

UNIVERSITY OF TORONTO

THE GOVERNING COUNCIL

REPORT NUMBER 118 OF THE ACADEMIC APPEALS COMMITTEE

September 7th, 1988

To the Academic Board,
University of Toronto.

Your Committee reports that it held a hearing on Thursday, September 7th, 1988 at 2:30 p.m., in Room 23, Convocation Hall, at which the following were present:

Professor J. B. Dunlop (In the Chair)
Mr. M. Bilaniuk
Professor K. G. McNeill
Professor F. A. Sherk
Mr. A. Waugh

Ms. Susan Girard, Governing Council Secretariat

In Attendance:

Mr. *C*, appellant
Mr. Symon Zucker, Danson & Zucker, counsel for the appellant
Ms. Donna Crossan, Assistant Dean, Faculty of Dentistry

THE FOLLOWING ITEM IS REPORTED FOR INFORMATION

At a meeting on September 7th, 1988 the Academic Appeals Committee heard the appeal of *Mr. C* against the decision of the Academic Appeals Committee of the Faculty of Dentistry refusing him permission to repeat third year. The appeal to this Committee involved, as do many appeals in our hybrid system, considerably different evidence from that heard by the Faculty Committee. On the basis of the evidence heard by the Faculty Committee this Committee would very likely have reached the same conclusion they did. But on the basis of the evidence we heard, the decision is that the appeal be allowed and the appellant be permitted to repeat third year.

This is not the first time the Committee has commented on the inevitable hybrid nature of the appeals process. But it bears repeating in cases where there is a marked difference in the evidence from one appeal to the next because the point is sometimes misunderstood. It is hybrid in that while it is an appeal, it is not based solely on the record of evidence presented at the previous hearing. Fresh evidence is permitted before the Academic Appeals Committee. It is inevitable in that a system that required a divisional appeal committee to maintain the type of record utilized in a pure appeal would be too slow, cumbersome and expensive to be justified given the small proportion of cases that go beyond the divisional committee to this Committee. The Academic Appeals Committee must therefore hear whatever evidence may be offered.

REPORT NUMBER 118 OF THE ACADEMIC APPEALS COMMITTEE - September 7th, 1988

This appeal was based on extenuating circumstances of a compassionate nature. The matter upon which the Committee received evidence which was not before the Faculty Committee was the unhappy termination of a relationship between the appellant, who is of Bengali extraction, and a young Sikh woman. We were told that neither the Bengali nor the Sikh community would accept such a relationship. The two young people had kept it secret for two years. Intense family pressure on both sides and the fear of community pressure brought about the rupture shortly before the appellant's final examinations. The appellant said he had been threatened by the young woman's brother.

The appellant had never mentioned this matter to the Assistant Dean, who had asked him if he had had any problems affecting him during the examinations, nor even to his lawyer until after the first appeal. Asked why not, the appellant said he "had not wanted to bring community affairs into the case". In fact, of course, he had already done so because at the first appeal he had disclosed that he was under both community and familial pressure to succeed and to become the first "Bengali to graduate from the U of T Faculty of Dentistry", and that this adversely affected his performance. But the matter of the broken relationship was one he was evidently more reluctant to disclose. He could be forgiven for being extremely embarrassed at the strength and effect of this religious and cultural prejudice in a country having a Charter of Rights and Freedoms and a Province with a Human Rights Code both advancing the values of tolerance. One would hope that people of his generation would have been able to break free of the prejudices brought by their elders from other national and cultural environments: prejudices evidently so deeply and passionately held as to be ineradicable in the older generation.

In any event, the fact remains that the appellant was deeply, emotionally affected by the event to the point that, in the Committee's view, his ability to study for and write examinations was significantly impaired.

The further evidence received by the Committee that was not before the Faculty Committee was the evidence, both in written and oral form, of Michael Blugerman, a psychotherapist and social work consultant, who discussed the impact on the appellant of the cultural and familial pressure to succeed and of the ill-starred relationship with the young Sikh woman. He suggested what he thought would be essential but effective treatment through counselling. In his view the appellant would otherwise have difficulty overcoming the detrimental effect of these factors on his academic capacity. Evidence of the pressure to succeed and of the effect of this pressure had been before the Faculty Committee but not in such detail.

As already implied, the Committee in granting the appeal intends no criticism of the Faculty or the Academic Appeals Committee of the Faculty. They could not have been expected to do other than they did.

REPORT NUMBER 118 OF THE ACADEMIC APPEALS COMMITTEE - September 7th, 1988

The appeal is allowed. The Committee assumes the appellant will undertake the recommended counselling and strongly urges him to consider other steps to minimize the pressures that he currently appears to find irresistible.

Secretary
September 13th, 1988

Chairman

