

TEMPERED RADICALS AND POROUS BOUNDARIES: THE CHALLENGES AND  
COMPLEXITIES OF ANTI-HARASSMENT WORK IN CANADIAN UNIVERSITIES

by

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## **Abstract**

Based on research involving an overview of 44 policies at Canadian universities and 21 interviews with anti-harassment practitioners across the country, this thesis explores the challenges faced by anti-harassment practitioners working with legally defined institutional harassment discrimination policies. Anti-harassment work at Canadian universities is complex because practitioners must negotiate institutional demands set out in policy as well as politicized demands from members of marginalized groups both inside and outside the institution. Interviews with practitioners reveal that their daily work in reactive investigation and mediation of complaints as well as their proactive work in educating campus communities may support the less powerful parties to complaints, rather than focusing only on limiting the institution's legal liability. Therefore, although anti-harassment practitioners occupy a boundary role as defined by Fraser (1989), their work is not entirely "depoliticizing". Practitioners' identities, sense of marginalization, and commitment to activist politics contribute to their position as tempered radicals as defined by Meyerson and Scully (1995), helping to explain their commitment to both institutional prerogatives and to empowering marginalized members of the institution.

The thesis illustrates how neutralizing neoliberal discourses are infiltrating the equity project and how the work of practitioners intersects with these broader social changes. The origins of harassment and discrimination policies in Canadian universities can be traced to the political activism of groups focusing on feminist, anti-racist, gay and lesbian rights issues, among others. As a result of the work of activist groups to have human rights issues dealt with under human rights law, institutions are legally obligated to institute and enact policies to deal with harassing and discriminatory behaviours and changes to policy are viewed in the context of developments in case law. Institutional policies are currently embedded in a social and political context that is very different from the social context in which sexual, racial, and homophobic discrimination was originally challenged, politicized, and publicized. The advent of neoliberalism sets the stage for the shift of discourses and practices away from those which value equity to those that underscore traditional divisions of power and challenge the demands of so-called "special interest groups". This shift is underscored by concerns about "political correctness" that arise within institutional communities and the broader social context. Perhaps the most obvious of the changes relates to the shift from a focus on equity and human rights to what is termed the "respectful workplace model". The inclusion of personal harassment issues in human rights policies shifts the focus of the policies to issues that are not tied to historical oppressions and can potentially deflect attention from the human rights component of these policies. The challenge is to move beyond a legalistic perspective regarding policy development and to consider changes in the broader social context that influence policy change and the work of anti-harassment practitioners.

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## **Dedication**

This document is dedicated to the memory of my parents, Roberta (1923 – 1994) and Cliff (1917 – 1999) Westerman, who taught me to value education, to care for others, to be independent, to persevere, and to fight for what I believe in.

## **CHAPTER ONE**

### **Introduction**

The impetus for my research comes from my own experience: the experience of being a sexual harassment officer at a Canadian university. I chose the job because of my academic training and because of my political commitments to equality issues both inside and outside the institution. My Master's research was related to the issue of intimate violence against women; my teaching history involved working with issues of sexism, racism, and homophobia in society; my activism involved work with women's centres, battered women's support groups (related to my own experience of battering in an intimate relationship), and advocacy for male and female street workers.

Neither my academic training, nor my activist work prepared me for the contradictions of harassment and discrimination work in an institutional setting. I was overwhelmed by the stress of the job and despite my training in Sociology, I could not explain to myself nor to others around me what the problem was. Literature on anti-harassment work suggests that emotional and psychological burnout is the cause of the stress that practitioners experience. However, the sociologist within me was not satisfied with this explanation. This dissatisfaction with individual psychological explanations for the stress and strain of anti-harassment work led me to pursue research involving other practitioners and an engagement with literature on anti-harassment work. My purpose is to attempt to understand and explicate the tensions and contradictions inherent in being a practitioner charged with the reactive work of harassment investigation and the proactive 'prevention' of harassment and discrimination in the context of a bureaucratic university institution.

## **1.1 Starting From My Experience**

My first job related to anti-harassment work was to prepare an educational package for the Sexual Harassment Office. Central to that package was a lengthy discussion of the legal context of our harassment policy. Clearly, the legal context and foundation of policy was important. Institutions have policies because they are legally required to do so. In addition, legal discourse carries a great deal of legitimacy and persuasive power and is a useful way of getting people to “buy in” to the issue. Feminist discourse about sexism and patriarchy named sexual harassment, but I knew that I could use the law to make people (especially those who were resistant) pay attention and take the matter seriously. In a context in which law was dominant, using the language of activism was guaranteed to attract the label of “unreasonable feminist”. It was clear that referencing the law would make discussion of the issue seem “reasonable”. As a practitioner, references to law made what I had to say legitimate. Even as I wrote the package, I felt as though I was betraying my feminist roots. I was trying to talk people into believing that harassment was wrong by showing them that the courts deemed it to be so. I felt like a coward for relying upon the law to justify social justice issues. I felt that I should take a more political stand on the issues. On the other hand, I knew that using the legal approach would work because it would be considered by other stakeholders as eminently reasonable, thus increasing my chances of persuading people. I made strategic decisions and I compromised my values in favour of persuasion.

Phase two of my career as an anti-harassment practitioner came about as the result of the unfortunate chronic illness suffered by our sexual harassment officer. When she was no longer able to perform the job, it fell to me by default. I was there, I knew the

material: therefore I was the best choice. I was terrified. I was a teacher - not a cop, not a lawyer. It was one thing to struggle with issues of activism, law, and policy in a lecture; it was quite another to negotiate these issues in the context of investigations, which generally involved crying complainants, indignant respondents, pushy administrators, angry student activists, sexist detractors, and any number of others who were dissatisfied with anything and everything that I did. Investigations also required a healthy dose of legal knowledge and came with the threat that one false move on my part could result in the institution being sued by the complainant under the human rights code or by the respondent under administrative law. I dreaded every ring of the telephone. The pressure of conflicting demands created a stress level that I could hardly endure. I believed that my stress was due to my own psychological and emotional weakness. However, as I began to interact more with other practitioners, I learned that the stress of the job is felt by most of the people who work in the field.

I left harassment work in order to pursue my PhD. However, leaving the job behind did not mean that I left its contradictions behind. Time and reflection have led me to see that the stress I experienced was not necessarily related to personal weakness or emotional burnout. The stress arose, at least in part, due to the contradictions inherent in the structure of the job and institutional constraints associated with being an anti-harassment practitioner.

Telling this story is not just an autobiographical exercise, nor an attempt to suggest that my knowledge of the situation is privileged. I am telling my story as a way to begin my work from a particular standpoint - a term I am borrowing from Dorothy Smith (1987). For Smith, standpoint is a place to begin inquiry, and not necessarily a

privileged knowledge position: “My notion of standpoint does not privilege a knower. It does something rather different. It shifts the ground of knowing, the place where inquiry begins” (91). My research is grounded in my own experience and sense of contradiction; it is also academic, because it is through my sociological training that I seek to contextualize my experience and move towards a deeper understanding of it. My experience in harassment and discrimination work created many contradictions for me. This dissertation is the endpoint of a research process that allowed me to explore those contradictions by discussing the experience of doing anti-harassment work with other practitioners across the country. This thesis is an attempt to connect my experiences with those of others in the same position and to the broader institutional relations that provide the context for those experiences.

## **1.2 Exploring the Complexities of Anti-Harassment Work**

The sociological literature on harassment (particularly sexual harassment) covers a great deal of territory, especially with respect to the definition and perception of harassing behaviours, the ‘counting’ of cases of harassment, and the definition of the characteristics of harassers. However, little work is available on the contradictions experienced by anti-harassment practitioners given the institutional context of their work. Therefore, my desire upon undertaking this dissertation research project was to try to explicate, in a sociological fashion, the nature of the institutional contradictions and analyze how the work of practitioners (like myself) responded to these contradictions.

After extensive literature searches and hours of reading, I came to the conclusion that the ‘problem’ for harassment practitioners involved the tensions that arise from their

position in the institutional hierarchy. They are caught in the middle of struggle between the dominant values of the institution, the demands that they face as bureaucratic representatives of that institution, and the demands of the marginalized groups within the institution whose interests they are supposed to represent. This realization was informed by literature on the problems of co-optation faced by activists such as feminists who pushed for the institutionalization of Women's Studies as a discipline, but then suffered the consequences of institutional legitimation of the discipline (see, for example, Messer-Davidow, 2002). More particularly, I was struck by the work of Nancy Fraser (1989) regarding welfare workers' occupancy of what she termed a role on the boundary between social movements and state institutions and Meyerson and Scully's more recent (1995) work on "tempered radicals" – individuals who, by virtue of their identity and/or activist politics, struggle with the tension between their values and their position within their institutionalized professions (for example, feminists who are also business executives).

Fraser argues that institutional roles on the boundary between marginalized social groups and bureaucratic institutions involve the "depoliticization" of the claims of the marginalized because boundary workers must translate politicized demands into administrable demands that meet the needs of the institution. Meyerson and Scully (1995) define "tempered radicals" as individuals who are torn between working within the organization and working to change it. According to these authors, the compromises that tempered radicals must make in their daily work can lead to their co-optation by institutional prerogatives. However, the authors argue that the tempered radical's actions may also challenge the status quo.

At first glance it may appear that these positions are oppositional. However, the objects of their analyses are quite distinct. Where Fraser is interested in the characteristics of institutional positions, Meyerson and Scully look at individual subjects and the way subjects negotiate those institutional positions. While they may be applied to the same phenomenon, the two frameworks actually treat different aspects of that phenomenon – the institutional and the personal – and therefore can be adopted concurrently to inform one another. My research examines the contradictions that arise for individuals in their institutional roles by exploring both the notion of boundary work and the identity of tempered radical with a view to understanding how anti-harassment practitioners negotiate the challenges of bringing different – and sometimes activist – identities to a standard institutional role. This analysis can potentially move beyond perspectives that assume that workers such as anti-harassment practitioners are mere bureaucrats, wholly co-opted by and unquestioningly enforcing institutional prerogatives and perspectives which assume that all individuals who take up this type of institutional work are radicalized. Combining these perspectives provides a more nuanced approach to understanding the nature of anti-harassment work and the people who engage in it. In the following chapters, I use these perspectives to explore anti-harassment practitioners' negotiation of complexity and contradiction in their daily work within Canadian universities.

In Chapter Two, I outline the historical context of the transportation of harassment and discrimination issues from the realm of the private into the public realm of social problems and legally legitimated policy. I situate the legalized policies within the context of the university as a bureaucratic institution that is subject to the social

forces around it. I then explore in greater detail the propositions of Fraser regarding workers in boundary roles and Meyerson and Scully regarding tempered radicals. I suggest how these perspectives might be used to understand the challenges and contradictions of doing anti-harassment work in the context of a university institution.

In Chapter Three, I outline literature on harassment and discrimination issues. I focus, in particular, on studies of harassment practitioners. I demonstrate that there are few studies on harassment and discrimination practitioners in Canada (two of the studies on which I report are unpublished Master's theses). The most important work on practitioners in Canada is a survey of 69 equity practitioners undertaken by Carol Agocs, Reem Attieh, and Martin Cooke (2004). It is upon this study that I build my own research, in which I provide analysis of interviews with harassment and discrimination practitioners from universities across Canada regarding their roles in the reactive and proactive work assigned to them under institutional policies. These interviews are intended to assist in the explication of the concepts of boundary roles and tempered radicalism. I contextualized my analysis of the interviews by reading policy documents and observing practitioners' conferences, and by following discussions on the Canadian Association for the Prevention of Discrimination and Harassment in Higher Education listserv, of which I am a member. Due to constraints of time and resources, I do not provide a detailed analysis of policies in this document. However, I provide information from policies that defines the work and roles of practitioners throughout the analysis as a means of demonstrating to the reader the institutionalized parameters around anti-harassment work.

In Chapter Four, I analyze interview data regarding the investigative and meditative roles assigned to anti-harassment practitioners. I argue that the nature of this work is particularly constraining for practitioners because it is reactive: practitioners undertake this work at the request of complainants. Reactive work involves formal and informal procedures. Interviews reveal that practitioners undertake informal work more often than formal procedures. Informal procedures, in particular alternative dispute resolution, figure prominently in the day-to-day work of anti-harassment practitioners, and allow for greater latitude in resolving situations and potentially supporting complainants. While formally dictated procedures leave little room to alter procedures, the less constraining nature of informal resolution practices allow for some advocacy work on behalf of complainants, even though the practitioners' role is not defined as one of advocate, but rather of neutral negotiator or mediator. I argue that practitioners' efforts to represent the position of the less powerful party to complaints (generally the complainant) suggests that their work does more than meet so-called "depoliticizing" institutional prerogatives.

In Chapter Five, I explore the educational work of anti-harassment practitioners. Most practitioners perceive their educational work as one of the most important aspects of their role because they perceive that it is proactive. Institutional policies connect educational work with the prevention of harassment and discrimination. The chapter interrogates the notion that education is by nature preventative. Practitioners also perceive that education can be empowering for the community. While some practitioners argue that educational programs are the most effective means of preventing harassment and discrimination, interviews also reveal that the relationship between education and

prevention remains untested. Therefore, assumptions about the preventative nature of education, although enshrined in policy, are largely based in common sense ideas about education as liberatory. Although the educational role of practitioners may not prevent harassment, practitioners see their educational practices as contributing to the empowerment of community members. The practitioners' role in empowering community members demonstrates that their position on the boundary between the institution and members of marginalized groups is porous because the work of anti-harassment practitioners works against the repoliticization of harassment and discrimination issues. Practitioners' work is not only focused on the reactive and often depoliticized mediation of harassment and discrimination policies. Education can lead to increased awareness. If increased awareness leads to changes in the levels of harassing and discriminating behaviours or increased levels of reporting of these behaviours when they occur, practitioners interpret this as meaning that they have achieved at least part of their proactive educational goals.

In Chapter Six, I explore the tensions and contradictions inherent in the anti-harassment practitioners' proactive and reactive roles in institutional settings. I outline institutional constraints experienced by practitioners related to lack of management support for their work. The institutional environment contributes to practitioners' perception of their role because their roles are shaped by policies that are developed through law and law requires neutrality. In an effort to explicate notions of boundary work and tempered radicalism, I analyze practitioners' view of the neutral and or political nature of their work. While interviews reveal that practitioners' commitment to procedural justice and fairness is central to how they perceive their work at the

institution, they also demonstrate a sense of contradiction between so-called ‘political’ versus so-called ‘non-political’ demands. This chapter demonstrates the numerous conflicts and challenges experienced by anti-harassment practitioners as they engage in their complex and sometimes contradictory work roles. Practitioners negotiate these contradictory demands through a commitment to small wins, although many realize that these incremental changes do not immediately (and may never) radically transform the institutional culture. I argue the interview data supports the argument that many harassment and discrimination practitioners in my research fit Meyerson and Scully’s definition of tempered radical. Although the potential for institutional co-optation of practitioners exists (at least in part) because of the limits of legal and policy definitions of their roles, interviews reveal that many practitioners retain at least some commitment to values and activist politics that move beyond a basic concern with the protection of the institution from legal liability.

The concluding chapter summarizes my observations regarding boundary roles and tempered radicalism, suggesting that the boundary role occupied by anti-harassment practitioners limits their ability to create radical institutional change. I argue that the repoliticization of harassment and discrimination issues, reflected in the shift towards respectful workplace policies, is not isolated. It can be related to broader social and political changes associated with neoliberalism. Neoliberalism is defined as a globalized policy regime which has at its centre a dismantling of the social safety net (Boyer, 2006). Neoliberalism sets the stage for a shift away from discourses that value equity and the neoliberal agenda involves the increasing individualization of responsibility and the neutralization of social justice issues (Blackmore, 2002; Thornton, 2006). The work of

social justice activists may have greater potential to resist the neoliberal shift than does the institutionalized work of actors such as anti-harassment practitioners (Larner, 2000; Peck and Tickell, 2002); however, anti-harassment practitioners with commitments to activism can play a role in keeping social justice issues on institutional agendas as long as they actively resist institutional co-optation (Thornton, 2006).

## **CHAPTER TWO**

### **Historical and Theoretical Context**

#### **2.1 Introduction**

This chapter briefly outlines the historical context in which harassment, in particular sexual harassment, moved from a private trouble to a public issue. Once defined as a public issue, harassment was imported in law as a move to give the issue more social legitimacy. This importation into law resulted in the development of institutional policies implemented to limit the legal liability of employers. Once harassment and discrimination policies became part of institutional requirements, positions were created for practitioners to execute policy requirements within universities.

After exploring the institutional context of harassment and discrimination policies, I outline in some detail the assertions of Fraser (1989) regarding the boundary nature of roles including those occupied by harassment and discrimination practitioners. I also elaborate Meyerson and Scully's (1995) arguments regarding the role of tempered radical within organizations. I suggest that coupling Fraser's concept of boundary work, which emphasizes the practitioner's role in the repoliticization of social issues within institutions, with Meyerson and Scully's analysis allows for a more nuanced approach to understanding the contradictory nature of the role of anti-harassment practitioner in a university institution.

## **2.2 From Private Trouble to Public Issue: the Historical Context of the Development of Harassment and Discrimination Policies**

In her discussion of the politics of the welfare state, Nancy Fraser (1989) draws our attention to the complexities that arise when the claims of marginalized social groups become part of the existing power structures within institutions and the larger society. Fraser focuses on the political and contested nature of claims in the social realm:

As I conceive it, the social is a switch point for the meeting of heterogenous contestants associated with a wide range of different discourse publics. These contestants range from proponents of politicization to defenders of (re)depoliticization, from loosely organized social movements to members of specialized, expert publics in and around the social state. Moreover, they vary greatly in relative power. Some are associated with leading publics capable of setting the terms of political debate; others, by contrast, are linked to enclaved publics and must oscillate between marginalization and co-optation (1989, 170).

Discourse publics, such as legal professionals or social activist groups, can be distinguished in a number of ways, including class, gender, ideology, profession, or central mobilizing issue. Different publics have, according to Fraser, different levels of social power. The larger and more powerful publics have a greater ability to construct “common sense” or hegemonic interpretations of issues. Smaller, less powerful (read: marginalized) publics may challenge hegemonic constructions of issues, but are less able to politicize their counterhegemonic interpretations. However, Fraser argues that some matters “break out” of smaller enclaved realms and become the focus of more generalized contestation (168).

### **2.2.1 Activism: Naming the Problem and Getting It on the Public Agenda**

The road to the development of institutional harassment and discrimination policies as they exist today begins with the translation of sexual harassment from private

trouble without a name to a public issues recognized as a social problem and prohibited by law.

While sexual harassment has always occurred, until recently it was not named and, thus, had no *social* existence (Wood, 1994: 18).

Weeks et al (1986) and Brownmiller (1999) outline the social context of the development of sexual harassment as an accepted concept and, subsequently, its importation into law and institutional policies. Weeks et al set out to document the process by which sexual harassment emerged on the public agenda. They argue that a redefinition of the problem (from private trouble to public issue) had to occur in order for the general public to see sexual harassment as problematic (1986: 432). The authors note that in 1971 and 1972, books and articles were published in the U.S. that outlined sexual relations between psychologists and their patients and between female employees and male employers; however, none of these works label the behaviours reported as sexual harassment. Subsequently, two related cases were brought before the U.S. courts under Title VII of the 1964 Civil Rights Act: one in 1972, for which no disposition was reported, and one in 1974, in which the court determined that the sexual behaviours reported did not constitute sex discrimination under Title VII (due to later changes in law this ruling was later overturned) (Weeks et al, 1986: 434). The authors do not dismiss the importance of these events, because

they highlighted the existence of sexually harassing behaviours and suggested they were undesirable. By themselves, however, the occurrences were insufficient to generate extensive concern, because they received neither national media coverage nor subsequent widespread public attention (1986: 435).

According to Weeks et al, what was missing was the participation of interest groups opposed to the behaviours identified by these publications and court cases:

The existence of interest groups was essential for the task of naming the behaviours and piquing public consciousness...neither criticism nor direct legal challenges are adequate to mobilize extensive opposition or to affect social policy. Organized interest groups may achieve these goals by creating a public or political issue in which social conditions are defined as offensive, harmful, or undesirable; they then publicize their assertions and stimulate controversy (1986: 435).

Brownmiller (1999) provides us with information on the emergence of sexual harassment on the feminist agenda<sup>1</sup>. She argues that the origins of this particular cause and concept are uncharacteristically easy to trace: the idea emerges in the activist community in 1975, at Cornell University. As Lin Farley and a group of her students discussed women and work in a seminar, they discovered that they all had similar experiences of unwanted sexual advances in the workplace. This experience, combined with the experience of a Cornell employee, Carmita Wood (reported to Farley in another venue) signaled the beginnings of naming the problem. Karen Sauvigne, a colleague of Farley's expressed it this way:

“Lin's students had been talking in her seminar about the unwanted sexual advances they'd encountered on their summer jobs...And then Carmita Wood comes in and tells Lin *her* story. We realized that to a person, every one of us - the women on staff, Carmita, the students - had had an experience like this at some point, you know? And none of us had ever told anyone before. It was one of those *click, aha!* moments, a profound revelation.” (in Brownmiller, 1999: 281).

It was in this set of experiences, Brownmiller argues, that the issue of sexual coercion at work entered the agenda of feminist activism. A group of eight feminist activists, calling their group “Working Women United”, gathered to organize a speak-out on the issue. While the group brainstormed about what to write on their posters, the term “sexual

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<sup>1</sup>Histories of the Canadian women's movement (i.e. Adamson et al, 1988, Brodie, 1995) make little mention of sexual harassment issues.

harassment” was born:

“We were referring to it as ‘sexual intimidation’, ‘sexual coercion’, ‘sexual exploitation on the job’. None of those names seemed quite right. We wanted something that embraced a whole range of subtle and unsubtle persistent behaviours. Somebody came up with ‘harassment’. *Sexual harassment!* Instantly, we agreed. That’s what it was.” (In Brownmiller, 1999: 281).

On May 4, 1975, 300 women gathered in Ithaca, New York for the first speak-out in the world on sexual harassment (Brownmiller, 1999: 282). New York Times reporter Enid Nemy covered the speak-out for the newspaper, including follow-up interviews. The story took some months to piece together, but it finally appeared on the Family/Style page of the New York Times in August 1975 as “Women Speak Out Against Sexual Harassment at Work”. The article also got national syndication in the U.S. (Weeks et al, 1986; Brownmiller, 1999). Weeks et al argue that interest groups must seek media attention if they wish to convince the “non-affected” of the seriousness of the issue (435). The Times article is considered extremely important in launching sexual harassment on to the public agenda. It was followed by articles in The Wall Street Journal, Redbook, Ladies’ Home Journal and Ms. (Weeks et al, 1986; Brownmiller, 1999). “As discussion increased, the courts began to hear from women who sought redress for physical and emotional injuries resulting from what the law would eventually describe as ‘sexual harassment’” (Dziech and Hawkins, 1998: 5). Media attention and public legitimacy were not enough: legal recognition of the problem became the goal.

### **2.2.2 Legal Legitimacy: The Struggle for “Rights”**

Without a term to name it, “sexual harassment was literally unspeakable” (Dziech and Hawkins, 1998: 4). The naming of the problem began a long process toward the

development of harassment and discrimination law.

Case law assumed a key role in, first, recognizing and, second, redefining sexual harassment...thus, court opinions gradually etched out an alternative discourse which defined sexual harassment as sex discrimination and a prosecutable and punishable offense (Wood, 1994: 19-20).

Catherine MacKinnon, perhaps the most-often-mentioned lawyer and feminist involved in the development of sexual harassment law, was a law student at Yale in the 1970s. In 1976, she argued that courts viewed sexual harassment as a personal matter and that this ignored the intent behind Title VII: “sexual harassment does occur to a large and diverse population of women, [this] supports an analysis that it occurs *because* of their group characteristics, that is, sex” (in Dziech and Hawkins, 1998: 6). In other words, “sexual harassment in employment contribute[s] to the sexual coercion of women by men and [is] therefore sex-based discrimination (Cahill, 2001:11).

MacKinnon’s famous book, Sexual Harassment of Working Women (1979), draws on early court cases around *quid pro quo* harassment. This is considered the most blatant form of harassment and, consequently, the form that most members of the general public will currently identify as harassment. In such cases, sexual favours are demanded by the person in authority in exchange for job security/promotion/job retention.

MacKinnon later served on the legal team for the complainant in one of the most important cases in the development of sexual harassment law in the U.S. around the issue of hostile work environment, *Meritor Savings Bank v. Vinson* (1986). Hostile environment situations do not necessarily include the blatant exchange of sexual favours for benefits, etc., and are therefore considered to be more “subtle” than *quid pro quo* situations (although the behaviours identified are often anything but subtle). A hostile

environment is one in which severe unwelcome, offensive and pervasive actions alter the employee's conditions of employment without economic job-related threats. The nature and definition of a "hostile environment" is still hotly debated today; its acceptance by the courts in *Vinson* as an indication of discrimination on the basis of sex was a triumph for MacKinnon and for those who had worked to have such situations acknowledged as unacceptable. Brownmiller argues that it is because of her book and her participation in this famous case that Catherine MacKinnon is often thought of as having single-handedly invented and named sexual harassment law (1999: 289).

Weeks et al argue that sexual harassment, a problem named and brought to the public agenda by interest groups, gained legitimacy as a social issue through legal and governmental regulation. These authors also argue, however, that the more legitimacy the issue gained through "official" recognition, the less control interest groups had over the issue's definition and its control through policy development (1986: 443). "Once the problem of sexual harassment was referred to official agencies, it became routinized and bureaucratized. It now had an official definition and policies to guide investigation and resolution of complaints" (446). However, this is not the only solution sought by activist groups: "The AASC [Alliance Against Sexual Coercion] and similar organizations say sexual harassment cannot be eliminated if it is separated from institutionalized sexism. Bureaucratic procedures are not enough; they must exist alongside educational and organizational efforts to empower women" (447). However, the increasing legalization/bureaucratization of harassment and discrimination policies reflects the interests and approaches of institutions and governments far more than the interests of the activist groups that first brought the problem to the public's attention.

Issues of harassment and discrimination have also achieved legal legitimacy in the Canadian context (Backhouse and Cohen, 1978). The first Canadian case to establish sexual harassment as sex discrimination was *Bell v. Ladas* (1980) (Aggarwal and Gupta, 2006) and the first case adjudicated under the Canadian Human Rights Act was *Robichaud v. Brennan* (1983). According to Sandy Welsh et al (2002: 609) the latter case “represents the first pivotal point in the development of the modern legal concept of sexual harassment in Canada.” *Robichaud v. R.* (1987) was Ms. Robichaud’s later appeal of the 1983 decision in which the Review Tribunal ruled that her employer was not liable for the actions of her harasser. In this case (the first to reach the Supreme Court of Canada) the court ruled that “employers have a statutory obligation to provide a safe and healthy work environment” and therefore, employers are legally liable for the discriminatory conduct of their employees (Aggarwal and Gupta, 2006: 47). This decision represents the origination in law of Canadian employers’ responsibility to mitigate their liability in cases of sexual harassment.

U.S. case law on poisoned environment sexual harassment was imported into the Canadian context through a British Columbia human rights case. *Zarankin v. Johnstone* (1984) imported the American E.E.O.C. (Equal Employment Opportunity Commission) guidelines into Canadian human rights law. In her decision, chairperson Lynn Smith states: “Although no Canadian jurisdiction has promulgated guidelines similar to the E.E.O.C. ones, the consensus of tribunal decisions favours a definition of sexual harassment as comprehensive as the Guidelines’ definitions and inclusive of the ‘poisoned work environment’ concept” (in Paish and Alibhai, 1997: 2-3). A further case, *Janzen v. Platy Enterprises Ltd.*, adjudicated in 1989 at the Canadian Human Rights

Commission, firmly established poisoned environment harassment as actionable under Canadian law (Welsh et al, 2002). Again in this case, the respondent employer was held jointly and severally liable for the discriminatory actions of their employee (Aggarwal and Gupta, 2006).

Canadian law also recognizes other forms of discrimination. *Romman v. Sea West Holdings* (1984) was the first Canadian case to establish same sex conduct as sexual harassment. The inclusion of employer liability for violations of other prohibited grounds of discrimination (such as race) in institutional policies originates with a 1994 case, *Swan v. Canada (Armed Forces)*, at the Canadian Human Rights Tribunal. In this case, the Tribunal ruled that anti-harassment policies should reflect all forms of harassment and treat them all with the same degree of seriousness. In addition, changes to the Quebec Labour Standards Act and Workplace Health and Safety regulations at the Federal level and in British Columbia, Alberta and Saskatchewan throughout the 1990s have resulted in the development of workplace violence policies in some institutions, and the addition of personal harassment to some institutional human rights policies.<sup>2</sup>

Human rights law around harassment issues is based on the premise that employees have the right to a work environment that is free from harassment and discrimination. Once human rights law made employers liable for providing a harassment-free work environment (as opposed to simply holding the harassing individual solely liable for his/her behaviour), institutions such as universities began to develop and implement sexual harassment policies and later, more general human rights policies. Employers can not use the existence of a harassment and discrimination policy as their sole defence to human rights complaints; they must also demonstrate that they are

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<sup>2</sup> Janet Smith, personal communication, 2007.

exercising due diligence. That is, employers must demonstrate that they are taking reasonable precautions against harassment and discrimination and that they are taking steps that have the practical effect of reducing the harm to complainants. In *Jones v. Amway of Canada Ltd.* (2001), the Ontario board of Inquiry outlined six elements that an employer must demonstrate in order to be viewed as having exercised due diligence. The employer must be aware that sexual harassment is prohibited conduct; a complaint mechanism must be in place; the complaint must be dealt with expediently and seriously; the employer must provide a healthy work environment; and finally, the employer must communicate its response to the complainant (Aggarwal and Gupta, 2006). The development of institutional harassment and discrimination policy and the hiring of anti-harassment workers is therefore not only an attempt by employers to protect their employees; it is, rather, an attempt to protect themselves from legal liability by demonstrating that they have exercised due diligence.

### **2.3 The Institutional Context of University Anti-Harassment Work**

Universities, by virtue of their role as public institutions, and their obligations under the Federal Contractor's Program (Agocs et al, 2004), began developing harassment and discrimination policies in the 1980s. York University developed the first official sexual harassment policy in the Canadian university context in 1981 and opened the first sexual harassment office in a university in 1984.<sup>3</sup> Universities were on the leading edge of the implementation of harassment and discrimination policies. This may be related to their distinct structures and history.

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<sup>3</sup> Dale Hall, Archivist, Canadian Association for the Prevention of Discrimination and Harassment in Higher Education, personal communication, 2007)

Universities, like most large institutions in modern society are bureaucracies. Weber's analysis of domination and authority focuses on the rationalization of economic structure through the bureaucratization of social life. While the development of bureaucratic authority is efficient on some levels, Weber also feared that rationalization and bureaucratization would become an "iron cage", "making life more efficient and predictable by wringing out individuality and spontaneity in life" (Adams and Sydie, 2001: 173). Bureaucracy would depend on expert knowledge, rather than emotion and empathy: "The more complicated and specialized modern culture becomes, the more its external supporting apparatus demands the personally detached and strictly 'objective' expert" (Weber in Gerth and Mills, 1946: 216). Weber did fear, however, that bureaucratic capitalism, stripped of any values other than the pursuit of wealth, would create institutions filled with "specialists without spirit" (Weber, 1984: 182) – bureaucratic personalities who would follow rules for the sake of the rules rather than dealing with the complexities and inefficiencies of human interactions within institutions.

Bureaucracies do not exist in a vacuum: they are also influenced by their external context. The history of university institutions suggests that the complete "depoliticization" of bureaucratic institutions is not as straightforward as Weber suspected it would be. "The university is both of the world and separate from it" (Pavlich, 2000, vii). It is often praised as a unique institution, promoting the exchange of ideas and the development of objective theory and science for the betterment of humankind. Beginning in the 11<sup>th</sup> century, western universities "grew out of monastic traditions and were essentially elite institutions with male students and teachers, patriarchal values and hierarchical structures (Gillet, 1998: 36). These traditions

remained firmly in place until the 19<sup>th</sup> century, when universities became more secular, open to women, and more concerned with research. Gillet argues that these changes in university structure and practice were influenced by the American and French revolutions as well as demands for social reforms such as the abolition of slavery.

By the second half of the 20<sup>th</sup> century, social movements across the globe, including civil rights, women's, and gay/lesbian rights movements had gained momentum. Many members of these movements were also university students. These students argued for the university as a public institution that should be open, inclusive, and democratic. "In the popular version, the goal of the academy is not the gathering of knowledge so much as the use of it for political purposes: the university becomes a centre of advocacy research and of the dissemination of (politically interested) ideas. Instead of remaining a centre for managing the status quo, it can be transformed into a centre for revolution, working towards the transformation of Western tradition and patriarchy" (Marchak, 1996: 19).

Just as the highly politicized social context of the 1960s influenced the transformation of the university into a more accessible public institution, the current neoliberal political context has led to a retreat from the politicized demands of oppositional social groups. Universities are becoming more corporatized as they compete for graduate students, research dollars and "star" academics (Deem, 1998). "The corporatization of higher education has enabled the market to invade and reshape the practices, organisation, and values of universities across that globe (Reay, 2004, 33). Universities currently behave more as business entities than as institutions for public education and knowledge. This has led to a focus on financial interests and the

backgrounding of service to the community and fair access to the institution (Tudiver, 1999, 160).

Anti-harassment work in universities is influenced by the nature and context of the university as a bureaucratic institution. “By definition, harassment officers are bureaucrats providing legal solutions often concerned with systemic issues” (Marsden, 2000: 147). The neoliberal political turn has had an effect on equity initiatives and anti-harassment work at Canadian universities. Margaret Thornton (2006) argues that neoliberalism has contributed to an unraveling of social justice prerogatives within universities because “in terms of liberal theory, exclusion and the most blatant inequalities could then be treated as aberrations that needed to be corrected because they did not comport with the liberal commitment to (formal) equality between citizens” (154). Issues of equity are increasingly justifiable only if they are attached to issues of productivity: “The social liberal state managed to maintain no more than an uneasy truce between dichotomously opposing interests. The neoliberal swing means that not only has inequality become more pronounced as a norm within our society but also that justice is treated as expendable as far as the market is concerned, unless use value can be attached to it” (163). “Advocacy was met in the 1990s with fierce resistance that transformed pro-equity arguments and initiatives into “politically correct” acts carried out by “thought police” seeking to destroy the rule of merit at the university (Agocs et al, 2004: 201).

Heyman’s (2004) analysis of bureaucratic structures helps us to understand how bureaucrats including anti-harassment practitioners are both empowered by their position in the institutional structure and limited by it. Bureaucracies are, according to Weber, instruments of rational authority: they are based on consistent, written rules and specific

positions invested with particular duties that must be carried out by experts in the areas to which they are assigned. Heyman (2004, 488) asserts that bureaucracies are instruments of power: “they are a means to an end, ways of carrying out the work of shaping and controlling other human beings”. Heyman argues that studies of bureaucratic organization have often ignored the contested nature of bureaucratic policy and action, as many authors have assumed that bureaucracy entirely constrains its participants. However, he suggests that rigid and deterministic approaches to studying bureaucracies and the experts within them ignores the fact that “bureaucrats develop interests and perspectives of their own, sometimes in conjunction with specific external constituencies” (489). Heyman suggests that seeing bureaucracy as completely negative and depoliticizing limits our ability to engage with and understand progressive elements within bureaucracies (491).

Although neoliberalism has affected equity initiatives at universities, they have not been entirely eliminated. Across the country, we find various forms of policy with varying commitments to the equity project. Changes in the location of offices (from student-accessible areas such as Student Services departments to Human Resources departments) and discursive changes such as the movement to “respectful workplace” models or to “managing diversity” are viewed by some authors as indicative of neoliberal influences on harassment and discrimination policies at universities. Jill Blackmore (2002) argues that equity is more and more often defined as a human resource issue rather than one that requires its own institutional infrastructure. Individualized complaint handling becomes the standard for procedure (Thornton, 2006: 157) and the language surrounding harassment and discrimination shifts to discourses about “managing

diversity” such that “the language of equal opportunity, and even more so of social justice has dropped from the management lexicon” (Blackmore, 2002, 435). Such language “contributes to the stifling of agonistic concepts such as ‘discrimination’ and ‘inequality’” (Thornton, 2006, 161). Blackmore (2002: 427) argues that equity workers in the university setting are “trapped by competing discourses that expect radical change in dominant ways of doing things on the one hand, and loyalty to management on the other.”

These social and institutional constraints on the role of anti-harassment practitioner create challenging work situations and complex roles for practitioners charged with the implementation of harassment and discrimination policies. The work of Fraser (1989) and Meyerson and Scully (1995) provide tools for exploring the complexities and constraints of anti-harassment work within large institutions. I explicate the perspectives of these authors in the following section.

## **2.4 Tempered Radicals and Porous Boundaries**

The role of anti-harassment practitioner within the university context is somewhat different from the bureaucrat that we might envision when reading Max Weber’s work. Anti-harassment workers are viewed by some authors as change agents who are part of a bureaucratic hierarchy. Their placement within this hierarchy has an impact on their ability to be effective in their positions (Parker 1999; Agocs et al, 2004). Organizational development literature has explored the nature of the role of change agent. Traditionally, literature on change agents studies individuals who work as consultants for private organizations wishing to implement change (see, for example, Church and Waclawski,

1996; Wooten and White, 1989). Agocs et al (2004) point out that most of the research on change agents focuses on their personal characteristics as central to their ability to effect change; Agocs et al suggest that attention must also be paid to the structure and culture of organizations, which invariably limit the amount of change that these practitioners can implement despite their personal characteristics and best intentions. Parker's (1999) research on equal opportunity workers in Australia charged with the enforcement of organizational compliance to equity policies acknowledges that these workers must use a variety of strategies to effect change in the area of equity within their organizations. Parker suggests that equity workers must sustain a balance between law and business in their attempts to create organizational compliance to equity initiatives.

In Nancy Fraser's (1989) terms, workers such as anti-harassment practitioners use expert discourses to bridge the gap between opposing demands from different factions within the university. According to Fraser, this bridging of discourses results in the depoliticization of demands from the margins. The successful politicization by marginalized groups of issues such as harassment and discrimination does not lead to uncomplicated solutions to the identified problems. Once issues have been successfully politicized, they enter the institutional realm where they are, according to Fraser, managed in a way that "(re)depoliticizes" them. This (re)depoliticization occurs as a result of their reinterpretation through "expert discourses". Expert discourses are concerned with the administration of identified needs within institutions and serve as "vehicles for translating sufficiently politicized runaway needs into objects of potential state intervention" (173). Expert discourses include legal, social science, therapeutic and

administrative discourses that become the realm of certain specialized experts identified by their profession or position within the institution.

According to Fraser, experts within the institutional power structure are employed to implement and oversee expert discourses such as administrative policies. Fraser argues that experts provide a “bridge” between oppositional social movements and the state or institution. The expert’s role is to translate politicized claims into administrative language, therefore, according to Fraser, depoliticizing the demands. Fraser uses welfare workers as an example of experts occupying a “boundary role”. They translate the needs of the poor into limited administrable needs that fit bureaucratic policies and institutional policies.

Fraser’s propositions regarding the nature of “boundary” work carried out by experts within institutions suggests that individuals who work within institutional structures are constrained by the institutional context in ways that may cause them to become detached, depoliticizing arbitrators of politicized claims. The purpose of the research reported in this document is to explore the suggestion that workers in boundary roles engage only in work that depoliticizes the claims of oppositional social groups. By exploring in greater detail the work of anti-harassment practitioners at Canadian universities, I uncover moments of both institutional constraint and opportunity for institutional change in the practitioners’ work roles.

Fraser argues that workers occupying boundary positions within institutions such as universities are directed to translate the demands of marginalized groups into administrable demands that fit the prerogatives of the institution. However, Fraser acknowledges that “social movements sometimes manage to co-opt or create critical,

oppositional segments of expert discourse publics” (174). This may contribute to a “porousness” within those discourse publics. All experts (as defined by Fraser) must work with institutionalized policies which have potentially limiting effects on their work, factors such as a commitment to the politics of marginalized groups may also have an impact on the expert’s acceptance of “(re)depoliticizing” discourse. My research provides an empirical basis for arguing for nuanced understandings of the role of anti-harassment practitioner through the analysis of practitioners’ descriptions of the complex nature of their work and their negotiation of both institutional demands and the demands of marginalized groups. I illustrate that while some practitioners embrace a so-called “non-political” stance that makes their position similar to that of Fraser’s welfare experts, their work demonstrates various opportunities for commitment to the interests of less powerful members of the institutional structure. In short, if we consider anti-harassment practitioners to be ‘boundary workers’ as defined by Fraser, we should consider both their “depoliticizing” activities as well as their commitments to the politics of the marginalized and the activities which support the changes demanded by the politicization of their needs.

Attending to the complexities of boundary role work illustrates that struggles over the definition of needs and claims made by marginalized social groups are not closed nor are boundary workers completely co-opted by bureaucratic institutional prerogatives. The definition and redefinition of the claims of marginalized groups within institutions is illustrative of the negotiated and political nature of these processes. The work of practitioners in boundary roles can involve active “(re)depoliticization” of the issues:

however, practitioners' work can also support counter-hegemonic challenges to the status quo.

If we assume that anti-harassment workers' occupancy of boundary roles necessarily involves acceptance and reproduction of hegemonic interpretations of harassment and discrimination issues, we negate the influence of counter-hegemonic challenges to accepted discourse. While it is true that administrative policies such as those directing anti-harassment work are representative of bureaucratic restraints to anti-harassment initiatives, a more nuanced understanding of porous boundaries allows us to view anti-harassment practitioners as potentially both gatekeepers of administrative prerogatives and voices for the marginalized within institutions. This approach acknowledges practitioners' complex role in the contested nature of discourse within institutions and the larger society.

Mire Koikari and Susan Hippensteele (2000) provide a case study focusing on the work of the sexual harassment victims' advocate at the University of Hawai'i at Manoa. The study examines both how the advocate's work was limited by the institutional structure but also explores how the advocate managed to continue to politicize the issues of sexual harassment within the institution. Drawing on Fraser, Koikari and Hippensteele suggest that when grassroots mobilization meets or becomes part of the existing power structure of institutions like the law and the university, a clash arises between oppositional movement actors and experts who provide a bridge between the movements and the state. Koikari and Hippensteele's research examines a situation in which a student activist became part of the administrative structure of the university by stepping into the position of victims' advocate. The authors argue that "the institutionalization of

an oppositional voice simultaneously signalled a partial success of earlier mobilization efforts, but also the institution's attempt to co-opt and depoliticize the movement's political claim" (1274). The authors suggest, however, that anti-harassment practitioners are not as divorced from the political claims of their constituents as are Fraser's welfare experts. In other words, the welfare experts rarely come from the ranks of welfare recipients; anti-harassment practitioners may come from the marginalized group(s) which human rights policies are meant to protect.

Debra Meyerson and Maureen Scully's (1995) research provides us with another perspective on the position of anti-harassment workers in university organizations. The authors argue that workers who are situated within bureaucratic organizations and who are loyal to the organization while at the same time holding personal commitments to challenging the status quo are "tempered radicals". These individuals are torn between "working within the organization and working to change it" (586). In their research Meyerson and Scully interview individuals who have values and identities that conflict with their positions in organizations, such as feminist executives or left-leaning business school teachers. The authors argue that these individuals do not fit within the dominant culture of the organizations in which they work.

While Meyerson and Scully do not focus specifically on anti-harassment practitioners, their research provides some understanding of the challenges that anti-harassment workers may face in their role within a bureaucratic organization - a role that involves working toward organizational change. The authors argue that tempered radicals are "radical" because they challenge the status quo through both their intentional actions and through their identities. They are "tempered" because they are constrained by

organizational factors and because they often seek changes in more moderate ways. The position of tempered radical is challenging because the change that these individuals encourage may threaten the position and values of individuals within the organization who have a vested interest in maintaining the status quo. However, Meyerson and Scully argue that while tempered radicals challenge the status quo, they may also be critics of untempered radical change. This may be the result of a sense that radical demands can cause backlash and resistance. Therefore, tempered radicals can simultaneously be critics and advocates of both the status quo and of radical change. They may also be criticized by both radical and conservative factions both inside and outside the organization.

Tempered radicals are outsiders within, because they can combine the “knowledge and insight of the insider with the critical attitude of the outsider...While insider status provides access to opportunities for change, outsider status provides the detachment to recognize that there even is an issue or problem to work on” (589). This “outsider within” perspective may be amplified when the practitioner’s identity ties her/him to marginalized groups within organizations. For example, women, persons of colour, persons who are LBGTQ, or persons who are differently abled may feel particularly marginalized in the institution and, as a result, may retain more commitment to outsider values even though they are placed in bureaucratic positions within the organization.

Anti-harassment practitioners in universities fit the description of the tempered radical in a number of ways. Those who work in anti-harassment positions at Canadian universities are more likely to be women, members of visible minority groups, persons of Aboriginal ancestry, and or persons who are differently abled. Members of these groups

are represented at higher rates within anti-harassment or equity positions at universities than they are in other middle-management positions within Canadian universities (Agocs et al, 2004). Agocs et al's research also suggests that anti-harassment practitioners have change-oriented values, although not all the practitioners surveyed publicly identified as feminist or anti-racist. Practitioners' status as members of more marginalized groups, their change-oriented values, and their public identification as feminist and/or anti-racist may contribute to a feeling that they do not fit within the dominant values of the organization.

Further, the role of anti-harassment practitioner contains within it the duty to undertake organizational change. There is a range of possibilities for change that may be undertaken by practitioners: some may be concerned only with the compliance of the organization to legal requirements while others seek to engender deeper changes to the organizational climate. Limitations are placed on change-oriented work not only as a result of the practitioner's personal values, but also in relation to the external legal environment, the constraints of legally-oriented institutional policies and procedures, and the practitioner's place in the institutional hierarchy (Parker, 1999; Agocs et al 2004).

The assumption is often made that once an individual becomes part of a traditional organizational structure, s/he will be assimilated into the dominant values of the organization. In other words, s/he will be co-opted and her/his radicalized or politicized values and commitments will disappear. Meyerson and Scully (1995) argue that the compromises that tempered radicals must make in their daily work lives can lead to co-optation because the tempered radical learns to focus more on their insider, rather than their outsider, status. Workers may be co-opted by the adoption of organizational

language, which can “rule out other forms of talk” (592), or through the action of tempering their emotions or activist politics (i.e. being a “reasonable feminist”) (593). However, some of the authors’ respondents point out that, particularly when one is not part of the dominant group, co-optation isn’t that “easy”: in other words, due to their marginalized identities, tempered radicals often have trouble gaining acceptance as an insider. In the case of the anti-harassment practitioner, the position itself as well as the identity of the practitioner may hinder the individual’s ability to gain full insider status. Anti-harassment practitioners are often viewed by other members of their organizations as the “speech police” and are therefore viewed as a threat to organizational values. The role of the anti-harassment practitioner can include a large amount of time and effort spent trying to gain organizational legitimacy. Their role and place in the institutional hierarchy may make these practitioners less susceptible to co-optation.

The concept of tempered radical is useful because it allows us to explore the problem of affecting change from within an organization. It may be that Fraser is right, and that workers like anti-harassment practitioners, by virtue of their place on the boundary between politicized social movements and their demands for equality and the organization’s dominant values and administrative demands, are acting in a fashion that depoliticizes the social movement’s needs. However, Fraser’s work also allows for spaces in which the institutional expert might support the claims of the marginalized and Meyerson and Scully’s work provides us with a construct for exploring the contradictions of the role of Fraser’s expert within the bureaucratic institution. I argue, therefore, that exploring the notion of a tempered radical occupying a boundary role allows for a more interesting and potentially illuminating exploration of the nature of anti-harassment work.

In the research reported in the following pages, I explore the work of anti-harassment practitioners at Canadian universities through in-depth interviews. Throughout my analysis of their activities, I outline evidence that suggests how aspects of their roles reflect the position of boundary worker and/or of tempered radical. My intention is to provide a nuanced and complex understanding of the anti-harassment practitioner's position within the institutional structure and to explore the constraints and opportunities that these workers face as they undertake equity-oriented work in a potentially resistant organizational climate.

## **2.5 Concluding Remarks**

Harassment and discrimination policies at Canadian universities have their origins in activist work that politicized issues and brought them to the public's attention. Politicized claims were imported into the realm of law, resulting in a broader legitimacy for these claims. As a result of human rights cases that have established employer liability for harassment and discrimination that occurs within institutions, policies prohibiting harassing and discriminatory behaviour were developed and practitioners were hired to implement them.

The work of Fraser (1989) and Meyerson and Scully (1995) provide us with viewpoints on individuals who work with institutional policies. Combining the insights of these authors may assist in the explication of the complexities and challenges faced by anti-harassment practitioners as they negotiate a role on the boundary between institutional prerogatives and politicized claims from the margins. Both the institutional

position that the practitioner occupies and the identity and political viewpoint that the practitioner brings to that position can potentially influence the execution of their duties.

## **CHAPTER THREE**

### **Literature Review and Outline of Research Project**

#### **3.1 Introduction**

In this chapter, I outline existing literature on harassment issues, focusing on authors who study harassment and discrimination policies or anti-harassment workers. While there is a great deal of research on the nature of harassment, particularly sexual harassment, a review of the literature reveals that little research has been done on anti-harassment practitioners and their work in Canadian universities. In the latter portion of the chapter, I outline my own research and illustrate how this research fills gaps in the literature and adds to our knowledge of the complexities of the roles assigned to anti-harassment practitioners at Canadian universities.

#### **3.2 Traditional Approaches to the Study of Harassment and Discrimination Issues**

Over the past two decades, a number of academics have studied harassment and discrimination issues. As a result, researchers have come to a better understanding of what constitutes harassment and how victims cope. Thomas and Kitzinger (1997) and Sev'er (1999) provide useful summaries of work done in the field of harassment and harassment prevention. The majority of academic work on harassment focuses on sexual harassment: in fact, entire issues of journals have been dedicated to the discussion of sexual harassment (i.e. *Canadian Review of Sociology and Anthropology*, 1999, 36, 4) or to criticism of the issue (i.e. *Sexuality and Culture*, 1997, 1). There are far fewer studies on racial harassment (i.e. MadhavaRau, 1996; Gunaratnam, 2001), homophobic

harassment (i.e. Franklin, 2000), or racialized sexual harassment (Buchanan and Ormerod, 2002). A large body of literature focuses on the definition of harassment (i.e. Gruber, 1992) and on incidence and prevalence (i.e. Crocker and Kalemba, 1999; Timmerman and Bajema, 1999; Welsh, 1999; Welsh and Gruber, 1999, Welsh, 2000; Thorn, 2001). These works help to clarify what is considered to be harassment by complainants, the law and the general public, as well as “counting” the amount of harassment experienced and/or reported. Some authors examine the impact of law/jurisprudence (i.e. Patterson, 2000). Many articles focus on the experience of harassment in the workplace (i.e. Williams, 1997). An important recent work in this area, the Workplace Harassment and Violence Report (Carr, Huntley, MacQuarrie, and Welsh, 2004), provides information on women’s experiences with harassment, reporting processes, and coping strategies, as well as policy recommendations suggested by the interviewees. Other authors have focussed on perceptions of harassment (i.e. Wilson, 2000b), the experiences of those harassed, including psychological harm (i.e. McDermut et al, 2000; Timmerman and Bajema, 2000; Wilson, 2000a), or the psychological characteristics of harassers (i.e. Murphy et al, 1999). Other authors focus on particular social groups or spaces, such as the military (i.e. Firestone and Harris, 1999), athletics (i.e. Masteralexis, 1995; Krauchek and Ransom, 1999), or the academy (van Roosmalen and McDaniel, 1998; Kihnley, 2000).

### **3.3 Discursive Approaches to Studying Harassment**

One alternative to traditional research focuses on discursive issues around harassment and discrimination. In general, this research focuses on the issue of sexual

harassment. Authors who have examined sexual harassment as a discursive practice have provided an important contribution to the study of harassment because this type of analysis moves beyond the perspective that the meaning of language is self-evident and straightforward

Shereen Bingham (1994) argues that the examination of sexual harassment as a discursive practice differs in important ways from other conceptions of sexual harassment. She outlines the conceptualizations of sexual harassment that arise in social science research. She asks that we explore our conceptual frameworks in producing research on harassment because “our conceptual frameworks for studying sexual harassment are likely to generate particular ways of understanding and studying the phenomenon which, in turn, serve and legitimate the concerns and interests of some groups more than others” (2).

Bingham proposes that when researchers who are not necessarily feminists conduct studies on sexual harassment, they often cite legal or feminist definitions of sexual harassment. These researchers refer to themselves as “social scientists” or “academics”, and have created a broad conceptual framework for studying sexual harassment that Bingham refers to as “functionalism”. This use of the term functionalism is borrowed from Putnam (1983) to refer to “a generalized paradigm based upon positivist orientations to research” in which “functionalist researchers tend to view social reality and social structures as existing independent from the processes that create and transform them” (4).

Bingham argues that functionalist conceptualizations of sexual harassment consist of behavioural, psychological and structural elements. Behavioural conceptions treat

sexual harassment as something that harassers do:

Researchers developed survey instruments which divided sexual harassment into units, and they explored these units separately and in relation to each other. They asked who was being harassed, by whom, what the harassers were doing, how often they were doing it, where the harassment was happening, how victims were responding, and with what effects (5).

The psychological approach to the study of sexual harassment examines the “conceptual filter” of victims and observers, with a particular focus on issues such as “unwelcomeness”, “hostile environment”, and the “reasonableness” of the victim (5), while the structural approach “focus[es] on the reified social and organizational structures that give rise to or enable sexual harassment, such as power structures, sex roles, sex ratios, and types of jobs. The structural emphasis is reflected in theories that attempt to explain how and why sexual harassment occurs” as well as studies that “explore the effects of organizational and social power structures on the nature and occurrence of sexual harassment” (6). Structuralist researchers see power structures as pre-existing entities, in which dominant group members are “ensured control over the solutions to sexual harassment that will be endorsed and implemented” (8).

Bingham proposes the use of discursive conceptions of sexual harassment instead of structuralist ones, because the discursive approach sees social structures as being produced and reproduced in discursive practices. This would allow researchers to acknowledge that discourse not only reproduces oppressive conditions but can also contribute to their transformation (10).

Julia Wood (1994) also encourages researchers to take up a discursive approach to the study of harassment. Following Foucault, Wood argues that “in discourse something *is formed*...what is formed are rules that organize and regulate social life to define ‘how

things work' and 'who we are'" (19).

Exemplary of the ideological power of discursive activity is the history of sexual harassment. Until quite recently, incidents of sexual harassment were unquestioned as part of "normal" life. They were not named as aberrations, but instead were treated as "how things work" in men's conduct toward women (19).

Wood examines the development of the term "sexual harassment" and the case law associated with it. "Using words to establish what sexual harassment is, court rulings exemplify how discourse constructs, contests and re-forms social meanings" (20).

Wood argues that using a discursive conception of sexual harassment involves recognizing that: 1) discourse is both situated within material and social practices and is an ideology and consciousness-producing material practice itself; 2) discourse produces and reproduces ideologies and social organizations; 3) discourses constitute subjectivities; 4) discourses play a role in social and self control and instill in individuals the "normalcy" of social practices and; 5) discourses are neither neutral nor universal: discursive constructions represent the interests of only certain positions within a society (25).

Conditions that legitimate sexual harassment, as well as the ideology underlying them, are produced and reproduced in social-discursive practices. Understanding cultural narratives as ideologies, both centered and marginal, exposes the potential of discourse to sustain prevailing social order, yet also highlights its power to foment change. For this reason, discursive theory imparts a distinctly critical edge to efforts to understand, critique, and alter conditions, identities and practices that enable sexual harassment (29).

Linda Eyre (2000) examines the discursive framing of sexual harassment in the university setting, with a particular focus on a case of sexual harassment at a Canadian

university. She argues that an examination of discourse around sexual harassment shifts the focus away from individuals and structures to a focus on forms of knowledge and relations of power (294). Eyre argues that a discursive approach sees power structures as more malleable and open to the influences of human activity (296). Her purpose is to show how dominant discourses shaped public understanding of the case and how this reinforced hegemonic power relations (295). The discursive approach goes beyond the event to an understanding of how social reality is created by discourse as well as influenced by it (296). Eyre (following Foucault) argues that power is pervasive, but does not operate through force. Institutional discourses or systems of knowledge are the key to power. Dominant discourses infiltrate behaviour, ideas, beliefs, etc. to the point that they appear to be natural. Subjects are constituted through these discourses and surveillance becomes internalized. Therefore, we must study power in the local sites where it is exercised. In this process, we must understand that subjects are not merely passive receptors of institutional domination - people both resist and become complicit in their own regulation (297).

Eyre points out a number of approaches to dealing with sexual harassment. The most common approach on university campuses is an individualistic and legalistic one (295). However, other matters are also considered: a focus on policy and procedures suggests that sexual harassment can be controlled or ended through better management; a focus on education suggests that knowledge alone can create change; efforts to develop a “positive learning and working environment” suggest that sexual harassment is a gender-neutral issue without connections to relations of power (296). All of these approaches fail to examine issues related to power.

Eyre encourages more work that attempts to understand the discursive process around matters of sexual harassment because “research that investigates how policy administrators frame sexual harassment and how this shapes the work that they do may assist them in understanding how their constructions of sexual harassment benefit some while marginalizing others” (304). The way that harassment and discrimination gets framed affects how we are allowed to think about it and what we can or will do about it (306).

While the research reported in this document does not claim a discursive focus, my thoughts around the work that I have done with regard to the nature of the roles of practitioners has been influenced by the authors mentioned above regarding issues around the framing and analysis of harassment and discrimination issues. For example, as I undertook the data analysis, I was cognizant of how policy documents define harassment and discrimination and the role of the anti-harassment practitioner, as well as how practitioners themselves frame ideas about harassment and discrimination issues, educational sessions, and/or think about the nature of their role in general.

### **3.4 Studying Harassment Policies**

In order to understand the work that harassment practitioners do, it is important to understand the limitations that institutional policies may place on their roles. Critical research on harassment and discrimination policies is scant. Some authors (i.e. Sandler and Shoop, 1997) discuss the policy development process; others focus on policy content, (i.e. Robertson et al, 1988); still others try to determine whether or not particular policy forms are working (i.e. Kors, 1991; Mitchell, 1997). The majority of this work focuses on American institutions. Much of this work comes from a management perspective, and

focuses on how to create policy that will live up to legal obligations regarding harassment prevention.

Eleanor Lewis (1998) provides a general examination of law and sexual harassment policy. She outlines the increasing institutionalization of sexual harassment policies by performing textual analysis on policies from 99 U.S. universities. The author relates changes in policies to changes in law and to developments at peer institutions (1). She argues that with each policy revision, the text of policies becomes more elaborated and that over all, universities are coming to a consensus on policy features (1). She relates changes in policy to the legal environment. Lewis' analysis of policies indicates that "policies respond to the events in the legal and regulatory environment by incorporating legitimated textual features" (5). The most prominent of the features that were being increasingly incorporated into university policies were legal and procedural formalization and references to academic freedom (16).

Robin Clair's (1993) examination of institutional discourse around sexual harassment provides an analysis of the policies, procedures and brochures at nine major U.S. universities. She argues that the "social relations that constrain the well being of victims of sexual harassment are perpetuated through discursive practices that range from interpersonal exchanges to juridical and legislative enactments, to managerial policies" (124). Clair is particularly interested in managerial discourse as it is manifested in policies, procedures and other written materials distributed within the university setting.

Clair argues that bureaucratic nature of the institution can result in the placement of the power to eradicate the problem of sexual harassment in the hands of those who may in fact perpetrate it. Both sexual harassment and the institutional discourses that

surround it perpetuate patriarchy: “Institutional discourse intended to rectify the problem of sexual harassment is ironic because it is saturated with patriarchal ideology” (127). Bureaucracy legitimizes lengthy documentation, rationalization, hierarchy and impersonalization. Bureaucracy hides power imbalances in the organization; institutional discourse is applied to sexual harassment to control and rationalize it (129). Acts of sexual harassment, which perpetuate patriarchy, are supposed to be rectified by bureaucratic control, which is another form of male dominance. Clair argues that sexual harassment is still labelled as personal and/or private, which pathologizes and individualizes women’s reactions to an experience that is common and shared (131).

Clair’s method involves examination of the policies, procedures and brochures from nine U.S. universities. The author’s intention was to shed light on how discourse might contribute to the oppression or emancipation of sexual harassment victims through bureaucratization, objectification, or privatization of the issue. She examines the most common advice given to victims of sexual harassment: 1) say no, 2) keep a record and 3) report it (137)<sup>4</sup> This approach sets up a hierarchy of solutions, which suggests that a complaint should not be taken to “higher” levels until “lower” levels have been exhausted (140).

“Say no” assumes that the harassment will stop if the victim is more assertive and that the harasser is misguided and not participating in patriarchal oppression (139). Clair argues that this approach encourages the bureaucratization of harassment as neutral, innocuous, and easily manipulated behaviour, as well as perpetuating the privatization of the issue by encouraging the victims to handle the situation by themselves (140). “Keep a record” is consistent with bureaucracy because it privileges written record over oral

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<sup>4</sup> This three-step approach is also common in Canadian university policies related to sexual harassment

tradition and suggests a certain lack of credibility in the oral report. This envelops sexual harassment in an endless trail of written accounts and records (141): the more documentation, the more “real” the harassment (142).

“Report it” situates sexual harassment within institutional discourse. According to Clair, this statement implies that once the victim reports the incident, s/he is rid of its effects (146). This solution privatizes sexual harassment by placing the complainant in a one-to-one situation with the person in authority.

For Clair, discourse frames events and experiences. She sums up her study with the argument that bureaucracy (a patriarchal means of organizing) is used to frame the solution to sexual harassment; the public discourse around sexual harassment serves to privatize the problem (146).

Alison Thomas (2004) explores the development and implementation of sexual harassment policies in the U.K. She argues that key differences in how policies were conceived and implemented affect the impact of policies within institutions. Specifically, Thomas examines several approaches to the definition of harassment within policies. One approach constructs harassment as a community concern. In this case, definitions of harassment were prefaced with caveats about the contested nature of harassment. This emphasis on ambiguity allows people to seek advice in “grey area situations” (151). These policies also were more likely to be managed by Equity staff than by Administrative officers. In contrast, policies that were constructed in a more “top-down” fashion (i.e. by senior level administration rather than through a consultative process) employ definitions of harassment that emphasize the legal implications of harassment as a form of discrimination. Thomas argues that “top-down policies tend to convey the

message that harassment is essentially an individual problem involving interpersonal conflict which, if sufficiently troublesome, can be arbitrated by one's employer" while "the message the consultative policies generally convey is that a climate in which harassment exists is detrimental to the university community as a whole, thereby constructing harassment as more than just an individual problem" (153).

Thomas concludes that the method of development and of implementation of policies affects university members' trust and use of the policy. She argues that efforts to promote awareness and understanding of policy and procedures will increase effectiveness. She suggests that there exists "some degree of institutional reluctance to adopt a more 'proactive' stance in promoting the harassment policies, especially in the case of universities with 'top-down' policies" (156). This reluctance may result from administrators' reluctance to put the resources towards harassment and discrimination issues that would be needed if more people reported harassment. She concludes by asserting that "however good a policy looks on paper, if it has no credibility within the university community it will remain unused and thus effectively useless" (157).

### **3.5 Harassment and Discrimination Practitioners**

Anti-harassment practitioners are key informants on the contradictory nature of harassment and discrimination work at large institutions. However, there is a dearth of sociological research involving this very important source of information. Some studies exist in organizational development literature regarding the role of "change agents" within bureaucratic institutions. This literature generally focuses on the role of the organizational development consultant in assisting the management of large private corporations with the implementation of change that will be resisted by the rank and file

members of the organization. In this case, change agents advise management on how best to communicate the changes to members of the organization, to allow for a grieving process for employees, and to reward employees for supporting change efforts (Church and Waclawski, 1996).

As Agocs et al (2004) point out, much of this organizational development literature focuses on the personal characteristics of the change agents and does not explore the institutional context within which their work occurs. For example, Esther Hamilton (1988: 37) explores the “personality characteristics and behavioural tendencies” of organizational development consultants in the U.S. Navy. Hamilton suggests that the most effective organizational development consultants possess three important personal characteristics: first, the ability to be open and responsive to the needs and concerns of other; second, comfort with and the ability to make sense of ambiguity, and finally, comfort with themselves in relation to others. These characteristics played out in behaviours such as empathy, trust, flexibility, self-reliance, spontaneity, and the use of intuition and imagination to deal with people and situations. Wooten and White (1989) explore the change role efficacy of organizational development consultants. The authors suggest that the change agent’s ability to deal with ambiguity and their choices of behaviours at different stages of organizational change have the greatest impact on their efficacy. Church and Waclawski (1996) conducted a survey of organizational development practitioners regarding their understanding of issues in the management of change within organizations, suggesting that the change agents understand change processes better than managers

Few studies have been conducted that focus specifically on the work of anti-

harassment practitioners. Christine Parker (1999) interviewed thirteen equal opportunity office (EEO) practitioners in the Australian financial services sector in order to explore corporate compliance programs regarding sexual harassment within institutions. Interviews revealed that EEO officers saw their role as ensuring that complaints were dealt with internally, therefore saving the organization from the negative publicity that could result from a case being litigated externally. Further, the EEO officers tended to emphasize “respectful workplace” values rather than gender equality ideals, suggesting that the best way to ensure compliance was to emphasize legal obligations and the benefits to the business. EEO practitioners in this study were hesitant to be seen as “crusaders” for feminist goals. Parker concludes that EEO officers are most effective at ensuring compliance when they have institutional “clout”. She suggests that her respondents had been “poor at connecting with and empowering employees within the corporation” (41).

Jennie Kihnley (2000) interviewed practitioners at universities on the west coast of the United States, exploring formal and informal processes for dispute resolution within sexual harassment policies. She argues that practitioners act in good faith but

internal grievance procedures are obstructed by an inherent conflict within the institution as it tries simultaneously to eliminate sexual harassment from the work and academic environment and to insulate itself from liability...This tension between complainant empowerment and concerns about legal liability is built into the institutional fabric of the university as its practices, rules and interests systematically constrain the handling of sexual harassment complaints (70).

Kihnley argues that these conflicting goals are reflected in the difference between formal procedures (written complaint) and informal procedures such as mediation or alternative dispute resolution (ADR). The author is not convinced, however, that ADR is

the best route to take in cases of sexual harassment because it has a tendency to “privatize” the conflict.

Kihnley notes that those practitioners who were Women’s Resource Center personnel were more likely to see themselves as advocates for complainants, while Title IX officers (equivalent to Canadian universities’ Human Rights Officers/Coordinators) were more likely to see their role as neutral (78). Title IX officers are charged with overseeing the university’s responsibility with regard to human rights and discrimination. Therefore, their work is more constrained by policy and law than resource centre personnel, who are charged with advocacy for complainants. Both types of respondents express their sense of contradiction between needs of the complainant and needs of the institution. This contradiction leads to contradictions in policies and procedures:

The university’s conflict of goals is also reflected in the two primary types of dispute resolution. Institutions offer an informal process that does not require a written complaint so that the complainant can remain anonymous. However, in exchange for providing anonymity, the university is usually relieved from formally determining if the sexual harassment occurred. Since the behaviour remains unlabeled, the accused - who may be a repeat offender - has a clean record with regard to sexual harassment. Imposing discipline commensurate with behaviour is difficult in this case, because there technically is no first offence of sexual harassment. In addition, a formal process is available for resolving sexual harassment complaints but requires a determination of whether sexual harassment did or did not occur. This process may be vulnerable to power inequities as the complainant is treated as a legal threat to the institution and the institution protects itself by defending an organizationally powerful respondent (88).

Sylvia Fuller’s Master’s thesis (1996) examines the work experiences of practitioners, demonstrating that practitioners negotiate a number of contradictions as they deal with sexual harassment policy. Fuller interviewed 11 sexual harassment

practitioners working at Canadian universities regarding their experiences with trying to accomplish feminist-oriented change in male-dominated universities. Fuller points out that policy frameworks do not completely determine the actions of practitioners; to the contrary, the practitioners' work becomes the policy in many instances. The practitioners in Fuller's study expressed the conflicting demands placed upon them by interest groups in the university: administrators want practitioners to protect the university; women's groups want them to advocate for complainants; male faculty want them to demonstrate complete neutrality. These conflicting demands, coupled with hostility and resistance to the policy, and the underfunding of offices, left many of the practitioners feeling overworked and exhausted.

Fuller offers several critiques of policy. In particular, the non-contextual, legally abstract form of sexual harassment definitions in policy are sometimes inadequate to the everyday situations faced by practitioners. Practitioners indicated that these limited and limiting definitions made it difficult to deal with complex, messy, real-life cases. Practitioners expressed concerns with the increasingly legalistic nature of policies. Some participants argued that policy revision was the "solution [that] could be a trap" because "the increased codification that accompanied policy revision led to increasingly legalistic approaches that were more useful in terms of protecting the university from litigation than in terms of ending harassment" (22). Participants expressed concern that policy development creates a process of control through which the institution absorbs the issue of sexual harassment and organizes the political struggles around it. Many practitioners felt that pressure was placed upon them to conform to the values of the institution. Practitioners are caught between clients and the institution and between policy

interpretation and policy constraints. My research further explores these contradictions in anti-harassment work.

Paddy Stamp's (2001) Master's thesis examines the educational component of the administration and enforcement of human rights policies by examining statements made in harassment and discrimination law and policies about enforcement mechanisms, and by speaking both formally and informally with university human rights practitioners about human rights education. Stamp argues that comparison between written materials and education practice is telling: written materials are dogmatic and legalistic, while the content of educational sessions is wide-ranging; written materials focus on conduct as the problem, while education concentrates on understanding (15). She suggests that human rights policies attach significance to education that positions educators as agents of governance in their institutions:

All of the people I interviewed, and the vast majority of their counterparts in universities across Canada, have responsibility both for education and for actually receiving, managing, and in some cases, resolving or adjudicating complaints. They are thus - whatever the approach they take in classrooms - positioned a priori as enforcement officers within a framework of authoritarian command. At the same time, however, in no case do the policies from which they derive their authority specify the content or form of the education they are enjoined to provide (17).

According to Stamp, practitioners have a tendency to see themselves as facilitators rather than as disciplinarians. Therefore, their educational approach is more liberatory than authoritarian. That is, practitioners generally seek to “emancipate learners from the constraints of habit and rule so that she or he may be free to think new thoughts” (4) rather than using “instruction as a means of securing social order” (3). However, Stamp argues that practitioners will revert to authoritarian education or “rule giving” in certain situations:

The sexual harassment educator and policy enforcer is simultaneously arguing for the modesty of the law's requirements and urging students to join a project of political and institutional change...where students - as they often do - evidence signs of resistance to the material that is being presented to them, educators will have rapid recourse to the discourses of law and authority that they are otherwise trying to de-emphasize...both the institutional positioning of educators and the wider political and legal contexts which construct their jobs contribute to and reinforce an uncomfortable and uneven alliance of authoritarian with liberatory teaching strategies (21).

Interviews in my own research explore further the educational role assigned to anti-harassment practitioners.

Perhaps the most important study of anti-harassment practitioners in the Canadian context is Carol Agocs, Reem Attieh and Martin Cooke's (2004) survey of equity workers at universities. The authors focus on practitioners as agents of organizational change and emphasize the challenges practitioners face in attempting to bring about positive, equity-oriented change in large universities. The authors suggest that harassment and discrimination policies and practitioners represent a visible but minimal way of satisfying marginalized groups in large institutions. Agocs et al suggest that the equity practitioner "must maintain credibility with disadvantaged groups as their advocate in the organization while maintaining her legitimacy with organizational insiders" (207). According to the authors, equity occupations are anomalies in universities: challenging racism and sexism embedded in organizational practice leads to frequent attacks on equity programs and practitioners from more powerful members of the community, while less powerful groups may see the existence of an institutionalized role as a form of "co-optation" and a "mechanism for marginalizing and containing pressures for change" (207).

Sixty-nine practitioners participated in the research by answering survey

questions. Of these participants, half had participated in political activism and identified as feminist and/or anti-racist. Seventy-four percent were able-bodied white women. Fifty-six percent had personally experienced discrimination based on gender, 14.5 percent on the basis of race, and 20 percent on cultural background. The authors argue that in general, equity practitioners have change-oriented values. However, in an attempt to move beyond traditional organizational development research on change agents, the authors suggest that it is not simply the personal orientation of the practitioner that matters. Rather, their place within the institutional structure and the support that they receive from senior administrators is instrumental in implementing equity-oriented change. The authors explore practitioners' mandates and suggest that those whose roles involve meeting with various stakeholders within the organization and dealing with the Federal Contractor's Program requirements have organizational mandates, while those who are tasked with dealing with individual concerns inhabit positions of less organizational power. Survey results indicate that Aboriginal persons, members of racialized minorities and those who are differently abled were more likely to have lower power ratings, mandates relating to individual concerns, and were less likely to be hired to manage the organizations general equity mandate.

Agocs et al suggest that the role of equity practitioner may be viewed as a boundary role because the practitioner must manage the tension between organizational insiders and more politicized outsiders who are members of marginalized groups. The authors suggest a number of hypothetical roles that can be useful for further analysis of the role of equity practitioners, including, among others, "toxic handler"<sup>5</sup>, "administrative

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<sup>5</sup> Individuals who shoulder the frustration and anger of others and by so doing, save the organization from self-destructing

ally<sup>6</sup>”, technician<sup>7</sup>”, and “incremental reformer or tempered radical<sup>8</sup>”. My research adds to the work of Agocs et al by exploring the application of the notions of boundary worker and tempered radical as tools to help us understand the actions of anti-harassment practitioners in the context of their contradictory position within institutions.

### **3.6 Studying Practitioner Roles**

The contribution of my research to the literature on harassment and discrimination practitioners lies in its in-depth exploration of the roles assigned to and enacted by anti-harassment practitioners under institutional policies. Through interviews with practitioners at Canadian universities, I explore their reactive and proactive roles as they are structured by policy prerogatives and carried out on a daily basis. As Fuller’s research (cited above) indicates, practitioners are bound by policy, but their everyday actions are more creative than policy seems to allow. My research explicates this issue more fully and also builds upon Agocs et al’s (2004) survey, providing qualitative data that can enhance our understanding of the contradictory nature of anti-harassment work. My research therefore fills an important gap in the literature on harassment and discrimination in the Canadian context because I explore interview data collected on the various reactive and proactive roles that anti-practitioners are enjoined to undertake and the constraints under which they are asked to achieve organizational change. I use this data to explore the contradictions and complexities of anti-harassment work. I apply Fraser’s (1989) concept of boundary work and Meyerson and Scully’s (1995) category of

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<sup>6</sup> Individuals who give priority to the interests of senior administration.

<sup>7</sup> Individuals conduct employment equity research, maintain databases, and prepare annual reports.

<sup>8</sup> A full description of the role of tempered radical is offered in Chapter 2.

tempered radical to the work of anti-harassment practitioners in an attempt to explain these complexities and to provide a more nuanced understanding of the challenges that practitioners face in their everyday work lives within institutions

While all experts (as defined by Fraser) must work with institutionalized policies which have a limiting effect on their work, factors such as a commitment to the politics of marginalized groups may have an impact on the expert's acceptance of "(re)depoliticizing" discourse. My research provides examples of the complexities of anti-harassment work by analyzing practitioners' descriptions of the complex nature of their work and their negotiation of both institutional demands and the demands of marginalized groups. I illustrate that while some practitioners embrace a so-called "non-political" stance that makes their position similar to that of Fraser's welfare experts, others retain varying levels of commitment to the politics of the marginalized whose interests they attempt to represent. Therefore, I argue that there may be some flexibility in boundary roles, and that the concept of tempered radical is one way to approach an understanding of how individuals negotiate the complexities of anti-harassment work in large bureaucracies. Combining the two concepts allows us to examine both institutional structure and the individual's response to it.

Attending to the complexities of boundary role work illustrates Fraser's argument that struggles over the definition of needs and claims made by marginalized social groups are not closed or completed. Boundary workers are not completely co-opted by institutional prerogatives. The definition and redefinition of the claims of marginalized groups within institutions is illustrative of the negotiated and political nature of these processes. Workers in boundary roles can be active "(re)depoliticizers" of the issues

and/or supporters of counter-hegemonic challenges to the status quo. My research suggests that the boundary position occupied by equity workers may be somewhat porous and fraught with contradictions.

Much of my work was inspired<sup>9</sup> by Dorothy Smith's (1987, 1990, 1999) analysis of social relations. In traditional sociology, data collected by observing others is brought to an institutional "location" (sociological discourse), where this knowledge is mobilized for purposes of administration and ruling. Smith encourages us to explore social organization by using the experience of particular persons as the entry point to social organization. My research explores the anti-harassment practitioner's position in the university institution as enactor of policy and procedure, mediator of disputes between various factions in the institution, and educator of the campus community.

In order to examine anti-harassment practitioners' work experiences in Canadian institutions, I conducted 21 interviews with harassment and discrimination practitioners working at universities across Canada. Twelve participants were from BC, Alberta, Manitoba, and Saskatchewan; nine participants were from Ontario, Quebec, and the Maritimes. The choice to represent different regions of Canada in the interviews arose from several years of attending the Canadian Association for the Prevention of Discrimination and Harassment in Higher Education conference and observing that there seemed to be distinct differences in policy structures in varying regions, and that this had an influence on the nature of practitioners' work. These differences in policy are related to differences in legislation from province to province. For example, as outlined in Chapter Two, Labour Standards or Occupational Health and Safety regulations in some

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<sup>9</sup> While I have been influenced by Smith's methodological point of departure, I do not claim that this dissertation represents an example of institutional ethnography.

provinces require that institutions deal with personal harassment.

Table One provides a summary of information about the research participants.

**Table One: Research Participants**

Interview #	Gender	Educational Background	Years Experience	Paid or volunteer	Policy Category
1	F	Psychology	2.5	paid	C3
2	M*	Social work	15	paid	C3
3	F	Psychology	16	paid	C3
4	F	Law	7	paid	C3
5	F**	Women's Studies	10	paid	C2
6	F	Business Admin	8	paid	C2
7	F	Psychology	9	paid	C2
8	F**	Sociology / Law	12	paid	C1
9	F*/**	Women's Studies	10	paid	C2
10	F	Psychology	10	paid	C2
11	F	Sociology	15	paid	C2
12	F	Psychology	14	paid	C3
13	F	Sociology	13	paid	C3
14	M	Natural Sciences	10	volunteer	C3
15	F	Sociology	9	paid	C2
16	F	Languages	11	paid	C1
17	F	Support Staff	4	volunteer	C1
18	F	Law	8	paid	C3
19	F	Social Work	9	paid	C2
20	F***	Women's Studies	4	paid	C1
21	F*	Psychology	15	paid	C2

F Female

M Male

\* Person of Colour

\*\* Identifies as Lesbian, Bisexual, Gay, Transgendered, or Queer

\*\*\* Identifies as Differently Abled

C1 Category 1 (Sexual harassment only)

C2 Category 2 (All prohibited grounds)

C3 Category 3 (All prohibited grounds plus personal harassment)

Note: I do not include information regarding the region in which the practitioner is employed, as this might lead to identification of respondents

I did not approach the interview process as a traditional 'neutral' or 'objective' scientist, simply following an interview schedule and deflecting questions put to me by participants. Having been trained in feminist research methods, I was interested in

reducing hierarchy in the research process and co-constructing meaning with my participants. As a result, I answered questions put to me by participants about my background, my own experiences as a practitioner, and/or the purposes of my research. As Oakley (1980) and Reinharz (1992), among many others, suggest, research procedures which emphasize the participants' agency, such as dialogic interview processes, are preferable because participants are treated less as objects and more as knowing subjects. I tried to approach the research respectfully, with the view that the participants are the experts in their field and their experiences. Therefore, in the interview conversations, I did not attempt to redefine practitioners' perspectives on their experiences. I did ask questions that would help me to clarify that I understood their comments and/or that I had not misinterpreted their perspectives.

The majority of my respondents are able-bodied white women. This is not unrepresentative of people doing harassment and discrimination work in Canada (Agocs et al, 2004). Four people of colour participated. Two men participated. Three participants identified publicly as queer. One participant identified as differently abled. Respondents represent various educational backgrounds: six are trained in psychology, three in women's studies, three in Sociology, three in law, two in social work, and one each in languages, natural sciences, and business administration. One interview participant was a member of the institution's support staff. Nineteen of the respondents were paid employees of the university. Two participants were volunteer harassment advisors at their institutions. In these two cases, there was no paid practitioner within the institution.

Feminist and anti-racist research is based on the principle of reflexivity. That is,

the researcher should be aware of her/his own values and social location in order to identify the biases that the researcher brings to the process. One's social location and biography is part of knowledge construction, and biography and social background shape the style of research, the questions asked, and the researcher's agenda vis-a-vis the data. I am a white, middle-class, straight, Canadian woman, with an academic background in sociology and experience as a sexual harassment officer. Although my interactions with friends and colleagues from various cultural groups and the queer community have sensitized me to many of the issues that they face, my privileged background and social location influence my perspective on issues and the research process. As a result, I attempted to be transparent about my identity and background with my participants as well as being self-reflexive throughout the research process. Acknowledging and openly discussing differences between researcher and participant is important. My efforts to be transparent with my participants about my own social location and identity allowed us to discuss how our experiences as anti-harassment practitioners and as people were similar and different.

Traditional research in disciplines like sociology has sought to minimize differences between researchers and participants. Feminist and anti-racist researchers recognize the importance of differences and argue that differences should be explored and embraced, not ignored (Hesse-Biber, 2006). Insider and outsider status in the research process must be acknowledged. Being an outsider – that is, not sharing crucial characteristics with respondents – can have the consequence of producing shallow research or suppressing the authentic voice of the interviewee (Rose, 2001). Without sharing these characteristics, the researcher may never be able to achieve real empathy or

understanding in relation to the respondents. In some cases within my own research, I was clearly an outsider. Differences between myself and my participants based on ‘race’/ethnicity, sexual orientation, and/or class may have created barriers to gaining the confidence or trust of my participants. My educational status as a PhD student may have been problematic depending on the participant’s views regarding any disparities in our educational backgrounds. In addition, some participants may have viewed my position as an academic researcher as problematic, particularly those participants who view themselves as activists. Although none of the participants openly questioned my motives in doing the project, I am aware that some activists view academic researchers with suspicion due to worries that activist work will be co-opted and redefined through academic interpretation.

Most of my participants welcomed the opportunity to participate in the research and did not express any reservations about confidentiality or anonymity. In fact, on several occasions, a participant would say “and you can quote me on that!” regarding an issue of particular importance to her/him. Two participants, however, expressed reservations about talking to me. Their reluctance was related to fears that their criticisms regarding the lack of support they experienced from the upper echelons of their respective institutions would be discovered by their superiors. Further, the practitioners were concerned that the revelation of their criticisms might lead their superiors to sabotage the work being done by the practitioner or office. In one case, the participant was willing to talk about these issues, but insisted that the tape recorder be shut off during that portion of the interview. This practitioner also vehemently opposed my use of any of the statements made during the non-taped portion of the interview. Therefore,

for ethical reasons, I have not been able to include that material in my analysis.

My experience as a practitioner (as an insider, at least on some level) was useful in relation to gaining access to other practitioners and convincing them to participate in the research project. My background in anti-harassment work was also useful in terms of understanding the professional language used by participants in their discussions of harassment and discrimination issues. My long term and on-going affiliation with the practitioners' association (CAPDHHE) and my participation in different circles within this group (with both new practitioners and the founding members of the association) would not allow me to claim that I did not have any connection to the participants in this research, even when I did not know them personally. Some of the drawbacks to having insider status include a tendency on the part of the researcher to be blind to certain attitudes and behaviours among participants which can lead to a lack of critical analysis of the data. The researcher may assume that all persons in the same social category share a common perspective. It is therefore important to be wary of essentialism (Rose, 2001).

Ultimately, it is important that we acknowledge that our insider/outsider status is, in fact, fluid (Hesse-Biber, 2006). It is hard to know which attributes of the researcher will be important to a respondent, and the researcher's position as insider or outsider will vary based on a number of different issues that arise during the interview. Therefore, there may have been moments in the interview process in which a respondent could relate to me and moments in which the same individual would be very aware of our differences.

The interviews were conducted between January and December 2002. Participants were recruited as part of a convenience sample in which I attempted to represent universities from all across the country. I contacted the designated anti-

harassment practitioner in each office by mail and email, requesting an interview. Some potential respondents were contacted based on my ability to meet with them in person (for example, because I would be travelling to that part of the country for a conference). Whenever I could travel to meet with a practitioner in person, I did so. However, given that I wished to represent different regions of the country in the interviews, the cost of travelling in person to all areas of the country became onerous. Thirteen of the interviews were conducted in person, usually in the practitioner's place of work, and eight were conducted by telephone. The shift to the use of the telephone to conduct interviews was primarily due to lack of resources.

All interviews were taped with the participant's consent. All participants were guaranteed confidentiality. To facilitate confidentiality and anonymity, identifying information was removed during the transcription process and where quoted, the practitioners are identified by interview number. The interviews were 1 ½ to 2 hours long and were semi-structured. I constructed 32 questions to guide the interviews, but I also allowed space for participants to introduce new trajectories on particular topics. Topics discussed in the interviews included the practitioner's educational background and experience in the field; the nature of the practitioner's work within their institution and any changes to the operation of their office; the type of policy that the practitioner worked with and whether and what changes had been made to the policy; and the forms of institutional support (or lack thereof) that their offices receive.

The interviews were later transcribed for analysis. Analysis of the interview data involved listening to the interview tapes as well as reading and rereading the interview transcripts in a search for emerging patterns and themes. These themes were then used to

code the interview data. Themes that emerged were as follows: practitioners' roles in investigation, mediation, and education; 'prevention' of harassment; concerns with neutrality; views on activism; empowerment of complainants; and support or resistance in the institutional culture. These themes raised questions regarding institutional limitations to harassment practitioners' work and the differences in the identities of the individuals who take up positions as anti-harassment workers. These observations became central to the analysis of the interview data. While I began the research process with some hunches about what was happening in the arena of harassment and discrimination work, I did not have a firm perspective into which I tried to fit the data. Rather, the themes that emerged through the coding of the data guided the analysis.

To provide context for the interview information, I examined 44 harassment and discrimination policies from across Canada.<sup>10</sup> Based on information provided by the Association of Universities and Colleges of Canada (AUCC), I chose 45 institutions from which I would collect harassment and discrimination policies. The AUCC includes colleges, universities and technical schools across Canada. For the purposes of the research, I examined policies from English universities only<sup>11</sup>. I chose to separate colleges and universities because my working experience in both kinds of institutions, including paid and unpaid harassment and discrimination work, has led me to see that the different types of institutions often have different approaches to harassment and discrimination issues and policies. Further, my respondents all worked in university contexts, although some had also worked in college institutions at some point in their

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<sup>10</sup> I examined the policies and the interviews simultaneously, moving back and forth between them such that each set of information would inform my understanding of the other

<sup>11</sup> My lack of knowledge of French limited my ability to deal with policies from French-speaking universities.

careers. I obtained policies from 44 of the 45 institutions originally considered. I was unable to obtain a policy from Royal Roads University because although their website alludes to some kind of harassment and discrimination policy, I could not obtain a copy of the document (if it exists), despite several attempts to contact the institution.

Due to a lack of time and resources, I do not provide a detailed analysis of policy documents in this dissertation. However, I do include information on the types of policies with which practitioners work as a means to provide context for that work. I will refer to policy definitions related to the work of practitioners throughout the following chapters in an attempt to provide the reader with a sense of how policies structure the work of practitioners. These definitions provide a context for practitioners' own evaluations of their work and roles. Although there are many commonalities across categories of policy with regard to the structure of anti-harassment work, there are differences in the types of harassment and discrimination that a practitioner is assigned to address. In the current Canadian context, policies fall into three different categories: category one includes policies that deal with sexual harassment only; category two includes policies that cover all of the prohibited grounds found in human rights legislation<sup>12</sup>; category three includes policies that cover prohibited human rights grounds and "personal harassment" (harassment that can not be tied to group membership, as would be required in human rights legislation, but may be prohibited under Occupational Health and Safety regulations). There is no strict chronology to these policy forms. However, in general, there is a particular succession of policy forms that is followed. Therefore, an institution would be unlikely to rewrite a category three policy into a

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<sup>12</sup> age, race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation, and unrelated criminal convictions

category one policy. This is because the policies are additive: that is, as more legal requirements arise in case law, more issues are dealt with under institutional policy.

I engaged in other activities to provide context for the interviews that I conducted. For example I examined annual reports provided by some harassment and discrimination offices and I looked at websites maintained by offices, which not only include policy information, but also other educational materials. I followed discussions published on a harassment and discrimination practitioners' listserv. I examined materials from the archives of the Canadian Association for the Prevention of Discrimination and Harassment in Higher Education. These materials were primarily composed of programs and other related materials from the Association's yearly conferences. While I do not provide specific analysis of these materials, they form part of the context of harassment and discrimination work, and their examination provided me with a broader range of information on how issues were presented and discussed in different social spaces.

In addition, I have attended the conference of the Canadian Association for the Prevention of Discrimination and Harassment in Higher Education (CAPDHHE) (formerly the Canadian Association Against Sexual Harassment in Higher Education or CAASHHE) annually since 1997. These conferences have been particularly useful in terms of understanding the national (and to some extent, North American and British) trends in policy and procedural development in the areas of harassment and discrimination. The conferences provide opportunities for informal conversations with practitioners from all over the country and to get a sense of what the important issues are during any particular year. Over the years, the organization has evolved from one that strictly focused on issues of sexual harassment (CAASHHE) to one with broader human

rights concerns and membership (CAPDHHE). It was my involvement with CAPDHHE that gave me insight into the challenges of anti-harassment work that went beyond my own stress and sense of contradiction. I sensed friction among practitioners from different regions or institutions and wondered why. I saw divisions between practitioners regarding policy development issues that seemed to be more than personal disagreements. I saw practitioners who accepted legal developments unquestioningly (and perhaps even welcomed them) and practitioners who railed against increasing legal influence in policy and procedure. I had questions myself about my institution's policy and about my own practice in my office. Ultimately, these were questions about how we should be doing our work. How we talked about harassment issues mirrored and/or anticipated how conversations surrounding harassment evolved and changed in the broader society. This dissertation represents an attempt to systematically examine some of the issues that arose for me as I listened to and alternately agreed with, railed against, submitted to, and fought against various perspectives on the nature of anti-harassment work.

The analysis of the interviews explores university harassment prevention practitioners' experiences working with policies in their institutions. Marston (2002) argues "interviews are an important method for probing below the surface of the organizational structure and exploring new insights and issues arising from document analysis" (85). The purpose of the interviews is to explore further the bureaucratic constraints of the job and the practitioners' responses to these constraints. For example, some practitioners may have a sense that policy is not reflective of the needs of clients, but rather of the needs of the institution. This may be viewed as problematic by some practitioners and as necessary by others. Some practitioners may see their role as the

protection of complainants, while some may believe that they are there to protect the institution. In many cases, both responsibilities may be important to the practitioners.

The practitioners' own understanding of their situation is only one layer of analysis in this research. The research is an investigation of how things actually happen as they do, "whatever the people who are involved might make of them" (Campbell and Gregor, 2002: 49). Having practitioners talk about their work is important to an understanding of their particular social space. This is an explication of something more than their own knowledge and practice: what people do and understand is shaped by and through organizational processes. (Campbell and Gregor, 2002: 79).

Harassment practitioners are also very closely connected to the texts that organize their work. They may fully accept or even embrace the limitations placed upon them by institutional policy or they may implicitly or explicitly make attempts to subvert the limitations of the policy texts as demonstrated in Fuller's (1996) work. Interviewing practitioners allows for the examination of "the extent to which participants ha[ve] an investment in the ideological conventions of the policy text" (Marston, 2002: 85). The larger social relations that create the particular policy may not be explicit to the practitioner: for example, they may speak of "natural justice" or 'respectful workplaces' without questioning the origins or implications of these phrases.

Exploring the experience of practitioners "in the trenches" can help us to see the difficulties that arise when policies that started out to address political issues become increasingly bureaucratized (Clair, 1993). Practitioners must deal with policies that represent the local imposition of extra-local power. They must also deal with their own potential co-optation by institutional prerogatives and their acceptance of the

bureaucratization of harassment and discrimination work. There may be situations in which it is “easier” to defer to a set of juridical or policy rules in order to deal with a difficult situation or complainant; in other cases, practitioners might seek to subvert these same rules as they attempt to find a just resolution to a particular case.

Analysis of the interviews will explore Fraser’s contention that the work of experts “(re)depoliticizes” (Fraser’s term) politicized issues. The practitioners’ implied or expressed discomfort with policy, procedures, and other aspects of their work experience may indicate that the boundary between their position as experts in “depoliticizing” administrative discourses and the discourses of politicized social movements is porous. The contradictions of doing activist political work in a bureaucratic institution are also demonstrated in interview data, and the practitioner’s position may be described as similar to that of Meyerson and Scully’s tempered radical.

### **3.7 Concluding Remarks**

This chapter has presented a review of literature on harassment and discrimination issues, with a focus on studies that examine the work of anti-harassment practitioners. I have outlined my own research project and pointed to gaps in the literature that it attempts to fill. I suggest that my research will provide a more nuanced understanding of the complexities of anti-harassment work by applying Fraser’s (1989) concept of boundary work and Meyerson and Scully’s (1995) concept of tempered radicalism. I will explore these concepts by analysing in-depth interviews with anti-harassment practitioners regarding the complexities of their daily work.

## **CHAPTER FOUR**

### **Investigation and Mediation: Reactive Anti-Harassment Work**

#### **4.1 Introduction**

Anti-harassment practitioners at Canadian universities are assigned a number of roles. Receiving complaints and advising complainants of their rights are primary among the duties assigned to practitioners. Depending on the policy governing the practitioner, s/he may be charged with investigating and/or mediating complaints. Policies also generally set out both formal and informal procedures for dealing with complaints. Interviews with practitioners indicate that most of the work that they do is informal: that is, practitioners do not do formal investigations, but they do informal investigating as part of fact-finding for certain informal procedures, and they resolve cases informally through “shuttle” mediation.

The primary purpose of this chapter is to explore formal and informal investigative and meditative practices outlined by policies and undertaken by practitioners in their day-to-day work. Ultimately, the reactive nature of dealing with complaints means that this is a more restrictive aspect of the role of anti-harassment practitioner. The practitioners’ reactive role fits the institutional definition of needs which, according to Fraser (1989) “depoliticizes” the needs of the marginalized and translates them into administrable demands. In this case, dealing reactively with complaints reflects the institutional prerogative of limitation of legal liability. However, the less stringent nature of informal practices may allow practitioners to develop procedures and implement resolutions in a fashion that represents the concerns of complainants, who are often the less powerful party to the situation. In the pages that

follow, I explore anti-harassment practitioners' engagement with the constraints they experience in undertaking the reactive portion of their role. The less constraining nature of informal resolution practices allow for some advocacy work on behalf of complainants, even though the practitioners' role is not defined as one of advocate, but rather of neutral negotiator or mediator.

#### **4.2 Legal Context of Institutional Procedures**

The roles of anti-harassment practitioners are defined first and foremost by the content of institutional policies. Institutional harassment and discrimination policies are constructed based on legal prerogatives around human rights law and procedures. The legal context explains commonalities in harassment and discrimination policies across the country. Eleanor Lewis's (1998) research on harassment and discrimination policy reveals that overall, universities are coming to a consensus on policy features (1). She relates changes in policy to the legal environment:

In the highly institutionalized environment universities exist in, there is considerable pressure for organizations to comply with the demands of their legal environment and the consequences of non-compliance are significant [...] organizations often have little choice about conformity, particularly with regulative pressure from the state and the legal environment - highly influential parts of the universities' environment because of the resources they provide (3).

Lewis' analysis of policies indicates that "policies respond to the events in the legal and regulatory environment by incorporating legitimated textual features" (5).

As outlined in Chapter Two of this thesis, historians have traced the development of sexual harassment from a need defined by activist groups to a juridically defined form of discrimination under human rights law. Fraser (1989) argues that

institutional systems translate people's needs through juridical, administrative and therapeutic procedures. Further, she argues that this translation is depoliticizing. This can be applied to interpretations of needs related to issues of harassment and discrimination. A contested set of needs regarding discriminatory and harassing behaviours came to be interpreted through the lens of the legal system.

Importing harassment and discrimination issues into the realm of human rights law created legitimacy and credibility for the definition of these behaviours as social problems. Legal legitimation reinforced the rights of individuals not to be harassed or discriminated against. While there is some debate regarding the use of rights as a strategy for marginalized groups such as women, most authors accept the legalized nature of harassment and discrimination policy and procedure as "given"; that is, as the most obvious way to deal with these problems. Fraser (1989) argues that we tend to assume that the socially authorized forms of discourse available for interpreting needs are adequate and that this assumption ignores how these discourses represent the interests of dominant social groups. The politics of the dominant are inherent in the thin definition of needs because they are based on formal legal rights rather than substantive equality and changed environments. Fraser (1989) and Naples (1997) suggest that we interrogate the 'self-evident' nature of socially authorized (and therefore generally dominant) definition of the best way to meet needs.

Carol Smart (1995b: 138) comments on the problems that arise when political groups access law in order to legitimize their claims, need, and interests: "In resorting to law, especially law structured on patriarchal precedents, women risk invoking a power that will work against them rather than for them." Smart argues that "rights" have

become a political language through which certain interests can be advanced. However, Smart suggests that “rights oversimplify complex power relations. This means that the acquisition of rights in a given area may create the impression that a power difference has been ‘resolved’”(144). Smart cautions that “legal rights do not resolve problems. Rather, they transpose the problem into one that is defined as having a legal solution. This may not be the problem identified by the individuals whose rights are being invoked, moreover, the solution may itself do little to alter the power relations that remain intact” (144).

The focus on legal legitimation is not unique to harassment and discrimination issues: other issues such as violence against women have been introduced into the court system in an attempt to gain legitimacy. In the 1980’s feminists argued that domestic violence constitutes criminal assault rather than a private ‘disagreement’ between partners. Feminists argued that this behaviour should be defined as assault within the criminal justice system because legal intervention would signal that this issue was being treated as important, serious and legitimate within the justice system and society as a whole. One result of this interaction with the justice system was the implementation of mandatory charging in cases of domestic violence. However, in the current context, not all feminists agree that mandatory charging in domestic violence cases serves women who are victims of the crime (Wachholz and Miedema, 2000).

Similar debates are evident regarding the use of formal legal procedures and less formal alternate dispute resolution practices in harassment and discrimination cases. For example, Mitchell’s (1997) research argues for the use of law to underscore the seriousness of harassment and discrimination issues. The author argues in favour of the

use of formal legal procedures. She suggests that sexual harassment policies have a tendency to direct complainants through a “formalized” informal resolution process (i.e. complainants must go through an attempt at informal resolution before the formal process will be pursued). Mitchell argues that this approach does not reflect the legal implications of sexual harassment, and that current policies in fact portray sexual harassment as more of an “impropriety” than an illegal act. Some practitioners in the current study also favoured more legalistic procedures over informal practices. Respondent #18, trained as lawyer, agrees that a more legalistic set of procedures is desirable: “I think people are more and more railing against that [informal] kind of model of harassment/investigation and wanting a more sort of legalistic adversarial court-like model where the evidence is presented in front of a panel where everybody gets to hear what everybody has to say, and then it’s decided that way”.

Stambaugh (1997) examines the effectiveness of legal procedures by interviewing complainants about their experiences with the legal proceedings around their harassment complaints. Specifically, she explores how engagement with the law affects complainants’ sense of empowerment and how contact with the law impacts their daily lives. She suggests that over all, contact with the law has positive effects: “discrimination victims who do file charges report that taking legal action significantly increases personal empowerment” (24).

Other researchers, however, do not accept the notion that legalistic procedures are the most effective in empowering complainants. Rifkin’s (1984: 22) research addresses debates around the use of less formal procedures such as mediation in harassment cases: “Critics claim that mediation is detrimental to the interests of women, who, being less

empowered, need both the formal legal system and aggressive legal representation to protect existing rights and pursue new legal safeguards...This dominant view leaves unchallenged the patriarchal paradigm of law as hierarchy, combat, and adversarialness.” Respondent #8, a woman with a background in law and feminist activism, asserts that legalistic approaches reinforce patriarchal social structures more than meditative processes do:

I don't want to be too fatalistic or too absolutist about this, but legal processes are a function of and a product of a legal system which is one of the cruelest arms of patriarchy and why we would imagine that it's going to empower women somehow - I can't follow that thought. Mediation, I think, can be equally authoritarian and equally off-putting and disempowering but it doesn't have to be and we have much, much more scope in how we structure it.

Thornton (1989: 746) states “a bias in favour of a formal court hearing carries with it the traditional liberal connotation that courts are the loci of justice in our society.” She argues that the formal justice system does not, in fact, provide justice for complainants and that an adversarial system is destructive of ongoing relationships. Dorfman, Cobb, and Cox (2000) report that both complainants and respondents often perceive legalistic formal procedures to be unfair. Respondent #8 comments on her experiences regarding the perceptions of the parties to a formal complaint:

I will have this conversation in fact more often than not in the context of sexual harassment cases where people will talk about power [...] they'll talk about their feeling of not having it. And although there are some exceptions to this – in most cases, both the complainant and the respondent will tell me that they feel powerless in the face of this complaint, in the face of this process, in the face of this whole system.

Chamberlain's (1997) research does not support a reliance on law to address issues of harassment. She sees other routes, such as education, as necessary for dealing with issues of harassment. For Chamberlain, law is problematic because it does not

adequately deal with the problem of sexual harassment. Policies based in law make it seem that the problem is solved:

Policy statements typically appear to be detailed, specific, and comprehensive. The problem with them is that they give the impression that sexual harassment has been defined and prohibited, and therefore, sufficiently addressed. However, such confidence is unfounded. Relying solely on a legal policy does not work: it does not in fact curb sexual harassment (150).

Some of the respondents in the present study were quick to point out that legalistic procedures remove the focus of the adjudication from the substance of the complaint and places it upon the bureaucratic nature of the legal procedures themselves.

This concern is articulated by Respondent #8:

If you are choosing a more formal more legalistic process you are exacerbating a problem that's already there with human rights litigation generally which is that most of the litigation around human rights cases and findings are all process litigation. They are never litigation around substance, around content, around what it actually means to violate somebody's human rights. They are all about whether the Commission was entitled to seek discovery in this document of discovery.

Smith's (1999) essay, "Texts and Repression", illustrates the hegemonic power of law by examining the documents involved in a chilly climate harassment case at a Canadian University. Smith demonstrates a clash between two texts: one is the informal report that raises issues of sexism and racism in an academic department, and the other is the formal letter of response from male faculty members that responds to these claims. Smith draws on Foucault's notion of power and knowledge to understand the situation, demonstrating how texts built on hegemonic (here, juridical) discourse can universalize and thereby coordinate people's diversities of experience and perspective into a unified frame (196). The informal report was subsumed by the discourse found in the letter of response. The letter uses juridical discourse to redefine the terms upon which the issue

would be debated. The report discussed a chilly climate in the department. The letter of response uses the terms of juridical discourse (allegations, evidence, due process) to subsume the first text and to instruct others on how to read it (208). The discourse of law has the power to reorganize and subordinate other discourses (Smart, 1989; Smith 1999). Broader feminist interpretations of the situation are ruled out and juridical discourse is used to critique the experientially-based claims of sexism and racism in the institutional setting (Smith, 1999: 218). Smith suggests that this epitomizes an increasingly general deployment of juridical discourse as a means of defending the status quo in universities against feminist and anti-racist critiques (198).

The nature of a legalistic context is that those who work within it must respond to it on its own terms. Formal legalistic procedures may therefore become more focused on process rather than on outcome. The legal environment constrains the activities of anti-harassment practitioners in their efforts to resolve cases, even when they use informal procedures to do so. The balance of this chapter explores practitioners' experiences with both formal and informal procedures for the resolution of harassment and discrimination complaints.

### **4.3 Reactive Anti-Harassment Work: When Can a Formal Complaint be “Quite Informal”?**

#### **4.3.1 Formal Procedures**

Harassment and discrimination policies at Canadian universities separate procedures into formal and informal categories. Formal procedures involve formal investigative and/or mediation processes and must be initiated by a complaint made in writing. Procedural guidelines are similar across policies and are often very detailed in

their description of the steps involved in formal complaints. This is because they are the procedures which most clearly resemble formal legal processes. As is the case with procedures surrounding complaints filed at Human Rights Commissions, formal institutional processes must follow principles of natural justice and procedural fairness. Practitioners have less control over the structure and content of formal procedures as a result of the legal prerogatives that govern these processes. In addition, policies such as the University of Toronto Policy and Procedures on Sexual Harassment (1997), a category 1 (sexual harassment only) policy, the University of British Columbia Discrimination and Harassment Policy (1996), a category 2 (all prohibited grounds) policy, and the Simon Fraser University Human Rights Policy (2003), a category 3 (all prohibited grounds plus personal harassment) policy, all dictate a formal meditative process that must be undertaken by a person other than the anti-harassment practitioner.

Of all the options for dealing with a complaint of harassment or discrimination, formal investigations involve the most constraining and legalistic procedures found in harassment and discrimination policies. Interviews reveal that anti-harassment practitioners are rarely charged with the responsibility of conducting formal investigative procedures. This responsibility is often assigned to a Senior Administrator. Respondent #8, describes investigations under her institution's category 1 (sexual harassment only) policy: "If mediation doesn't produce a resolution that's acceptable to the complainant, then that individual can request access to a formal hearing and the file goes to the Vice President who can at that stage order an investigation and conduct it on the basis of what's in front of him take appropriate action - executive action or establish a hearing." Investigations may also go to an external investigator. Respondent #5 describes

procedure under her institution's category 2 (all prohibited grounds) policy: "The formal procedure follows more of a line sort of similar to a court and with the formal procedure we hire an external investigator who investigates the concerns and brings that to a panel." Similarly, Interviewee #15 states: "The Institution does engage in harassment investigations, but it is not part of this job, nor is it part of the person who does do advice on complaints. An investigator would be appointed from either externally or internally with the agreement of the staff association that would be involved."

The portion of anti-harassment policies dedicated to outlining formal investigative procedures are generally very detailed, providing detailed direction for these processes. However, whether or not practitioners undertake formal investigations as part of their role, interviews reveal that formal investigations are rare processes at their institutions. Respondent #2 (who has, over his career, worked with both a category 1 and a category 3 policy in the same institution) comments, "I've had very few full investigations to do." and Respondent #4, who works with a category 3 policy, states that she has "sent one case to formal investigation in 4 years."

Gadlin's (1991) research suggests that complainants are unlikely to pursue remedies through formal procedures. Complainants often simply want advice and support: "People can come and say "please keep a record" but not initiate a complaint at all. In fact that's what the vast majority of people do. They might well say "tell me my rights" or "come and help me write a letter" or "help me figure out how to have this conversation with these people" or whatever it might be, without ever using the sexual harassment complaint process" (Interview #8). Gadlin's work suggests that this practitioner's experiences with complainants mirror research on complainants' desired

approaches remedying the situation. Gadlin suggests that complainants are more interested in stopping the harassment and having the situation return to “normal”. Complainants are afraid that they will lose control of the complaint and “this fear is not entirely unfounded, since considerations of institutional liability might require forms of intervention that conflict with the desires and concerns of the grievant” (1991: 145). Formal hearings are time consuming and stressful, and given that complainants are already under stress, a desire to avoid the further stress of a formal procedure is not surprising. The question then becomes whether retaining a commitment to formal approaches to dealing with cases is in the best interests of the complainant.

The legitimacy of formal legal procedures is often underpinned by the notion that legal practices are neutral. However, the assertion that law is a neutral and impartial, therefore superior discourse is in fact a political position that has become naturalized. The taken-for-grantedness of legal hegemony disguises a political position by arguing that the juridical approach is more neutral and therefore more appropriate than arguments made by activists and members of oppositional movements. The so-called neutrality of juridical discourse and harassment and discrimination policy is in itself political in that it establishes and maintains power relations in institutions and society.

Practitioner #18, trained in law and working with a category 3 (all prohibited grounds plus personal harassment) policy, clearly accepts the neutrality of formal legal procedures. She changed her relationship to the Anti-Harassment office as a result of her concerns about her ability to be neutral when doing investigations: “I’m the investigation officer for [name of institution], but they are just one of my clients. I’m not an employee of the university. I was initially for the first two or three years, and then I sort of trained

[X] to do the informal intake, and then I split off the formal investigations from that, so that I could that [formal investigations] as an independent neutral who comes in when needed.” This practitioner’s background in law creates a particular understanding of what it means to be neutral, and she therefore has restructured her work to deal with those concerns.

Similar concerns related to neutrality arise in cases where practitioners are charged under policy to conduct investigations. Practitioners’ major concern is that they must not have had previous involvement with the issues. For example, Interviewee #16, who is charged under policy with formal investigative duties, will only undertake these if she has had no previous involvement with the parties to the case: “If there is a more formal investigation, and I have not been involved at the front end in any way that would leave someone to believe I might have already acquired an opinion about it and be biased, I can then serve as one of the investigators.” This is echoed in Interviewee #12’s comment on formal investigations at her institution: “There are circumstances in which I would not do it [conduct a formal investigation] – those in which there was a conflict or I had been previously involved doing it [adjudicating the case] informally.” The reality of the work that practitioners do is that they are almost always involved in some kind of informal contact with complainants before the investigative process begins. It is unlikely that the practitioner could be seen to be “wholly unbiased” in the legal sense when they are enjoined by policy to consult with and advise complainants about their issues. Therefore, their neutrality may always be in question. Respondent #13, a sociologist and feminist activist articulates the contradictions inherent in the neutrality implied in the role of anti-harassment practitioner:

The impartiality of the role was very important, because I dealt with all sides in a problem. I was never an advocate for any side. I was there to sort of try to help find solutions to situations or to give advice, but I was not an advocate [...] What motivated me was a strong sense of the importance of fairness. That to me was like the driving force [...] There's political stuff in there, too. I can't pretend that I had no political view of things, and I not so much in the handling of actual cases, but as a senior officer of the university, I use my position to speak very strongly in some instances on a given side.

Since neutrality is always a central concern for formal legalistic procedures, these contradictions within the anti-harassment practitioner's role can leave them vulnerable to criticism. Challenges to the practitioner's neutrality were central to criticisms levied at Simon Fraser University's Sexual Harassment Officer in the media coverage surrounding a controversial case. Practitioners are well aware that their neutrality is always in danger of being challenged and therefore, their work in resolving cases may also be questioned. In the SFU case, the practitioner's entire caseload was reviewed in order to interrogate her 'neutrality' and she was found lacking.<sup>13</sup>

Formal investigations are problematic because they are time consuming and although they determine an outcome and assign a remedy, they often exacerbate any problems that exist between the parties to the complaint or within the department that is under investigation. Formal investigations take a great deal of time and don't necessarily lead to the satisfaction of either party. Respondent #2, trained in social work, states, "Full investigations are very time consuming. Even though mediation many times is time consuming it's nowhere near - takes nowhere near the amount of time that I have spent on an investigation." At the end of an investigation, either or both parties may not be satisfied. This practitioner tells us, "One person might be satisfied and the other one might not be. In some cases neither person is fully satisfied but for me it's successful,

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<sup>13</sup> I provide more information on the SFU case in Chapter Six.

I'm successful in them feeling that there was clarity and fairness.” Success in this case is reduced to success in following the procedures appropriately but not in terms of being able to rectify the situation or meet the need of complainants.

Many critical legal theorists have challenged the notion that formal legal procedures are the best method for dealing with social issues and conflicts. The assumption that formal legalistic procedures are the best for dealing with cases of harassment and discrimination reflects the hegemony of law. Thornton (1989: 759) criticizes those who view formal procedures as superior to the use of alternative approaches such as mediation: “The seeming autonomy of the law is of pre-eminent ideological significance. This is maintained by the mystique of neutrality and objectivity...the inference is that conciliation is capable of producing only second class justice because it has sought to discard the trappings of legalism.”

Litowitz (2000) suggests that recognizing law's hegemony allows us to clear away distortions that insulate the legal system and “provides important insights for understanding how the law sustains unequal power relations” (518). According to Respondent #8, feminist activist trained in law, if the goal is to deal with power differentials and change relationships, legalistic formal procedures may not be the best tool: “Investigation processes, processes of executive decision making also don't do anything to undo ultra power differentials. They can exacerbate and emphasize them - amplify them indeed.” Authors such as Rifkin (1984) concur: formal legal procedures reinforce hierarchies and support traditional ideas of public and private rather than challenging or changing them. It is true that the goal of legalistic policies may be a harassment-free workplace. However, legalistic formal procedures are limiting because

of the narrow parameters that they set regarding the achievement of this goal. Legalistic policies and procedures address an institution's risk management and liability concerns. However, many practitioners are seeking to achieve something more than simply meeting the institution's legal obligations, and therefore they favour procedures other than those most formally entrenched in law: "We actually have to think in ways that are much more sort of convoluted than the law makes possible if we want to change environments [...]. We're not sacrificing any principles when we offer different procedures for different kinds of relations" (Interview #8).

#### **4.3.2 Informal Procedures**

Unlike guidelines for formal investigation, informal procedures are not consistent across policies. Informal procedures may include a number of different activities. Policies may contain provisions for mediation and/or other forms of alternative dispute resolution. For example, The University of Toronto Policy and Procedures on Sexual Harassment (1997), a category 1 (sexual harassment only) policy, states: "Informal resolution and mediation are the fundamental tools for achieving both the educational and remedial goals of this Policy. The objective of informal resolution and mediation is to secure a reasonable settlement which, in the opinion of the Officer, is consistent with the spirit of this Policy and its fundamental principles." However, informal procedures outlined in policies do not always include mediation. The Concordia University Code of Rights and Responsibilities (2004), a category 3 (all prohibited grounds plus personal harassment) policy, suggests that the practitioner may take a number of routes to informal resolution including, "helping to clarify perceptions, raising awareness of the impact of

certain conduct, reconciling differences or sorting out misunderstandings” (13). These suggestions are somewhat vague. The University of British Columbia Discrimination and Harassment Policy (1996), a category 2 (all prohibited grounds) policy, outlines in more detail certain procedures that may be undertaken as part of an attempt at informal resolution:

Informal resolution is a resolution to which the complainant consents, and is arrived at with the assistance of an Administrative Head of Unit and/or the Equity Advisor, but without the use of either mediation or investigation. The possible means of achieving informal resolution are numerous. Examples include advice to the complainant, such as referral for counseling or letter to the respondent; investigation by the Administrative Head of Unit; relocation of the complainant and/or the respondent; disciplining of the respondent; or referral to other University policies and procedures, such as the policy on student discipline in the UBC calendar or the Policy on Scholarly Misconduct; or any other appropriate and just measures. Informal resolution can occur without knowledge to anyone other than the complainant and the Administrative Head of Unit, or the Equity Advisor who receives the complaint.

The direction given to the practitioner in this case is contradictory. Informal resolutions undertaken without the knowledge of the alleged respondent would be unlikely to result in any changes to the alleged respondent’s behaviour, which could lead to further violations of the policy by that person. In addition, a practitioners’ prescribed inability to investigate would likely result in a perception that discipline meted out to a respondent in this type of situation would be unjust.

Although policies such as the one cited above may dictate that investigation should not be part of informal procedures, one common aspect of informal procedures is an informal fact-finding process. Practitioners engage in fact-finding as part of their attempts to resolve an issue. If allegations are made, even informally, the practitioner must explore the situation in order to determine how best to proceed. Practitioners

understand that fact finding is necessary to determine the nature of the situation. It is not appropriate to simply assume that the complainant's allegations are true.

If the people walking in the door want me to act on the complaint and they want me to, for instance, mediate, to resolve that problem that they're having, I do some front end investigation just to confirm facts but it's not an investigation the purpose of which is fact finding in order to impose any kind of disciplinary sanction. It's so that I can satisfy myself more or less that the story has some credibility to it. (Interview #4, lawyer).

Procedures in informal investigations are not terribly dissimilar from regular investigative procedures: "We do an informal investigation by hearing one side, hearing the other, sometimes talking to other people in the department, let's say, or the administrative head, but it's not the same level of investigation as the formal" (Interviewee #5, women's studies). The difference is the context in which it happens: the purpose of the informal investigation is to try to confirm facts such that the practitioner can discern whether or not further intervention is required: "I am involved in cases of informal resolution in trying to establish or determine the facts as much as possible and so that would mean interviewing in some detail the complainant, the respondent, witnesses, depending on the situation" (Interviewee #6, business administrator). Practitioners find themselves more often than not using informal investigative tools as a step towards determining whether or not some kind of mediated resolution to the complaint is appropriate.

The "Alternate Resolution" options provided in The University of Regina's category 3 (all prohibited grounds plus personal harassment) Respectful Work and Learning Environment Procedures (2006: 7) are more specific and detailed than those provided in the category 1 and 2 policies:

If the Consultant agrees to a request to communicate the proposed alternate resolution option, the Consultant shall:

- 1) provide the other party with a summary of the identified concern(s) and the resolution option proposed and/or outcome desired by the affected party;
- 2) provide the other party with information as to their rights, responsibilities and options, informing the party that: (1) the proposal is an alternate resolution option, and not a formal complaint or part of an investigation; (2) participation is voluntary and he or she has the option to participate or decline to participate or to counter-propose another form of alternate resolution or modification to the original proposal; (3) his or her agreement to participate in alternate resolution is not an admission of wrongdoing; (4) either party can withdraw from the process at any time; (5) no formal record is created with regard to the parties resolution efforts; (6) the person who initiates an alternate resolution option does not relinquish their right to file a formal complaint if the other party declines to participate or withdraws or alternate resolution efforts fail. He or she may also choose to take no further steps;
- 3) provide the other party with an opportunity to discuss options with the Consultant, time to consider his or her options and/or to seek advice elsewhere.

More detailed policies may clarify the practitioner's role in the informal process.

However, interviews demonstrate that practitioners acknowledge complainants' hesitance to follow complicated procedures as outlined by institutional policies: "I did what I call mutant mediation, because soon on into my learning about the nature of harassment and the nature of policy, and what it can do and what it can't do, it became pretty clear to me that policy was not always so helpful. The more detailed the policies became, the less likely people were to want to use them" (Interviewee #19, social work).

Mediation is one approach that is commonly used to deal with situations of harassment and discrimination. Mediation involves forms of dispute resolution in which the parties are encouraged, with the assistance of a neutral third party, to find a compromise: "Mediation essentially is a facilitated negotiation process" (FitzGibbon, 1999: 702). Rifkin (1984: 24) argues in favour of the use of mediation rather than formal

legalistic procedures in cases of harassment: “Whereas formal law reinforces the dominance of hierarchy and rationality supporting traditional ideas of public and private, mediation challenges these notions.”

In general, a distinction is often made between traditional forms of mediation, in which two parties of equal power and taking equal responsibility would come to the table to resolve the issue, and less traditional forms of mediation in which the practitioner takes an active role in a process that does not bring the parties together in order to negotiate a solution. Interviews reveal that practitioners are more likely to be involved in less formal mediations and alternative dispute resolution processes. In addition, interviewed practitioners generally eschew traditional forms of mediation as a means of resolving harassment and discrimination complaints because they do not believe that traditional mediation is appropriate in most harassment and discrimination cases. This is sometimes based on a consideration of the nature of the complaint. Interviewee #18, a lawyer who works under a category 3 (all prohibited grounds plus personal harassment) policy, argues that mediation may be appropriate in cases of personal harassment, but not when the allegations fall under the prohibited grounds of human rights law:

I certainly think there are some cases that are mediable, probably more in a personal harassment arena [rather] than in sexual harassment or human rights. It’s fairly easy for me to tell when a case could be mediated, particularly if a complainant ends their complaint, “All I want is an apology”, so the respondent on the other side can acknowledge the behavior and apologize. I think that’s the end of the matter. I can resolve that by a mediator kind of thing.

Silbey and Merry (1986) argue that the mediation process can range from bargaining behaviour that is more reflective of legalistic court processes to a more therapeutic model that focuses on the emotions of the parties involved. The bargaining

style of mediation involves the mediator making claims to authority based on professional expertise, particularly in law. The purpose of this form of mediation is to achieve a settlement, rather than to work through feelings or attitudes. Respondent #4, a lawyer working with a category 3 (all prohibited grounds plus personal harassment) policy, takes this type of approach to many of the situations that she mediates:

Sometimes it's the kick you in the ass school of mediation where I say to people, "This is completely unreasonable." [...] I say, "It looks to me like this would solve this and we could deal with this in a reasonable way rather than have it blow sky high."

Another style of mediation can take is the therapeutic style. Silbey and Merry observed that in some cases, the goal of the mediation was to encourage the full expression of feelings and to create mutual understanding. Respondent #1, a psychologist, favours this style of mediation: "I like the whole idea of mediation, and some sort of facilitated resolution to people's difficulties opens up a lot of options for people learning to get along and learning to understand each other." Not surprisingly, it appears that the educational background of practitioners influences how they perceive the goals and desired outcomes of mediation. However, Silbey and Merry conclude their study by arguing that those who take a therapeutic approach to mediation often find themselves becoming "bargainers" due to the nature of institutional demands to produce results. Respondent #7, trained as a psychologist, points out that she resorts to legal parameters when parties to the complaint are resistant to her efforts to mediate a situation: "If I'm talking to somebody about the policy and somebody's resistant to accepting that they have violated the policy, it's helpful for me to say, 'This behaviour also violates the [provincial] Human Rights Code'."

Welsh, Dawson and Nierobisz (2002:612) argue that mediation processes “generally occur in cases in which the investigation found evidence of sexual harassment and where there was some likelihood that the complainant and respondent might reach a settlement.” The authors suggest that this method of resolving cases represents “organizational maintenance” because it can speed up the settlement of the case (ibid, 612). Most institutional policies emphasize the necessity for expedient resolution of cases; therefore, if Welsh et al’s assertions hold true, mediated resolutions meet this policy prerogative because they are, as evidenced by comments listed above from anti-harassment practitioners, an alternative to time-consuming investigation processes.

The way our policy works is that we have informal and formal procedures. In the informal stage - probably over 99% of our cases are handled through the informal procedures. That doesn’t mean we take them any less seriously. It’s just the informal procedure allows us a great deal more flexibility in how we reach the resolution and they often tend to be quicker as well. (Interview #5)

While it may be true that expedient resolution of cases is simply an institutional prerogative, research such as Gadlin’s (1991) indicates that a major concern for complainants is the length of the process. To suggest that expedient solution is not in the best interests of complainants is to refuse to value their desired outcomes. Using informal procedures to find expedient and relationship-retaining solutions to cases can be supportive of complainants’ desires.

FitzGibbon (1999: 718) argues that mediation is “Particularly suitable to resolve disputes in which the parties have an ongoing relationship” due to the “broad, unlimited, creative remedies available in mediation.” This perspective is mirrored in Respondent #8’s comments: “Mediation is, I think, almost essential to any kind of complaint process that’s going to produce some kind of ongoing modus operandi for people who are in

close contact and who will be for some time.” Respondent #15, a sociologist, states: “I’m very conscious of making sure the respondent understands that the behavior is inappropriate and what we are actually mediating is how will this relationship - because often it’s a working relationship - how will that relationship continue as a working relationship.” This practitioner’s emphasis on the inappropriateness of the respondent’s behaviour indicates that the practitioner is directing the process in a fashion that goes beyond the expected role of a traditional mediator.

Gadlin’s (1991) research suggests that mediation is more appropriate for situations which contain ambiguity rather than more serious situations. Practitioners in my study echoed these concerns. This is demonstrated by one interviewee’s comments regarding her rejection of the use of formal mediation in the most serious cases of harassment: “It depends on you know, what kind of situation you’re looking at. I don’t think any of the situations where I have used it to have been what I would coin as extremely serious and I guess by extremely serious I mean situations where there was really overt or pervasive, fairly serious, ongoing harassment” (Interviewee #3, psychologist). I suggest here that the practitioner’s awareness of power differentials in mediation situations and their refusal to undertake mediation in cases where the power differential between the complainant and the respondent is too large in fact places them in the position of being an unofficial advocate for the complainant and the complainant’s needs. In acknowledging the politics of the less powerful person in the case, the practitioner is acknowledging the politics inherent in the process. This indicates that workers in boundary roles are engaged in something more than the conservative repoliticization of politicized needs.

A positive aspect of informal processes is that they allow practitioners to remedy situations which are based on misunderstanding and ambiguity rather than harassment. Practitioner #11, trained in sociology, explains a situation in which an informal mediation procedure helped a potential complainant to meet with and understand the challenges that another member of the community faced in his daily life:

I had a situation at one point where I had a woman who had a man approach her a couple of times who she did not know. His behaviour was such that she felt he was quote, unquote “strange” in some way and she was very nervous. And she got scared about that. We identified who the man was and I met with this guy and it was very apparent to me right off the bat that the guy had a multiple disability, which displayed itself in a manner that unbeknownst to her - that this was a disability that frightened her about his behaviour. And I brought the two people together and she actually saw him as a person, explaining what his disability was and why he behaved this way and that was the end of that. She was no longer frightened.

This practitioner uses a mediation process for the purposes of education. In this case the education is not only useful for the alleged respondent. The potential complainant in this case is also educated regarding the challenges of the man’s disability. The education inherent in this mediation session represents the needs of two individuals who are both members of less powerful portions of the institutional community.

Gadlin (1991) argues that it is important to consider disparities of power between complainants and respondents when making decisions about the appropriateness of mediation in resolving harassment and discrimination cases. Serious cases present serious challenges in terms of the safety and comfort of the complainant. These issues can be exacerbated by a mediation process that does not acknowledge the power differential between the complainant and respondent. Interviewee #16 suggests that although there may be situations in which mediation is appropriate because of equal

power between the parties, the issue of power differentials is essential to decisions about the appropriateness of meditative processes: “For me, it’s never a one size fits all. I think one has to be very mindful of that. I think where there are two peers, it’s maybe more likely that the two parties or however many parties are involved in this situation can work out a situation that they can both live with. Personally, I think it’s unrealistic if there’s a huge power differential to assume that that’s going to occur in any meaningful manner.” Practitioners’ views on the problem of power differentials in the mediation process are summarized by Interviewee #5 when she states, “We don’t formally mediate harassment complaints and part of that is because mediation requires that people come to the table with kind of an even playing field an even power dynamic and then a lot of harassment cases there isn’t that even power dynamic [...] we tend not to do face-to-face mediation largely because of the power imbalance.” Interviewee #21, a woman of colour working with a category 2 (all prohibited grounds) policy, explains why she believes formal mediation is a problematic approach to harassment and discrimination case resolution:

I think the problem with mediation is that a lot of people who don’t really understand the issues of equity and, in particular, the issues of power, privilege and oppression, think that mediation is a solution. If they consider the concerns to be like a personality clash, mediation is a great solution because you just get people to sort of see the other side and come to some sort of understanding and compromise. But it doesn’t address the issues of power and privilege.

The argument that mediation can resolve harassment situations is seen by some as an oversimplification of the power relationship between the complainant and the respondent, because mediation assumes a certain kind of “equality” of interests and a mutual desire to resolve a conflict in a way that respects the “rights” of both parties. However, Thornton, (1989: 761) suggests that this does not mean that we should reject

mediation outright: “Conciliation does create a space where individual women and members of minority groups may achieve small political victories in advancing their substantive ‘rights’ which would be unlikely, if not impossible, within a formal system of adjudication.” Rifkin (1984) also suggests that the assertion that formal legal processes are more likely to achieve fair resolutions is used to denigrate conciliatory processes. Rifkin’s research suggests that while mediation should not be seen as a panacea, it does change complainants’ sense of the patterns of dominance in a situation, therefore complainants perceive a shift in the power relationship between the disputants.

Kihnley (2000) interviewed practitioners at U.S institutions regarding procedures for resolving complaints. She argues that conflicting goals are reflected in the difference between formal procedures (written complaint) and informal procedures such as mediation or alternative dispute resolution (ADR). Kihnley argues that although ADR is more flexible in resolving problems, it also privatizes the dispute. Interviewee #19 echoes Kihnley’s sentiments when she comments, “I really felt that it [mediation] reduces what should be a public issue to sort of a private concern, and of course, in mediation, the idea is that both parties have some stake in the outcome, which is probably true for harassment cases but it also implies that both people have some responsibility for what happened, and that wasn’t always true. So, I thought that mediation really worked against some of the goals of educating about harassment.” She goes on to say, “As a feminist I was really struggling with whether this is a fair way to resolve a dispute that’s so gender laden and so full of power differences.”

Thornton (1989) suggests that concerns about the private nature of mediation processes can be balanced by the flexibility provided: “The atomism inherent with the

confidential process underscores the notion that acts of discrimination are of an isolated and individualistic nature and that individualistic solutions alone are appropriate...The conciliation process nevertheless allows a flexibility and creativity in approach which is not possible in a rules-oriented system and which is desirable in the handling of complaints” (1989: 741-42). Respondent #1, a psychologist, reflects the perspective of a number of interviewed practitioners regarding the value of meditative processes when she says, “It provides more kind of latitude, more options for different kinds of resolutions to complaints and so it would be both, an informal type of mediation as well as structured mediations.”

Because practitioners do not engage in traditional forms of mediation, they find other ways to name their work. Respondent #13, a sociologist working with a category 3 (all prohibited grounds) states, “Most of what I did was informal conflict resolution, trouble-shooting, advising, shuttle diplomacy, that kind of thing.” Respondent #15, also a sociologist, refers to her work as alternate dispute resolution: “Everything from assisted support in asking for an apology, to more traditional mediation where you’re dealing with bringing parties together in doing case development, looking at issues and participating in and arriving at a resolution.”

Practitioners often describe their efforts as “shuttle mediation”. This is not a term originating in harassment and discrimination work. Mediators suggest that the term is a combination of shuttle diplomacy, applied in talks between warring factions, and the technique of caucusing (meeting with the parties separately) used in labour and other forms of mediation.<sup>14</sup> Respondent #6, trained in business administration, explains her

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<sup>14</sup> Dr. Barbara Whittington, Community Mediator and Professor, Faculty of Social Work, University of Victoria: personal communication.

approach to mediation: “I would say the way mediation is described or seen in a conventional way I’ve not been involved in mediation. I’ve been involved in what they would call quote, unquote “shuttle mediation” and that is going back and forth to complainant and respondent with their respective responses and trying to find some middle ground” Interviewee #5’s comments outline the shuttle mediation process:

We do – I guess you call it shuttle mediation. I’ve spoken to one person. I discovered what his or her story was, what they would like to come out of this, then I’ll speak with someone else and I’ll say, “Well this person has told me this”. This is the resolution that he or she would like to achieve you know, how do you feel about making an apology or writing a letter or ceasing all contact” or what have you, depending on the individual information of the case.

In shuttle mediation, as in other forms of procedure, practitioners must negotiate the line between the definition of the role as neutral and their view that behaviours prohibited by policies are embedded in contexts that support dominant power relations. These contradictions influence their mediation work. Choosing a shuttle mediation process addresses some the issues surrounding unequal power relations in cases of harassment and discrimination. There is an assumption in mediation perspectives that the mediator/conciliator is a neutral party to the complaint. However, there is also an expectation that s/he will direct or shape the mediation process (Thornton, 1989). Respondent #5, trained in women’s studies and working with a category 2 (all prohibited grounds) policy, outlines the realities of situations in which she was asked to informally mediate cases:

We are formally supposed to be neutral, as I said, kind of advocates for the party rather than advocates for one side or the other. Practically it doesn’t always work that way. If it’s a case of clear-cut discrimination and the complainant is saying this happened to me and the respondent saying “yeah I did that” and there isn’t any conflict over what actually transpired. We tend to advocate for the role that eliminates this behaviour, prevents it

from recurring and tries to make reparations for what has happened in the past.

The mediator becomes a negotiator, and “in that role, the mediator inevitably brings to the process, deliberately or not, certain ideas, knowledge, and assumptions” about the case at hand (Rifkin, 1984: 26). A consequence of this reality is that respondents may suspect that the mediator supports the complainant’s position (Gadlin, 1991). Gadlin suggests that it is not possible to respond to disparities in power in mediated setting without violating neutrality. The mediator may address the issues of neutrality by suggesting the parties to the dispute seek the support of an advisor other than the mediator: in the case of a faculty member this may mean union representation, while in the case of students, they may seek the support of a student ombudsperson. Practitioner #4 uses this approach in more traditional mediation situations: “There’s genuine mediation where I bring parties to the table. Sometimes I have independent discussions with each of them respectively. Often they are represented.”

Gadlin’s (1991) study of mediation practices in sexual harassment cases suggests that they are not neutral because the mediator is generally involved in intake procedures and in informal investigation of the complaint that precede the attempt at a mediated solution. This involvement begins with the story told by the complainant; therefore the respondent’s story is always couched in terms of a defense of their actions. Thornton (1989: 753) argues that “a conciliation officer’s ability to empathize with the complainant clearly encourages complainants to speak out and to have confidence in a process which is not possible in a formal system where they are perennially confined to the category of other.” Neither of these authors is arguing that the mediator should treat the respondent unfairly. They are, rather, suggesting that there is a particular character to the mediation

of harassment complaints that situates the mediator in a position of representing the interests of the less powerful party to the complaint; generally the less powerful party is the complainant.

Some practitioners are cautious when they consider informal processes in relation to institutional prerogatives that may support only the minimal institutional need to limit legal liability. In this case, the institutional prerogative is not tied to adequate resolution of the case from the perspective of the harassed individual. Mediation will support neither the position of the complainant nor the goal of changing institutional environments if the informal process is used to disguise the amount of harassment and discrimination at an institution. Practitioner #21, a woman of colour with a degree in psychology, found the informal processes at her institution to be suspect because they were used to keep complaints from entering formal record-keeping that would occur if the case went to a formal process:

Well, in particular, at the last place where I was an equity advisor, the unwritten rule was when someone came in and made a complaint if there was any way of settling some stuff informally by getting the parties together and having a mediation so it was never a formal complaint, then that was the part that was often confused - trying to get it resolved without actually a complaint being registered.

The interview data reported herein does not definitively answer the question of whether formal or informal processes are best suited for adjudicating harassment and discrimination complaints. These issues are debated in both the literature and among the practitioners interviewed. However, the less stringent and more flexible nature of informal processes are generally perceived by practitioners and academics to better respond to the needs of less powerful parties to complaints by encouraging them to bring the complaint forward and by offering resolutions that can remedy the situation in ways

that potentially empower complainants by addressing and challenging power differentials.

#### **4.4 Concluding Remarks**

The nature of investigative and meditative roles assigned to anti-harassment practitioners is inherently reactive. Practitioners are only called upon to engage in this type of work in response to an already-existing situation. Reactive work may be less effective in changing institutional climates, particularly when the outcomes of informal adjudications are kept private. While some education may take place between the parties to a particular complaint, confidentiality of outcomes negates educational potential that might be realized through the publicization of case outcomes. However, literature on the mediation of harassment complaints cited above suggests that overall, complainants prefer informal procedures and indeed, may potentially be empowered by them.

An emphasis on formal procedures generally centres around the adjudication of rights claims. This can be a drawback of these legalistic processes because “the resort to rights can be effectively countered by the resort to competing rights” (Smart, 1989: 145). This is clearly demonstrated in harassment and discrimination cases by the increasing focus on the rights of respondents vis-à-vis natural justice and due process. Respondents and their representatives will often counter harassment claims made against them, not by arguing that they have not in fact engaged in harassing or discriminatory behaviour, but by arguing that the process was flawed and that their rights have been violated. The growing prominence of statements regarding the right to academic freedom<sup>15</sup> within

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<sup>15</sup> Academic freedom statements in harassment and discrimination policies will be discussed in greater detail in Chapter 6.

human rights policies demonstrates that academic freedom has also come to be seen as a competing “right” in debates around harassment and discrimination policy. Some have argued that attempts by institutions to limit their liability through the implementation of harassment and discrimination policies will result in an over-enforcement of “political correctness” and have a “chilling effect” on classrooms (Dziech and Hawkins, 1998: 18). The rights counterclaim to such propositions is the argument that students also have a right to academic freedom - the freedom to pursue their academic studies without fear of harassment or intimidation. Academic freedom for professors is not supposed to mean the “right” to harass or discriminate against students. An interesting debate, perhaps, but ultimately, these engagements do little to alter the power relations in the institution. Arguments about rights simply place them at the centre of a debate around how power can be “appropriately” played out in an institutional setting (Smart, 1989).

Issues of power differentials must also be dealt with in relationship to informal procedures. Practitioners recognize that there can be difficulties with informal processes such as mediation, particularly with respect to the implied equality that is usually brought to traditional mediation situations. Practitioners also register some concern that informal procedures, when they are not registered in files or taken seriously by management, can serve to disguise the nature of harassment and discrimination in institutions. However, many practitioners see a value in informal processes when they can create a situation that allows ongoing relationships to continue in a satisfactory way or where the situation was a misunderstanding and could be explained in an informal way.

Feminist researchers such as Rifkin (1984) suggest that conciliatory processes can in fact be empowering for women and members of minority groups who experience

harassment and discrimination. This perspective rejects the notion that formal legal processes are the best way to achieve justice because formal legal processes are primarily informed by the values of dominant groups. The efforts of activists have informed certain legal changes, but the nature of the system itself can be problematic (Cooper, 2000). Adversarial processes create winners and losers, but they do not necessarily educate the participants nor do they assist with the maintenance of ongoing relationships. Gadlin's (1991) research indicates that complainants are fearful that they will lose control of their complaint and that the outcome will serve the institution's needs instead of their own.

Practitioners are legally bound to follow the stringent boundaries of policy directives. It is within the informal sections of policy that practitioners can challenge the boundary role in which they find themselves because they have more latitude in procedures and more latitude in how they seek resolutions. Working with informal processes allows practitioners to address the so-called depoliticizing nature of the boundary role that they occupy within the institutional context because it is less strictly defined by policy documents, which tend to set out specific instructions for formal investigations dictated by law. The less defined nature of informal processes allows practitioners to seek a solution through means that may empower the less powerful party to the process (generally the complainant) by engaging in practices such as shuttle mediation, which allows the practitioner to represent the needs and desires of the complainant in the resolution of a situation in which s/he had not been able to speak for her/himself.

## **CHAPTER FIVE**

### **“We’re Not the Joke Police”: Education and the “Prevention” of Harassment and Discrimination**

“When I think of harassment prevention, I think of education” (Interview #6).

#### **5.1 Introduction**

Little research has been conducted regarding the educational practices of anti-harassment practitioners. In fact, the only existing research on the educational work of practitioners is an unpublished Master’s thesis (Stamp, 2001). The present thesis therefore fills a critical gap in our understanding of the educational role of practitioners in Canadian universities by exploring practitioners’ educational strategies in detail.

Anti-harassment practitioners at Canadian universities are often enjoined to educate their communities regarding harassment and discrimination issues. The policies under which practitioners must work rarely set out in detail what the content of education must be. However, policies often suggest that educational programs are meant to be preventative measures. Within the present chapter I outline anti-harassment practitioners’ educational techniques. Further, I interrogate practitioners’ acceptance of the notion that education is indeed preventative. While some practitioners argue that educational programs are the most effective means of preventing harassment and discrimination, interviews also reveal that the relationship between education and prevention remains untested. Therefore, assumptions about the preventative nature of education, although enshrined in policy, are largely based in common sense ideas about education as liberatory. Although the educational role of practitioners may not prevent harassment, practitioners see their educational practices as contributing to the

empowerment of community members. Educational sessions provide information on rights and responsibilities around harassment and discrimination issues as well as highlighting the existence of the anti-harassment office. The practitioners' role in empowering community members demonstrates that their position on the boundary between the institution and members of marginalized groups is more porous than Fraser's analysis suggests because the work of anti-harassment practitioners is not only focused on the reactive and often depoliticized mediation of harassment and discrimination policy.

## **5.2 Defining Education**

Paddy Stamp (2001: 17) has argued that human rights policies attach a significance to education that positions educators as agents of governance in their institutions:

All of the people I interviewed, and the vast majority of their counterparts in universities across Canada, have responsibility both for education and for actually receiving, managing, and in some cases, resolving or adjudicating complaints. They are thus - whatever the approach they take in classrooms - positioned a priori as enforcement officers within a framework of authoritarian command. At the same time, however, in no case do the policies from which they derive their authority specify the content or form of the education they are enjoined to provide.

While it is the case that policies do not outline educational content, some policies are specific in relation to goals of educational programs. For example, policies at the University of Saskatchewan (2003), University of Victoria (2005), University of Prince Edward Island (2003), and the University of Manitoba (2004), all category 3 (all prohibited grounds plus personal harassment) policies, indicate that the practitioner's educational work is meant to increase awareness of the policy and procedures. General

awareness of issues of harassment and discrimination is another stated goal found within university policies (see, for example, Mount Allison, 1999; University of Toronto, 1997). The University of Calgary Sexual Harassment Policy (1990), a category 1 (sexual harassment only) policy, directs the practitioner to create a “comprehensive education program for all groups on campus” (10), but does not define what is intended by “comprehensiveness”. The University of British Columbia Policy on Harassment and Discrimination (1996) (a category 2 policy, including all prohibited grounds of discrimination) states that the practitioner is responsible for “providing education to individuals and departments on the prevention and remediation of discrimination and harassment” (10). Still other policies charge practitioners with even more ambiguous responsibilities. For example, the University of Regina’s Respectful Workplace Policy (2006), a category 3 (all prohibited grounds plus personal harassment) policy states that the practitioner shall “develop and deliver strategies for creating and sustaining a respectful environment in which to live, work, and learn” (8). However, it provides no direction as to how this should be accomplished. The University of Alberta Discrimination and Harassment Policy (2005), also category 3, charges the practitioner with “developing and delivering educational programs aimed at preventing discrimination” but does not define what harassment prevention means or how practitioners can measure the level of prevention that they have accomplished through their educational programs.

No matter how vague policies might be regarding the content of educational sessions, practitioners are required to develop educational programs. As part of my duties as a harassment practitioner, I developed and presented educational seminars on

issues of sexual harassment.<sup>16</sup> The content of the seminars included definitions of sexual harassment, a discussion of the relationship of sexual harassment to provisions in human rights law, an outline of the content of my institution's policy, and interactive case studies (usually developed to suit the interests and needs of the group to whom I was speaking). The purpose of these educational sessions was three-fold: first, to teach the campus community about the content of our policy and procedures so that community members would be aware of their existence and have at least a brief understanding of how they worked; second, to relate policy content to broader legal concerns in the realm of human rights and the institution's legal obligation to deal with cases of harassment and discrimination as they arose; and third, to try to get community members to understand the impact of harassment and discrimination on victims and ultimately to convince them that harassing and discriminating behaviours are harmful and morally wrong. My underlying hope was that the educational sessions would, at the very least, stop people from engaging in inappropriate behaviour and, at the very most, create understanding and empathy in the audience. In other words, I hoped that audience members that would "see the light" and change their (potentially) racist or sexist attitudes. Interviews with other practitioners reveal similar views as to the potential benefits that educational practices might produce within individuals and the larger institutional community. In the paragraphs that follow, I move beyond my own experiences in conducting anti-harassment education and explore other practitioners' beliefs and practices related to their role as educators.

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<sup>16</sup> My colleague, who was the Racial Harassment Officer, also produced an educational package. We would conduct educational sessions together.

### 5.3 Institutional Environment

“It can be hard to work against the institutional culture and that sometimes limits our ability to be fully effective” (Interview #5).

Many anti-harassment practitioners see their work as potentially creating change within their institution, but they also acknowledge that change can be limited by policies and by institutional structures and hierarchies. Agocs et al (2004) indicate that a majority of the equity workers in their study view themselves as agents of change within their organizations. However, “it is the mandate and location of equity practitioners’ positions within the organizational structure, not merely their personal traits and values, that makes it possible for them to function effectively as agents of equity-related organizational change on behalf of marginalized groups” (13). Respondent #8, a lawyer and feminist activist working with a category 1 (sexual harassment only) policy, suggests that support within her institution contributes to the potential effectiveness of her work when she says, “In fact there has been a history in this Office of very high profile and very consistent support for the Office from the most senior levels of administration [...] And that practice continues and it makes an enormous difference to the visibility and the authority of the Office.” Agocs et al argue that support for anti-harassment work from powerful senior administrators is crucial because lack of this support reduces the legitimacy of the harassment and discrimination office and results in a lack of equity-oriented change in the institution. Many of the respondents in my study suggested that high-level institutional support for their work was lacking. Interviewee #20, trained in women’s studies, comments on how administrators can contribute more to the problem rather than to the solution: “Administrators need one-on-one intense rehabilitation. Well, as they say, the chance of an administrator coming to any regular education thing is small. They’re

just sort of coming around to realizing that maybe there needs to be some education at that level.” Some respondents indicate that while they feel supported as individual members of the institutional hierarchy, they perceive a general lack of support in the institutional climate as a whole. Other respondents reported experiencing an almost complete lack of support from members of the institutional hierarchy. Interviewee #21, a woman of colour working with a category 2 (all prohibited grounds) policy, comments:

It was the management structure that really prevented a lot of the advisors from doing some more proactive and creative outreach and prevention work [...] it's like we weren't allowed to really highlight our existence [...] The job I had at [name of institution] was much more geared at the policy in taking complaints and trying to get them solved quickly so the university is kept nice and clean looking. I don't think there was as much emphasis on prevention and certainly, the management was not supportive about creative ways to do that - to raise awareness, to educate and that's prevent. There was lot of tension when I brought issues up around how to be more proactive and get out there and do things and be more visible and help educate and prevent. I didn't experience a lot of support.

This practitioner's statement supports Agocs et al's (2004) claim that in many cases, harassment and discrimination positions at universities provide a visible but minimal way of satisfying marginalized groups.

Practitioners are limited in their ability to perform their role as educators by their inability to 'enforce' education. Respondent #12, a psychologist, suggests "if you advertise a session, they're not necessarily going to come out, so I try and get the captive audience." Sometimes practitioners contact departments asking for as much or as little time as they might be allowed in order to speak at department meetings. Interviewee #4, a lawyer, comments, "I'll take whatever I can get. I will not turn down an invitation. I'll go for five minutes, fifteen minutes or three days." In reality, the practitioner is likely to get fifteen minutes and not three days, therefore communicating all the necessary

information about policy content and general harassment issues is impossible. Practitioners often try, as I did, to provide printed materials, such as brochures about the office and copies of the policy to add to the brief talk that they're allowed to give in these limited educational sessions.

Practitioners' willingness to "take what they can get" in terms of opportunities to do educational work indicates their commitment to their proactive role. Institutional limitations, including lack of support from senior administration or inability to require that community members participate in educational sessions can constrain practitioners' educational role and maintain boundaries that interviews suggest anti-harassment practitioners frequently struggle against.

#### **5.4 Techniques for Spreading the Message**

Interviews reveal that anti-harassment practitioners are aware that the nature of the issues to be discussed in harassment and discrimination educational sessions may affect the receptiveness of the audience. Harassment, discrimination, racism, sexism, and homophobia are sensitive topics for many people; therefore practitioners must deal with their audiences' feelings of discomfort when confronting these issues. Respondent #2, trained in social work, echoes the views of other practitioners in stating that, "I would wish that harassment prevention could be accomplished through education in a variety of ways: plays, movies, talks, classes, and so on, in a way that doesn't make it seem so bizarre, so frightening."

Hostile audiences make educational sessions more stressful and difficult for practitioners. Each of the practitioners interviewed cited the experience of entering a

room full of faculty members, students, or non-academic staff who were clearly hostile to their presentation before it began. The issue of audience receptivity has an impact on the style and content of educational sessions. Interviewee #5, trained in women's studies, notes, "I think there's a big difference in how we do education with a receptive audience, versus a neutral audience, versus a hostile audience." In this case, the practitioner indicates that her strategy is to confront the hostility directly by raising misconceptions about the nature and purpose of the work of the Anti-Harassment Office:

If an audience is hostile we address that. You know, I'm sensing there's some resistance in the room but maybe air that - talk about where this resistance is coming from. And sometimes that resistance is based on misconceptions. Thinking that, you know, the Equity Office is the joke police or, "we're not allowed to have any fun" or "you're never allowed to ask anyone for a date ever" - that sort of thing and addressing some of those misconceptions helps clear the air, helps give us a little more credibility with the audience. It also helps the audience be calm and in a place where they actually are willing to listen.

This practitioner suggests that addressing misconceptions creates a more open atmosphere in the session. Addressing these issues is perceived to create more "buy-in" from the audience.

Another important strategy for creating an atmosphere that is conducive to audience receptivity occurs through the practitioner's presentation of her/himself to the audience. Audience hostility may develop if the participants misperceive the practitioner as potentially antagonistic and judgmental. Interviewee #3, trained in psychology, discusses her presentation of self in the following terms: "I think when I'm lecturing that I'm pretty down to earth. I never criticize people and keep things fairly warm." Respondent #4, a lawyer, suggests that presenting a warm and inviting attitude fosters an environment where people are more willing listen to the message of the educational

session: “I tried to make it interesting and funny and non-threatening and that sort of thing. My objective is to walk away and have them say, you know, that was really interesting.” Practitioners believe that if audience members view their presentation of self as warm, welcoming, funny and/or lighthearted, there is a greater likelihood that the practitioner will be viewed as reasonable and someone worth listening to. The audience may then feel a better sense of connection to both the practitioner and to the content of the educational session.

Another way to achieve a sense of connection with the audience is to point out that all people need to be cognizant of their assumptions and prejudices. When the educator points out her/his own humanity with a sense of humility, a common bond may be created between practitioner and audience. Respondent #6, a woman of colour, illustrates this approach for her audience: “[I tell them] just because I’m an adviser it doesn’t mean that I’m without bias and prejudice. I’m on my journey too and we can work on this together.”

The basic intent of education is to encourage the audience to see the purpose of the policy and to legitimate harassment and discrimination issues by connecting them to legal prerogatives. Interviews suggest that when audience members are resistant to the issues presented, practitioners may resort to the heavy hand of the policy to reinforce their point. This is illustrated by Respondent #19’s comments: “We’d say, ‘there’s two good reasons why this is information you should have’. One is for those reasons, like here’s something, can you relate to it? The other is it’s not okay to do this, and the institution is going to come down with a big heavy hand.” This practitioner’s response demonstrates the different levels at which practitioners try to reach audiences. First there

is an appeal to the perceived humanity of the audience and a sense that the audience should be able to empathize with the situation. If that doesn't work, raising the issue of the institution's legal obligations becomes a perceived means of emphasizing the legitimacy of the presentation. This approach accesses the more authoritarian aspects of anti-harassment work as outlined by Stamp (2001), who contends that anti-harassment practitioners are positioned as enforcement officers within the authoritarian institutional framework. This authoritarian position may be accessed by practitioners to emphasize the importance of issues of harassment and discrimination, no matter what their preferred style of education may be

Educating University administrators can also present unique challenges for practitioners, as practitioners report:

Some of the least successful trainings were with the administrative side of the university where there weren't many women in those areas. This might be buildings and grounds and housing, to some extent. Some of them were business aspects of the university. The particular vice president at that time wasn't very supportive of harassment issues and so had a way of kind of undermining those educational initiatives. He'd either undermine them or totally over-react if we asked him for help about something (Interview #19).

In the course of my own work, I found Deans and Directors to be some of the most difficult audiences to deal with because they frequently believed that they did not have the time to participate in education. At my institution, the administrators, with the exception of one Vice-President and one Dean, were middle-aged white men. I perceived that they had a difficult time seeing me as a credible member of the institutional structure because I was younger and female. The strategy that I used to reach these administrators to get them to listen was to say, "If you don't do this, the institution can be sued!" Through interviews with other practitioners, I discovered that in educational sessions

with administrators emphasizing legal concerns is a common technique for acquiring their support. For example, Interviewee #7, trained in psychology, uses a similar strategy: “With administrators, I make it clear that they have a liability [...] I use heavy hand with administrators, more so than with other groups. This is because they have a legal liability and they are the people in the institution that must be responsible for this in an official way.” Interviewee #5 points out that a focus on strictly legal issues negates important areas of emphasis such as moral obligations. “If something is too formal, if it’s too focused on ‘this is the law’ and you are doing this only because you have to” then you risk missing what for her is more important, which is to emphasize that “we have a moral obligation to ensure that our students, staff and faculty work or live in an environment that’s free from discrimination and harassment.”

Traditional educational formats generally focus on lecturing to audiences about policy content and the institution’s legal obligations. Interviewee #11’s comments suggest that education based solely on lectures composed only of references to legal liability is no longer viewed as effective:

I think that over the years many people working in institutions like Colleges and Universities have had the traditional type of education: “This is the Human Rights Code [...] Personally I feel that’s not effective anymore. People come in and they go to sleep. And so a lot of energy and creative thought needs to go into how you make your workshops or your presentations engaging. How do you engage your participants whoever they may be and make this realistic and useful to them?  
(interview #11)

A number of other respondents indicate that they increasingly use strategies such as role playing games and case studies to promote anti-harassment messages. Practitioners’ experiences suggest that these strategies increase audience interest, and increased interest

is taken as a measure of the success of the session: “I think the learning is greater if they can feel like they’re being a part of it and getting something out of the process” (Interview #5).

Another approach to education involves discussing relevant issues outside of formal presentations. Practitioners are aware that there may be large portions of the campus population who will never attend a formal educational session because practitioners are not invited to speak to those groups. Practitioners are aware of this issue and will therefore take any opportunity to engage in educational activities. Respondent #20 (trained in women’s studies) uses venues other than traditional classroom lectures to get the anti-harassment message across. Here she comments on a strategy that she uses during student orientations:

I try to work it into other events and activities that students have - like for the frosh [there] is a big orientation program. Part of that one night is a scavenger hunt. So my office is a stop on that hunt and we do pretty extensive, usually some kind of art creation project, but that takes them through, what means “no”, what means “yes”, what means “be careful” and some kind of way of committing to help uphold a zero tolerance policy on sexual harassment and all that kind of stuff.

Most practitioners also develop posters and brochures to publicize harassment and discrimination issues and to advertise the existence of the policy and the office. Respondent #19, trained in social work, discusses how she and her colleagues would use any opportunity to discuss issues of harassment and discrimination outside of normal educational situations: “We did these things where we would put up posters and hung around and talked to people as we were doing that.” Education therefore occurs not only in terms of the distribution of the posters, but in the practitioners’ interactions with

members of the campus community in the course of distributing and posting the educational information.

Interviews suggest that the context of the educational session is another factor that can affect the practitioner's presentation style. Interviewee #20 states, "If I'm going in giving a spiel in the course of some beer company's safe sex gig at the pub, there's going to be a very different atmosphere." Interviewee #9 tells us, "I do completely different performances depending on where I am. If it's a first year class then there's more jokes, there's more culture, there's more whatever." Practitioners are aware that different contexts will involve different participants and therefore adjust their presentation style to suit the situation. Different styles and levels of language may be necessary in different contexts. Academic situations may be occasions for the presentation of statistics or studies related to harassment and discrimination issues, while a presentation in a pub related to safe sex would be more effective if it focused on issues of intoxication and consent. The practitioner is also likely to use more formal language with faculty members or administrators, while using colloquial language may be more effective with student groups.

Context is not the only factor affecting presentation style. Further variations in the educational strategy are evident in practitioners' descriptions of techniques that they use to reach particular audiences. Respondent #1, a psychologist, exemplifies the attitude of a majority of interviewees when she states, "I do speak differently to each group. It depends on what the group wants, what their area of interest is, what they need to know." Practitioners report that they tailor their presentations to match the audience's background or situation. For example, residence assistants might be interested in

information regarding their responsibilities when cases arise in their dorm; academic sociologists might be interested in social structures and/or societal issues; engineers or people training in physical education might be interested in how the issues relate to professional codes of conduct. Interviewee #20 provides examples of how her presentation changes in two different instances. “With international students, I do a thing where you sort of put on a “no means no” type of skit. I recruit students who do that.” In this case, the content of the presentation changes in addition to the practitioner’s use of co-presenters to reach the student group. When working with non-academic staff, the issues are slightly different: “If I’m working with cleaning staff then I’m not going to get them doing little activities. I joke around, obviously, but there’s kind of a need for a different type of approach there. Partly because they’re less comfortable with it [...] I have to be really, really careful to make sure they don’t feel patronized.” Interviewee #19 indicates that using relevant examples is particularly important to get ‘buy-in’ from non-academic staff groups: “Say we were working with the blue collar side of our institution. We would go and meet with them ahead of time and say, ‘What would work? Give us some situations that really come up’.” Interviews suggest that Plant Operations and other blue collar segments of universities are often more male-dominated than other segments of the campus workforce and can be some of the most hostile groups to work with. Therefore, because practitioners are more concerned about the challenges of achieving buy-in from session participants, encouraging participation and making the sessions relevant become particularly important.

Faculty members can also be reticent about participating in educational sessions; in some cases, faculty members are overtly hostile. This might be demonstrated through

body language (refusing to look at the presenter during the presentation) or through terse comments or questions challenging the information or the practitioner's authority and credibility. However, other faculty members might be genuinely interested in the issues. For example, male faculty members may be concerned about how to handle situations with young students because they fear false accusations. Interviewee #13, a sociologist, expresses faculty concerns and her frustration with them very clearly:

The standard thing from faculty members, I found, was just, "so get us a blueprint. Tell us what to do and what not to do". And my answer would be, "You don't get born into this world with a blueprint telling you how to behave. You've got to put your antenna out. You've got to be open and aware of other people's reactions to you and the way you behave and the way you talk and the way you look. That's what you've got to do." And then it's not rocket science. If you pay attention to the feedback that people are giving you, you know damn well when you're screwing up and when you're not. If you can't do that, then you shouldn't be a professor at a university.

Having a member of a privileged group in attendance or contributing to the session itself is seen as lending credence to the educator's message. Respondent #8, a feminist activist and lawyer, comments, "One thing that I would say makes a huge, huge difference to Education in hierarchical organizations is having the people in the upper echelons of the hierarchy there in the education actively supporting it and contributing to it." When senior administrators attend or participate in educational sessions, practitioners perceive that it lends credence and legitimacy to the message that the practitioner is putting forward.

On the other hand, practitioners also acknowledge that certain groups on campus may view the harassment and discrimination office as representing the administration's institutional agenda, rather than as a legitimate tool for change (Agocs et al 2004). Practitioners are aware of the fact that certain groups within the organization may lack

trust in their offices. This distrust can work against practitioners in their educational sessions. In the following quote, the practitioner (a woman of colour working with a category 2 policy) comments on how she and her colleagues anticipate these concerns and attempt to address them directly: “I think part of the optics is that we’re part of the administration and we’re here to be able to protect the University [so we say] ‘we want to tell you otherwise.’ And sometimes the best way of doing that is through people who are seen as more credible, i.e. the students themselves.” Thus, these practitioners also seek the support of members of groups such as the student body or faculty association by encouraging their members to be co-presenters in educational sessions.

Another way to increase audience receptivity is to approach audience members, in particular members of dominant groups, as allies rather than as potential victimizers. Respondent #6 indicates that she delivers sexual harassment information in such a way that “the men in the room also don’t feel isolated or alienated by my message”. Interviewee #10, a psychologist, acknowledges that men and women have different concerns when it comes to issues of sexual harassment and she therefore addresses these differences in her presentations: “For most men what’s most salient is being falsely accused. They think that’s most likely to happen, what they’re most worried about, and for women, being harassed is what’s most salient.” Interviewee #19 and her colleagues have a more structured approach to creating allies among male audience members:

We developed a ‘nice guy’ workshop and that really engaged a lot of people. [We’d say], ‘Most nice guys would never do this, and most of you probably are nice guys, but the problem with nice guys is they kind of have their heads up their ass sometimes. They don’t know what’s going on.’ When people are laughing and things, it seems like they can also learn.

Treating the audience as potential allies in the struggle against harassment and discrimination creates an atmosphere in which audience members, even those who might be less likely to be victims, may be more open to listening to the issues and more receptive to practitioners' messages. When I presented educational sessions on sexual harassment to primarily male audiences, I pointed out to them that although they were statistically less likely to be victims of harassment, they were in a position to support their female colleagues and family members if they understood the issues and were aware of the policy and the services of the office. This tactic proved very effective in terms of reducing the hostility of some audience members. This effect was often demonstrated by changes in body language of participants, questions posed by audience members during sessions and conversations with individual participants after sessions regarding behaviours that they were observing in their work areas or issues that their friends or family members were facing outside the university. In the case of the practitioner cited above, the "nice guy" session was constructed to challenge stereotypical constructions of masculinity by suggesting that the audience members are not viewed by the educators as potential harassers, but as potential allies to those who may be victimized or as allies around issues of harassment generally.

Another strategy for reaching dominant group members is to ensure their representation on the educational team. Respondent #6 reports that when she does anti-racism education, she asks one of her colleagues from the dominant group to co-present. This strategy constructs members of the dominant group as allies in anti-racist struggle:

So for example in anti-racism work, I would do it with someone from a dominant group - because I know how I can feel passionate. It can be off-putting for some people, but if I had someone to balance me off, people

from the dominant group are more likely to be able to pay attention when she talks or we talk about white privilege.

It is worth noting that the practitioner perceives her passion for anti-racism as being “off-putting” because she is a person of colour; her passion is to be tempered by the presence of a white person. The assumption is that the presence of a member of the dominant group will influence audience members who are also from the dominant group. This resembles the practitioner’s strategies (mentioned above) to get male audience members to be allies. In both cases (the woman talking to the men, the person of colour talking to the white people), the presenter feels at a disadvantage when speaking to members of a more powerful social group. Therefore, both presenters use strategies to encourage receptivity in dominant group members who might otherwise be hostile to the educational presentation. These practices indicate that practitioners are aware that the messages that they put forward are still not completely accepted in mainstream thought as being reasonable claims. Practitioners thus see themselves as being forced to convince dominant group members that the issues are worthy of their attention.

Practitioners sometimes challenge audience members to consider how they would feel if they themselves were harassment victims. This technique encourages the audience to build empathy for victims, even if they have not had the experience themselves. Respondent #5, a feminist activist trained in women’s studies, suggests that “bringing in the personal helps bring in this part of that moral responsibility. [You say to your audience] How would you feel if this was happening to you? How would you want other people to respond?”

Sarita Srivastava (2006) explores the privileging of personal experiences and emotion in education related to issues of racism and diversity. She argues that the “let’s

talk” approach to dealing with diversity issues is based on the principle of the personal as political. This principle is central to many social movements. The belief that talking about personal experiences, feelings or ‘consciousness’ as a basis for initiating social analysis, social change or organizational change has been uniquely predominant in social change movements, and in sites inspired by these social movement ideals. The historical foundation of the personal as political “has also formed an historical framework for the production of knowledge about the self and other” and indeed, has become “prescriptive and normative” in social movement work related to diversity issues. However, Srivastava’s data suggests that the “let’s talk” approach can engender resistance in some participants and may therefore be less effective as an educational strategy than its proponents realize.

Assumptions about the effectiveness of educational strategies should be interrogated, particularly when there is no hard evidence that they are successful. In my study, most practitioners perceive that tailoring messages for particular audiences is effective. However, Interviewee #8 suggests that we should be cautious because “what’s not so obvious is what those differences produce or whether the ways in which we differentiate our approach with different groups are actually justified in terms of the outcomes”.

## **5.5 Education as Prevention**

I began this chapter by outlining what policies direct practitioners to do vis-à-vis education, noting that some policies provide more specific direction than others. Prevention is central to the construction of the principles of some policies. For example, The University of British Columbia *Policy on Harassment and Discrimination* (1996), a

category 2 (all prohibited grounds) policy, states that “the fundamental objectives of this University policy are to prevent discrimination and harassment”. The *Human Rights Policy* (2003), a category 3 (all prohibited grounds plus personal harassment) policy at Simon Fraser University states that the policy “responds to the University’s responsibility under the Human Rights Code of British Columbia...to prevent discrimination”.

Some university policies specifically connect the prevention of harassment with educational practices. The University of Calgary Sexual Harassment Policy and Procedures (1990), a category 1 (sexual harassment only) policy states that one of the “recommended steps in the prevention of sexual harassment’ is the development of “methods to sensitize all concerned” (1). The Fair Treatment Policy (2005) at the University of Prince Edward Island (a category 3 – all prohibited ground plus personal harassment – policy) states that one of its central principles is “the prevention of harassment through a process of educating and informing the University community” (2). The University of Regina’s Respectful Work and Learning Environment Procedures (2006) (another category 3 policy) suggests that one element of preventing harassment and discrimination is the development and implementation of “general and specific or targeted communication and education strategies on an on-going basis to increase employee and student awareness and knowledge about the policy, the procedures and their contribution to maintaining a respectful workplace” (1). As policies generally define education as central to the role of anti-harassment practitioner, practitioners are, by implication, assigned the duty of harassment prevention.

Interviews suggest that many practitioners frequently define prevention of harassment and discrimination by referring to education. For example, Respondent #18,

a lawyer, defines prevention as follows: “Well, I guess what it [prevention] would be is that if people learned to treat each other with respect and to respect people’s differences and to recognize how those actually enhance the world and your particular environment [...] How do you do that? I guess you have to start through education.” Respondent #10, a psychologist, not only indicates her commitment to prevention but also her belief that education is preventative when she says, “Awareness and education is the way to prevent.” Interviewee #1, another psychologist, also uncritically connects her educational work with prevention when she states: “I think I’m doing probably more and more prevention as far as educational seminars and reaching a wider group of the university community and different groups of people.” However, other practitioners are less convinced that their educational work is, by definition, preventative. For example, Respondent #11, a sociologist, suggests that we should refer to the work as educational only and not as preventative: “If by prevention you mean you’re going to educate your community or you’re going to do this, this and that which will help reduce hopefully the incidence of this happening then I think you should say it’s education rather than prevention.”

Practitioners argue that educating the community about harassment and discrimination may contribute to changing institutional climate more generally or, perhaps more realistically, changing the perspectives of individuals with regard to harassment and discrimination issues. The hope is that these changes will result in a greater understanding of what harassment is, and how it impacts victims thus leading to fewer incidents of harassing or discriminating behaviours.

Even though some practitioners are hopeful that education on harassment and discrimination issues will lead to a general change in the institutional climate, many are also simultaneously skeptical about whether this general change can actually be accomplished. Respondent #11 argues: “You’re not going to educate sexism out of someone who is not open to doing that, so I don’t think you can defend it. I think you can work on the climate where people can feel safe to come forward and talk about it.” Interviewee #3, a psychologist, views educational messages as integral to the project of institutional change: “I guess what I would hope is that there is at least a little bit of a shift in the culture. And I think that again my own bias is at this point the best way to achieve that is to try and inundate the culture with these messages and hope that it catches on.” However, she adds, “So are you really changing the environment? I’m not convinced you know the degree to which you’re doing that. Is it useful for some people? I am sure it is.” Similarly, Interviewee #8, a feminist activist and lawyer, questions the effectiveness of educational programs when she states, “The idea that you can get a group of people in that classroom for two hours and deliver to them something which programmatically changes something in them so that they will never be the same again is preposterous frankly, but that’s the way that a lot of thinking about this kind of education gets done.” The notion that education does anything more than change certain behaviours due to the threat of punishment for violating an institutional policy is rejected by many practitioners. This perspective is exemplified in the comments of Respondent #13, a sociologist:

I don’t think that there is a straightforward quantifiable relationship between your educational program and what happens on the campus [...] I think that if you set out to change the way people think, it’s going to backfire. They have to either react out of fear for the consequences or

because you can somehow gradually bring them along to thinking that life could be pleasant if we do things this way. I think the whole harassment policy movement on Canadian campuses has been to some extent an exercise in fooling ourselves, but I think some offices have done a lot of good [...] I suppose the threat of detection and punishment of some kind, which is what a code does, as opposed to prevention programs, probably keeps some people from being silly.

While focusing on changing the institutional climate might be considered naïve, attempting to change individuals is viewed as being a slightly more pragmatic goal. Some practitioners view the educational process as one which will create changes in individual attitudes towards harassment and discrimination issues. For example, Interviewee #2 states: “I think education can be preventative. And education really - for the person with an open mind - education opens a lot of doors and makes them aware of a lot of things.” However, audience members must be willing to be reflective and there’s no guarantee of this, as Interviewee #19, trained in social work, points out: “If you have a broad enough approach, people kind of pick from it the thing that vaguely makes sense to them, I think, and of course, some people don’t pick any of it.”

While individual change is often seen as a more achievable goal, changes in attitudes may be difficult to measure. The problem is that no matter what practitioners attempt to accomplish with their educational program, “there will be people who, for whatever reasons, don’t get it” (Respondent #15, sociologist). However, the implementation of policies can force people to change their behaviours, as Interviewee #18 points out: I think all we can ever hope to achieve is changing behavior, but if you can change attitudes, then I think you’re miles down the road in terms of preventing harassment.” This sentiment was echoed by a number of practitioners. Even though people may retain racist, sexist, or homophobic attitudes; you might be able to convince

them to stop engaging in harassing behaviours. This behavioural change may be viewed as a limited success in that the accumulation of changed individuals may lead to a shift in the institutional climate. In Meyerson and Scully's (1995) terms, it is a 'small win'. Small wins may be less desirable than changing the institutional climate as a whole. However, given the constraints under which practitioners must work, small wins may be the best outcome that they can hope for.

When practitioners are asked to define their role in the prevention of harassment and discrimination, they are often clear that they understand the amorphous nature of the 'preventative' role. For example, Respondent #8 expresses her skepticism about the prevention role when she says, "And so Monday morning you're sitting at your desk in the Harassment Prevention Office and [you] write a list of things you're going to prevent? I mean it's a much harder job title to live up to I'd say." Similarly, Respondent #20 takes issue with referring to her role as a preventative one:

So we need to find people with S's on their chest [like Superman] to come in and prevent this thing from happening among people? I think that's a pretty huge burden to put on people [...] If you just want to call it the Harassment Prevention Educator or the Harassment Awareness Educator or something like that, it says, "make people aware". Awareness is good, but to try to call something the Prevention Office? Yikes!

Practitioners understand that their ability to prevent harassing and discriminating behaviours is limited. Practitioner #3 argues that a successful educational program can mean "that there's a shift in how the people in that institution are seeing the issue." However, she recognizes the limitations of educational work: "Does that mean it's [harassment] all stopped? No. Does it mean there's probably more awareness or more concern or they're more apt to act on these issues? Yeah probably it does."

## 5.6 Education as Empowerment

Education is meant to simultaneously teach people about case law, institutional obligations, and policy content, while also empowering those who are potential victims by teaching them about their rights and changing audience members' behaviours and attitudes by teaching them to respect one another, thereby 'preventing' harassment and discrimination from happening. When the amount of time for the session is minimal, the practitioner may have less success in communicating all the different facets of education that they might deem necessary or important. Respondent #11, a sociologist, comments on how the content of educational sessions must meet several, potentially competing, sets of needs all at the same time:

Senior Management has a huge investment in making sure that this thing meets legal work requirements as well as meets their needs in terms of how the culture works at that Institution. So I think you are always kind of doing a tap dance around those kinds of things and trying to get in what you feel needs to be in there for the complainant as well as the respondent. But trying to meet all these juggling needs at the same time.

While practitioners may try to meet all these needs in every educational session, it is likely that they will have to emphasize certain aspects of the message.

For many practitioners, the issue of empowering community members is central to both their views on education and to their educational practices. Many writers follow Freire's (1971) critical pedagogy in pointing to education as an empowerment strategy (see for example hooks, 1994; Inglis, 1997; Stamp, 2001). Critical pedagogy is defined as

habits of thought, reading, writing, and speaking which go beneath surface meaning, first impressions, dominant myths, official pronouncements, traditional cliches, received wisdom, and mere opinions, to understand the deep meaning, root causes, social context, ideology, and personal consequences of any action, event, object, process, organization,

experience, text, subject matter, policy, mass media, or discourse. (Shor, 1992: 129).

Educating people about the content of policies (which also meets needs around educating about the legal content of policies) and their right to a harassment-free environment potentially has an empowering effect on individuals who are or might become victims of harassment and discrimination. “I think the policy works only in conjunction with training and education and the more we are able to deliver that message, I think the more accessible it [the policy] will become for our community especially the most vulnerable” (Interview#6). Practitioners understand that their educational role can assist community members in understanding and dealing with harassment and discrimination issues. Educational strategies are proactively empowering, because they inform community members of their rights and the services offered by anti-harassment offices. Giving community members the tools to deal with situations may not prevent harassment or discrimination, but it achieves a more realistic goal: community members learn about what they can do when they find themselves in harassing or discriminatory situations: “It’s just going to prepare people better to know what’s happening and be better able to deal with it when it happens” (Interview #20).

Koikari and Hippensteele (2000) argue that some activities that practitioners engage in challenge Fraser’s notion that their work is strictly “depoliticizing”. As bell hooks (1994: 37) points out, “no education is politically neutral.” Educational work that informs community members of their rights and empowers them to make complaints when they feel that they have been subjected to harassing or discriminatory behaviours may “politicize” rather than “depoliticize” the issues, because it brings the issues out into the open and forces both the harasser and the institution to be accountable for behaviour

that violates human rights. Common sense might suggest that successful educational programs should lead to fewer complaints of harassment and discrimination because having fewer complaints may be perceived as an indicator that the number of incidents of harassment or discrimination has been reduced. However, an increased number of complaints may be a better indicator that educational practices are creating the desired outcome; community members are aware of their right to complain and to have issues of harassment and discrimination dealt with by institutional authorities. Indeed, one way in which some practitioners measure the effectiveness of their educational efforts is if the number of complaints that they receive increases:

We would do drop-ins in departments that were having difficulties, but they were just as if we were dropping something off, but we would use that as an educational time. I think that every time we did something like that, of course, then the rates of complaints would go up, which made it a bit of a problem when you're doing it [anti-harassment work] part-time. But, it was really successful, I think, and really important (interview #19, social worker).

Doing “good education” means that people are empowered to speak, and if they are empowered to speak then they are empowered to complain. Ultimately, encouraging complainants to bring issues forward is supportive of the continuing politicization of issues of harassment and discrimination. Although practitioners occupy a boundary role as defined by Fraser, they want complaints to surface. This indicates that their work is not strictly focused on “depoliticization”. An increased number of complaints is not necessarily viewed as negative because it means that people know what their rights are and where to go for assistance. A low number of cases does not mean that harassment is not happening. It can mean that situations are not being reported to institutional

authorities. If a well-educated community means an empowered community, then members of that community will come forward with complaints.

### **5.7 Concluding remarks**

Administrators often view a lower number of complaints and consultations in the Harassment Office as a measure of the success of a harassment and discrimination policy because this would make the institution “look better” in the eyes of the public. The definition of needs in policy addressing harassment and discrimination issues is based heavily on legal requirements regarding institutional duty and liability. Administrators are more likely to occupy a depoliticizing boundary role than anti-harassment practitioners do because administrators must be concerned with activities related to covering the institution’s legal liability and providing procedures for reactively dealing with behaviours after they have occurred. Interviews reveal that administrators do not always support the proactive educational work of anti-harassment practitioners. Because administrators are often charged with doing formal investigations (a role which binds them to anti-harassment work within institutions), their reluctance to participate in educational programs or to view an increased number of complaints as reflecting the failure rather than the success of policy and education may reinforce the institutional prerogatives that focus on reacting to complaints as they arise. Fraser (1989: 163) argues that institutional definitions of needs do not reveal the politics that underlie them: they represent the politics of dominant groups. Anti-harassment practitioners’ work fits the institutional definition of needs if they focus exclusively on the legal aspects of harassment work, but as both this chapter and the last have demonstrated, practitioners

engage in work that potentially politicizes the issues and proactively empowers complainants and other members of the university community.

Interviews with anti-harassment practitioners reveal that they view their educational role as central to their work within institutions. Educational work has, from the practitioners' perspective, the most potential for individual and institutional change. While education can occur in the context of individual complaints, practitioners' roles in formal and informal investigative and mediative work, outlined in the previous chapter, are primarily reactive. While some educational sessions arise out of problems in a department (i.e. practitioners get called in to "read the riot act" to department members as a veiled threat to the offending parties), most sessions involve attempts to be proactive. This may be accomplished by providing information that may, at the very least, stop people from engaging in harassing and discriminating behaviour, and at the very most empower people by teaching them their rights, encourage people to embrace diversity, and ultimately "prevent" harassment and discrimination. These are lofty goals. It is very difficult to measure whether educational programs actually "prevent" harassment. We could however, measure the effectiveness of education at least in terms of changes in the attitudes of individual, whether this means asking them about changes in their understanding of harassment and discrimination issues, changes in their attitudes towards diversity, or changes in their feelings of being empowered to deal with harassment and discrimination when they experience or observe these kinds of behaviours. While this may be difficult, it would be easier than trying to measure "preventative" outcomes, which are ambiguous.

Interviews with practitioners demonstrate that educational practices represent attempts to be proactive in terms of dealing with issues of harassment and discrimination. Education can equal increased awareness. If increased awareness leads to changes in the levels of harassing and discriminating behaviours or increased levels of reporting of these behaviours when they occur, practitioners interpret this as meaning that they have achieved at least part of their proactive educational goals. These activities may not change the overall institutional climate. However, they may represent the small wins sought by individuals whose politics and or identities place them in the position of tempered radical negotiating an institutionally assigned boundary role.

## **CHAPTER SIX**

### **“Putting on Band-Aids”: Contradictory Roles and ‘Small Wins’**

“I don’t think anybody in any field in the university really is prevented from doing what they believe in as much as equity offices” (Interview #21).

#### **6.1 Introduction**

In “Unruly Practices (1989), Nancy Fraser discusses the identity conflicts felt by politically critical academics, suggesting that they find themselves dealing with competing pressures and internalizing incompatible expectations. Anti-harassment practitioners are in a similar situation in that they must wear several different hats at the same time. While some practitioners find the contradictions manageable, others struggle with their simultaneous and sometimes contradictory roles based on pressures from different segments of the institutional population. This is one aspect of occupying a role on the boundary between marginalized groups within the institution and the demands placed on practitioners by institutional prerogatives.

The primary purpose of this chapter is to consider the role of anti-harassment practitioners in relationship to the boundary between marginalized groups and institutional prerogatives. Fraser’s assertions about this role on the boundary go beyond demonstrating that workers occupy a contradictory space: she suggests that nature of the boundary role leads its occupant to depoliticize the political demands of marginalized groups. Meyerson and Scully’s (1995) concept of tempered radical suggests that not all workers in boundary situations will be entirely co-opted by institutional prerogatives. In many cases, the participants in my research view their work as important for the empowerment of complainants and other members of the university community and hope

that they are contributing to institutional change. Some practitioners interviewed for this study do not separate issues of activism from issues of harassment work. The institutional environment contributes to practitioners' perception of their role because their roles are shaped by policies that are developed through law and law requires neutrality. While interviews reveal that practitioners' commitment to procedural justice and fairness is central to how they perceive their work at the institution, they also demonstrate a sense of contradiction between so-called 'political' versus so-called 'non-political demands'. This chapter interrogates whether and how practitioners' daily work and perception of their roles demonstrates an uncomplicated commitment to translating politicized demands into "depoliticized" administrative cases focused on the need to manage institutional liability.

## **6.2 Defining Roles**

Institutional policies not only define procedures that practitioners must follow: in some cases they also define the role of the practitioner. Policy definitions in previous chapters outline the task that practitioners are charged with undertaking as part of their daily work in anti-harassment offices. We have seen that practitioners are enjoined to investigate (formally or informally) and/or mediate (formally or informally) complaints reactively, and educate the campus community in an effort to proactively prevent harassing and discriminatory behaviours.

In addition to setting out proactive and reactive work<sup>17</sup> duties for anti-harassment practitioners, policy definitions of roles also set out the parameters of the practitioner's work by emphasizing that they must execute their work in a fair and impartial fashion.

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<sup>17</sup> These are not strictly mutually exclusive categories; however, they are being treated as such for the sake of comparison and analysis.

For example, the University of Toronto Sexual Harassment Policy (1997), a category 1 (sexual harassment only) policy, instructs the practitioner to “function as impartial counselor and advisor” (11). The University of Guelph Human Rights Policy, a category 2 policy (all prohibited grounds) charges advisors to “manage the fact-finding process in a consistent, timely and fair manner” (3). The University of Victoria Discrimination and Harassment Policy and Procedures (2002), a category 3 (all prohibited grounds plus personal harassment) policy, states the practitioner’s role is to “ensure that complaints are processed fairly” (2). Policies do not direct practitioners to advocate for the complainant. This is not surprising given that central to the work of practitioners are legal prerogatives that situations should be dealt with in terms of natural justice, a position that assumes that formal and substantive equality are one and the same. In general, practitioners in my study agree that situations involving harassment and discrimination should be dealt with in a fair manner. That is, they believe that the respondent should not be disadvantaged by the execution of the procedures.

However, a focus on neutrality raises contradictions for some practitioners. These contradictions arise in relation to their position as the first contact for individuals who feel they are experiencing harassment or discrimination, and the fact that policies often direct them to assist complaints throughout the complaint process. For example, The University of British Columbia Policy on Discrimination and Harassment (1996) assigns practitioners the role of “advising and assisting those who bring forward complaints during all stages of the procedures, including the initiation of a complaint, as well as the undertaking of informal resolution, and arranging for mediation or investigation” (12). Brock University’s Respectful Work and Learning Environment Policy (2006) states that

practitioners should “offer a ‘listening ear’ to complainants”; and “offer support, guidance, and advice to the complainant” (9). Concerns regarding contradictions between demands that practitioners be neutral and the potentially biasing effect of hearing the complainant’s version of events before the respondent’s account are outlined in the discussion of investigation and mediation in Chapter 4 of this thesis.

Practitioners also understand that issues of power arise in the context of harassment and discrimination complaints. This is demonstrated in practitioners’ accounts of the difficulties they face when dealing with mediation situations that assume equal power between the participants. Practitioners’ attempts to remedy situations through shuttle mediation do not necessarily disadvantage respondents; however, this practice reflects an acknowledgement of power differentials between complainants and respondents and becomes a means of supporting or perhaps empowering the complainants in these cases. This demonstrates that the work of some practitioners, while fair, is not entirely ‘neutral’. Smart (1989: 22) points out that “myths of neutrality” have separated “good lawyers” from “good feminists”. Women who are good feminists must be bad lawyers; women who are good lawyers are viewed as bad feminists. This is also true for harassment and discrimination practitioners. To accept the job is to accept the legal and institutional parameters that surround it. Within these bounds, practitioners may experience contradictions structured into the nature of their work. The reasonable practitioner follows the rules of law, policy and institutional practice and may therefore be perceived by marginalized groups on the campus as a ‘lousy’ activist. However, if a practitioner challenges the rules of ‘neutrality’, s/he may be perceived as an ‘unreasonable’ activist (and therefore a ‘lousy’ practitioner), incapable of evaluating

cases in a way that demonstrates a commitment to fair procedure. Meyerson and Scully suggest that tempered radicals may find ways to temper their language and actions so that they will be viewed by other members of the organization as ‘reasonable’. Demonstrating ‘reasonableness’ is a strategy employed by some participants interviewed.

Interviews with practitioners reveal that they must find the spaces within the bureaucratic limitations of their job to challenge the constraints placed upon them by institutional demands. In many cases, practitioners perceive that their attempts to proactively empower complainants challenged institutional limitations. As Heyman (2004: 490) suggests, those in bureaucratic roles may attempt to locate political spaces between institutional prerogatives and find “practical means of inserting alternatives.” For many anti-harassment practitioners, the trick is to maintain legitimacy while challenging the status quo. This is a delicate balance. One step too far in either direction means that the practitioner will lose the confidence of one of the constituencies on either side of the boundary upon which the practitioner’s role resides.

### **6.3 Firefighting or Fire Prevention? Tensions Between Reactive and Proactive Work**

Tensions between proactive and reactive work are central to anti-harassment practitioners’ descriptions of their work. While reactive work fits within institutional prerogatives relating to legal responsibilities and limitation of liability, proactive work is viewed as potentially changing institutional climates. Harassment and discrimination policies provide an interpretive map that defines how practitioners are to think about and deal with the issues. Policies, for the most part, dictate reactive strategies to complaints, as illustrated by Interviewee #20’s (trained in women’s studies) description of her work: “Well, definitely the way the policies are set up, it [anti-harassment work] is reactive [...]

Ask me what my management style is? I do management by crisis because I don't have enough time to do anything else and partly because that's the nature of this beast." Because practitioners are limited in their roles by institutional policies and power structures, they are forced to make the best of the situation by doing their best to solve problems: "As advisors, as you know, we are involved with the informal part - informal process - of the policy. And so again, the focus in that part of the policy is to problem solve [...] What I keep in mind is how can I make the situation better? How can I do it [resolve the case] so that the respect and dignity of the complainant and respondent remain to some extent intact?" (Interview #6, business administrator).

A commonly used metaphor for doing harassment and discrimination work is firefighting. This metaphor reflects the reactive nature of the work the practitioners are charged to do under institutional policies: "In many respects I feel I'm like the Fire Department. When somebody comes in the door I need to know is this a chemical fire, a brush fire, a house fire, a fire in a high rise. What does it need to put it out?" (Interviewee #4, lawyer). In this case, firefighting is a reflection of having the skills and knowledge to understand and deal with situations. In some cases, firefighting is part of disguising the amount of fires that are getting started: "Well, that certainly was my experience in [name of university], was that we were there to fight fires. Well, not even that, to dump on them and put them out completely, but make sure that nobody knew about them" (Interviewee #21, psychologist). This statement reflects the frustration of some practitioners regarding the institutional limitations on their work. In this case, reactive work does not only fall short of broader goals around eliminating harassment and discrimination: it interferes with these broader goals.

Several of the respondents view proactive and reactive work as inseparable. Interviewee #19, trained in social work, describes her work by including both the metaphor of firefighting and that of fire prevention:

I think we were always doing prevention, but it's like if you have a big fire, you're not thinking about prevention. You're thinking about putting out that fire, and then we'll be thinking about prevention. So I think it depends. The fire prevention officer is said to have the easy job where the firefighter is the person who is really risk-taking. I think the harassment job is both fire prevention and firefighting. You don't have a good prevention person in policy if you don't have experience in that firefighting and neither will you be a very good firefighter if that's all you're doing and you don't think more systematically - "how do these fires get caused?" I see them going hand-in-hand.

Interviewee #5 (queer and feminist activist) reflects on the problem of trying to separate proactive and reactive work when she says, "How do we build the mutually respectful inclusive communities so that these concerns don't happen in the first place? [...] That can be frustrating because it feels that you are always putting band-aids on wounded knees but you're not fixing the bolts in the teeter totter that causes the children to be thrown off the side." The tempered radical is faced with a dilemma: work for "small wins" (putting on the band-aids) or push for more radical change (fix the teeter totter).

This dilemma is not unique to the anti-harassment practitioners' engagement with social problems. Activists of all types struggle with these issues. For example, individuals and groups who work in the area of intimate violence against women or the elimination of poverty are faced with dilemmas around the provision of certain services for the abused and the poor. Supporting shelters for battered women or food banks to feed the hungry can amount to "putting band-aids on cancer" because while these initiatives provide immediate responses to the situations of the abused or the poor, they do not fundamentally change the social circumstances of members of these disadvantaged

groups. A more radical political position might suggest that closing these services would force the state to deal with the broader social problems. However, this would leave battered women without a safe place to go and the hungry without even minimal sustenance. Activists of all types must deal with whether or not small wins will ever amount to deep and long lasting social change, or whether they will, in fact, serve only to sustain the social problem through their minimal provisions to those in need.

Koikari and Hippensteele's (2000) case study of one anti-harassment practitioner's work indicates that the practitioner employed strategies (such as educational sessions) that could be viewed as empowering. The authors argued, therefore, that the practitioner's work in a boundary role was not wholly "depoliticizing". According to Myerson and Scully (1995), focusing on small wins such as empowering individuals through education may help to reduce larger problems to a manageable size. In my own study, interviews reveal that practitioners seek small wins in a number of ways. By supporting complainants through the complaint process or engaging in mediation or other solutions that restore the complainant's sense of dignity, practitioners perceive that they are supporting and empowering complainants: "What to me was interesting about this type of work is the importance of people being treated with respect and how to help people feel that they have respect and are being empowered" (Interviewee #1, psychologist). Other practitioners also took a counseling approach to complainants, seeing the importance of helping victims to feel that their concerns have been heard and dealt with in an appropriate manner. For example, Respondent #5, a queer woman with a background in Women's Studies and feminist activism, comments: "Sometimes it helps people to feel validated by having a chance to get out their story and

have someone say you know, you're going through a really rough time or what have you." Respondent #13, a sociologist, combines her traditional reactive procedural role in the complaint process with strategies to encourage learning in the parties involved in the situation: "[I place] emphasis on finding constructive solutions to situations rather than going straight into adversarial mode. It was part of my own inclination, because it struck me that if people didn't learn anything in this process, what was the point of it in any university." Learning is a central focus of the practitioner desire to gain small wins. The accumulation of small wins may contribute to the transformation of the institution.

Throughout this study, many practitioners expressed the desire to empower campus community members and to contribute to the prevention of harassment and discrimination through education. Practitioners perceive that educating campus community members about their rights under policy will allow them to take action on their own or to seek advice and assistance from the anti-harassment office. However, if the focus of the change is the (potentially) harassed individual and not the institutional structure or climate, empowerment is not a particularly radical outcome: the complainant 'learns' to manage the harassing and discriminatory behaviours of others, and therefore, harassment can be 'prevented'. This approach takes the focus away from the institution's responsibility to provide a harassment-free organization and places responsibility squarely with the complainant, even though practitioners view it as a positive and empowering outcome for the complainant. Respondent #20 a differently abled woman with a background in Women's Studies, comments: "I'm much more interested in helping people figure out how to communicate directly and solve their own problems than in imposing formal charges and looking for penalties and discipline." In this case,

the practitioner is speaking against the formality of legal procedures by suggesting that the empowerment of the complainant will negate the need for those types of procedures. However, she is concomitantly, although perhaps unintentionally, supporting the position that harassment can and should be dealt with by individuals.

A focus on education suggests that knowledge alone can create change. This approach fails to examine issues related to power. The small wins gained through the empowerment of individuals will not necessarily tip the balance of power. Many of the participants in my research assume that education can be empowering for its recipients and can therefore contribute to a change in the institutional climate. Psychologist Respondent #7's comments reflect this position: "We're trying to do more and more training and preventative work rather than remedial. Although of course we will respond to complaints when they come in but we're trying to think of new [educational] initiatives that will go to that larger goal that I mentioned earlier – of changing the culture."

Interview data reported in Chapter 5 of this document illustrated that practitioners use personal stories in education as a tool for creating individual transformative learning. However, educators such as Freire and Shor (1987) argue that critical self reflection is not in and of itself the basis for radical institutional or societal transformation. Without significant attention to how power operates within institutions, education is less likely to encourage participants to radically change institutional structure and climate (Inglis, 1997: 14). Some anti-harassment practitioners are aware of the problem of working within the system. Without attention to issues of power, some practitioners feel that their educational work does resemble putting a band-aid on a cancerous growth: it does little more than eliminate immediate situations and certainly does not change the institutional

climate: “I think there will always be complaints of harassment and discrimination. I don’t see it going away ever. I think that some of the issues are around power and the lack of accountability for people in positions of power. I think that’s one part of the problem” (Interview # 12, psychologist).

According to Inglis (1997) we should be cautious about equating education with outcomes that change the nature of institutional power structures. The author distinguishes between empowerment and emancipation, arguing that empowerment involves helping people to “act successfully within the existing system” rather than “critically analyzing, resisting and challenging structures of power” (4). Therefore, educating to empower does not fundamentally challenge the system. Unfortunately, practitioners’ desire to empower community members through education may in fact bolster the system by teaching people to exist within it rather than challenging and therefore transforming the power structure.

#### **6.4 Institutional Environment**

As I have demonstrated through reference to policy definitions of practitioners’ roles, anti-harassment work is textually-mediated work. Dorothy Smith (1999) argues that texts like institutional policies universalize experiences because they create forms of consciousness that override a naturally occurring diversity of perspectives and experiences. Texts are conscious choices that create managed realities. Institutional policies are particularly important textual parts of the ruling relations in the institutional setting because they create what is “officially knowable” (Khayatt, 1995) and also what is officially doable. In the case of harassment and discrimination issues, policy texts create the parameters around how practitioners must define and deal with harassment and

discrimination issues. “Bureaucratic practices...form models of social life that compete with, erode, and exclude other models for human activity (Heyman, 2004: 490).

Policies prohibiting harassing and discriminatory behaviours are required by law in Canada. Without a policy, an institution is legally liable for harassment and discrimination that occurs under its purview. Agoos et al (2004) argue that equity rights positions at universities were created to manage the institution’s liability. This finding is echoed in interviews with the participants in my own research. Interviews reveal that practitioners recognize that institutional prerogatives surrounding harassment and discrimination policies may serve only to meet the minimal goal of limiting institutional liability. Several practitioners refer to the implementation of policy as “institutional asscovering”. Respondent #6, a woman of colour, describes what this means when she says that her institution “uses [the] policy to keep itself in check and to keep itself out of the papers, out of the media - to be able to demonstrate to the public that it’s fulfilling its responsibility of creating an inclusive place.” For some respondents, the purpose of institutional policy was related purely to providing lip service to legal responsibility and the prevention of harassment and discrimination, as evidenced by Respondent #2, a man of colour: “I think for the institution the most important part of this is to be able to say we have a policy and we have somebody in place who looks after and ensures everything is great at our institution.” Some practitioners accept the strict definition of their work as purely reactive and procedural. Respondent #4, trained in law and working with a category 3 policy (all prohibited grounds as well as personal harassment), comments on her perception of her role: “If you need an advocate, bring in an advocate and if you can’t get your story out without crying, go to counseling. I’m here to process complaints. I’m

not here to counsel.” This practitioner treats her role as one that is strictly related to legal goals under policy and not to other behaviours that might empower or support complainants in ways other than those related to their legal right to have their case heard.

Institutional policies place official limitations on the work of practitioners related to the goal of changing institutional climates and eliminating harassment and discrimination within the institution. On the surface, having an institutional policy appears to serve the goal of changing institutional climate. However, as Heyman points out, “official language and procedures legitimate or mystify hidden biases” (2004: 489). The tension between the institutional prerogative of protection from legal liability and the practitioners’ desire to change climates is reflected in comments by Respondent #5, who has a history in feminist activism and women’s studies:

My sense is that the bottom line from the Institutional perspective is somewhat of – we have to protect ourselves. You know, we have an obligation to resolve this complaint of sexual harassment let’s say because otherwise you might get sued rather than because that person has a right to work in an environment free from harassment [...] From our office, our bottom line is how do we prevent this from happening in the first place and when it has happened how do we resolve it to the best of our abilities in a way that respects the rights and interests of as many parties as possible?

Agocs et al’s (2004) survey results suggest that a majority of equity workers view themselves as agents of change within their organizations. However, “it is the mandate and location of equity practitioners’ positions within the organizational structure, not merely their personal traits and values, that makes it possible for them to function effectively as agents of equity-related organizational change on behalf of marginalized groups” (217). Limitations placed on the work of anti-harassment practitioners by senior administrators reinforcing minimal legalistic goals can be frustrating for those

practitioners who see their role as more than simply a gatekeeper of institutional prerogatives. Agocs et al's research asserts that change agents must attempt to maintain legitimacy with "organizational insiders" like senior administrators so that they will be open to the practitioner's influence. This is an important aspect of being a tempered radical in a boundary role. Challenging the status quo forcefully and openly may backfire because it can result in the withdrawal of support from senior administrators and other members of the organization who are committed to traditional organizational values. My respondents comment on their (often somewhat precarious) relationship with senior management. Anti-harassment practitioners are aware that their ability to gain credibility with senior administrators may be related to how they interact with institutional prerogatives and politics of senior administration:

The Offices have to exist and I think Institutions know that. How much money and support are they going to give them is another matter and all that has to do with – politically how well can you negotiate your way through it? How well can you make your argument? Are you seen as a pain in the ass? Or are you seen as someone who's strategically attempting to help your institution in the long run. If you're seen like a pain in the ass it's not going to help you any, right? (Interview #11, sociologist)

This respondent perceives that gaining support and credibility within the institution is dependent upon not being perceived as problematic by senior administration. Part of playing the institutional 'game' relates to how well the practitioner presents her/his goals and makes them appear to be in line with institutional prerogatives. This reflects the tempered radical's dual struggle of working within while at the same time trying to change the organization.

In her article "Institutionalized Resistance to Organizational Change", Carol Agocs (1997) outlines a number of forms of organizational resistance to change

initiatives. My respondents provide examples of encounters with these forms of resistance in their commentary on barriers to doing their jobs. One form of resistance is denial of the need for change. This type of resistance can include attacks on the credibility of the change message and attacks on the messengers and their credibility. Respondent #10, a psychologist, comments on this problem at her institution: “Every time a case comes up that they [administrators] don’t like, there’s tendency to deal with it by attacking the [anti-harassment] centre.”

Another form of organizational resistance involves the administrator’s refusal to accept responsibility for dealing with the change issue. This is reflected in Respondent #10’s frustration with the lack of protection she receives from senior management: “[administrators] need to protect their advisors in order to let them do their job. I feel that if they or the people directly above them are afraid, they are not doing their job. They won’t fight for the right things.” Interviewee #2, a man of colour, suggests that administration may in fact treat the practitioner as “somebody who if something goes wrong [administrators] can scapegoat. They can say it’s their [the practitioner’s] fault - they didn’t handle it properly.” In this case, the practitioner’s situation is extremely precarious because the administration is not only perceived to refuse responsibility for the case, but to use the practitioner as a shield from negative criticism of the institution. As Agoos et al (2004: 207) point out, “if senior academic administrators are unwilling to stand up for equity principles, programs, and practitioners, people in these positions may be highly vulnerable.”

A third form of organizational resistance to change involves the refusal to implement change that has been agreed to. Respondent #7, a psychologist who works with a policy

that charges anti-harassment officers with responsibility for the effective implementation of policy and procedures<sup>18</sup> reveals that she and her colleagues lack the ability to live up to this policy directive due to the interference of their superior: “What happens is we report to this person who then takes our comments forward, but they’re lost in the process. We don’t know whether they ever got forward or to what degree they were really supported.” In this case, the institution has developed a policy and hired practitioners to implement it. Organizational resistance occurs when senior management interferes with the work of the anti-harassment practitioners, therefore nullifying the impact of having an anti-harassment office.

A fourth mode of organizational resistance involves repression of the equity initiatives or action to dismantle change that has been initiated. Repression of initiatives is evident in comments provided by Respondent #21, a woman of colour. She perceives that lack of support from management, particularly as it relates to work that makes the office more proactive and more visible, has a major impact on community members’ ability to trust the work of the anti-harassment office:

We were the invisible [...] The Equity Office had a very negative image on campus. Most students of colour, most gay and lesbian people, most people with disabilities, etc., people who would want to and need to perhaps use the Equity Office as a resource, have very negative impressions of the ability of the Equity Office to actually be a place for them. I think that has to do with the management stuff, and in particular, this kind of dilemma of not letting us go out, be more proactive, and therefore, more visible.

Interviews reveal that practitioners view their proactive work as the most important aspect of their role within the institution. In this case, the practitioner’s comments reveal

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<sup>18</sup> I do not quote the policy directly in this case because to do so might reveal the identity of this respondent.

that administrators support only the minimal provision of anti-harassment services. In short, this practitioner's comments demonstrate the limited ability of workers in these roles to gain the confidence of marginalized groups in the campus community when senior administration supports only reactive measures.

In addition, some practitioners view recent changes to harassment and discrimination policies as a move that has the potential to contribute to the dismantling of equity initiatives. An important change to policies is the inclusion of personal harassment as a ground for complaints in category 3 policies. As outlined in chapter two of this document, changes in workplace legislation have contributed to the addition of personal harassment to already-existing institutional anti-harassment policies. The inclusion of personal harassment in policies does not alter the role of anti-harassment practitioners, as they are charged under these category 3 policies with the same duties in relationship to investigation, mediation and education. However, practitioners are aware that including personal harassment in a policy can result in a large increase in complaints coming to the office which is a major factor in terms of the distribution of time and resources. Respondent #12 indicates that the inclusion of personal harassment in her institution's policy has resulted in a shift in the number and types of complaints that she adjudicates: "Sixty percent of the complaints I get fall into personal harassment. So, without it, what's happening to those people?" Respondent #3, who works with a policy that includes personal harassment comments on how it affects her work: "The wider your mandate is, of course, the less energy and focus you give to one area." A large number of personal harassment complaints can potentially draw the focus of the office away from human rights issues.

Practitioners are divided in their perspectives on the consequences of including a non-human rights ground in policies that previously focused on human rights issues. Some practitioners fear that the inclusion of personal harassment will dilute the human rights content of policies. Respondent #2, a man of colour, comments on the concerns that arose for him when the policy at his institution was changed to a category 3 policy:

I had to work hard to make sure that they kept some specific reference to race in there because there was the initial feeling was they wanted to just put “harassment on prohibited grounds” [...] Harassment because of race or ethnicity needs to be in there, so they [potential complainants] can say, OK I can still, you know, I am still covered, I still have these rights [...] It’s important that someone who knew there was [previously] a racial harassment policy look at this [category 3 policy] and not see it [protection against racial harassment and discrimination] as something that’s disappeared you know, or that has been watered down.

Human rights policies were developed as a response to the historical oppression of particular societal groups. A focus on personal harassment within policies has the potential to decontextualize harassment and discrimination. This concern is reflected in one practitioner’s comments that appeared on the CAPDHHE listserv in 2003: “By assuming responsibility in policy or practice for non-discriminatory personal harassment, I believe equity officers may be imperiling our ability to respond effectively to our primary constituents - the historically disadvantaged.”<sup>19</sup> Respondent #19, argues that if harassment policies include personal harassment language, the power relations inherent in human rights issues (here she refers to gender issues) disappear:

When you put the two policies together, the personal harassment and the sexual harassment, gender just becomes invisible, and I think that’s a really big mistake. It’s hard then to make it visible again. I think it’s part of the overall plot to make gender invisible, to have those policies together and you get lured into it, because it seems like it make sense, because there’s a field for that, but in the end, it really neutralizes the whole aspect around power relations and gender.

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<sup>19</sup> Reprinted with permission.

The inclusion of personal harassment in human rights policies has the potential to change the focus of those policies. It is very difficult for most complainants to come forward to allege harassment and discrimination. It may be easier for a complainant to file under personal harassment than to charge racial or sexual harassment. Respondent #11, a sociologist and feminist activist, comments on this issue:

If you add personal harassment into it [an institutional policy], human rights issues will get either watered down or pushed further down on the Agenda. People would prefer even to approach their complaint in terms of personal harassment rather than a human rights complaint because it's easier to deal with and you don't have to come out and say, "I think it's because of my race".

Some practitioners are concerned that this will contribute to inadequate solutions to harassment and discrimination issues in institutions. It may skew harassment and discrimination statistics such that it appears that human rights problems have all been solved and the problems that remain are easily resolved personality conflicts. This is reflected in the following comment from Respondent #9, a queer and feminist activist: "We see personal harassment used as ways that people don't need to name racism, don't need to name sexism, don't need to raise sexual orientation - and so you know how is that being used and how are we going to engage in those discussions?" This practitioner works with a category 2 (human rights grounds) policy and she, along with her co-workers resisted institutional pressure to include personal harassment in the institutional policy.

Practitioners register a tension between the concern that personal harassment is wrong and should be dealt with by institutions and the concern that the inclusion of personal harassment language (at least in human rights oriented policies) undermines issues of discrimination. This is evidenced by Respondent #12's comments regarding her

views on the inclusion of personal harassment in her institution's policy: "Is it a problem of watering down human rights? I don't think so, because human rights are addressed under the law. Or are we looking at a trivialization of personal harassment? I'm not prepared to trivialize it. I think it's important." Practitioners who do not want to see personal harassment in human rights policies are often criticized by other colleagues and members of their institutions as not caring about the problem or trivializing it. However, most practitioners who do not want to see personal harassment in human rights policies view personal harassment as a serious problem that should be addressed in some other space at the university. Respondent #19, mediator and social worker, expresses her views on combining personal harassment with human rights issues:

I think it changed my position on whether it was a good inclusion to have personal harassment with sexual harassment. I think it changed over time. Initially, I thought it was a good idea because they shared a lot of characteristics and there were so many people coming to the office saying, "I'm not being treated fairly". But when you looked at what was happening to them, you couldn't stretch it and say it was discrimination on the basis of sex or race or not race but sex. I thought initially it [including personal harassment] was a good idea. It was helpful in education when you were working in the educational field to see these examples of kinds of behaviour that are unfair and that lead to unfair treatment [...] I think it [including personal harassment] really did overshadow the sexual harassment and make people think "well, that's gone". We've dealt with sexual harassment. Now we don't have to worry about it". I think that it has been sort of subsumed by the personal harassment, so I don't think they should be in the same policy. I think we should have a policy that relates to the human rights grounds and we should have another way of dealing with personal harassment and bullying. I don't think they should be together.

Other practitioners, such as Respondent #18 (a lawyer working with a category 3 policy) argue that combining human rights issues and personal harassment issues in the same policy is not problematic because the prohibited grounds of human rights fall under

a body of legislation. The assumption inherent in this perspective is that formal legal legitimacy is all that is needed to address human rights issues:

I understand the argument that it [personal harassment] may weaken the human rights sort of hold that we want in the workplace, but I don't feel that sensitive to it, or that it needs to be addressed in a sort of separate way. We all have human rights codes in our provinces, so and the human rights commission, so I think there's a large presence with respect to human rights, and the bulk of what goes on is not discrimination or harassment on the basis of your membership in a group. It isn't.

(Interview #18)

As many critical legal scholars (i.e. Smart, 1989) have argued, a formal presence in law with respect to human rights does not guarantee substantive change. Assuming that the presence of a Human Rights Code is sufficient to ensure that harassment and discrimination issues will be dealt with is problematic for many practitioners.

Some practitioners recognize the problems with assumptions about the effectiveness of the translation of formal legal provisions into substantive societal change. Respondent #8, lawyer and activist points out that Human Rights Codes deal inadequately with prohibited grounds and in addition, don't allow for connections to be made between issues of power, inequality, and harassment on a broader level. Her comments expresses concerns regarding how all forms of harassment are related to power and therefore reflect issues of inequity, no matter how the harassment is played out:

Human Rights Codes are absolutely embryonic. They're not particularly well crafted. And they don't particularly get the kinds of things that we need to address. And an enormous amount of the conduct of harassment, irrespective of whether it's based on a prohibited ground or not, has the effect of perpetuating inequities in the environment around gender, around race because that's the largest social framework. So irrespective of whether this form of harassment is obviously sexual harassment or is obviously racial harassment it's gone to perpetuate sexual and racial inequities because those are the grounds on which it operates. There's a powerful equity argument for dealing with all forms of harassment.

Practitioner #21, a woman of colour who has worked with anti-harassment policies in a number of different contexts, registers concerns throughout her interview regarding the burden of proof required in certain types of harassment cases, in particular, racial harassment cases. While her main focus is human rights issues, she suggests that including personal harassment in institutional policy can allow for an alternate avenue (with a lower burden of proof) for dealing with human rights issues:

That's one of the things that has been talked about in personal harassment and bullying in the UK is that a lot of, and they are very careful to label race-based bullying, gender-based bullying, sexuality-based bullying, etc. because they understand that a lot of it is also very much part of experience of power, privilege and oppression, but it allows a lesser burden of proof for the victim.

Dealing with human rights based complaints as forms of personal harassment may represent a practical approach to dealing with the issue of burden of proof, providing more opportunities for complainants to seek resolutions to problematic situations. However, resorting to the use of personal harassment or bullying can be a slippery slope unless the focus on historical oppression is overtly maintained in these types of cases:

The discussion of bullying or personal harassment must never be excluded from the discussion of power and privilege and oppression, and I think that's the issue. It's not that it should or shouldn't be included. It's that you can't do it in isolation. It has to be done and connected with equity and the discussion of power and privilege.

That the practitioner sees the connection between harassment and power and privilege is not surprising. The difficulty lies in getting the institutional community to recognize this as an important issue. Making arguments against the neutralization of human rights claims that may occur with the advent of personal harassment clauses in institutional policies places practitioners in a situation that has a potential to lessen their credibility

with institutional insiders because it has the potential to identify them as activists who will be labeled as ‘not neutral’ and therefore incapable of fairly adjudicating complaints.

### **6.5 Whose Side Are You On? Boundaries, Politics, and Tempered Radicalism**

Harassment and discrimination work is influenced by both the immediate institutional context and the broader social and political context. The external social context can influence what happens in universities and how it happens. Although the social movements of the 1960s forced social institutions like universities to re-examine their traditional practices, the current social and political context has contributed to a retrenchment of the gains made by marginalized groups in institutions such as universities. Kokari and Hipplesteele (2000) argue that social movements are cyclical - movements go through periods of mobilization and demobilization:

Periods of protest are considered part of larger and long-term political processes, and, as such, go through different phases. When and how mobilization and demobilization occur depends on such external variables as the degree of openness of the state, the availability of political allies and support groups (in particular, political parties), the degree of stability of political alignments, the public’s receptivity to the movement’s legitimacy, as well as factors internal to the movement organizations such as the nature and style of leadership and tactics of protest actions (1271).

These cycles reflect periods of mobilization and maintenance phases during which strategies adopted are less confrontational and radical and more non-disruptive and non-threatening (1272). Drawing on Fraser, Kokari and Hipplesteele suggest that when grassroots mobilization meets or becomes part of the existing power structure of institutions like the law and the university, a clash arises between oppositional movement actors and experts who provide a bridge between the movements and the state and whose major role it is to depoliticize the movement’s claims and make them administratable,

contained and managed: “experts’ discourses evolve so as to decontextualize and undermine the political claim and identities pursued by oppositional movements” (1274).

According to Fraser (1989) advocacy and activism are removed from practitioners’ work by the expert discourses put into place to respond to political demands and to individualize and depoliticize them. Public perceptions of harassment and discrimination issues have been influenced by several famous and controversial harassment cases that have occurred in Canadian universities over the past two decades. These include the “swimmer” at the University of Toronto, cases in the Political Science departments at the University of Victoria (see Smith, 1999) and the University of British Columbia (see Marchak, 1996 and Smith, 2000) and the challenges to the Anti-Racism Officer at the University of Western Ontario (see MadhavaRau, 1996) among others.

The opposition of “neutrality” and “ideology” is clearly demonstrated in public commentary on controversial harassment cases. One of the most controversial of these cases is the Donnelly-Marsden case. In May of 1997, a swim coach named Liam Donnelly was fired from Simon Fraser University after a hearing panel at the institution determined that he had sexually harassed an SFU student, Rachel Marsden. Donnelly was reinstated in July of the same year, after it was revealed that Ms. Marsden’s allegations were not substantiated and the hearing panel process and findings were called into question. This case became the subject of a media frenzy across Canada.

Commentators such as SFU professor David Finley (1999) publicly denounced the university, the tribunal process and the harassment officer, Patricia O’Hagan, asserting that “the persecution [of Mr. Donnelly] was driven by ideological blight” (5). O’Hagan was denounced as a biased ideologue and her professional reputation was

destroyed. Ultimately she left the position, after an investigation of the office argued that this was not the only case that had been handled “improperly”.

The Donnelly-Marsden case is every harassment practitioner’s nightmare: the institution and the officer received an overwhelming amount of negative press and academic commentary. I raise this case not to debate its facts, but to point out that while the basic problem with the Donnelly case arose from the hearing panel’s ruling, it was the harassment officer who was called into question. Finley demonizes O’Hagan and the university and canonizes Donnelly: “Donnelly was a person of limited means, confronted by an empire that can and does spend the taxpayers’ money lavishly to further its special agendas” (1999, 35). Finley also asserts that the fact that the Sexual Harassment Office had only employed women constitutes “gender bias” (41), and that “unrestrained zealotry was the etiologic force in the Liam Donnelly case” (50). Commentators such as Finley provide the public with visions of what the role, norms, and values of harassment and discrimination practitioners should and should not be.

These visions of harassment work are examples of what Fraser (1989) refers to as “reprivatization” discourses. She argues these discourses are constructed to contain and depoliticize claims and discourses that have been successfully legitimated by oppositional movements. These are not simple re-statements of old discourses: they tend to incorporate the oppositional discourses against which they speak:

Because reprivatization discourses respond to competing, oppositional interpretations they are internally dialogized, incorporating references to the alternatives they resist, even while rejecting them. For example, although “pro-family” discourses of the social New Right are explicitly anti-feminist, some of them incorporate in depoliticized form feminist-inspired motifs implying women’s right to sexual pleasure and to emotional support from their husbands (172).

Some authors (i.e. Emberley, 1996; Klatt, 1997; Drucker, 1998) see harassment and discrimination policies as being incompatible with free speech and therefore with academic freedom. These analysts see the development of harassment and discrimination policies as part of a movement towards political correctness (PC) in society in general and universities in particular. Those in favour of such policies are discredited as the “thought police”. Academic freedom and political correctness have become intertwined, at least in the minds of some analysts. For example, there are those who oppose harassment policy at universities because it is seen as a threat to academic freedom and a sign of too much "political correctness". Such critics believe that political correctness is a form of totalitarianism, which threatens free speech (i.e. Drucker, 1998). However, Min Choi and Murphy (1992) point out that political correctness is inclusive rather than exclusive, and that its aim is open discussion, not repression. Political correctness encourages a critical examination of social life and of social institutions such as the university. Such critical examination does not constitute totalitarianism; in fact, it creates a situation, which is quite the opposite, because "nothing is sacrosanct with respect to PC" (Min Choi and Murphy, 1992: 6).

Smith (1999) points out that PC is an ideological code that “order[s] and organizes texts across discursive sites” (158). The ruling relations have evolved to produce a coordinated complex forming a field of relations occupying no particular place, but organizing local sites articulated to it. Since the relations of this complex are based in and mediated by texts, important functions of coordination are performed by ideologies, concepts, theories, and the like, that insert their ordering capacities into specialized sites operating otherwise independently. Ideologies, concepts, and theories generate texts

(Smith 1990) and constitute their internal organization (1999, 155). Ideological codes generate means of interpretation, which are overlaid on text and talk. They are not only reinforced by those who accept their content, they are replicated by those who speak against them. Responding to or challenging the ideological code centres the debate on its terms and therefore replicates the code.

Political correctness has become an organizer of the discourse around harassment and discrimination. The “PC” frame makes the issue of equity oppositional to the issue of free speech. “PC” frames the discourse such that equity must respond in a way that proves its “fairness”. Smith (1999) sees PC as an ideological code that organizes public discourse, “particularly at the points of intersection between universities and social movements” (172). For Smith, PC is an organizer of public discourse because “even dissenting views must operate on its terms and hence reproduce it” (173). PC regulates not only statements but also relationships between people. This is because discourse “exists in people’s socially organized activities - it is a “field of relations” (173). Ideological codes structure text and they are self-reproducing (175).

Reprivatization discourses arose in response to demands for law, policies, and procedures to deal with harassment and discrimination, resulting in changes to policy content. Fundamental to these discourses are arguments about political correctness as problematic. Those who worry about out of control political correctness state that people are just getting too sensitive. Reprivatization discourse is reflected in changes to harassment and discrimination policy content. The growing prominence of strong statements regarding academic freedom in recent versions of harassment and discrimination policies in the university context is one response to concerns about

political correctness into these policies.

Academic freedom is a highly valued right in university communities. It allows academics to discuss controversial issues and to make controversial statements without fear of reprisal. The Canadian Association of University Teachers defines academic freedom as the freedom "to teach, investigate and speculate without deference to prescribed doctrine". Academic freedom, like other freedoms enjoyed by Canadian citizens, is not limitless. For example, Canadians do not have the "right" to promote hatred or to slander others. Similarly, academics do not have the right or the freedom to harass others: "academic freedom does *not* include the freedom to ignore fiduciary responsibility, the freedom to abuse those in subordinate positions, or the freedom to do nothing" (Dobson, 1997: 245). Stark (1997) argues that academic freedom "does not mean that we can do whatever we want and say whatever we want and write whatever we want" Academic freedom does not mean freedom from responsibility" (232).

Linda Eyre's (2000) analysis of a sexual harassment case at a Canadian university illustrates how academic freedom can be used to deflect and/or re-interpret claims of discriminatory behaviour. Emphasis was placed on academic freedom in the case and this pulled the focus of the case away from the issues of harassment. This change in focus stripped the case of its gender connections. Feminists who argued against harassment were seen as "having an axe to grind", while other commentators who focused on law and academic freedom were viewed as "impartial experts" (301). "The dominant individualistic, juridical, and anti-feminist backlash discourses together formed a system of knowledge - a 'regime of truth' - that silenced, distorted and marginalized a broader feminist analysis" (303).

Political correctness and academic freedom have become intertwined. The deployment of these frames has an effect on harassment and discrimination policies, which in turn has an effect on the work of anti-harassment practitioners. A comparison of policies from the three categories of harassment and discrimination policies present in the Canadian context reveals that statements regarding academic freedom are becoming more common in category 3 policies. Table Two provides a summary of the inclusion of academic freedom statements in the 44 policies that I examined as part of the contextual material for my research.

**Table 2: Inclusion of Academic Freedom Statements by Policy Category**

Category	# of institutions	Academic Freedom Statement <sup>20</sup>
1 (sexual harassment only)	9	4 (44%)
2 (all prohibited grounds)	19	9 (47%)
3 (all prohibited grounds plus personal harassment)	16	12 (75%)
Total (44)	44 (100%)	25 (58%)

While less than half of the category 1 (sexual harassment only) and category 2 (all prohibited grounds) policies include an academic freedom statement, 3/4 of the category 3 (all prohibited grounds plus personal harassment) policies include such a statement. Further, the content of the statements also changes, with the statements becoming stronger and more prominent from category to category. Below, I provide a brief comparison of exemplary statements from each category of policy.

Category 1 (sexual harassment only) policy statements do not necessarily include

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<sup>20</sup>This includes statements regarding freedom of thought and expression

statements regarding academic freedom. When they do include such statements, they reflect a general concern with the position of persons with less power, as illustrated by the following statement from the University of Calgary Sexual Harassment Policy (1990):

While these policies and procedures are not intended to inhibit social relationships or freedom of expression, individuals involved in or entering into a sexual relationship with a consenting adult who is or who is about to be subject to them for the purpose of evaluation or supervision should consider the power differential and the implications thereof for the student or employee if a sexual relationship continues and are advised to decline or terminate their supervisory or evaluation role in that instance by arrangement with the proper authorities (2).

In this case, the statement is not a specific reference to academic freedom but to freedom of expression in the context of sexual relationships between consenting adults. Such statements are often referred to as consensual relationship guidelines in the harassment and discrimination community. The above statement is the only one in the generation 1 policies that relates it to freedom of expression or academic freedom. Note that freedom of expression gets only brief mention here. The balance of the paragraph sets out guidelines for consensual relationships.<sup>21</sup> In this case, freedom of expression is not related to issues of academic freedom. The primary concern resides with the less powerful party.

Other Category 1 statements separate freedom of expression and consensual relationship statements. Mount Allison's Policy and Procedures with Respect to Sexual Harassment (1994) policy states: "Mount Allison is a community that respects the

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<sup>21</sup> Concerns about consensual relationships between supervisors or professors and employees or students were the topic of much debate in the 1990s. Some institutions tried to bar them outright (for example, the University of Ottawa). Most required that if such relationships were entered into, the person with power in the relationship must remove him/herself from the supervisory relationship. The purpose of consensual relationship statements is to protect the person with less power in the relationship.

responsible exercise of academic freedom and respects freedom of thought and expression” (2). Dalhousie’s Sexual Harassment Policy (2003) indicates that the policy “is to be interpreted and administered in a way that is consistent with the principles of academic freedom” (2). Memorial University’s University-Wide Procedures for Dealing With Sexual Harassment Complaints (2001) suggests that their policy and procedures “are not intended to inhibit social relationships or freedom of expression” (3). While all of these statements acknowledge freedom of expression and in some cases acknowledge academic freedom, these freedoms are not prioritized over and above the right to an environment free of harassing behaviour.

Category 2 policies are more likely than Category 1 policies to deal with the potential prioritization of the right to academic freedom over the right to a harassment-free workplace. Ryerson’s Discrimination and Harassment Prevention Policy (2007) states that “freedom of expression is the cornerstone of education at Ryerson University, but like other Charter Rights, it is not an absolute right” (3), thereby refusing to prioritize freedom of expression. The statement in the Queen’s Harassment/Discrimination Complaint Policy and Procedures (2000) policy includes the following:

Academic excellence can only be achieved when all members of the community are free to work, teach, and learn in an environment that does not exclude or discriminate against them. This policy and procedures have been formulated to ensure the protection of these essential elements of academic freedom (2).

In this case, academic freedom refers directly to the right to freedom from harassment and discrimination: there is no academic freedom where there is harassment and discrimination. The policies at Guelph and the University of Toronto deal specifically with a juxtaposition of rights. At Guelph, this juxtaposition favours the right to a harassment free institution over the right to academic freedom. The University of Guelph

Human Rights Policy (2002) “acknowledges that situations arise in which there is a perceived conflict between academic freedom and human rights” but still maintains that “academic freedom does not entail a right to deny equality to or harass individuals on grounds protected by the Human Rights Code and this policy” (2). The University of Toronto Statement on Prohibited Discrimination and Discriminatory Harassment (1994) has a section on “Reconciling Competing Rights” which directly addresses balancing academic freedom and the right not to be harassed. Human rights are juxtaposed with the right to academic freedom and they are deemed in this case to be parallel and to some degree, in competing. However, the University of Toronto policy indicates that it will not prioritize rights:

The University aspires to achieve an appropriate balance between these rights [to freedom from prohibited discrimination and harassment and freedom of expression] in order to maximize the capacity of every individual to flourish to the fullest extent possible. A detailed code or policy runs the serious risk of giving one right or value undue emphasis or priority, and thereby inhibiting and interfering with the ability of the University to live up to its highest aspirations (4).

Policy statements on academic freedom appear more frequently in Category 3 (all prohibited grounds plus personal harassment) policies and in many cases much more strongly stated. Most category 3 statements are short and direct. For example, the Simon Fraser University Human Rights Policy (2003) states: “This policy will not be interpreted, administered, or applied to infringe the academic freedom of any member of the university community” (2). The University of Lethbridge Personal Security Policy (2006) states: “Nothing in this policy can be used to limit academic freedom” (2). The Acadia Policy Against Harassment and Discrimination (2006) does not address academic freedom directly, but does state: “nothing in this policy shall be construed to remove any

rights that members of the University community have independently of this policy (4). The University of Prince Edward Island Fair Treatment Policy states: “The Fair Treatment Advocate, like all other officers of the University, is obliged to uphold academic freedom” (2).

The foregrounding of academic freedom as a right does not mean that human rights will be completely ignored. Human rights policies have not disappeared. However, language frames how we think about issues. The bold and unqualified academic freedom statements that appear in category 3 policies reflect more hegemonic interpretations of “rights” within the university. Academic freedom protects those with more power within the university system – members of faculty. Human rights policies were developed out of oppositional culture to combat historical oppression of members of particular groups in society. The increasing number and strength of academic freedom statements appearing in harassment and discrimination policies frames this right as the foremost right to be considered. This change in language may have the effect of discouraging potential complainants from coming forward if they feel their case cannot override concerns about academic freedom within the institution.

My interviews with practitioners revealed opposing views on the importance of academic freedom. On one side of the debate, Respondent #4, a lawyer who works with a category 3 (all prohibited grounds plus personal harassment) policy appears to have accepted the reprivatization discourses when she comments:

So there’s still a sort of an ideological political bent within significant portions of student population who would wish this policy to be like the speech police like the morals police – that is not what it is and I don’t think it should be. So it’s important that it says this policy is not meant to take away to detract from academic freedom because I happen to think that academic freedom is very important (interview #4) (C3)

Academic freedom is increasingly posed as an unassailable right rather than an important privilege to be exercised responsibly by the professoriate. It is also increasing juxtaposed with equity rights. This becomes a debate about the polarization of rights – i.e. academic freedom is held up as a right to free speech that should, according to some analysts, supercede equality rights that are viewed as silencing free speech. What is problematic about this position is it appears that the right of freedom of speech might include the right to harassing or discriminatory behaviour. As Respondent #7, a psychologist and long-time anti-harassment practitioner, points out, when the parameters of academic freedom are not defined, it can be marshaled by respondents as a defense to behaviours that are harassing or discriminatory and are not related to free speech:

The policy takes a very strong stand for academic freedom and I think that's important. But I would like to see clearer indications made of where academic freedom becomes harassment [...] It's not meant to excuse certain excesses and abuses. So I would like to temper somehow the endorsement of academic freedom in the policy because some of the cases that we have are cases where faculty may cite academic freedom as why they were behaving in a certain way. But in fact it is pretty transparently not academic freedom at all.

Unquestioning acceptance of the right to academic freedom does not render transparent the issue of whose rights are being protected. Academic freedom was implemented by universities to support challenges to the status quo by faculty, not squelch them. However, academic freedom is often used to challenge anti-harassment policies rather than to uphold them. It is not surprising that anti-harassment policies, which are meant to challenge historical oppressions, engender discomfort in those who occupy positions historically imbued with power and privilege. Anti-harassment policies challenge the rights of the privileged to exercise this privilege against the rights of others to equality; in other words, these policies challenge the rights of those with privilege to

maintain their privilege. Academic freedom debates constitute part of the backlash (identified by many feminist and anti-racist activists) that rejects demands from the historically marginalized that their voices be heard and that they deserve a place at the centre.

These debates underscore Fraser's (1989) arguments about the development of reprivatization discourse. Because debates about academic freedom include references to Charter rights, they engage in the debate in a way that includes the grounds upon which anti-harassment policies were founded – the grounds of rights and freedoms. In other words, they succeed because they do not take the less acceptable position of rejecting demands for equality rights outright. Arguments against political correctness that use as their basis the argument for academic freedom suggest that demands for equality are not outright wrong, but have gone too far and therefore are interfering with the rights of others. Therefore, calls for the prioritization of academic freedom as an unassailable right constitute a re-inscription of hegemonic power on the counterhegemonic demands that have arisen from the margins of society. Rather than accepting this debate as “normal and natural”, we should be aware of the pitfalls of viewing academic freedom and equality as incompatible.

Academic freedom, although touted as a right that has no relation to politics, is not a neutral term:

Academic freedom does not now come unadorned, for it has become its own myth: an icon to be revered above all else, an article of faith, an essentialist doctrine bearing pontifical force. Used as cliché, academic freedom can be applied to justify conduct as obvious and without the need for further questioning; somewhat similar to the role of the nineteenth-century cliché “manifest destiny”, which successive American administrations used to great effect to justify the colonization of North America. The cliché status of a phrase prevents meaningful dialogue by

camouflaging a challengeable position with the simple utterance of the iconic trump. For example, the media and others sometimes use “threat to academic freedom” or “political correctness” to put an issue beyond debate (Pavelich, 2000, ix).

Featuring academic freedom language prominently in policies reasserts the power of the privileged in the institution. It juxtaposes this ‘free speech’ right with human rights in a problematic way. Those who argue against harassment and discrimination policies take the position that the problem or inequality in institutions is not only resolved, but that Anti-Harassment offices wield an inordinate amount of power that is used against the “poor defenseless faculty members”. Privileged faculty members are presented as helpless victims of rampant political correctness. For example, Diane Meaghan (2004) argues that harassment and discrimination policies are speech codes, and that equity offices are in fact an arm of management that is used to “circumvent the collective agreement, thus establishing a culture of restraint” (179).

With the introduction of these new speech codes, the charter rights of professors as citizens were swept away in the workplace, and as a result, colleges became more extensively monitored and regulated than most other public institutions. Some administrators established practices steeped in intolerance to relentlessly scrutinize every aspect of the educational experience. Censorship and, more lamentable, self-censorship had the effect of curtailing free speech and academic freedom (179).

Because the discourses of political correctness and academic freedom question the ‘fairness’ of practitioners work, practitioners often use the language of neutrality and/or impartiality when describing their work. Impartiality gives credibility to the practitioner’s actions and power to her/his work. If you can claim neutrality, then you are viewed as doing your job appropriately. It is a way of deflecting negative attention from the work. It is also a way of paralyzing your opponents: they can’t argue with your impartiality (unless they can dismantle it) because it will make them look unreasonable.

Fuller's (1994) research reports that practitioners negotiate conflicting demands, particularly demands for neutrality vs. demands for activism. Practitioners are forced to operate on the terms set by regulatory discourses such as law, including proving that they are being fair or impartial as they conduct their work. Making claims of impartiality may give practitioners more power to accomplish their goals within the institution because it gives them credibility with the community. Respondent #16, a long time practitioner working with a category 1 (sexual harassment only) policy tells us, "I can't say everybody [in the institution] knows me, loves me, and trusts me. I certainly couldn't say that. But, I can say, I feel that I'm well respected and that I'm seen to be fair and reasonable."

A central element to claiming impartiality is eschewing activist politics of any kind. Respondent #12 (trained in psychology) comments on activism and anti-harassment work: "I didn't want to get into a political agenda advocacy. I wanted it to be perceived as being objective, fair and one in the lines of prevention. In other words, putting a positive spin on all of this." In fact, some practitioners assume that a practitioner's acknowledged political stance indicates s/he was incapable of being impartial or effectively evaluating the facts of a case. Political stances are not therefore only viewed as being related to the practitioner's worldview – they are seen as influencing the practitioner's ability to do their work competently. Respondent #4, a lawyer who works with a category 3 (all prohibited grounds plus personal harassment) policy, equates not having a politicized identity with being a competent anti-harassment worker: "I'm happy about the fact that this policy says that I'm impartial. I am not a person with power nor should I be a person with power. I'm here supposedly with

subject knowledge to administer a policy - to be impartial, to be competent.” She goes on to suggest that political positions will ensure the facts will be ignored and that the work be inherently biased:

I’ve been told that when academic women meet, that they talk about problems in the harassment office. What is interesting is I have not met 98% of those women. But they seem to think that they have a view of what’s taking place here. They talk about sexism as being something that is omnipresent. So in other words if someone alleges that they’ve been the target of sexual discrimination you don’t have to bother proving it. You can assume that it’s true. That’s not the school I go to.

This practitioner’s training in the law and her commitment to her identity as a legal expert may have an influence on her interpretation of how harassment and discrimination work should be appropriately carried out. She views her role as one that should be in opposition to political positions. This practitioner’s comments throughout her interview indicate that she fully accepts legalistic interpretations of harassment and discrimination issues and eschews any notion that her work is about empowering complainants, counseling them, or advocating for them. This is evidenced clearly in the following comment on an encounter with a potential complainant: “I had a guy in here yesterday. A professor said something to him in class he didn’t like [...] I said ‘well you’re not going to be laying a formal charge because one thing said to you in a classroom that you didn’t like doesn’t constitute harassment. There’s policy.’ And he said, ‘Well what would you recommend?’ I said, ‘I recommend that you get over it.’”

This participant’s responses here and throughout her interview indicate that she does not fit well into the definition of tempered radical, because the tempered radical is an individual who experiences ambivalence and contradiction between traditional institutional perspectives and activist politics. In fact, her responses seem to indicate that

she stands firmly and without ambivalence on the boundary between the demands of marginalized groups and the administrative and legal prerogatives of institutional policy. In addition, her comments indicate that she eschews any connection to activism. Indeed, the following comment demonstrates that she sees herself in opposition to feminist activists on campus: “I would say those who describe themselves as ardent feminists would take a dim view of the way I do this work. I’ve certainly been told that.” This acceptance, and ultimately enforcement, of a clear boundary may be related to her training in the law.

An increased emphasis on law within policy, related to the increasing legal demands placed upon institutions based on changes to their legal liability, may lead to changes in the perspectives of those who choose to do anti-harassment work. Respondent #18, a lawyer also working with a category 3 (all prohibited grounds plus personal harassment) policy, echoes sentiments regarding the importance of legal training for anti-harassment workers by indicating that her training will make her a ‘better’ practitioner than a non-lawyer:

I guess because I’m a lawyer and because my role is quite specific in terms of what I do, I feel like I know more than most people about that, because I know about evidence. I go to court all the time, so those skills are more finely honed than others [...] I don’t mean to brag or anything. I just think that I have some twenty-five years experience of doing what we need to know to do this job.

This practitioner views “what we need to know to do this job” as being related to knowing how to follow legal processes rather than knowing how to deal with the demands of the marginalized groups.

Not all of the lawyers interviewed for this study hold firmly to the boundary between activist politics and anti-harassment work. Respondent #8 views her background in

women's activism as more central to her work as an anti-harassment practitioner than her training in law:

I didn't have an advanced degree when I started doing this job and I don't think you need one. But I had worked for a number of years in a women's shelter, a number of different women's shelters, and I've been quite involved in various feminist organizing that you know, organizations or sort of activist groups [...] Then I did a law degree, not because I was intending to become a lawyer but because I thought it would be quite useful to have, as indeed it is. It's not essential but it's useful.

She expresses her frustration with attacks on her credibility based on her identity, activist background, and perceived role within the institution: “[There is] a whole raft of suppositions about what this Office is and what it represents and who I must be and you know my obvious lack of bone fides because anybody who does this kind of work has to have an axe to grind.” Her comments demonstrate an awareness that her work is judged based upon her perceived ‘politics’ and her perceived inability to accomplish her work in a fair and ‘non-political’ manner.. Her identity and political commitments do not, from her perspective, impeach her ability to be fair, nor does her training in law separate her from political issues that drew to her anti-harassment work.

Many practitioners interviewed for my study not only emphasized the neutrality of their positions: they also equated neutrality with fairness, thereby labeling practitioners who understand their identities and positions as political as problematic (read: incompetent). The assumption being made is that practitioners who see equity work as inherently political because of its ties to social justice and the elimination of historical oppressions are unable to engage in the fair evaluation of complaints. This assumption is made with little evidence to support it. The structure of policies and procedures is based on legal requirements for natural justice – i.e. they are built upon a legal requirement of

fair procedure. A practitioner may be ‘political’ and still follow fair procedure. Evidence from interviews indicated that those practitioners who reject activist politics assumed that those who didn’t were always going to believe the complainant, no matter what the circumstances and they would therefore be unfair to the respondent:

Some of the mentality I picked up which didn’t fit with me was that like some of the – certain percentage of people going there [to the practitioners’ conference] felt kind of like victimized themselves and were probably more radical than I was in terms of orientation. You know, I’m conservative - I’m not – because of my background like I’m quite balanced and I’m not an advocate. As soon as someone comes in my office I don’t run around saying “Oh they’re harassed. Their institution is terrible. We have to do something. These poor victims.” (Interview #3, psychologist)

Because openly arguing in favour of advocacy or activist politics can challenge a practitioner’s credibility, some practitioners find ways to distance themselves from activism. Practitioners can remove themselves from the realm of the political by arguing that advocacy should be left to others within the institution. Respondent #13, a sociologist and long-term practitioner, comments, “What they expected was to see an activist centre [...] The students can provide the activism around this issue if they want it. That is perfectly appropriate. It is not appropriate for this office.” Interviews also indicate that some practitioners deal with the contradictions around impartiality and advocacy by referring to their position as “advocate for the policy” rather than as advocate for one party or for the institution as illustrated by Interviewee #5’s comment: “We’re not an advocate for one party or another. We are, if anything, kind of advocates for the policy - we’re advocates for resolving the case.” This is a strategy that was echoed in conversations I had with many practitioners over the years. This position

allows the practitioner to claim an advocacy role that is not viewed as activist in its orientation.

The current political context in North America emphasizes individual responsibility for problematic situations and encourages both the demobilization of social movements and the co-optation of their demands for equality. Demands for social justice made by marginalized oppositional social groups are therefore re-interpreted in a neoliberal social context as problematic complaints from members of special interest groups (Brodie, 1995). Koikari and Hippensteele (2000) argue that this type of social context constitutes a “maintenance phase” during which the strategies adopted by oppositional social actors are less confrontational and radical and more non-disruptive and non-threatening (1272). By viewing their work as advocacy for the policy rather than for the complainant, practitioners are allowed to retain a sense of advocacy, which is central to the notion that they should be change agents within the organization (Agocs et al, 2004). However, this approach also allows practitioners to retain another important aspect of their role, which is impartiality.

It is more acceptable within the practitioner community and the larger institutional community to advocate for the content of a legally constructed and institutionally endorsed policy. Policies outline acceptable, legally oriented demands for equity: they reflect ‘thin’ definitions of needs as outlined by Fraser (1989). It is viewed as more acceptable for the anti-harassment practitioner to advocate for adherence to human rights law because this activity focuses on the thin definition of needs, particularly in reference to the protection of the institution from liability for harassing and discriminating behaviour. However, it is not acceptable to be seen as advocating for the

demands of special interest groups on the campus. This reflects a strategy that may be used by tempered radicals in that references to law fit more traditional notions of how inequality should be dealt with. It is a neutralized way to raise the issue. Meyerson and Scully argue that one strategy used by tempered radicals involves using “insider” language to gain legitimacy within the institution. Referring to legal prerogatives (a language that makes sense to institutional insiders such as administrators) is a strategy (as demonstrated in Chapter 5) that practitioners use, particularly when they raise issues of harassment and discrimination to insiders such as administrators.

Another way of toning down or repoliticizing work that has its origins in activist politics is to change how we refer to it. Interviewee #16 (a long-time practitioner) suggests that the increasing use of the term ‘prevention’ is related to “mak[ing] the whole thing more palatable to the community.” Respondent #14, who supported the implementation of a category 3 (all grounds plus personal harassment) policy at his institution, argues that the use of the term prevention is preferable because the work of the anti-harassment office is nothing more than “fine-tuning interpersonal relationships”. Respondent #12, a psychologist who works with a category 3 policy, removes the word harassment from her description of her role: “I kind of take the harassment word out and just say that I’m doing it as a mediator. Often these folks don’t want to think their problem is one of harassment, so I just kind of neutralize it by doing that”

On the surface, comments about the importance of using neutral language and rejecting advocacy seem to represent ‘common sense’. However, I argue that this outlook in fact represents an acceptance by some practitioners of hegemonic ideas and practices that reinforce the power of dominant groups within the institution and the

society. Fairclough (2001: 27) argues that “institutional practices which people draw upon without thinking often embody assumptions that directly or indirectly legitimize existing power relations. Practices which appear to be universal or commonsensical can often be shown to originate in the dominant class or the dominant bloc, and to have become naturalized.”

Hegemony is the Italian Marxist Antonio Gramsci’s term for the discursive face of power. It is the power to establish the “common sense” or “doxa” of a society, the fund of self-evident descriptions of social reality that normally go without saying. This includes the power to establish authoritative definitions of social situations and social needs, the power to define the universe of legitimate disagreement, and the power to shape the political agenda. (Fraser, 1997: 153, emphasis in original).

Hegemony refers to social consensus that masks people’s true interests. ‘Common-sense’ assumptions about the world are in fact ideologically shaped and this is reflected in the use of language that frames social reality in particular ways. This production of meaning naturalizes power relations and minimizes the likelihood that they will be questioned. Naples (1997) argues that dominant discourses “render invisible the political dimension of their activities” (66). In reality, dominant discourses are not apolitical: they represent a particular kind of politics. According to Fraser, dominant discourses “execute political policy in a way that appears non-political and tends to be depoliticizing” (1989: 154). This position suggests that all positions are political positions and challenges the notion of dominant discourses as “neutral”. Fraser points out that it has been “demonstrated again and again that authoritative views purporting to the neutral and disinterested actually express the partial and interested perspectives of dominant social groups” (181).

Neutralizing discursive turns in the area of harassment and discrimination are evidenced in the increased use of terms such as “managing diversity”. “The language of equal opportunity and, even more so, of social justice has dropped from the management lexicon [...] The discourse of managing diversity, originating in the U.S.A., is one way that management can harness the equity agenda through co-optation rather than resistance” (Blackmore, 2002, 435). In a similar vein, Table 3 provides a comparison of the increasingly neutralized titles of harassment and discrimination policies across the three categories of policy I have outlined in this document. I have emphasized with bold type the titles of policies that do not make any direct reference to human rights or harassment and discrimination. In the case of a number of the category 3 policies, terms related to respect, fairness, or in one case personal security, are substituted for terms related to human rights.

**Table 3: Comparison of Policy Titles in Categories 1, 2, and 3<sup>22</sup>**

<b>Policy Titles Category 1 (Sexual Harassment Only)</b>	<b>Policy Titles Category 2 (All Prohibited Grounds of Discrimination)</b>	<b>Policy Titles Category 3 (All Prohibited Grounds plus Personal Harassment)</b>
Sexual Harassment Policy	Policy on Discrimination and Harassment	Discrimination and Harassment Policy
Policy on Sexual Harassment	Discrimination and Harassment Policy	Policy Against Harassment and Discrimination
Policy With Respect to Sexual Harassment and Sexual Assault	Human Rights Policy	Policy on Harassment
University-Wide Procedures on Sexual Harassment Complaints	Harassment and Discrimination Policy	<b>Respectful Work and Learning Environment Policy</b>
	Harassment Policy and Complaint Procedures	<b>Code of Rights and Responsibilities</b>
	Policy on Sexual Harassment and Discrimination Prohibited by Law	<b>Personal Security Policy</b>
	Anti-Discrimination Policy Sexual Harassment Policy	<b>Respectful Work and Learning Environment Policy</b>
	Personal Harassment and Discrimination Policy <sup>23</sup>	Sexual and General Harassment Policy
	Harassment/Discrimination Policy and Procedure	<b>Respectful Work and Learning Environment Policy</b>
	Discrimination and Harassment Prevention Policy	Policy on Discrimination and Harassment
	Equity, Discrimination, and Discriminatory Harassment Policy	Human Rights Policy
	Policy on Harassment Prevention	Harassment Policy/Procedures
	Sexual Harassment Policy Statement on Prohibited Discrimination and Discriminatory Harassment <sup>24</sup>	Discrimination and Harassment Policy and Procedures
	Policy on Discrimination and Harassment	<b>Ethical Behaviour Policy</b>
	Non-Discrimination/Harassment Policy	<b>Respectful Learning and Work Environment Policy</b>
	Sexual Harassment Policy Policy Concerning Racism	<b>Fair Treatment Policy</b>

<sup>22</sup> Although the listed titles may appear on more than one policy, I have listed them only once for the sake of brevity.

Interpreting these policy title changes as the normal and natural progression of policy would mean viewing them as a natural reflection of the inclusion of non-human rights issues into the content of policies. Since offices no longer focus *only* on human rights issues, referring to them as human rights offices could be viewed as a misrepresentation. However, in no case is the human rights component of the policy eliminated all together. This component remains central to policy content, if only for legal reasons - that is, institutions are legally required to retain the human rights component of the policies. However, changing the focus to more neutralized terms can have the effect of pulling the focus away from human rights. Therefore, policies appear more neutral and the issues more palatable. This eliminates the sense that offices serve special interest groups – they serve everyone and that is touted as a good thing.

Changes in policy titles may be accompanied by other changes in the structures of harassment and discrimination offices. The “Respectful Workplace Consultant” at the University of Regina is a good example. When the practitioner at this particular institution resigned, the university administration took the opportunity to move the office to Human Resources and to change the name of the position (which had previously been “Coordinator of Harassment and Discrimination Prevention”)<sup>25</sup> without consulting with the advisory committee. A woman of colour who was a member of the President’s Advisory Committee on the Prevention of Harassment and Discrimination (PACPHD) at this institution shared her concerns about these changes in an email communication:

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<sup>23</sup> While the term “personal harassment” is used in the title, this policy contains only those grounds prohibited under human rights law.

<sup>24</sup> This policy deals with prohibited grounds under human rights law.

<sup>25</sup> Note that these changes were accomplished outside of any changes to the institution’s policy content. It had already been changed from a generation 1 to a generation 3 policy a few years earlier.

Our committee sits in limbo since there is discussion that the Respectful Workplace Consultant should report to the Occupational Health and Safety Committee instead of PACPHD. We feel this is an inappropriate move since most on the OH&S Committee have not been provided with sensitivity training nor have the background in order to deal with the complex range of issues undertaken by a Sexual Harassment Officer. We have not been notified of our role with the Respectful Workplace Consultant nor have we had an opportunity to meet with her as a Committee. With many of the working committees at our University being dissolved, we may be the next committee to be disbanded.<sup>26</sup>

She goes on to outline her concerns regarding how these changes will impact potential complainants: “Since victims of harassment and discrimination have many barriers to overcome just to report an incident, the additional barriers imposed by University Administration may definitively lower the cases on our campuses. Our campus may look safer on paper, but at what cost to the victims?”<sup>27</sup> This committee member clearly sees the problems of “neutralizing” the office.<sup>28</sup>

An emphasis on neutralized concepts such as respectful workplaces or the management of diversity are not benign changes to policy: they neglect power and trivialize systemic discrimination (Blackmore, 2002, 436). Blackmore further argues that these neutralizing discourses reposition equity workers: “Within this policy frame, universities have supposedly, on the grounds that they are ‘mainstreaming’ equity principles throughout all management practices, incorporated EO [Equal Opportunity] officers into Human Resource Management (HRM), thereby nullifying their strategic power.” In this way, “affirmative action has been tamed through its institutionalization” (Blackmore, 2002, 436).

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<sup>26</sup> CAPDHHE Listserv posting, 2006. Printed with permission.

<sup>27</sup> CAPDHHE Listserv posting, 2006. Printed with permission.

<sup>28</sup> I spoke with this person in 2007 at the CAPDHHE conference, and she confirmed that the President’s Advisory committee had indeed been disbanded. The committee continues to meet informally, but it is no longer recognized as a standing committee by the institution.

Not all of the practitioners that I interviewed accept the movement toward a more ‘neutral’ and palatable’ mode of viewing harassment and discrimination policy: some believe that anti-harassment work is inherently political and should remain so. Their viewpoints reflect counterhegemonic perspectives. As Fraser (1997: 154) argues, hegemony can be challenged because the power of dominant groups is not absolute:

The notion of hegemony points to the intersection of power, inequality, and discourse. However, it does not entail that the ensemble of descriptions that circulate in society constitute a monolithic seamless web, nor that dominant groups exercise an absolute, top-down control of meaning. On the contrary, “hegemony” designates a process wherein cultural authority is negotiated and contested. It presupposes that societies contain a plurality of positions and perspectives from which to speak. Of course, not all of these have equal authority. Yet conflict and contestation are part of the story.

Respondent #21, a woman of colour, argues, “In order to do equity work, the people who are practitioners doing it are political beings. You have to be a political being. Equity work is a political issue [...] I think it is a political issue, and therefore, you have to be political. But being allowed to be - that is the problem.” “Being allowed to be political” is related not only to the institutional context in which anti-harassment practitioners must work, but also to the broader social context. Koikari and Hippensteele (2000) argue that a shift in the social and political context of the struggle for human rights has resulted in changes in how these issues are dealt with at the institutional level:

As the radicalism of second-wave feminism began to subside, strategies for maintaining momentum in the struggle for equality of rights and opportunities began to shift. Rights advocates on a number of fronts moved from grassroots group rights-based protest strategies to increasingly policy oriented and legal tactics that focus on individual rights. This shift in focus decreased public visibility of many issues of concern for women and racial minorities, allowing certain segments of the liberal populace to conclude that these struggles were over, the battles won. But for most who had been affected by exclusionary practices that restricted access of women and racial minorities to higher education, the

substantive battles had not been won; the rules of engagement had merely changed (2000: 1270).

The current neoliberal social and political context has been characterized by the retrenchment of policies and programs implemented to deal with inequality and other issues of social justice. “The neoliberal swing means that not only has inequality become more pronounced as a norm in our society but also that social justice is treated as expendable as far as the market is concerned” (Thornton, 2006, 163). Fraser argues that these struggles are “struggles for cultural hegemony, that is, for the power to construct authoritative definitions of social situations and legitimate interpretations of social needs” (1989: 6). Other analysts suggest that the neoliberal social context reinforces the depoliticization of human rights issues by suggesting that these politicized needs are in fact demands for ‘special treatment’ by ‘interest groups’:

Contemporary politics increasingly grants political legitimacy to persons on the condition that they do not claim special rights or needs, or call attention to their particular history or culture. This discursive move effectively reinforces privilege by attempting to silence those who are deemed to be different [...] The imposed dichotomy between the ordinary and the special serves to delegitimize and silence all those who declare themselves to be different, marginalized, and structurally or historically disadvantaged. (Brodie, 1995: 72 - 73).

Neutralizing language around issues of harassment and discrimination may also background the social justice agenda: “The anodyne concept of diversity, particularly ‘managing diversity’, has tended to replace the more threatening discourse of equal opportunity and AA [Affirmative Action] within contemporary workplace practice” (Thornton, 2006, 161). An anti-racist educator expressed it this way through the practitioners’ listserv (2006): “The issue of discrimination is going underground [...] While there has been progress, admittedly, for the most part there has not been a

fundamental change in the dominant value system relevant to issues of racism, sexism, etc. The lessons that have been well learned relate more to “How can we maintain the status quo without getting into difficulty?” Hence we act in a politically correct manner, while maintaining and even strengthening the means of exclusion.”<sup>29</sup>

Practitioners who identify more clearly as activists may be less likely to represent themselves and their work as impartial and administrative, or to accept institutional cooptation as normal, natural, or desirable. Comments from Respondent #21, a woman of colour, indicate that the boundary between being an expert and being allied to oppositional social movements can be more porous for marginalized and/or activist practitioners:

I think that is the tension or the clash between equity practitioners in the sense that those who still feel that they are experiencing oppression tend to be the activists like people of color, gays and lesbians, people with disabilities...as opposed to the white women who can afford now to not be activists because so much of their agenda is actually on the table. That’s where I see the clash and I find that the people who I experience as activists are still those who are still struggling versus those have achieved a lot already.

Politicized practitioners may be less interested in being the visible but minimal (Agocs et al, 2004) response to human rights issues on campuses. The administrative mainstreaming of human rights issues may have created a divide between those who are better positioned to realize the benefits of the policies and those whose identities make them more aware of the problems of intersectional oppression (Carroll and Ratner, 2001). Interviewee #8, lawyer and queer feminist activist, comments on the history of the equity movement in Canada:

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<sup>29</sup> Printed with permission.

I think that there may be a difference here that has simply to do with political history of the women's movement in Canada as against the gay liberation movement and the civil rights movement and that is that the women's movement has been bigger for longer and has had those fights about public sexism in much, much more prominent – and you know, the white middle class women have been the beneficiaries of equity for much longer than people of colour. And so those debates about public sexism now get waged in the House of Commons in a way that is unthinkable for debates about racism.

Lopes and Thomas (2006) argue, “A default position is a norm with organizational momentum behind it which requires continual intervention in order not to accept the default” (Lopes and Thomas, 2006: 145). These authors argue that programs for equity have generally benefited white women and white women became the spokespeople for equity. Interviewee #21 expresses her experiences with dealing with the “default” position: “What’s happened is just that the power shifted a little bit and been shared amongst men and middle class white women, and for true equity to happen, that power has to be shared amongst all.”

Patricia Hill-Collins (1998) argues that differences of power constrain our ability to connect with one another even when we are engaged in dialogue across differences. It is incumbent on people in more powerful positions to be more than passive onlookers: they must grapple with their privilege. Hill-Collins points out that while we have little difficulty seeing our own victimization, we often fail to see how our thoughts and actions uphold the subordination of others. She rejects the comparison and ranking of oppressions and suggests that we instead examine different experiences within the more fundamental relationship of domination and subordination. This would involve the elimination of either/or categories and the ranking of dichotomous differences (which leads to the assumption that oppression can be quantified). Interviewee #21

acknowledges that she must not only be aware of her oppressions, but also of her privileges:

We have multiple identities, and identities are not just informed by gender or by race or by sexuality or physical ability, etc. [...] We have both areas of our life where we experience power and privilege and areas where we experience oppression [...] For me, in order for real equity to happen, people have to look at where they experience power in their lives as well as oppression, and they have to be willing to let go of some of that power. People are very quick to look at where they experience oppression. It's easy for me to claim my identity as a woman of color and the oppression I experience as both a woman and of color, I begin to section those two oppressions, but I don't go straight away to the fact that I'm heterosexual and able bodied, middle class and educated (Interview #21).

Challenging the boundary nature of the anti-harassment role may involve practitioners' commitment to interrogating their position within the institution and their own privilege as members of the bureaucratic power structure. Respondent #8, who indicates in her interview that her activist background is important to the work that she does, exemplifies a position that challenges the taken-for-granted notion that what we have done so far is adequate when she says, "We need to be thinking about how we can genuinely evaluate the effectiveness of the various political mechanisms that we fought for." If struggles over the definition of harassment and discrimination issues, policies and procedures were complete, all practitioners would accept hegemonic definitions. Some of the practitioners in this study uncritically accept the repoliticization of harassment and discrimination issues from broadly-based human rights issues arising from the politicization of historical oppressions to narrowly focused, individualized and neutralized issues. However, not all practitioners are co-opted by institutional prerogatives. Practitioners are aware of the contradictions of the boundary role. The practitioner's position as organizational insider gives her/him insights into how the system works, allowing her/him to negotiate through it and potentially change it.

However, the constraints of working within the system limit the amount of change that can be accomplished, forcing practitioners to pick their battles carefully and to work towards small wins. While these strategies may not radically transform the institution, they can lead to incremental changes along the road to deeper organizational change.

The concept of tempered radicalism (Myerson and Scully, 1995) can be used to interpret the complexities of harassment and discrimination work. Agocs et al (2004: 207) suggest that the equity practitioner “must maintain credibility with disadvantaged groups as their advocate in the organization while maintaining her legitimacy with organizational insiders.” Practitioners occupy a boundary role and negotiate credibility across different constituencies within the institution. This ‘insider/outsider’ position is an important aspect of tempered radicalism. The daily work of participants in my study involves negotiating the institutional, legal, and policy demand that they be neutral in their work, while at the same time attending to the power differentials that can arise in harassment and discrimination cases. Practitioners represent the interests of the less powerful in many of their choices in their reactive and proactive work, but they must do this in ways that do not involve open advocacy or activism. Meyerson and Scully, (1995: 592) argue that “the temptation to defer radical commitments adds another pressure toward cooptation.” Ferguson (1984) argues that internalizing the rules of the bureaucratic ‘game’ can result in an inability to see beyond these rules and roles. The tempered radical may gain legitimacy by learning to play the institutional ‘game’, but the price of playing the game, of ‘talking the institutional talk and walking the institutional walk’, may be the loss of commitment to the political issues that tempered radical once held dear. However, some practitioners are committed to attempting to sustain an

engaged position with regard to the on-going politicization of harassment and discrimination issues.

Interviews reveal that some practitioners struggle with institutional prerogatives more than their colleagues. In other words, some practitioners embrace cooptation while others fight it. This acceptance of institutional prerogatives is not necessarily reflected by polar opposite stances among practitioners. Rather, it falls along a continuum, reflecting practitioners’ identities, their educational backgrounds, and varying levels of commitment to political causes. Three<sup>30</sup> of the 21 practitioners were “on the fence” regarding issues of activist politics and the neutralization of policy language. While they did not explicitly embrace neutralizing changes to policies, and acknowledged that politics may influence the work of anti-harassment practitioners, their expressed positions were neither explicitly activist nor explicitly non-activist. Table Four provides details on these practitioners.

**Table 4: Respondents Who are Neither ‘Neutralized’ nor Tempered Radicals**

<b>Interview #</b>	<b>Gender</b>	<b>Educational Background</b>	<b>Years Experience</b>	<b>Policy Category</b>
15	F	Sociology	9	C2
16	F	Languages	11	C1
17	F	Support Staff	4	C1

Six<sup>31</sup> of the 21 practitioners interviewed expressed a clear preference for non-activist politics. These practitioners all worked with a category 3 policy (all prohibited grounds under human rights legislation plus personal harassment). All of these practitioners supported the inclusion of personal harassment in human rights policies. Five of these respondents are female and one is male. All are white and able-bodied.

<sup>30</sup> Interviews 15, 16, 17

<sup>31</sup> Interviews 1, 3, 4, 12, 14, 18.

Their educational backgrounds include law, psychology, and natural sciences. All five practitioners express a commitment to liberal ideals regarding the rights of individuals to an environment free from harassment and discrimination, but eschew the notion that activist politics should play any role in how we think about harassment and discrimination cases or how we develop policies to deal with the issues. These practitioners were more likely to see practitioners who openly express a commitment to activist politics of any sort as biased and unable to be fair and competent in their adjudication of cases. Table Five outlines the characteristics of these practitioners.

**Table 5: ‘Neutralized’ Practitioners**

<b>Interview #</b>	<b>Gender</b>	<b>Education Background</b>	<b>Years Experience</b>	<b>Policy Category</b>
1	F	Psychology	2.5	C3
3	F	Psychology	16	C3
4	F	Law	7	C3
12	F	Psychology	14	C3
14	M	Natural Sciences	10	C3
18	F	Law	8	C3

Practitioners with commitments to activist work, and/or a personal sense of marginalization are more likely to challenge hegemonic constructions of the parameters of their work. Twelve<sup>32</sup> of the 21 practitioners interviewed expressed concerns regarding lack of institutional support for their work, concerns about the neutralization of policy language, and/or a commitment to activist politics in relation to their work as anti-harassment practitioners. These practitioners were more likely to express a sense of contradiction related to their institutional roles and their commitments to activism and the politics of the marginalized members of the institutional community. These practitioners

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<sup>32</sup> Interviews 2, 5, 6, 7, 8, 9, 10, 11, 13, 19, 20, 21

most closely resemble Meyerson and Scully’s definition of tempered radical. Eleven of these practitioners are female and one is male. Four are persons of colour; three identify publicly as queer; one is differently abled. Nine identify with activist politics, including feminist, anti-racist, and/or queer politics. Table Six outlines the characteristics of tempered radical practitioners.

**Table 6: Tempered Radicals**

<b>Interview #</b>	<b>Gender</b>	<b>Educational Background</b>	<b>Years Experience</b>	<b>Policy Category</b>
2	M	Social Work	15	C3
5	F	Women’s Studies	10	C2
6	F	Business Admin	8	C2
7	F	Psychology	9	C2
8	F	Sociology / Law	12	C1
9	F	Women’s Studies	10	C2
10	F	Psychology	10	C2
11	F	Sociology	15	C2
13	F	Sociology	13	C3
19	F	Social Work	9	C2
20	F	Women’s Studies	4	C1
21	F	Psychology	15	C2

Being a person of colour influenced practitioners’ commitment to the marginalized and their critiques of policy and institutions. Agocs et al’s (2004) survey results indicate that Aboriginal persons, members of racialized minorities and those who are differently abled who do anti- harassment work were more likely to have lower power ratings. All of the practitioners of colour who participated in my research project expressed concerns about their ability to get institutional support in cases of racial harassment. This was particularly evident in comments made by respondents 2 and 21, who were very vocal in their criticisms of the management structure at their institutions and who shared stories regarding situations in which they tried unsuccessfully to have racial harassment

complaints dealt with in their institutions. Respondent #2 indicated that he had encouraged several complainants to take their cases to the Human Rights Commission in the province as a way to force the institution to take their complaints seriously.

Meyerson and Scully argue that practitioners can not fully challenge their institutionally defined roles without having to leave them. The stress of fighting uphill battles takes its toll on some anti-harassment practitioners. “Some leave because they can no longer tolerate the seemingly glacial pace of change, others leave because they are tired of being devalued and isolated and still others leave simply because they no longer have the energy to play the game” (Meyerson and Scully, 1995: 598). This is true of respondents #2 and #21. Both of these practitioners subsequently left their jobs due to the frustrations they experienced within their institutions. Neither individual stayed in the arena of harassment and discrimination work: they both returned to counseling settings where they felt they were more helpful to their clients. Their institutions lost strong voices for anti-racism. The loss of committed activists and their replacement with workers who will not challenge institutional prerogatives is detrimental to the cause of equity in organizations, as this shift represents a further co-optation of the social justice prerogatives that have been politicized from the margins.

## **6.6 Concluding Remarks**

This chapter has demonstrated the numerous conflicts and challenges experienced by harassment and discrimination practitioners as they engage in their complex and sometimes contradictory work roles. These contradictions arise as a result of the juxtaposition of demands of marginalized groups and the demands of institutional prerogatives. Practitioners negotiate these demands through a commitment to small wins,

although many realize that these incremental changes do not immediately and radically transform the institutional culture. A commitment to incremental change does not support the notion that the practitioner's work is wholly depoliticizing; however, neither does it demonstrate a wholehearted commitment to radical political change within the organization. I therefore argue that some harassment and discrimination practitioners at Canadian universities fit Meyerson and Scully's definition of tempered radical because the nature of their work simultaneously supports and challenges the status quo. Although the potential for institutional co-optation of practitioners exists because of the limits of legal and policy definitions of their roles, interviews reveal that many practitioners retain at least some commitment to values and activist politics that move beyond a basic concern with the protection of the institution from legal liability.

## **CHAPTER SEVEN**

### **Conclusion**

#### **7.1 Summary of Findings**

I began this research project from my lived experience as a sexual harassment practitioner. The feelings of contradiction and stress that arose from the demands of the job were explained to me by reference to psychological burnout. This is clearly an occupational hazard associated with the demands of the job. However, as a sociologist, I was unsatisfied with a strictly individual explanation of the stress I felt as an anti-harassment practitioner. My research contextualizes the contradictions and complexities of anti-harassment work through the concepts of boundary roles (Fraser, 1989) and tempered radicalism (Meyerson and Scully, 1995).

As an anti-harassment practitioner, I felt the tensions of standing on a boundary between activists and administrators within my institution. I felt the tension between having an activist orientation and policy demands for neutrality as I worked with complainants or developed educational sessions. I felt that I was both an insider (in my role as administrator) and an outsider (given my commitment to activist goals around equity) to the institution. Interviews with other practitioners have revealed similar tensions and contradictions as well as the methods through which practitioners attempt to reconcile their contradictory position.

The research reported in this document fills an important gap in the literature on anti-harassment practitioners by providing an analysis of the complexities and constraints of practitioners' roles as these are played out in their day-to-day work experience. Interviews with practitioners provide detailed descriptions of their multifaceted work

roles and the contradictions inherent in their attempts to deal with institutional prerogatives and complainants' needs. I have built upon Agocs, Attieh and Reem's (2004) survey of equity practitioners which explored equity practitioners' positions within institutions, their mandated roles, and the limitations that institutional prerogatives placed on practitioners' work. My study adds to the authors' survey by providing practitioners' own rich descriptions of the nature and challenges of their day-to-day work. Agocs et al suggest that harassment and discrimination policies and practitioners represent a visible but minimal way of satisfying marginalized groups in large institutions. My research elaborates on this suggestion by demonstrating through interview data that the work of anti-harassment practitioners both supports and challenges aspects of the status quo within their organizations. Policies dictate the parameters of practitioners' roles; however, practitioners' roles in informal procedures and educational work, although situated within these institutional constraints, provide some flexibility in their practices. This flexibility allows practitioners to focus on the needs of the less powerful parties to a complaint or to promote greater knowledge among community members regarding harassment and discrimination.

I have demonstrated through the interview data that practitioners' reactive work (work in the realm of investigation and mediation that is driven by complaints brought to the office) is more limiting in terms of practitioners' roles. However, practitioners find ways through informal processes to support the position of the complaint, who is almost always the less powerful party to a complaint, at least in terms of their position in the institutional power structure. This is particularly true when the complainant is a student. In order to address power differentials, practitioners engage in "shuttle" mediation, a

process that acknowledges inequities and, unlike traditional mediation, does not bring both parties to the same table. The desire to attend to power differentials is expressed by many of my participants, although their educational backgrounds and degree of commitment to activist goals regarding equity influence the depth of their commitment to the empowerment of complainants and their definition of what this empowerment means. For example, psychologists may want to help complainants to “feel better”, activists may want to help them feel empowered to bring complaints forward, and lawyers may only wish to ensure that people understand the legal parameters that define harassment and discrimination.

Interviews have also demonstrated that practitioners perceive their educational work with the campus community as a very important aspect of their role. The practitioners in my study report that they engage in a number of strategies to get their message across. Many of these strategies involve attempts to facilitate the development of empathy and understanding in audience members with regard to issues of harassment and discrimination. Practitioners vary their approach to different campus constituencies, with the belief that these variations create greater “buy-in” from participants and lead them to be more receptive to the practitioners’ messages about issues of harassment and discrimination.

Institutional policies direct practitioners to prevent harassment without any clear indication of what this prevention entails other than the provision of education to the campus community. Some practitioners accept education as a preventative measure, others are more skeptical about the connection between education and prevention, and about whether education functions to change institutional climate. They often, however,

view education as a means to change the behaviour of individuals. Practitioners view education as a means of empowering campus community members by informing them of harassment and discrimination issues, their right not to be harassed, and the availability of assistance from the anti-harassment office. However, research on the educational process indicates that empowerment does not mean emancipation. Education that seeks to empower individuals may simply teach individuals how to survive within the already-existing institution rather than encouraging them to challenge and change it.

The practitioners in Fuller's (1994) research expressed concern that policy development creates a process of control through which the institution absorbs the issue of sexual harassment and organizes the political struggles around it. My research reinforces this assertion and adds to our understanding of the obstacles that practitioners face. The development of harassment policy and procedures combined the so-called neutrality of legal premises for dealing with rights with more explicitly activist political concerns surrounding inequality and historical oppressions. For some practitioners, this is an adequate solution to the problem, but for others the increasing hegemony of neutralizing discourse within harassment and discrimination work is seen as problematic because political concerns are subsumed. However, to express these concerns is to reveal oneself as "political": as lacking the "neutrality" that is required by legal discourse. In this case, the practitioner's professional competence is called into question. Practitioners who are vocally "political" are discounted as "having an axe to grind" and are viewed by administrators and by some other practitioners as incompetent.

Policies limit practitioners' role in activism and advocacy. This limitation, combined with a lack of support from senior administration, can foil practitioners' attempts at

politicization of equity issues and empowerment of campus community members. Some practitioners embrace the institutional limitations placed upon their roles by defining those limitations as necessary for neutrality and therefore, fairness, in their work. I question the notion that 'neutrality' is a non-political stance and argue that using the notion of non-political neutrality as a gage of a practitioners' ability to be 'fair' is problematic. The standard notion of 'fairness' is based on formal equality before the law that many critical legal scholars and sociologists have questioned. Formal equality does not equal substantive equality. When practitioners are concerned about procedures that assume equality such as traditional mediation processes, they are not being 'unfair'. They are attending to the needs of persons who are less powerful and are therefore responding to concerns about substantive inequality within the institution.

The participants in my research demonstrate both differences from and similarities to Parker's (1999) EEO practitioners. Unlike Parker's respondents, who view their role as ensuring that complaints do not go to external litigation and saving the organization from negative publicity, the practitioners in my study focus more on changing organizational culture, or at least changing the behaviour of individuals, therefore limiting the amount of harassing and discriminatory behaviour within the institution. Like Parker's respondents, some practitioners in my study expressed a reluctance to be seen as crusaders, preferring instead to be viewed as neutral and fair. The desire to be viewed as neutral can be traced not only to following proper legalistic procedure or taking up the assigned role of neutral conciliator or mediator: the concern about neutrality can also be worn like a shield against complaints that the practitioner is 'too political' and therefore incompetent. Practitioners in the current context are forced to respond to concerns about political

correctness and charges that their jobs and the policies that they work with violate the right to academic freedom of faculty members who may be accused of harassing or discriminatory behaviour. This becomes increasingly important with the changes evident in shifts toward Category 3 (all prohibited grounds plus personal harassment) policies in the Canadian context.

Fuller (1994) suggests that her research participants were hesitant to discuss problems and obstacles to their work because they viewed their role in the interview to be a spokesperson for the office and policy that they worked with. This was less the case in my research, as many practitioners, although sometimes hesitant, were willing to discuss barriers to their roles, such as the reluctance of senior managers to take cases forward. This may have been related to my own past work in the field and participants' willingness to discuss these issues with someone who had some experience on the front line. Participants in my study seemed more willing to expose the flaws and problems in their role, and to be less than idealistic about outcomes. This was particularly true for those participants with a great deal of experience in the field (12 of my participants have 10 or more years of experience). Discussing flaws and problems did not necessarily translate into cynicism, although several of the more experienced practitioners expressed a deep frustration with the roadblocks that they experienced in trying to do anti-harassment work and in particular, anti-racist work.

The reality of occupying an institutional role such as that of anti-harassment practitioner is that individuals in these positions will have a great deal of difficulty making radical organizational change. Institutional policies based on legal prerogatives limit what practitioners can do. Some practitioners have input into the content of

policies, but policy development is often in the hands of administrators or university-wide advisory committees over whom practitioners have no control. The initial promise of the legal legitimization of harassment and discrimination issues and the development of institutionalized anti-harassment policies may have been great. However, as in other arenas such as the institutionalization of Women's Studies (Messner-Davidow, 2002), there have been costs to gaining a place in the organization. The co-optation of issues and institutional roles has occurred, and in the case of harassment and discrimination issues, the movement towards "respectful workplace" models further backgrounds human rights concerns.

We can not assume that the persons who come to occupy institutional anti-harassment roles are either always radicalized or always co-opted by institutional prerogatives. We can predict some commonalities in the pressures felt by anti-harassment practitioners due to the challenges dealing with contradictory demands from institutional insiders and outsiders. The practitioner's identity and political commitments, coupled with their place in the institutional structure, influence how practitioners will deal with the contradictions of the boundary role. Interviews demonstrate that practitioners' work is not always depoliticizing because their attempts to support and empower complainants and potential complainants evidence some ongoing commitment to the activist politics that fueled the development of harassment and discrimination policies at universities. Practitioners' attempts to empower community members both reactively in complaints and proactively in terms of education demonstrates that the boundary role can be porous – that is, some forms of activism are retained and therefore, the work of practitioners is not simply focused on the repoliticization of equity claims to meet issues of institutional liability.

Twelve of the twenty-one practitioners interviewed demonstrate the identity of tempered radical, a concept created by Meyerson and Scully (1995) to describe individuals whose values or identities are at odds with institutional prerogatives (i.e. feminist executives). While all anti-harassment practitioners are in boundary roles, not all are tempered radicals. The work of tempered radicals both supports and challenges the status quo within institutions. The authors argue that the pursuit of “small wins” is typical of individuals who are tempered radicals within institutions. That is, practitioners accept that small changes may reduce large problems to a more manageable size. The interviews reported in this thesis demonstrate practitioners understand that although their goal may be a change in the institutional climate and power structure, the most that they can realistically hope for, at least in the short term, are changes in individual behaviour. In other words, practitioners realize that their work in education may only serve to curtail the overtly harassing behaviours of individuals or assist potential complainants by empowering them to bring harassing or discriminatory behaviours to the attention of the office without necessarily causing a shift in the institutional climate.

The work of anti-harassment practitioners involves small change projects that can make a difference within the organization over time. Practitioners’ occupation of a boundary role in the organization means that they often lack the institutional power to be explicitly radical or activist in their orientation. Explicitly radical efforts at organizational change are likely to be discredited by senior management. Although practitioners may be aware of the gap between an organization’s stated values and its practices in relation to those values, their ability to expose and rectify these discrepancies is limited by their institutional role and mandate.

## 7.2 Theoretical and Policy Implications of the Research

This research builds upon Fraser's (1989) work on the boundary between oppositional social movements and the state by examining in detail anti-harassment workers' role on this boundary. The data challenges the notion that boundary work is inevitably wholly depoliticizing, but also points out that the work of anti-harassment practitioners does not challenge the depoliticization of the issues on all fronts or in all cases. Fraser is correct in asserting that the boundary role limits the activities of those who occupy them. However, the creativity of anti-harassment practitioners is evident in their attempts to support the position of the less powerful party to a complaint.<sup>33</sup> Considering practitioner identity in conjunction with their institutional role allows us to explain why not all practitioners are wholly co-opted by institutional prerogatives. As Agocs et al (2004) point out, there are many roles that anti-harassment practitioners may assume. However, Meyerson and Scully's (1995) concept of tempered radical fits most productively when we wish to consider both commitment to the institution and its policies and to creating change that challenges the status quo within those institutions. Combining Fraser's concept of boundary work with Meyerson and Scully's concept of tempered radicalism allows for a more nuanced and complex view of anti-harassment work and anti-harassment workers.

My research demonstrates a range of political viewpoints and varying levels of commitment to the equity project among practitioners, and therefore points to a number of important issues. Practitioners' views regarding the success of equity vary: those with a sense of marginalization are less likely to be satisfied that the problems are solved or to be comfortable with the neutralizing changes that are appearing in policies. Practitioners

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<sup>33</sup> Sylvia Fuller's (1994)

of colour in my study felt that they received less support within their institutions and also from their colleagues in anti-harassment work.

Given the potential for the loss of focus on the historical oppressions that equity policies were meant to address, I suggest that personal harassment issues should not be included in human rights policies. Personal harassment concerns should be dealt with under separate policies, but these policies and offices should remain connected to anti-harassment offices, and those who work with personal harassment issues should be trained to recognize issues of discrimination masked underneath so-called ‘personality conflicts’. In such cases, the complaint should be referred to the human rights policy and office.

### **7.3 Social and Political Context**

The co-optation of anti-harassment policies and practitioners is not an isolated issue. Increasing numbers of practitioners who reject activist politics and become administrative allies may be an indicator of how institutional harassment and discrimination policies and offices are being influenced by political changes in the broader social context. Institutional policies are embedded in a social and political context that is very different from the social context in which sexual, racial and homophobic discrimination was originally challenged, politicized, and publicized. The feminist movement’s work in the area of sexual harassment set the stage for the development and implementation of harassment and discrimination policies in institutions like universities. But the social context of the Keynesian welfare state that supported calls for greater social justice was fading by the end of the 1970s. Institutional

policies are influenced by the social context within which institutions are situated. The university is situated within a social and political context, which many writers (i.e. Brodie, 1995; Bourdieu, 1998; Teeple, 2000; Larner, 2000) now refer to as neoliberal. This social and political context evidences a retrenchment of social justice initiatives and a questioning of the demands of so-called “special interest groups”. Practitioners struggle against not only the institutional limitation of policies but also the social climate in which their institutions function.

Contemporary analysts agree that neoliberalism, “a form of liberalism which stresses the overriding importance of market relations and the stripping away of any interferences in market relationships on the part of the state or a collective social interest” (Schwarzmantel, 2005: 85), began to emerge in the 1980s (Brodie, 1995). The advent of neoliberal politics has created a social context in which the social justice prerogatives of Keynesian welfare state are being at best restructured and at worst, dismantled. Cuts to funding for many social programs (i.e. poverty alleviation, women’s programs, etc.) are traced to the neoliberal project (see for example Creese and Strong-Boag, 2005; Boyer, 2006). Neoliberal policy changes are not localized but rather are connected to a “globalized policy regime aimed at dismantling the scope and effectiveness of the social safety net” (Boyer, 2006: 25). The advent of neoliberalism sets the stage for the shift of discourses and practices away from those which value equity to those which underscore traditional divisions of power and reinforce hegemonic discourse.

Neoliberal discourse argues that politics are dead. However, contemporary liberal democracies are not post-ideological societies because neoliberalism is itself an ideology which underscores a particular kind of politics (Schwarzmantel, 2005). Weedon (1997)

argues: “The degree to which marginal discourses can increase their social power is governed by the wider context of social interests and power within which challenges to the dominant are made” (109). Fraser (1989: 6) argues that these are struggles for cultural hegemony – “the power to construct authoritative definitions of social situations and legitimate interpretations of social needs”. The current neoliberal social and political context is not conducive to supporting the discourses of the marginalized. “The neoliberal swing means that not only has inequality become more pronounced as a norm in our society but also that social justice is treated as expendable as far as the market is concerned” (Thornton, 2006, 163).

The development of neoliberal politics has resulted in a “restructuring discourse” (Brodie, 1995) that has displaced Keynesian social policies in favour of the argument that public sector services (i.e. health care and social services, among many others) are better delivered through market mechanisms. “The new religion of neoliberalism combines a commitment to the extension of markets and logics of competitiveness with a profound antipathy to all kinds of Keynesian and/or collectivist strategies...meanwhile, if not subject to violent repression, all nonbelievers are typically dismissed as apostate defenders of outmoded institutions and suspiciously collectivist social rights” (Peck and Tickell, 2002: 381).

Central to neoliberal policy are the individualization of problems previously defined as tied to social structure and the “responsibilization” of individuals vis-à-vis problems such as poverty (Block et al, 2006). Individuals are held accountable for their social position and problems and are made individually responsible for the alleviation of these problems: “The new ideal of the common good rests on market-oriented values such as

self-reliance, efficiency, and competition. The new good citizen is one that recognizes the limits and liabilities of state provision and embraces her or his obligation to work longer and harder in order to become more self-reliant” (Brodie, 1995: 57).

The social justice claims of marginalized groups that resulted in the development of harassment policy and procedures are increasingly reinvented as individualized cases, contributing to a reversal of responsibility for harassment and discrimination issues in the organization. Individualized complaint handling becomes the standard for procedure (Thornton, 2006) and practitioners are encouraged to focus on the empowerment of individuals such that they will learn to negotiate within the institutional system rather than fighting for radical change. This takes the focus off the institution’s responsibility to provide a harassment-free organization and places responsibility squarely on the complainant. The complainant should be empowered not to “let” this discrimination occur in the future. If only the complainant could learn to manage the harassing and discriminating behaviour of others, harassment could be prevented.

Neoliberal discourse emphasizes its ‘non-political’ neutrality. Fraser (1989) points out, however, that it has been “demonstrated again and again that authoritative views purporting to the neutral and disinterested actually express the partial and interested perspectives of dominant social groups” (181). As Fraser (1989) and Naples (1997) point out, the political dimensions of hegemonic discourses are rendered invisible by our acceptance that these dominant discourses are neutral. Dominant discourses defend the established boundaries between the “political” and the “non-political” for the purposes of depoliticizing oppositional claims regarding social justice (Fraser, 1989, 172).

Neutralization is evident in changes to the policies with which anti-harassment practitioners must engage. Perhaps the most obvious of the changes relates to the shift from a focus on equity and human rights to what is termed the “respectful workplace model”. In this case, the discourse surrounding harassment and discrimination is neutralized because reference to historical oppressions are drained out of it and the focus becomes “the fine tuning of personal relationships” while notions of discrimination are backgrounded. The inclusion of personal harassment issues in human rights policies can contribute to this change in focus because personal harassment is not tied to human rights grounds. This does not mean that personal harassment and bullying should be ignored; rather this is an argument about where and how these issues should be dealt with. The inclusion of personal harassment issues in human rights policies shifts the focus of the policies to issues that are not tied to historical oppressions and deflects attention from the human rights component of these policies. Discourses around harassment and discrimination become discourses of diversity and respect rather than of social justice. This is evident in similar types of policies in human resources offices around the globe, which have shifted to a discourse of managing diversity as a way to increase productivity in organizations (Blackmore, 2002). When anti-harassment practitioners become “respectful workplace consultants”, we are seeing further shifts in the discourses around harassment and discrimination that will even more clearly define the boundary between oppositional social movements and organizations. The more the language of policies and expert discourse is neutralized, the more likely it is that practitioners will be forced into the boundary role. This means that their work will become even more a part of the neutralization process.

Some authors (i.e. Larner, 2000; Peck and Tickell, 2002) argue that neoliberalism is not monolithic, nor is it a completed process. In other words, even though neoliberal attitudes and policies have “become a commonsense of the times”, we would be better to recognize this as a process of “neoliberalization” rather than a *fait accompli*. This opens up our analysis to understanding, valuing and supporting those who work against the neoliberal agenda of neutralization. Peck and Tickell (2002) argue that the neoliberal agenda has gradually moved from one preoccupied with the active destruction and discreditation of Keynesian-welfarist and social-collectivist institutions (broadly defined) to one focused on the purposeful construction and consolidation of neoliberalized politics. Larner (2000: 12) points out that neoliberalism is often characterized as a coherent policy framework at the state level or a hegemonic ideology that crosses many sites and creates a discourse of restructuring. Larner suggests instead that we view neoliberalism as a form of governmentality: “In post-structuralist literatures, discourse is understood not simply as a form of rhetoric disseminated by hegemonic economic and political groups, nor as the framework within which people represent their lived experience, but rather as a system of meaning that constitutes institutions, practices and identities in contradictory and disjunctive ways.”

If it were true that neoliberalism had entirely conquered equity initiatives at universities, we would see the complete retraction of these types of policies and offices. However, across the country, we find various forms of policy and practitioners with varying commitments to the equity project. For Larner, “neoliberalism may mean less government, but it does not follow that there is less governance” (12). Therefore, the suggestion that policy and other social changes are imposed in a strictly “top-down”

manner is incorrect. The world is characterized by contested representations, and researchers should pay attention to contestation within and between groups. This also allows us to explore how “political ‘resistance’ is figured by and within, rather than being external to, the regimes of power it contests” (17).

Neutralizing changes to policies and discourses are contested by activists inside and outside the institution, as well as by some anti-harassment practitioners. “Only by theorizing neoliberalism as a multi-vocal and contradictory phenomenon can we make visible the contestations and struggles that we are currently engaged in” (Larner, 2000: 21). If it is true that neoliberalism is not a *fait accompli* but rather a process of neoliberalization that is ongoing, it is incumbent upon us to continue to challenge its denial of systemic discrimination and historical oppression:

A swing in the other direction is unlikely to occur without significant energy being expended by feminist and social justice activists. Engagement with the state is fraught in that it always carries with it the chance of co-optation, to say nothing of the ubiquitous conundrum of ‘who speaks for whom?’ It can nevertheless serve both as a brake on the negative externalities of capitalism and as a positive force for material redistribution (Thornton, 2006: 165).

Blackmore (2002: 438) comments on the loss of activist politics through the institutionalization of harassment and discrimination work: “Feminists and gender equity workers were previously the transgressors, but have been domesticated through the institutionalization, for example, of feminist research, women’s studies, and EO [Equity Officers]. Mainstreaming of equity or indeed, feminist theory and research, without a political commitment to equity, leads to its dilution.” Change within organizations is more likely to come from activist groups than from organizational insiders, no matter how committed those insiders may be to the political issues of the marginalized. The co-

optation of people and polices does not eliminate the activism from whence the issues arose. Anti-harassment practitioners may participate in the struggles of the activists, but their institutional position within a boundary role limits their ability to effect radical institutional change. If we are looking for radical change, we will again need to look to activist groups. Those practitioners who are tempered radicals may, however, have an important role in supporting the work of activists within institutions. Their experience of being an “outsider” to the institution keeps them tied to the issues of activist groups. Their role as institutional insider provides access to policy makers and their legitimacy with senior management may allow them to push some aspects of institutional change forward.

#### **7.4. Suggestions for Future Research**

My study is based on a relatively small sample of respondents. I therefore do not make claims regarding broad generalizability of my results. However, I believe that the research reported in this document indicates that further research on harassment practitioners could deepen our understanding of their roles in both upholding and challenging the status quo. Tempered radical is not the only position that an anti-harassment practitioner make take. Agoos et al (2004) suggest that there are other roles that practitioners may undertake when they become anti-harassment workers. Practitioners are situated as institutional professionals with expertise in harassment and discrimination issues. Part of the practitioner’s role involves the compilation of statistics and preparation of reports that can be used to support arguments for organizational change. However, the practitioner’s mandate within the institution can limit their ability

to implement such change. Six of the practitioners interviewed for my research evidence more acceptance of the neutralization of social justice issues around harassment and discrimination and less commitment to activist politics. Agocs et al point out that some practitioners give a higher priority to the interests of senior administration, making these practitioners administrative allies rather than voices for radical change. Further research into other variants of the role of anti-harassment practitioner could deepen our understanding of differences among practitioners and the connection of these differences to both institutional structure and roles as well as to individual identity.

Further research into the connection between practitioners' sense of marginalization and/or their commitment to the politics of the oppressed is also suggested. The argument that there are connections between identity and 'politics' would be strengthened by research that explores these connections more specifically. Research that focuses on practitioners of colour or queer practitioners will illuminate varying politics among these practitioners and help us to sort out the influence of identity and choice of education/profession on individual's political commitments. Such research could take into account structural constraints as well as personal identity and politics. For example, what is the influence of job descriptions on who applies for positions? Does this limit the involvement of more 'political' practitioners? Will the growing emphasis on legal issues lead to the employment of lawyers as anti-harassment practitioners to the exclusion of people with other backgrounds? An historical evaluation of job descriptions could help illuminate changes in the educational and professional backgrounds of practitioners, which may in turn have an influence on their commitment to the marginalized.

While interviews with complainants would be helpful to our understanding of the success or failure of anti-harassment work, issues of privacy and access can interfere with identifying individuals who have been involved in complaints of harassment and discrimination. For example, practitioners would not be at liberty to disclose the identity of parties to complaints that they may have adjudicated. This could be overcome through self-selection processes (i.e. posting calls for participants publicly).

More detailed policy analysis, both of documents and of the history of policy development would be extremely useful. For example, a detailed analysis of the historical timelines of policy development would help us to make clearer connections to broader social concerns that arise out of infamous publicized cases and the development of the movement against political correctness. Understanding changes to institutional context over time can provide a richer analysis of anti-harassment work as a whole. For example, this provides one means of exploring whether institutions are moving away from social justice concerns and towards risk management as the purpose for having institutional harassment and discrimination policies. Understanding the ‘success’ of institutional policy hinges on a detailed exploration of the changing social and institutional context in addition to an analysis of the individuals who fill anti-harassment roles.

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## APPENDIX ONE

### **Interview Questions, Consent Form, and Ethics Approval Certificate**

The interview format was semi-structured, allowing participants, who are key informants and very well-versed in the topics to be discussed to bring their knowledge to the topics involved.

#### **First, I would like to know a little bit about you and your background**

- 1) What is your educational background?
- 2) What is your title?
- 3) How long have you been a harassment prevention practitioner?
- 4) How did you come to be a harassment prevention practitioner?  
[I am hoping that this will allow participants to elaborate on issues of subjectivity - i.e. commitments to feminism, identity, interests]
- 5) How long have you worked at this institution?
- 6) Which of the following do you do as part of your job?
  - Harassment investigations - if yes, ask participant about his/her responsibilities in this area and to get examples of experiences
  - Mediation - if yes, ask for participant's experiences with mediation
  - Campus community education - if yes, follow up on types of education (i.e. educational sessions on harassment issues, and/or on your institution's policy; development of brochures, posters, etc.; other forms of education) ; groups to which education is provided (i.e. students, faculty, administrators); also inquire about different approaches to education which might be used for different groups. This may give insight into participant's "juggling" of discourses when doing educational work.

#### **The next questions deal with the policy that you work with:**

- 7) What forms of harassment/discrimination are dealt with by your institution's policy?
- 8) Tell me about your experiences working with this policy. Have they been generally positive or negative? Why?
  - language (is it hard to understand/interpret?)
  - experiences with procedures (i.e. how complicated are they?)
  - experiences re: types of complaints covered (i.e. do you find that you have cases that don't "fit" the policy, so you can't do anything about them?)
- 9) Are you involved in the policy development process on your campus? If so, how?
- 10) Do you believe that your policy is accessible/understandable to the following (and in each case, why or why not?)
  - yourself?
  - complainants?
  - respondents?
  - administrators?
- 11) Has the institution's policy been revised while you have been employed here?
  - If so, how?

- If so, how do you rate the current policy when compared to previous policies (alternatively, if the participant has worked in different institutions, s/he may be asked to compare policies at the different institutions)
- 12) What do you think is the most important function of harassment prevention policy **for your institution?**
- 13) What do **you** think is the most important function of harassment prevention policy? Does this differ from the function you perceive it serves in your institution?
- 14) Overall, do you believe that your institution's policy/procedures are dealing adequately with harassment and discrimination problems on your campus?
- If not, why not?
  - What would you change if you had the power to do so?
- 15) Have changes in funding or staffing been related to policy changes? If so, how?
- 16) Do you think that personal harassment language should be included in harassment prevention policies? Why or why not?
- 17) If you disagree with the inclusion of personal harassment language, do you think that personal harassment should be dealt with through other channels? If so, which channels?

**Now I would like to get some information on the structure and reporting practices of your office:**

- 18) How many people work in your office?
- 19) How many hours per week do you work?
- 20) To whom do you report?
- 21) In your view, is this reporting structure satisfactory? Why or why not?
- 22) Has the reporting structure at your institution changed during your tenure? If so, how?
- 23) Do you deal with all forms of complaints under your policy? If not, how is complaint distribution handled by your office/institution? (this will capture information regarding policies/complaint procedures that originate in other offices)
- 24) Has the level of staff in the office gone up, gone down, or remained the same over the last several years?
- 25) Has the level of funding for your office gone up, down or remained the same over the last several years?
- 26) If changes have occurred in staffing or funding of your office, do you have a sense of why these changes have occurred? [this will both check and elaborate on #15]
- 27) Have the number of cases that you deal with gone up, gone down, or remained the same over the last several years? Why do you think the caseload has changed/remained the same?
- 28) Have the types of cases that you deal with remained the same or changed over the last several years?

**These questions relate to your feelings of support or non-support from your institution:**

- 29) Is the climate at your institution supportive or non-supportive of your work?
- To what degree is it supportive or non-supportive?

30) Do you perceive that certain groups on campus are particularly supportive of your work?

- If so, which groups?
- Why do you think this is occurring?

31) Do you perceive that certain groups are particularly non-supportive of your work?

- If so, which groups?
- Why do you think this is occurring?

32) Do you have partnerships (formal or informal) with other groups/offices on campus?  
Can you tell me about these?

Do you have anything else that you would like to add?

Do you have any questions that you would like to ask me?

Thank you very much for your participation.

**Consent Form**  
**“Exploring Competing Discourses in Harassment Policy”**

**Principal Investigator:** Dr. Gillian Creese,  
Full Professor,  
Department of Anthropology and Sociology,  
University of British Columbia  
(604) 822-2541

**Co-Investigator:** Marni Westerman,  
Doctoral Candidate,  
Department of Anthropology and Sociology,  
University of British Columbia  
(604) 258-7144  
This research is for a PhD thesis in Sociology

**Purpose:**

To obtain information regarding the development and implementation of harassment prevention policies at Canadian universities by interviewing practitioners who work with these policies.

**Study Procedures:**

In-person interview conducted by the co-investigator. Each subject will be asked to participate in one interview of approximately 1 ½ to 2 hours in length. The interviews will be recorded on audio tape.

**Confidentiality:**

Any information resulting from this research study will be kept strictly confidential. All documents and computer disks will be identified only by a code number and kept in a locked filing cabinet. Participants will not be identified by name in any reports of the completed study.

**Contact:**

If I have any questions or desire further information with respect to this study, I may contact Dr. Gillian Creese at (604) 822-2541.

If I have any concerns about my treatment or rights as a research subject, I may contact the Director of Research Services at the University of British Columbia at (604) 822-8598.

**Consent:**

I understand that my participation in this study is entirely voluntary and that I may refuse to participate or withdraw from the study at any time without repercussions of any kind.

I have received a copy of this consent for my own records.

I consent to participate in this study.

---

**Subject Signature**

**Date**

---

**Signature of a Witness**

**Date**

Dear \_\_\_\_\_,

I am a doctoral candidate in Sociology at the University of British Columbia. My supervisor is Dr. Gillian Creese. She can be contacted at (604) 822-2541. For my doctoral thesis, I am conducting a study of harassment policies at Canadian universities. I am particularly interested in harassment practitioners' perspectives on policy development and content. I therefore am interested in interviewing individuals who are currently working in harassment prevention at Canadian universities. The interview will be conducted in-person, at a time and place that is convenient for you, and will take approximately one and one-half to two hours. The information you provide will be kept anonymous and confidential.

Your participation in this study is entirely voluntary and you may refuse to participate or withdraw from the study at any time without repercussions.

I will contact you by telephone to discuss whether or not you wish to participate in this research project.

Thank you for your consideration.

Sincerely,

Marni R. Westerman, B.A., M.A.,  
Doctoral Candidate,  
Department of Anthropology and Sociology,  
University of British Columbia.



## ***Certificate of Approval***

PRINCIPAL INVESTIGATOR Creese, G.	DEPARTMENT Anthro & Sociol	NUMBER <b>B01-0599</b>
INSTITUTION(S) WHERE RESEARCH WILL BE CARRIED OUT UBC Campus ,		
CO-INVESTIGATORS: Westerman, Marni, Anthro & Sociol		
SPONSORING AGENCIES		
TITLE : Exploring Competing Discourses in Harassment Policy		
APPROVAL DATE	TERM (YEARS) 1	DOCUMENTS INCLUDED IN THIS APPROVAL:
CERTIFICATION:  The protocol describing the above-named project has been reviewed by the Committee and the experimental procedures were found to be acceptable on ethical grounds for research involving human subjects.   <hr/> <i>Approval of the Behavioural Research Ethics Board by one of:</i> Dr. Paul Hewitt, Chair Dr. K.D. Srivastava, Director Pro Tem, Research Services  This Certificate of Approval is valid for the above term provided there is no change in the experimental procedures		