

"uniformity and fairness in the treatment of complaints would be more easily ensured, confidentiality would be less imperilled, and the imposition of sanctions would be more easily achieved."

Thus, the creation of a "Centre for Race and Ethnic Relations" should be considered. It could exist either as an entity independent from the Sexual Harassment Education and Complaint Centre or in combination with it to form a comprehensive body designed to protect all human rights. At first glance, the latter option might be thought to be preferable in that resources may be concentrated on one operation and the duplication of functions avoided. However, there is a significant concern expressed that a generalized Human Rights Centre might tend to concentrate on gender discrimination issues at the expense of race relations issues. On balance, it is thought best by the Committee that a "Centre for Race and Ethnic Relations" be separate and apart from the existing Sexual Harassment Education and Complaint Centre. Both have important but distinctive functions in furthering human rights within the University community.

A main aim of creating a high-profile Centre is to encourage individuals who feel they have been victimized to step forward.

[The Report now discusses the kind of investigative and disciplinary procedures—from least formal to most formal—that could be employed in dealing with alleged violations of human rights in a university setting.]

We do not attempt to design a comprehensive system of non-academic discipline at York, as we are primarily concerned with the issue of human rights disputes. Moreover, the Review Committee on Non-Academic Discipline has submitted to the President a Report dated March 31, 1986, which comprehensively reviews the subject of "non-academic discipline."

In respect of human rights disputes, it seems desirable to design procedures which take some of the benefits offered by a more formal system such as that in place at other universities and combine them with the positive aspects of York's present system.

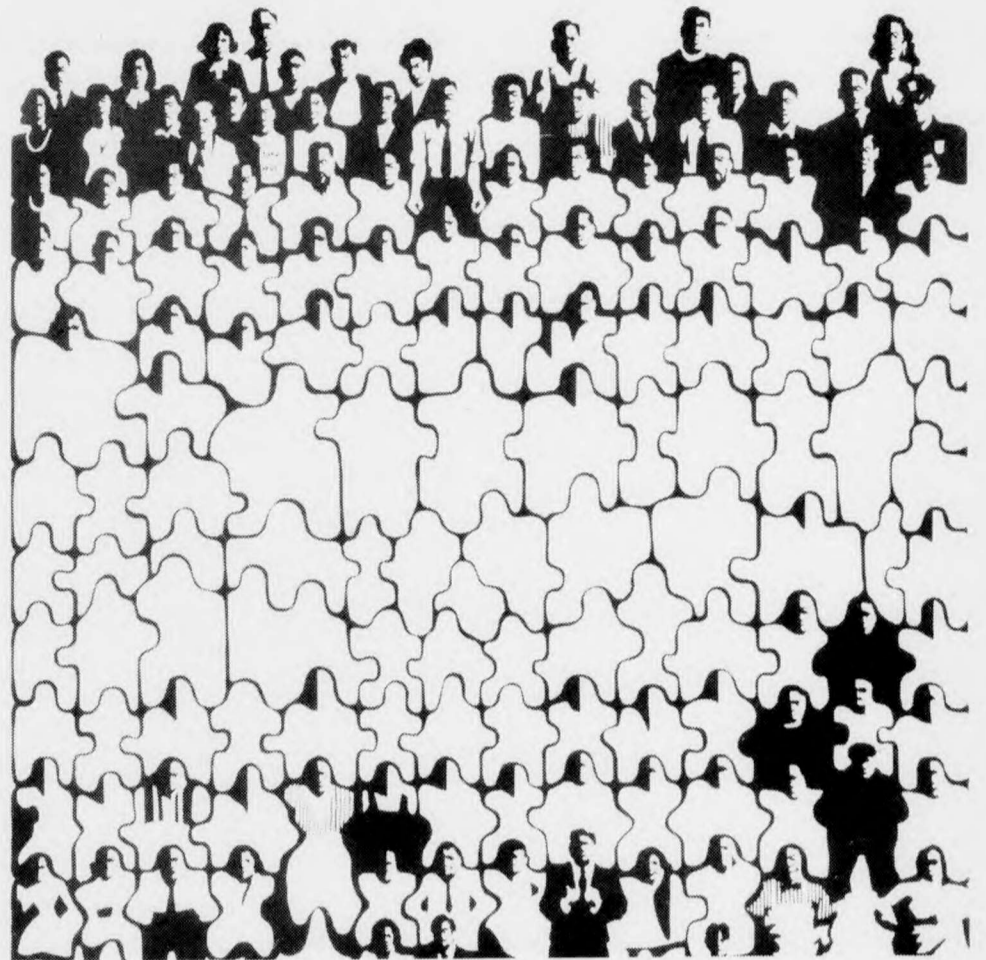
This part has sought ways of establishing dispute resolution procedures at York as one way of alleviating the problems resulting from intolerance. It is hoped that these will have the effect of encouraging victims

of intolerance to step forward, while affording a measure of protection in terms of procedures and process to the alleged victimizer.

The hopes and expectations accompanying these proposals are tempered by the recognition that real change takes time. Changes in deeply ingrained attitudes come about slowly if at all, but the increased awareness brought about by the implementation of these procedures should contribute to that change.

While we are concerned primarily with the reform of procedures for human rights disputes, these have implications for other areas of non-academic discipline. The past perhaps has evidenced an inclination to reform non-academic disciplinary matters in a piecemeal rather than in a comprehensive fashion. At the date of this report, a report by the Review Committee on Non-Academic Discipline has just been finalized. Although there are some differences in the proposed dispute resolution system in our report, as opposed to that suggested by the Review Committee on Non-Academic Discipline, the differences generally do not seem to be significant. The proposals of the two committees could be reconciled to provide a single, unified system, although we are of the view that given our focus upon the creation of a specialized "Centre for Race and Ethnic Relations," the Resolution of human rights complaints through its procedures can and should stand as a separate system. That is, it is not essential that our proposed dispute resolution system for human rights complaints be part of the proposed dispute resolution system of the Review Committee on Non-Academic Discipline.

However, we must mention that we do take strong exception to the Review Committee's recommendation that a tribunal require a burden greater than the balance of probabilities standard but less than the reasonable doubt standard, suggesting a "middle ground." We believe this approach would be inappropriate. The standard of proof should not be higher than the law requires in civil actions generally or before administrative tribunals such as provincial and federal human rights boards of inquiry, that is, the standard of proof on the basis of a balance of probabilities. To attempt to employ a novel, "middle ground" standard, as the Review Committee suggests, would introduce vagueness and confusion in standards, and tend to deprive complainants of redress for their injuries.



5. Recommendations

[In this section of the Report, the Committee summarizes and augments earlier findings in support of its four recommendations.]

We believe that it would be useful for the University to re-articulate its continuing support for human rights. Thus, the University should state that it subscribes to the preamble of the *Ontario Human Rights Code*, and states expressly that it seeks to do everything possible within the University community to enhance that policy [see insert].

To this end, the University should confirm in particular that every member of the community has a right to equal treatment without discrimination because of those grounds prohibited by the Code, including race, ancestry, place of origin, colour, ethnic origin, citizenship or creed, including a right to equal treatment with respect to services, goods, and facilities; a right to equal treatment with respect to the occupancy of accommodation; a right to equal treatment with respect to employment; a right to contract on equal terms; and every person who is an employee or student has a right to freedom from harassment in the community, including such places as the classroom and the residences.

"Equal" means subject to all requirements, qualifications and considerations that are not a prohibited ground of discrimination. "Harassment" means engaging in a course of vexatious comment or conduct that is known or might reasonably be known to be unwelcome. "Members of the community" include students, staff, management and faculty.

A right is also infringed by a person who publishes or displays before the community or causes the publication or display before the community of any notice, sign, symbol, emblem, or other similar representation that indicates the intention of the person to infringe a protected right or that is intended by the person to invite the infringement of a protected right. Provided however, this protection shall not interfere with freedom of expression of opinion. Provided further, all of the several exceptions set forth in the *Human Rights Code, 1981* would apply as well to the University community.

Anyone in the community who intentionally infringes or does, directly or indirectly, anything that infringes a right that is protected should be subject to the complaint procedures, sanctions and remedies set forth in this report.

(The Committee has not dealt with sex, age, marital status and handicap. These areas are outside the mandate of this Committee. There are separate mechanisms within York to deal with gender and age discrimination, and the Committee is concentrating on intentional discrimination [handicap is almost invariably a matter of systemic discrimination].)

A further word must be said about freedom of expression of opinion. It goes without saying that within a democratic society, and in particular, within a university community, free speech is a central and fundamental value, and that any restrictions upon it must be supported by the best of reasons. Protecting freedom of expression while preserving respect and recognition for the basic human rights of individuals and groups can suggest difficult problems.

Respect for human rights is an inherent value to our society, consistent with and supportive of the value of freedom of speech. Moreover, a democracy faces an invidious danger and insidious form of subversion when human rights are compromised. Freedom of expression need not include the violation of human rights to find fulfillment. Indeed, it is only through respect for human rights that the freedom of expression of all members can be truly achieved. We emphasize that our proposed complaint and disciplinary hearing procedures apply to intentional discrimination. Every person within York University can enjoy full freedom of expression of opinion without intentionally discriminating against an individual or group. Our proposals do not in any sense compromise lawful freedom of expression presently enjoyed within the York community.

Accordingly, the first recommendation is

THE RE-ARTICULATION OF A HUMAN RIGHTS POLICY FOR THE YORK UNIVERSITY COMMUNITY.

Despite the fact that the University has a long-standing concern for the protection of human rights in its community, there has been a marked absence of clear guidelines and procedures which members of the University could turn to in times of difficulty. In the event of racial incidents, the aggrieved persons, particularly students, do not know where in the complex structure of the University to file a complaint. There is also a common perception that nothing much would be done anyway and that formal charges against perpetrators of racism lack substance or teeth.

In order therefore to formalize and centralize policies, guidelines and methods of dispute settlement as well as to establish sanctions with respect to the problem of race discrimination on campus, this Committee recommends:

THAT A "CENTRE FOR RACE AND ETHNIC RELATIONS" BE ESTABLISHED AT YORK UNIVERSITY.

The proposed Centre should have three major functions. It should be empowered to hear and act upon complaints from any

