

Imperial College Union

THE COURT

Re: International Officer and Postgraduate Representation

A panel consisting of:

Rob Park

Executive Summary

1. The Court appointed me to give an opinion regarding the constitutionality, fairness, procedures and drafting of the proposed changes to the ICU Constitution and some of the Regulations.
2. No Orders can be made by this panel, however Recommendations may be made.
3. The Council approved the creation of an International Officer in November 2008.
4. The Council approved changes to Postgraduate Representation within the Union in November 2008 also.
5. It is my opinion that these amendments to the governing documents are in order based on the evidence presented to the panel, namely, the papers presented to the Council and the minutes of the Council meetings.

International Officer

6. The Council gave consideration to restricting the electorate for the International Officer, however, on discussion with the College Registry it became apparent that it was not possible at the immediate time to determine various Student Categories.
7. There is nothing within the Constitution or within the general law to prevent such restrictions in the future (including who can nominate or stand for election) as only the Sabbatical Officers, that is to say the President and the Deputy Presidents are "major union office holders" as defined by the Education Act 1994, and therefore are required to be "elected by secret ballot in which all members may vote".
8. If restrictions were to be imposed in the future, necessary amendments must be made to the Regulations to facilitate this.

Postgraduate Representation

9. At present, the Faculty Unions have developed postgraduate representation by virtue of having officers responsible for academic affairs.
10. On a Union-wide basis, the Graduate Students Association (GSA) also provides postgraduate representation.
11. Whilst the creation of new Council members elected to constituencies based on the College Faculties (as opposed to the Faculty Union constituencies, which are not symmetric), there are potential conflicts between the ICU Regulations and the constitutions of the Faculty Unions.
12. The Executive Committee is the responsible body for ratifying amendments to Faculty Union constitutions, once amendments have been properly made by a Faculty Union governing body.
13. To avoid any future conflicting mandates or responsibilities, the Executive Committee should consult with Faculty Unions to remove such potential conflicts at the earliest opportunity.
14. This conflict resolution does not need to require the removal of Faculty Union officers with responsibility for postgraduate academic affairs.
15. Faculty Unions are defined as being "standing committees" of the ICU and have an equivalence to the other standing committees, within their terms of reference (e.g. Representation & Welfare Board (RWB))

Council
19th January 2009

16. The representation created by the new Graduate School Representatives poses no such issues with regards to Faculty Union constitutions.

Manner of Tabling the Motions & Drafting

17. The papers presented to the Council followed the procedures approved by the Council and required by the Constitution.

Fairness

18. It is commendable that the RWB took an active role in discussing these changes before placing before the Council.
19. From reading the minutes of the RWB and the Council, it is apparent that the Faculty Unions took an ambivalent view to the new postgraduate representation places on the Council, and they may not have had enough time to properly consult with their governing committees.

Role of the Trustees in Constitutional Amendments

20. A question was made whether the Trustee Board could make amendments to the changes agreed by the Council.
21. A Court Determination previously relating to the old constitutional procedures for making Constitutional Amendments held that when the Council was required to approve amendments at two consecutive meetings, amendments could be made at the second Council meeting.
22. These procedures are no longer in place, and the Constitution does not allow the Trustee Board to make such amendments to approved Council-made amendments.
23. The Trustee Board can only ratify the amendment without amendment, or reject the amendment (with appropriate communication to the Council).

Recommendations

24. A guidance document is issued covering the making of amendments to the ICU Constitution and Regulations which transcend the Union, particularly in relation to the standing committees.
25. Executive Committee to consider taking on the role of "harvesting" amendments, ensuring that future amendments, before presentation to the Council by the standing committees, are coherent with the current Constitution and Regulations. This could be an appointed person of the Executive Committee, or a sub-committee of the Executive Committee (or indeed of the Council).
26. An Opinion from the Court is sought in advance of presentation of amendments being proposed by any standing committee of the ICU, before a Council meeting.

RJP
11/12/08
revised 8/1/09

Nota Bene: Relevant citations are needed to point to or to quote the Constitution, Regulations and Minutes.