2005.

MAJGEN Ryan commanded the 1st Combat Engineer Regiment from 2006 until 2007. He also commanded the 1st Reconstruction Task Force in southern Afghanistan from August 2006 to April 2007 and was awarded the Order of Australia for the command of this Task Force. In 2008, he served in Army Headquarters, working primarily on the Adaptive Army strategic reform initiative. In 2009, he served as the Military Assistant to the Chief of Army.

From 2010 to 2011, MAJGEN Ryan worked in the Pakistan Afghanistan Coordination Cell (PACC) on the US Joint Staff, as the Division Chief for Governance, Development and Engagement, and subsequently in a new Strategy and Policy Division. During this time, he also led the Joint Staff effort for the President's Afghanistan-Pakistan Annual Review for the National Security Committee and led PACC support to General John Allen in his Senate.

Confirmation for command in Afghanistan. In January 2013, MAJGEN Ryan was appointed Director-General Strategic Plans in Army Headquarters. During this appointment, he was responsible for Army's contribution to the Defence White Paper and Force Structure Review, Army's development of future structures, experimentation, and fostering professional discourse through the Army Journal and the establishment of the online Land Power Forum.

MAJGEN Ryan has a Bachelor's degree in Asian Studies from the University of New England and is a graduate of the Australian Defence Force School of Languages. He is a distinguished graduate of the United States Marine Corps Command and Staff College, and a graduate of the USMC School of Advanced Warfighting. In 2012, he graduated with distinction from the Johns Hopkins University, School of Advanced International Studies, earning a Master in International Public Policy.

From October 2014 until February 2016, MAJGEN Ryan commanded the Darwin-based 1st Brigade, the Australian Army's oldest and most operationally experienced combat formation. From February 2016 until October 2017, he led the education, training and doctrine efforts in Army as Director-General Training and Doctrine. During this period, he authored and implemented the Ryan Review, a fundamental and future-oriented strategic review of Army's approach to education, training, doctrine and lessons learned. During this appointment, Army's revised strategy for PME was developed and a broader rollout of online PME delivery was implemented.

MAJGEN Ryan has deep experience in the fields of strategy, interagency and joint operations, command and leadership, and professional military education. He possesses a longstanding interest in national and military strategy, military history, as well as organisational innovation and adaptation. He is President of the Defence Entrepreneurs Forum (Australia), an undertaking to nurture innovation in the ADF's junior leaders. He is a proud member of the Military Writers Guild. MAJGEN Ryan was appointed Commander, Australian Defence College in January 2018.

Professor Brendan Sargeant

Brendan Sargeant is Professor of Practice in Defence and Strategic Policy and Head of the Strategic and Defence Studies Centre, Coral Bell School of Asia Pacific Studies at the Australian National University. He lectures on Australian strategic and defence policy.

He retired from the Department of Defence in October 2017. From September 2013 to October 2017, he was the Associate Secretary of Defence. Prior to that appointment he was the Deputy Secretary Strategy. As Associate Secretary, he was responsible for oversight of the implementation of the First Principles Review, a major reform of Defence organisation and enterprise governance, planning, performance and risk management. He was principal author of the 2013 Defence White Paper.



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