October 12, 2018

In Re: Senate Task Forces


On October 2, 2018, a Senator of Student Union submitted an interpretation request regarding the constitutionality of five newly implemented Senate Task Forces. First, Constitutional Council concluded that we have jurisdiction over this case. The SU Constitution states that we shall:

“Decide all cases in which an officer of the Legislative or the Executive branches of the Student Union is involved, and cases between Student Union registered groups and/or councils” (Constitution, Article VI, §1(a)(5)).

Accordingly, since this case was brought by an officer of the Legislative branch, and involves actions of the legislative branch, we decided to take the case. The Council determined that the task forces are unconstitutional because initiatives in Senate can originate either as projects or committees, yet the task forces do not fall under either category. While The Council declines to define a task force, committee, or project, we refer to the Constitution’s directions on how projects and committees may be formed.

The Constitution and Statutes of Student Union do not detail any method of creation for initiatives other than through the Projects Committee or through creating an entirely new committee.

The task forces are not projects because they were not initiated by the Projects Committee, which will:

“Serve as the originating committee for new initiatives and ensure that they are carried through to successful completion, whether fully within Projects Committee or within any other Senate committee” (Statutes, Article I, §9(a)(1)(ii)).

Instead, the task forces were unilaterally implemented by Senate leadership, which at the time consisted of only the Speaker of the Senate and the Outreach Chair but no Projects Committee Chair. Furthermore, Improve WashU, the initiative from which the concept of the task forces was derived, did not originate in the Projects Committee. Therefore, no aspect of the creation of the task forces can be linked to the Projects Committee.

The task forces are not committees because they were not enacted by a two-thirds vote by Senate. For a committee to be created, the Constitution requires such a vote:
“Senators of the Student Union shall…. Have the power to create or dissolve committees through a motion requiring a vote of two-thirds (2/3) of the officers present” (Constitution, Article V, §II(a)(7)).

However, this was not the case; the creation of the task forces, again, was decided only by the Speaker and the Outreach Chair.

The Council declines to categorize a task force. If Senate wishes to keep and maintain the task forces, they may either enact them as projects through the Project Committee or hold a two-thirds vote to create one or multiple new committees.

There was no dissent. Chief Justice Broitman and Alternate Justice Wang wrote concurring opinions.
October 12, 2018

In Re: Senate Task Forces

CHIEF JUSTICE BROITMAN joined in concurrence by Associate Justice Cai, Associate Justice Herndon, Associate Justice Tam, Associate Justice Kirley and in thought by Alternate Justice Wang and Alternate Justice Williams.

The case before The Council raises several questions about the powers and functions of the Student Union Senate. While I fully agree with The Council’s determination of the case, I am compelled to highlight three additional points:

I. The Senate Task Forces are unconstitutional on further grounds.

Justices Kirley and Tam are correct to note that whatever these task forces may be, they cannot be implemented through unilateral action by Senate leadership. Specifically, “task forces” are only mentioned once in the Constitution, and once in the Statutes. Because the power to create task forces rests solely within the executive, Senate leadership unconstitutionally created and implemented these task forces.

II. Constitutional Council lacks the authority to define the parameters of a committee, task force, or project.

In deliberation, The Council was faced with competing definitions for a “task force.” When asking relevant parties about what constitutes a Senate project, The Council found no clear answer. When researching the meaning of a committee, the relevant parties provided information in line with the Constitution. If these task forces were to be committees, it would be up to the Senators to propose the creation of these committees, which would then need approval by a supermajority vote in Senate.

While the function of the task forces as implemented seemed to be a hybrid of a committee and a project, it is not The Council’s job to tell Senate what it can and cannot do with respect to legislative processes and initiatives. Especially since these “task forces” will likely be involved in the creation of Senate resolutions and activities, The Council can make no such distinctions.

---

1 See Constitution, Article IV, §13(c) relating to duties of the Executive Advisor for Sustainability (a role currently unfulfilled within SU) and Statutes Article I, §1(b) under duties of the SU President.
2 See Constitution, Article V, §2(a)(7): “The Senators of the Student Union shall have the power to create or dissolve committees through a motion requiring a vote of two-thirds (⅔) of the officers present.”
3 Based on interviews with the Speaker of Senate and review of documents submitted by all parties involved The Council was unable to reach a consensus about the clear status of the task forces. For example, the task forces were multi-membered, theoretically non-mandatory, and standing bodies that worked on specific projects related to the Improve WashU Campaign. The Council will not encroach on legislative authority.
III. The legislative process should be more well defined, and the legislative bodies should create internal governing documents.

The Constitution broadly lists the responsibilities of Senate officers in Article V, §2. The Statutes, Article II, §1 expand on the legislative process and duties of Senate committees. While these measures are significant, the day-to-day operations of Senate are carried out by rules set by the speaker, without any known internal documents.\textsuperscript{4} I worry about the variation between different Senates, the subjectivity of certain rules, and the lack of accountability for internal procedures outside those explicitly defined in the Constitution and Statutes. To ensure a more concrete sense of continuity and accountability within the legislature of Student Union, I would strongly recommend that each house create and maintain a set of internal rules.

\textit{Thus, I concur in judgment with The Council.}

\textsuperscript{4} For example, internal speaker and chair elections follow rules passed down by Senate Speakers that often go unchanged and are not voted on. Also, it is the Speaker’s discretion as “chairperson” of Senate (Constitution, Article V, §2(b)(1)) to choose internal rules and they often utilize a modified version of Robert’s Rules.
October 12, 2018

In Re: Senate Task Forces

*ALTERNATE JUSTICE WANG concurring in thought, joined by Chief Justice Broitman, Associate Justice Tam, Associate Justice Cai, and Associate Justice Herndon.*

Although the process by which committees are created as outlined in the Constitution, Article V, §2(a)(7) may seem trivial, I would like to examine the reasoning and utility behind such a process.

In reading the Constitution, Article V, §2(a)(7), we see that the creation of a committee requires a 2/3 vote by present officers. Justice Kirley and Justice Tam have clearly outlined how these “task forces” are unconstitutional due to their creation outside of a vote. The rule has multiple purposes: first, by requiring a supermajority, it ensures that committees and their mission have a general consensus within Senate. Constitution, Article V, §2(a)(10) demands that each senator be serving on at least one committee. To force a senator to serve on a committee they have not even voted on can be seen as unjust towards the senator’s interests and unhealthy for the committee itself.

These “task forces” are not, in fact, mandatory. However, it is specified that each of the five task forces are to have between two and four members. Of a seventeen-person senate, it demands that at least over half of the Senate body should serve on a task force. Furthermore, if this were the case, these two-member task forces would face challenges that can be explained by another purpose of Constitution, Article V, §2(a)(7), the mandate of a 2/3 vote for committee creation.

This second purpose is that the creation of a committee by formal, Constitutional procedure enforces accountability and longevity. In a committee’s formal enactment into the Statutes, problems that arise with variation in Senate members and the changing subjective interests of the body as a whole are eliminated by a guarantee for a committee’s existence across semesters. Put more simply, Constitution, Article V, §2(a)(7) prevents the eventual stagnation of project activity. This is where the issue of two to four-member “task forces” surface; task forces of such small membership will inevitably find more difficulty in the accomplishment of goals compared to a committee of perhaps double that size (with a higher likelihood of more palpable enthusiasm, assuming its creation through a 2/3 majority vote).

In these respects, I hope to clarify why these provisions exist in the Constitution, and I hope their utilities are not overlooked by Senators in the future.

*Thus, I concur in judgement with The Council.*