

A brief rant about misconceptions concerning the organization of the Canadian Forces

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I recently attended the retirement function of a colleague – a legal officer in the Office of the Judge Advocate General – who rendered over 30 years of faithful and dedicated service to the Crown. During the ceremony, my colleague, who wears a ‘naval uniform’ received a certificate “...upon retirement from the Royal Canadian Navy.” That expression prompted the comments that follow.

Two themes concerning the organization of the Canadian Forces are much in vogue these days, and neither is well understood: the use of the term Canadian Armed Forces (CAF) and the distinction drawn between that term and Canadian Forces (CF); and, the nomenclature concerning the Royal Canadian Navy, Canadian Army, and Royal Canadian Air Force.

Is there a difference between CAF and CF?

The short answer is: yes.

However, the distinction does not appear to be well understood, particularly in concert with the use of the terms Royal Canadian Navy, Canadian Army, and Royal Canadian Air Force (more on those later).

All of these terms are at least grounded in – and in some cases defined by – statute. Clarity in the use of statutory nomenclature is desirable. The distinction between the use of the terms Canadian Armed Forces (CAF) and Canadian Forces (CF) is more than mere pedantry; it concerns the nature of the relationship between the Crown and the members of the armed forces raised in Canada by Her Majesty.

Section 14 of the *National Defence Act*, RSC 1985, c N-5, states: “The Canadian Forces are the armed forces of Her Majesty raised by Canada and consist of one Service called the Canadian Armed Forces.”¹ This provision uses both terms of art. Presumably, Parliament attaches distinct meaning to each.

Lt.-Col. (Retd) Rory Fowler retired from the Canadian Forces after nearly 28 years of service, first as an infantry officer (PPCLI), and subsequently as a Legal Officer with the Office of the Judge Advocate General. Among other positions, Rory served as the Deputy Judge Advocate for Canadian Forces Base Kingston, Director of Law for Compensation, Benefits, Pensions and Estates and Director of Law for Administrative Law. His full bio can be found at <http://cswan.com/lawyers/rory-fowler/>.

Compare this provision to its precursor in the 1950 version of the *National Defence Act*: “The Canadian Forces are the naval, army, and air forces of His Majesty, raised by Canada and consist of three Services, namely, Royal Canadian Navy, the Canadian Army, and the Royal Canadian Air Force.”²

The *Canadian Forces Reorganization Act*³ unified all three Services into a single service, the Canadian Armed Forces, which explains the wording of the current version of the *National Defence Act*. Thus, when referring to the armed forces of Canada in their entirety, the appropriate nomenclature is the Canadian Forces. When referring to the Service to which those members of the armed forces ostensibly belong, the appropriate terms would be the Canadian Armed Forces (the sole remaining ‘Service’).

While the two terms may appear to be redundant, the relevance and importance of each term can be particularized by reference to related provisions in Part II of the *National Defence Act*. Section 17 of the *National Defence Act* directs that elements of the Canadian Forces are organized by, or under the authority of, the Minister of National Defence. Section 18 of the *National Defence Act* grants the CDS control and administration over the Canadian Forces. Arguably, both provisions could include – but are not restricted to – the Service called Canadian Armed Forces. The distinction may seem semantic – the sole Service presently comprising the Canadian Forces is the Canadian Armed Forces – however, when addressing statutory duties, powers and functions, precision should be the goal.

When a person joins the armed forces of Her Majesty raised by Canada, that person joins the Canadian Forces. He or she also joins a Service called the Canadian Armed Forces. However, when that same person eventually releases from the armed forces of Her Majesty, he or she releases from the Canadian Forces.

So, what are the Royal Canadian Navy, Canadian Army, and Royal Canadian Air Force?

The short answer is: they are commands in the Canadian Forces, nothing more, nothing less.

As indicated above, prior to 1968, when referring to a Service of the Canadian Forces, the terms Royal Canadian Navy, Canadian Army or Royal Canadian Air Force would be used. A person joining Her Majesty’s armed forces raised by Canada up until the late 1960s would also join one of the three Services. That is no longer the case.

¹ *National Defence Act*, RSC 1985 c N-4 [NDA], s 14.

² *National Defence Act*, SC 1950, c 43 [1950 NDA], s 15.

³ *Canadian Forces Reorganization Act*, SC 1966-67, c 96, s 2.

Presently, reference to the Canadian Armed Forces describes the sole, unified, Service that remains. It is manifestly incorrect now to treat the Royal Canadian Navy, Canadian Army, or the Royal Canadian Air Force as a Service, or to imply that such is the case.

The Royal Canadian Navy, Canadian Army, and Royal Canadian Air Force are commands established by the Minister of National Defence pursuant to his authority under section 17 of the *National Defence Act* to organize the elements of the Canadian Forces. More specifically, they are the 'new' names of the former Maritime Command, Land Forces Command (itself, a more recent name for Mobile Command) and Air Command. They are not 'Services' or 'Branches'. A person who wears a 'naval uniform' is not a member of the Royal Canadian Navy unless he or she is posted to that command. Not all persons posted to the Royal Canadian Navy wear a 'naval uniform'. Even then, such a person is not a member of a Service called the Royal Canadian Navy – the member is simply posted to a unit within that command. My colleague, who had been a sailor before he was a legal officer, did not retire from the Royal Canadian Navy. Even though he is much, much older than I am, and first enrolled in the 1970s, he never joined the Royal Canadian Navy. It had, by then, ceased to be a Service.

A person who is serving in the command called the Royal Canadian Navy and who releases from the Canadian Forces, does not release from the Royal Canadian Navy – he or she releases from the Canadian Forces. A legal officer, posted to the Office of the Judge Advocate General⁴ – which is not part of the command called the Royal Canadian Navy – certainly does not 'retire from the Royal Canadian Navy'.

But what about tradition?

Fear not, gentle reader – I am not about to break into song from *Fiddler on the Roof*. Nor will I quote Winston Churchill on the meaning of tradition. Tradition is a vital characteristic of Canada's armed forces. But, just as 'tradition' should not be used as a buffer against progress or as excuse for misconduct, neither should it be raised as a rebuttal against precision in the recognition or application of organizational principles.

In conversation and informal parlance, we often use terms that are convenient or abbreviated. Such informal ambiguity does not necessarily present a significant risk of maladministration in the affairs of the Canadian Forces. The risk arises when that informal and ambiguous perception becomes increasingly translated into policy and more formal decision-making, where precision should be part of the desired end-state.

⁴ On a tangential note, the Office of the Judge Advocate General is not part of any command within the Canadian Forces. Technically, it is an 'other element', pursuant to paragraph 17(1)(d) of the *National Defence Act*.

Fostering esprit de corps through the promotion of productive traditions is a meritorious endeavour. But those same efforts should aid in the elucidation of the principles behind both the traditions and the modern realities of service in the armed forces. Promulgation of misunderstood principles or confusion concerning the actual organization and establishment of the Canadian Forces fosters further confusion. In the conduct of operations, the use of incorrect terminology when directing the use of weapons systems, the employment of tactics or in exercising command and control, is a recipe for disaster. So too, when commanders and leaders misemploy terminology or principles relating to the organization of the Canadian Forces, in the administration of the affairs of the Canadian Forces, they run the risk of maladministration.