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Redefining Hate Speech in the Canadian Armed Forces

JCSP 47

Exercise Solo Flight

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REDEFINING HATE SPEECH IN THE CANADIAN ARMED FORCES

The prevalence of hateful conduct and racism in the Canadian Armed Forces has led to ongoing initiatives designed to address these serious, and systemic, issues. As part of its commitment to professionalism and in response to continued reports of hate within the organization, in 2020 the CAF released Canadian Forces Military Personnel Instruction 01/20¹ addressing Hateful Conduct (the “Hateful Conduct Instruction”). This Instruction applies broadly to all officers and non-commissioned members, in both the regular and reserve force.² Follow-on policy documents were subsequently published by the Canadian Army,³ the Royal Canadian Navy,⁴ and the Royal Canadian Air Force,⁵ intended to amplify and/or reinforce the Hateful Conduct Policy. Although well-intentioned, the content of the Hateful Conduct Instruction and the subsequently published amplification documents fall short of appropriately defining and addressing hateful conduct in the CAF; to successfully address hateful conduct, an inherently wicked problem, such conduct must be considered within the context of existing systemic discrimination.

¹ Canada, Department of National Defence, “CF Mil Pers Instruction 20/01 – Hateful Conduct,” (Ottawa, Department of National Defence, July 10, 2020).

² *Ibid*, 1.

³ Canada, Canadian Army, *Canadian Army Order 11-82* (Ottawa: NDHQ C Army, 2020), https://army.gc.ca/assets/ARMY_Internet/docs/en/national/2020-09-hateful-conduct-with-annexes.pdf.

⁴ Canada, Royal Canadian Navy, *NAVGEN 015/20* (Ottawa: NDQH C Navy, 2020), https://www.navy-marine.forces.gc.ca/assets/NAVY_Internet/docs/en/navgen/c36-navgen-hateful-conduct-rcn_eng.pdf.

⁵ Canada, Royal Canadian Air Force, *CANAIRGEN 12/20* (Ottawa: NDHQ C Air Force, 2020), <https://www.canada.ca/en/department-national-defence/maple-leaf/rcaf/2020/10/canaairgen-on-rcaf-hateful-conduct-policy.html>.

Wicked Problems

Aptly-named wicked problems are said to be complex, persistent, and not easily defined.⁶ Persistent social issues often fall within this definition. Social issues are inherently complex because the variables or components in complex social problems cannot be separated and addressed based on established rules or algorithms.⁷ For example, although determining the source of a malfunctioning aircraft may be highly difficult, or *complicated*, the fault will eventually be found through diagnostics; this process can then be repeated to find other similar faults or defects. Conversely, complex problems are more challenging – and different from complicated problems – because the variables of one complex situation interact in unpredictable ways and are not prone to duplication. Complexity, which generally exists whenever there are human interactions,⁸ are therefore often “managed” as opposed to “solved,” and require understanding that techniques used to manage such problems are not easily translated from one social context to another.⁹

The complexity of wicked problems is heightened because they are inherently difficult to define; in fact, the proposed solution to a given wicked problem often defines the wicked problem in question.¹⁰ However, any proposed solution will necessarily be based on how the issue is perceived, and may not, identify the root issue. Consensus regarding plans of action is difficult to achieve, especially if there is lack of agreement about the underlying problem, the

⁶ Val Morrison, “Wicked Problems and Public Policy,” National Collaborating Centre for Healthy Public Policy, June 2013, 2. See also Charles McMillan and Jeffrey Overall, “Wicked Problems: Turning Strategic Management Upside Down,” *Journal of Business Strategy*, 37, no. 1 (2016), 36.

⁷ Rick Nason, “It’s Not Complicated: The Art and Science of Complexity in Business,” (Toronto: University of Toronto Press, 2017), 21.

⁸ *Ibid.*, 26.

⁹ Per Lagreid and Lise H. Rykkja, “Organizing for ‘Wicked Problems’ – Analyzing Coordination Arrangements in Two Policy Areas,” *The International Journal of Public Sector Management* 28, no. 6 (2015): 478.

¹⁰ *Ibid.*

result being that management of wicked problems may often be to address a series of perceived symptoms as opposed to the underlying problem.

In the case of hateful conduct in the CAF, it appears that the present proposed solution – the Hateful Conduct Instruction – was drafted to address a problem of extremism in the CAF. In this case, the solution defines the problem of hateful speech that incites violence. However, the question remains whether the Hateful Conduct Instruction addresses the entire problem, or merely a symptom of the problem? In this respect it would be helpful to know whether stakeholders and/or external experts were canvassed prior to drafting the Instruction. The Instruction clearly defines hateful conduct, but it also confusingly discusses microaggressions and discrimination;¹¹ conduct that, on its own, may not give rise to incitement of violence or aggression. Why, then, are these concepts raised in the Hateful Conduct Instruction and the amplifying Orders? These concepts may be included because the reality is that microaggressions are part of a larger hate speech and right-wing extremism problem; however, the Hateful Conduct Instruction falls short of addressing these underlying issues by targeting hateful conduct, instead of systemic racism, as the root problem.

Hateful Conduct: The CAF's Wicked Problem

Defining Hateful Conduct

Defining behavior that constitutes hateful conduct is part of the reason why attempting to address this type of misconduct is a wicked problem. That hateful conduct, or hate speech is difficult to define is an understatement; different definitions appear in varying contexts. Legal definitions of hate speech identify speech that violates existing legal norms and requires

¹¹ *Supra* note 1. See Annex A (figure 1) re: microaggressive conduct.

legislative regulation. In the criminal context, it typically includes messages that are publicly shared and that *incites*, promote, or justify hatred.¹² Human rights legislation defines hate speech more broadly, focusing on the *effect* of hate speech being the tendency to silence the voice of the target group.¹³ Lexical definitions of hate speech focus on the meaning of the words “hate” and “speech” and tend to define it as a message that *expresses* hatred and encourages violence toward a specific group of people.¹⁴ Scientific definitions go further than both the lexical and legal definitions and include an examination of the effect and the intent of such speech, including that hate speech not only encourages and incites hatred against a particular group, but is intended to do so by ascribing inferior or undesirable attributes to that particular group. Finally, and practical definitions like those found in codes of conduct focus on direct attacks on people based on protected grounds, but are often overbroad, or too narrow, to provide meaningful distinction between hate speech and merely undesirable speech.¹⁵

The lack of a comprehensive or agreed-upon definition highlights the complexity of hateful expression and illustrates the complexity of this inherently wicked problem. When addressing hateful conduct, a socially constructed phenomenon, what definition best addresses not only existing problems within the CAF, but also the intention of the organization to manage this problem? In order to answer these questions, it is useful to not only look at the current CAF policy, but also the context in which this policy exists.

¹² Jana Papcunová, Marcel Martončík, Denisa Fedáková, et. al., “Hate Speech Operationalization: A Preliminary Examination of Hate Speech Indicators and their Structure,” *Complex & Intelligent Systems* (2021): 3, <https://doi.org/10.1007/s40747-021-00561-0>.

¹³ *Saskatchewan (Human Rights Commission) v. Whatcott*, [2013] 1 S.C.R. 467.

¹⁴ *Supra* note 12, 3.

¹⁵ *Ibid*, 4.

A History of Racism in the CAF and the CAF's Hateful Conduct Instruction

The CAF has a history of fighting radicalism and extremism within the organization; in 1993 the murder of a Somali teenager by members of the Canadian Airborne Regiment on deployment to Somalia prompted a Board of Inquiry and a move to reform.¹⁶ Canadian Forces Administrative Order 19-43 (CFAO 19-43) was issued in 1994 for the purposes of addressing racial discrimination and harassment in the CAF and described racist conduct as:

Conduct that promotes, encourages or constitutes discrimination or harassment on the basis of race, national or ethnic origin, colour or religion, including participation in the activities of, or membership in, a group or organization that a CF member knows, or ought to know, promotes discrimination or harassment on the basis of race, national or ethnic origin, colour, or religion.¹⁷

CFAO 19-43 further committed the CAF to, "...the principle of equality of all people, and the dignity and worth of every human being, without regard to... race, national or ethnic origin, colour or religion."¹⁸ CFAO 19-43 further acknowledged that racist attitudes are "totally incompatible with the military ethos and with effective military service, and any conduct that reflects such attitudes will not be tolerated."¹⁹ In short, the CAF developed a zero-tolerance approach toward racist and discriminatory conduct.

¹⁶ Canada, Commission of Inquiry into the Deployment of Canadian Forces to Somalia, *Dishonoured Legacy: The Lessons of the Somalia Affair: Report of the Commission of Inquiry into the Deployment of Canadian Forces to Somalia, Executive Summary* (Ottawa: Minister of Public Works and Government Services, 1997), 10, 18. An extensive inquiry into the Somalia deployment (the "Somalia Inquiry") was initiated in 1995 by the Chrétien Liberal Government. The inquiry was required to consider fundamental institutional issues including leadership and professionalism issues before, during, and after the Somalia deployment.

¹⁷ Canada, Commission of Inquiry into the Deployment of Canadian Forces to Somalia, *Dishonoured Legacy: The Lessons of the Somalia Affair: Report of the Commission of Inquiry into the Deployment of Canadian Forces to Somalia, Volume 2* (Ottawa: Minister of Public Works and Government Services, 1997), 123.

¹⁸ *Ibid.*

¹⁹ *Ibid.*

Although the CAF took a clear position regarding racism through the promulgation of CFAO 19-43, the results of CFAO 19-43 and its awareness and education efforts were less than effective.²⁰ In 2018, the Canadian Military Police Criminal Intelligence Section (MPCIS) released a report discussing white supremacy and hate groups in the CAF;²¹ the report acknowledge an ongoing hateful conduct problem and specifically identified 53 CAF members with ties to racist and hate organizations.²²

Following a series of changes in CAF leadership, the Hateful Conduct Instruction was released in July of 2020. The Hateful Conduct Instruction defines hateful conduct as:

Act or conduct, including the display or communication of words, symbols or images, by a CAF members, that they knew or ought reasonably to have known would **constitute, encourage, justify or promote violence or hatred** against a person or persons of an identifiable group, based on their national or ethnic origin, race, colour, religion, age, sex, sexual orientation, gender identity or expression, marital status, family status, genetic characteristics, or disability.²³ [Emphasis added]

Indeed, in reviewing the existing definition of hateful conduct in the Instruction, it is notably similar to the legal definition applied in the criminal context. Sub-sections 319(1) and (2) of the *Criminal Code*²⁴ create two separate offences. Subsection 319(1) criminalizes public communication that, in fact, incites hatred against an identifiable group that is likely to lead to a

²⁰ The CAF established educational programming for members entitled Standard for Harassment and Racism Prevention (SHARP) training. SHARP training was arguably ineffective and was discontinued within 10 years of being implemented.

²¹ Military Police Criminal Intelligence Program, “White Supremacy, Hate Groups, and Racism in the Canadian Armed Forces,” MPCIS - National (2000-1040 (MPCIS), November 29, 2018, 6.

²² *Ibid*, 7-8.

²³ *Supra* note 1, 2.

²⁴ Canada, *Criminal Code*, R.S.C. 1985, c. C-46, s. 319.

breach of the peace. Subsection 319(2) involves statements made other than in private conversation that *willfully* promote or incite hatred. Causing “hatred,” or an “emotion of an intense and extreme nature”²⁵ describes conduct that, “if exercised against members of an identifiable group, implies that those individuals are to be despised, scorned, denied respect, and made subject to ill-treatment on the basis of group affiliation;”²⁶ it is this conduct that justifies the legislative restriction on the *Charter* 2(b) freedom of expression. In short, the *Code* focuses on speech that is either likely to incite a breach of the peace, or which an individual makes intending to promote hatred. In the legal sphere, intent can also be demonstrated if an individual is “willfully blind” to the fact that the speech would promote hatred.

Article 4.1 of the Hateful Conduct Instruction expressly references ss. 318 and 319 of the *Code*, providing those offences as examples of hateful conduct. However, this is where the wicked problem and complexity of hateful conduct arises. Despite CAF leadership statements that DAOD 5019-0 is intended to address racism before it elevates to hateful conduct,²⁷ DAOD 5019-0 refers only to “hateful conduct” and fails to use the words “racism” or “discrimination” in the description of any conduct deficiency.²⁸ Moreover, it is salient that although the Hateful Conduct Instruction superseded CFAO 19-43, and despite the aforementioned leadership statements, the Instruction does not attend to the breadth of racist conduct as its predecessor. The Hateful Conduct Instruction does not clearly address microaggressions or types of racist conduct that fall short of violence although these concepts are marginally discussed in the Instruction

²⁵ Julian Walker, *Hate Speech and Freedom of Expression: Legal Boundaries in Canada*, Ottawa: Library of Parliament, 2018, 5.

²⁶ *R. v. Keegstra*, [1990] 3 S.C.R. 697.

²⁷ Karen Pauls, “Canadian Military Says New Hateful Conduct Policy Will Help Weed out Extremists in the Ranks,” CBC news, July 17, 2020, <https://www.cbc.ca/news/canada/manitoba/canadian-military-tool-identifies-hateful-conduct-1.5652276>.

²⁸ Canada, Department of National Defence, “DAOD 5019-0, Conduct and Performance Deficiencies,” (Ottawa, Department of National Defence, November 16, 2018).

through the inclusion of Annex “A” (Figure 1). The Hateful Conduct Instruction defines the term racism; however, the Instruction itself largely focuses on, and applies to, conduct that would be similarly targeted by the *Criminal Code* – that which that promotes “violence” or “hatred” against a person of an identifiable group.²⁹

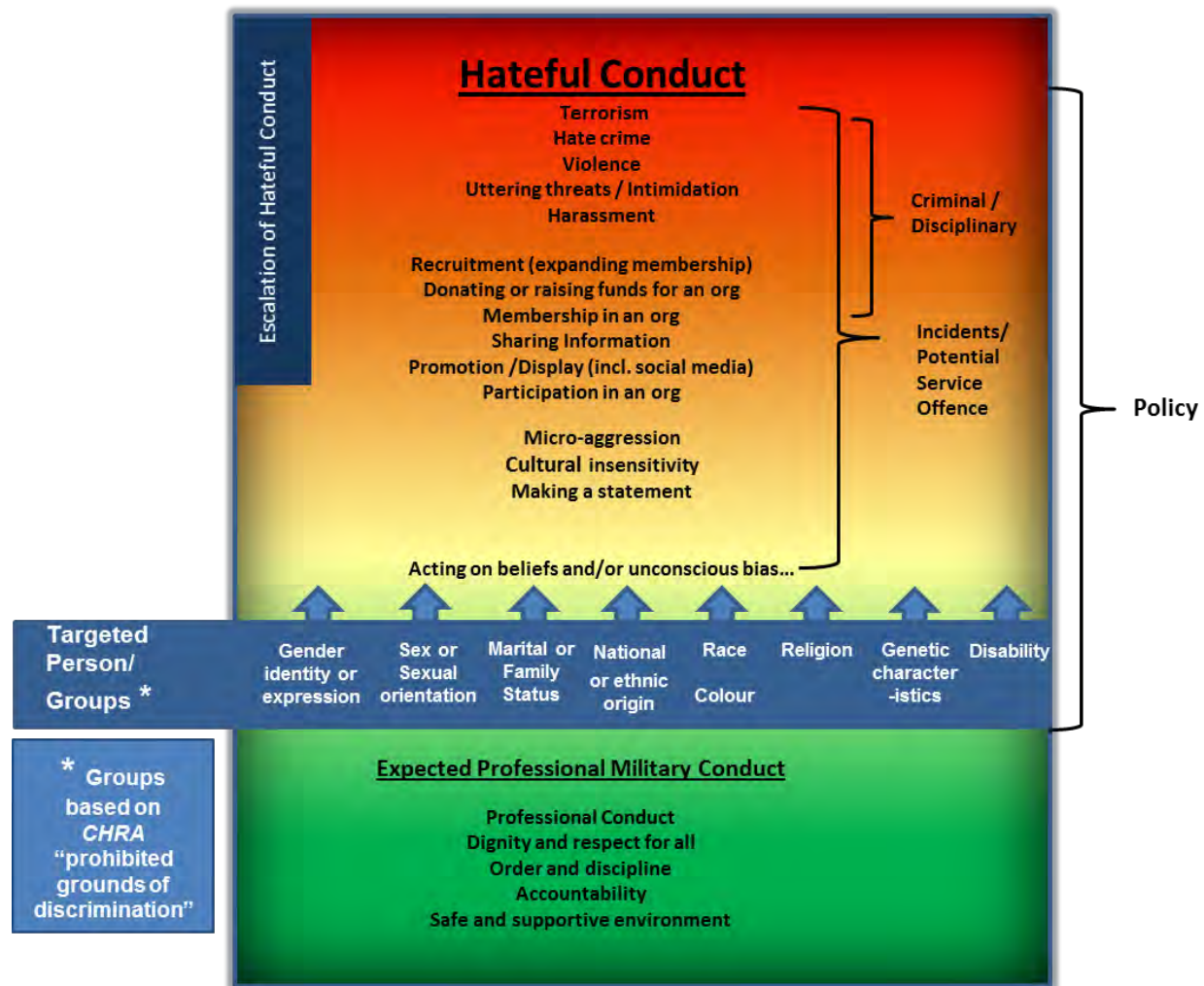


Figure 1.

²⁹ *Supra* note 1.

Two salient questions include whether this restrictive interpretation was actually intended, and whether it effectively addresses the issue in the CAF.

Was a Restrictive Hateful Conduct Interpretation Intended?

At first blush, the words used in the Hateful Conduct Instruction should be sufficient to reveal the underlying intent of the document. The language used clearly conveys the intent to focus on hateful speech and/or actions that are intended to incite or promote violence and/or hatred. However, it should be noted that the Hateful Conduct Instruction includes clues that suggest that the policy was intended to reduce racism within the CAF, and not simply target hateful conduct. Article 3.4 outlines an “Intervention Framework” through which “troubling conduct” in the “hateful conduct spectrum” may be identified for intervention purposes.³⁰ Indeed, the infographic included at Annex A (Figure 1) clearly illustrates that “cultural insensitivity” and “micro-aggressions” fall within the ambit of this policy, although they may not give rise to “hateful conduct.” As discussed previously, it is further notable that the Hateful Conduct Instruction superseded CFAO 19-43 and CANFORGEN 046/16, both concerning racist conduct, not specifically hateful conduct.³¹

That the CAF did not intend a restrictive definition is further supported when examining each of the Navy, Army, and Air Force issued amplifying documents following the promulgation of the Hateful Conduct Instruction.³² In each of these amplifying documents, which are either titled hateful conduct, or expressly reference the Hateful Conduct Instruction, the respective element commanders provide statements of personal commitment to diversity and inclusion and

³⁰ *Ibid.*

³¹ *Ibid.*

³² *Supra* notes 3, 4, 5.

a lack of tolerance for discrimination, harassment, and/or hateful conduct. In short then, the Navy, Army and Air Force separately recognize the harm that discrimination and harassment inflict on individuals and CAF cohesion and do not restrict their comments narrowly to willful hate speech that does, or has the potential to, incite violence.

Finally, this perspective is further supported by Canadian jurisprudence; the Supreme Court of Canada has stated that “prohibiting representations that are objectively seen to expose protected groups to ‘hatred’ is rationally connected to the objective of **eliminating discrimination and the other harmful effects of hatred**.”³³ [Emphasis added] The Supreme Court has also recognized that hate propaganda poses a clear threat to Canadian society; that it undermines:

“...the dignity and self-worth of target groups members and, more generally, contributes to disharmonious relations among various racial, cultural and religious groups, as a result eroding the tolerance and open-mindedness that must flourish in a multicultural society which is committed to the idea of equality.”³⁴

Thus, having regard to the language and discussion in the Hateful Conduct Instruction in light of the amplifying documents and a Canadian perspective of hate speech, it is certainly arguable that the intent of the Hateful Conduct Instruction was not to restrict condemnation to willful hate speech and was intended to address the broader issue of discrimination and racism within the CAF.

³³ *Supra* note 13.

³⁴ *Canada (Human Rights Commission) v. Taylor*, [1990] 3 S.C.R. 892.

A Restrictive Definition of Hateful Conduct is Not Effective

If the CAF did not intend to solely target only hateful conduct that incites or promotes violence and hatred, but also manage racist and discriminatory conduct that furthers discrimination and incrementally promotes hate within the CAF, then a broader approach to hateful conduct seems appropriate. In this case, the definition of “hateful conduct” in the Instruction is insufficient, and a revised approach is required. Given the Supreme Court of Canada’s comments in *Whatcott* and *Taylor*, a broader definition of hate speech that includes the effect of hate speech on vulnerable populations, and not simply *intent*, or willful blindness, of the speaker must be considered to address the true nature of the problem within the CAF. A broader definition that examines the expression in terms of *effect* would serve to target not just blatantly obvious conduct that incites hatred, but also that conduct directed at groups subjected to systemic discrimination that perpetuates their continued devaluation within our organization.

A Systemic Discrimination Approach – Defining the Problem by Recognizing the Harm of Hateful Conduct

Both Article 19 of the United Nations *Universal Declaration on Human Rights*³⁵ and Section 2(b) of the *Canadian Charter of Rights and Freedoms* recognize a fundamental freedom of expression.³⁶ As discussed however, laws limiting expression that incite violence and hate exist to prevent harm to targeted groups. The CAF’s Hateful Conduct Instruction targets hateful conduct for the purposes of preventing harm to its members.³⁷ However, the term “harm” requires careful consideration. Hate speech and hateful conduct are generally regarded as

³⁵ United Nations General Assembly, *Universal Declaration on Human Rights*, 10 December 1948, <https://www.refworld.org/docid/3ae6b3712c.html> [accessed 22 May 2022].

³⁶ Canadian Charter of Rights and Freedoms, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), 1982, c 11, s. 2(b).

³⁷ *Supra* note 1.

harmful in one of two ways: it incites or creates conditions in which the targeted members are harmed as a result of the speech (i.e. consequential harm); it also harms by ‘infecting’ individuals with discriminatory beliefs (i.e. constitutive harms).³⁸ In this respect, hateful conduct, including hate speech, harms by categorizing and ranking targets as inferior, depriving the targeted population of the ability to participate in meaningful discourse because of their now-devalued position.

Simply looking at harm, without more, risks either an overly narrow, or overly broad, application of a hateful conduct policy. If harm is restricted to the incitement of violence, it fails to recognize the harm and devaluation of individuals who are subjected to ongoing aggressions and microaggressions which, in and of themselves may not incite violence, but together breed intolerance that has the same effect. Conversely, if harm is construed too broadly, non-marginalized groups can claim that an act of speech constitutes hateful conduct even though the effect of the expression does not rise to the level of harm that should be subject to regulation. In order to resolve the overly narrow/broad conundrum, researcher Katharine Gelber argues that speech or conduct should be considered “hateful” in circumstances in which it is aimed at groups subject to systemic discrimination, recognizing that the capacity to harm can be derived not just from expression alone, but from expression in concert with structural and systemic inequalities in society.³⁹ In these circumstances, it is important to focus on both when speech or conduct reinforces systemic oppression, it has the effect of perpetuating the deprivation of power of the targeted group.⁴⁰

³⁸ Katharine Gelber, “Differentiating Hate Speech: A Systemic Discrimination Approach,” *Critical Review of International Social and Political Philosophy* 24, no. 4 (2021): 398, <https://doi.org/10.1080/13698230.2019.1576006>

³⁹ *Ibid*, 402.

⁴⁰ *Ibid*, 403.

A systemic discrimination approach to hate speech does not require that speech or conduct include an emotion of hate, profane, or vituperative speech.⁴¹ To be considered hateful, conduct or speech must satisfy the following elements:

1. be directed at a group that has been the subject of pervasive and institutionalized systemic discrimination,
2. be made from a position of formal or informal authority, and
3. constitute conduct that reflects and perpetuates systemic discrimination against the group in question.⁴²

By way of example, a white male CAF member who uses a racist or sexist slur against a black or female member is directing speech at a group already subject to systemic racism and is capable of inflicting actual harm. However, a member who utters a slur against another based on a non-systemic characteristic (i.e., a slur against a white male, or someone with big feet) which is not a “protected” characteristics, although unpleasant, is not capable of harm to the same extent. Authority of the speaker is also important; it is unlikely that a member with no authority (formal or informal) will hold any sway over their audience. Therefore, according to Gelber, it is both appropriate and necessary to consider the context in which speech or conduct takes place to determine whether it constitutes hateful conduct.⁴³

Toward a New Definition and Paradigm in Addressing Hateful Conduct in the CAF

“Racism in Canada is not a glitch in the system; it is the system.”⁴⁴

⁴¹ *Ibid*, 408.

⁴² *Ibid*, 408.

⁴³ *Ibid*, 404

⁴⁴ Canada, Department of National Defence, Minister of National Defence Advisory Panel on Systemic Racism and Discrimination, *Final Report*, January 2022, 21, <https://www.canada.ca/en/departement-national->

The current Hateful Conduct Instruction identifies and targets conduct that incites or promotes violence and hatred. However, it does not sufficiently address the deep-seeded discrimination and racism within the CAF. The Instruction fails to recognize smaller, daily instances of discriminatory and racist conduct that, intentional or not, adversely impact individual members even though the conduct may not necessarily rise to the level of inciting violence or hatred.

Adopting a systemic discrimination approach to hateful conduct may assist in identifying and targeting these microaggressions that must be seen to perpetuate hate within any organization. This may not be an entirely simple exercise, but it need not be overly complex. The 2022 Final Report on Systemic Racism and Discrimination has clearly established those specific and identifiable groups that have been the subject of systemic discrimination in the CAF: women; aboriginal peoples, visible minorities, black persons, and persons with disabilities.⁴⁵ Thus, information exists regarding groups that are subjected to systemic discrimination within the CAF; conduct and speech against these groups or persons that reflects and perpetuates systemic discrimination must be scrutinized. Whether the member engaged in the conduct has authority – thus legitimizing the speech for the hearers – will be a more difficult exercise and will depend on the context of the situation. However, given that the CAF recognizes, and promotes, the concepts of both formal and informal leadership and authority,⁴⁶ it should be prepared to act when either formal or informal authority is exercised to the detriment of other members.

defence/corporate/reports-publications/mnd-advisory-panel-systemic-racism-discrimination-final-report-jan-2022.html.

⁴⁵ *Ibid*, 26.

⁴⁶ Department of National Defence, *Leadership in the Canadian Forces: Conceptual Foundations* (Ottawa, ON: Canadian Forces Leadership Institute, 2005), 82.

Using the systemic discrimination approach will also address any concern that hateful conduct will be defined either too narrowly or too broadly. “Mere discriminatory” remarks by an individual with little or no influence will not be characterized as hate speech and may be resolved through education. However, individuals in positions of formal or informal power (i.e. instructors in a classroom setting, regardless of rank, or by senior-ranking members with authority over the listeners) will, and should, be held to account for speech and conduct directed at groups, or members of groups, who have been subject to systemic discrimination. This approach also recognizes that not all groups suffer from systemic discrimination and that conduct or speech directed at certain groups or members (i.e. white males), while distasteful and subject to administrative action, should not be considered as harmful as similar conduct and speech targeting historically subjugated groups.⁴⁷

The Way Forward

The current Hateful Conduct Instruction, although it targets conduct that is most certainly detrimental to the cohesive operation of the CAF, does not adequately address the true systemic nature of racism and discrimination that continues to plague our organization. Taking active steps to discipline conduct at the extreme end of the spectrum fails to recognize the impact that microaggressive and culturally insensitive conduct has in perpetuating systemic discrimination and incrementally promoting hateful tendencies and attitudes. The current Hateful Conduct Instruction is a start, but like most wicked problems, we must continue to manage this situation as the Instruction is not, in and of itself, an end to this issue and adopting a systemic

⁴⁷ *Supra* note 38, 405.

discrimination approach to defining and sanctioning hateful conduct may be the next logical step in this process.⁴⁸

⁴⁸ A brief word about the application of the *Charter*. It is trite to say that any policy issued by the CAF is subject to *Charter* scrutiny. Although a detailed *Charter* analysis of any policy limiting freedom of speech is beyond the ambit of this paper, suffice it to say that the Supreme Court of Canada has upheld legislative provisions targeting hate speech as reasonable limits on the s. 2(b) freedom of expression pursuant to a section 1 analysis (including s. 13 of the Canada *Human Rights Act*, which prohibited communications online that were likely to expose an individual to hatred or contempt). In short, although it is the writer's position that refining the current Hateful Conduct Instruction to adopt a systemic discrimination approach to hateful conduct is a justifiable and reasonable limit on speech, legal review and opinion should be obtained prior to engaging said revisions.

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