

"Kangaroo court" criticized

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to inform the accused until six months later. The rationale for this procedure is that victims of sexual harassment may be uncertain about whether or not they want to lodge a formal complaint, but if they wait too long they lose credibility. This procedure would allow them to document their complaint immediately and then consider their course of action.

Confidential or not, many consider secret files dangerous, and question whether or not they in fact can be kept secret. As Wiesenthal said, "If we look around in Canada today we see the status of confidentiality...confidential documents appear in the *Globe and Mail*."

The committee says they will reconsider this aspect of their procedures but did not commit themselves to any particular remedy. If they retain the "secret files", they may consider placing them in the custody of a lawyer, since the lawyer-client relationship is the only one in Canada in which confidentiality is legally protected, and in which relevant documents could not be subpoenaed.

Limitation Periods

Similar concerns have surfaced over the limitation periods for acting on a written complaint. As it stands, the victim would have two years (with a possible extension to five) after making a written complaint to call the matter to a hearing. Many feel that charges pending for such a long time could seriously damage a career or marriage. The committee says that they may shorten these periods, or allow the accused as well as the victim, to call for a hearing at any time within the limitation period.

Concern for Due Process

A number of people have said that they don't feel the procedures in the report adequately protect against false accusations. The committee, on the other hand, feels that their procedures provide more protection than those that are now in use.

"What happens when a student goes to a dean and says a professor harassed her?" asked one committee member. "Does he have to do anything about it? No. Does he forget it? No. Does it affect his (the faculty member's) promotion and tenure? It could."

"There's nothing to stop an enterprising blackmailing student right now," Tacon added, "this procedure ensures that the accused gets to say their side...if all one had to do is lay an allegation to get a remedy, I'd be concerned too. That's exactly why you have an investigation and hearing."

But not everyone is pleased with the structure of the hearing proposed. At one discussion meeting a professor described the procedure as "trial by vice-

president, who is judge, jury and prosecutor." He went on to say, "a person can be tried and punished in what I call a kangaroo court."

Wiesenthal is also unhappy with the hearing procedures. Referring to the fact that they would be held *in camera*, and would admit circumstantial evidence, he compared them to a "resurrected Star Chamber".

Tacon feels that these objections represent a misunderstanding of "due process". "People tend to equate due process with two things: the U.S. television model and exact courtroom procedures," she said. Both are misconceptions. (Due process) doesn't necessarily involve the whole gamut of procedures one gets in high court. (There are) costs and delays in court—it isn't suited to all kinds of disputes."

As for the "Star Chamber," she pointed out that it involved hearings in which the accused were not present and had no opportunity to defend themselves, a far cry, she says, from the

hearings the committee proposes. "Is he suggesting that his should be a public hearing?" she asked, noting that this could destroy the reputation of the accused, whether innocent or guilty.

Responding to the charge that "trial by vice-president" represents a "kangaroo court", the committee once again compared their procedures with those already in existence. Present procedures, they pointed out, also rely on the judgement of a single individual, but whose identify (vice-president, dean, etc.) depends on the geographic locale and academic jurisdiction of the offense.

Finally, some people have objected to the proposal that the sexual harassment centre would act as an advocate for the victim, while none is provided for the accused. The committee has promised to look at this question, solving it perhaps by separating the counselling and advocacy roles, or by providing a slate of

people who could act as advocates for either party.

Sexual Harassment Centre Unnecessary

A number of people have suggested that existing procedures are sufficient to deal with cases of sexual harassment. Staff have access to union grievance committees; students may complain to various deans, college masters, etc., or remedy an improper grade through the University Senate's Committee on Examinations and Academic Standards. Rape and assault may be dealt with by the police and the criminal court system.

The committee's major complaint with present procedures is their lack of uniformity. As it now stands, to whom a case is taken depends on the geographical locale and academic jurisdiction of the offense. There is no set procedure for dealing with an accusation.

As for Senate C.E.A.S., the committee pointed out that C.E.A.S. can only deal with "harassment when it manifests itself in terms of lowered grades". C.E.A.S. does not have the jurisdiction to censure faculty behaviour.

In the case of rape and assault, the committee noted that it has been established in Canadian Law that the employer has the right to censure if an offense is work related. Says Tacon: "The victim should be able to decide what system they want to invoke. They may not want to put a person in jail...the university has a responsibility to reprimand if it's (an offense) interfering with someone's work."

The committee is now considering these, and other criticisms as they prepare their final report to the president. It remains to be seen which of the suggestions they will incorporate into the final report and what the President will decide to do with it.

Sexual harassment:

History of "The Hidden Issue"

Erina Ingrassia

Dubbed "The Hidden Issue" and "The Secret Oppressor", sexual harassment at York was, until last year, constantly forced into a dark corner.

But following the investigation of an alleged rape case on campus in March, 1980, sexual harassment became something of a buzz word at York.

In April, discussions between Ann Shteir, Advisor to the President on the Status of Women, and university president H. Ian Macdonald led the university to set up a committee to study specific means of handling complaints of sexual harassment: The Presidential Committee on Sexual Harassment.

The committee, chaired by Shteir, presented its preliminary report to the York community in September.

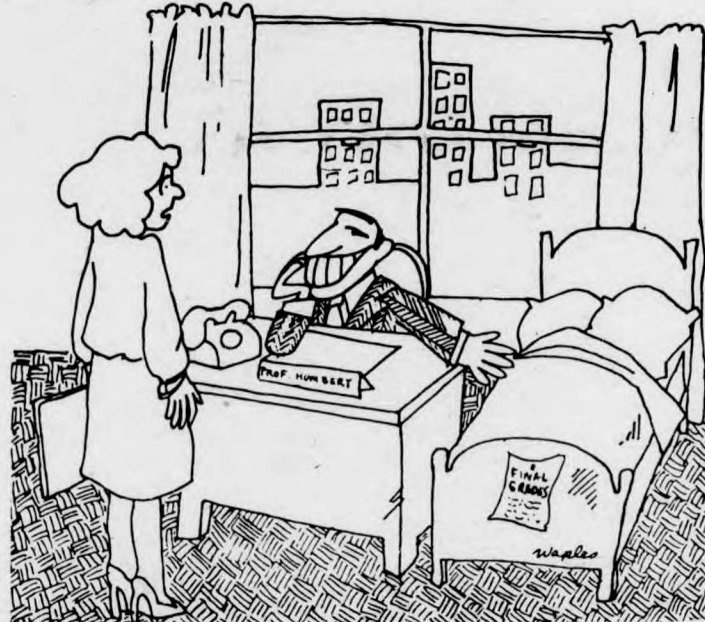
The report stresses that the Committee on Sexual Harassment was not formed because of a belief in a high level of sexual harassment on campus. The disturbing factor, according to Shteir, is that there is relatively little information as to just how widespread the problem on campus really is.

The report states: "The absence of such data at present prevents comment on the magnitude of the problem of sexual harassment, but does not preclude the formulation of policy and the adoption of procedures for dealing with allegations of sexual harassment."

The report has now been open to comment and discussion for ten weeks. If the proposals now under consideration are adopted, a Sexual Harassment Complaint Centre may be established within the year.

An official channel for complaints would signify the University's acknowledgement of the existence of the sexual harassment problem on campus. Furthermore, an official definition and guidelines on conduct for all members on campus would set firm boundaries for behaviour. According to committee members, these are long overdue.

harassment is that it is a grey matter, it is not black and white," said Shteir. "It is all a matter of perception. A student may feel that a professor's friendly manner is a subtle advance. The professor, on the other hand, may not mean anything by his friendly manner. It is all a matter of interpretation. Because of this, it is a real problem indeed."



The definition of sexual harassment proposed by the committee is as follows:

"Unwanted attention of a sexually-oriented nature: implied or expressed promise or reward for complying with a sexually-oriented request; or implied or expressed threat or reprisal, actual reprisal, or the denial of opportunity for refusal to comply with a sexually-oriented request."

"The problem with sexual

reporting an incident to the Sexual Harassment Complaint Centre. The centre would keep such reports on file for twelve months; after six months the accused would have to be informed of the complaint. The second procedure involves a formal, written complaint, which the centre would keep on file for two years. At any time during this period the complainant could demand hearing, adjudicated by the Vice-President (Employee & Student Relations). If they wished, the complainant could proceed directly to the second step.

A range of possible actions have been suggested, from an apology to a dismissal, to be used against the offender, if found guilty.

Committee members feel that the adoption of these suggestions will "remain sensitive to the plight of the victim and to assure procedural fairness to the accused."

Approximately 2,000 preliminary reports have been distributed across campus. Copies may be picked up in York's Women's Centre, at the York Connection.

The final report is to be published sometime in the new year. Until then, the committee invites York's members to state their views on the preliminary report.

Although Queen's University and U of T have shown interest in York's preliminary proposals, York remain the first university in Canada which has published any concrete definitions and advice on ways of dealing with the problem of sexual harassment within a large organization. If York's endeavour is successful, Shteir is hopeful that other universities will follow suite.

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