



Judicial Board | Conseil judiciaire

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STUDENTS' SOCIETY OF MCGILL UNIVERSITY
JUDICIAL BOARD
2021-01-19

Reference re Interpretation and Scope of the
Reference re Legality of the BDS Motion and Similar
Motions

PARTICIPANTS

**Brooklyn Frizzle, representing the Students' Society of McGill University's
Executive Committee**

Petitioner
and

Students in Solidarity for Palestinian Human Rights McGill
Intervenor

TYPE

Final Judgment

JURISDICTION

Students' Society of McGill University

REASONS FOR JUDGMENT

THE SSMU JUDICIAL BOARD [2020-2021] - UNANIMOUS—



Executive Summary¹

1. On 31 May 2016, the Judicial Board of Justice rendered its decision on the case of *Reference re Legality of the BDS Motion and Similar Motions*.² On 07 August 2020, the Petitioner submitted a petition to the Judicial Board to seek clarification on the 2016 Reference. The Petitioner sought to obtain clarification on the abilities of the Executive Committee and the Legislative Council of the Students' Society of McGill University. Upon the release of the application for intervenors, the Students in Solidarity for Palestinian Human Rights McGill applied for status as Intervenors in this reference case.
2. During the hearing procedures, the Petitioner claimed the difficulties that the Executive Committee faced in determining their abilities to take political stances within the confines of the governing documents and the 2016 Reference. The Petitioner stated that, as a political body, the Executive Committee hoped to hold sources of power accountable while recognizing that the entire nationality of a country may not be in agreement with its government. Similarly, the Petitioner recognized the challenges and realities of attempting to balance the varying political positions that remain within its constituents. During the hearing, the Petitioner further expressed that it was within their opinion that this Board can overturn past rulings, namely the 2016 Reference.
3. In recognizing the sensitive nature of this reference, the Judicial Board declared that for this particular reference, upon reviewing the facts presented to this reference alone, the Executive Committee's decision to criticize the actions of a government did not amount to the adoption of a position against a specific country. Further, expressing support or denouncing an act of a government would not amount to the adoption of a position against a specific country. The Board also upholds that the questions inquiring about the legality of their actions do not contravene the *Constitution* or the *Equity Policy*. Moreover, this Board upholds the 2016 Reference, while recognizing that the

¹ The Executive Summary serves to increase the accessibility of Judicial Board decisions to the Members of the SSMU. However, the Executive Summary is not part of the final judgment and is thus not binding following the ratification of the final judgment by the Board of Directors. The Executive Summary does not replace the final judgment. Therefore, Members of the SSMU are highly encouraged to read the final judgment in addition to the Executive Summary.

² *Reference Re Legality of BDS and Similar Motions*, 2016 SSMU.



current reference supersedes the 2016 Reference in areas of dispute, rather than the whole reference.

Decision^{3 4}

The Judicial Board of the SSMU declares the following:

- a. After careful consideration of the evidence and the context presented by the Petitioner and Intervenors in **this specific case**, the criticisms of the actions of the Government of Israel **would not** amount to the adoption of a position against a specific country.
- b. After careful consideration of the evidence and the context presented by the Petitioner and Intervenors in **this specific case**, support for the Palestinian liberation **would not** amount to a position against a specific country.
- c. After careful consideration of the evidence and the context presented by the Petitioner and Intervenors in **this specific case**, denouncing the Government of Canada's actions in maintaining the Canada-Israel Free Trade Agreement **would not** contravene the *Constitution* and the *Equity Policy*.
- d. After careful consideration of the evidence and the context presented by the Petitioner and Intervenors in **this specific case**, a statement implicitly or explicitly denouncing the actions of the Government of Israel, particularly the recently proposed annexation in the West Bank **would not** contravene the *Constitution* and the *Equity Policy*.
- e. After careful consideration of the evidence and the context presented by the Petitioner and Intervenors in **this specific case**, a motion introduced to the SSMU Legislative Council which would compel the SSMU to take an official position, similar to those outlined in the Positions Book, denouncing the proposed annexation in the West Bank or any similar actions of the Government of Israel **would not** contravene the *Constitution* and the *Equity Policy*.
- f. After careful consideration of the evidence and the context presented by the Petitioner and Intervenors in **this specific case**, a motion introduced to the SSMU Legislative Council which would compel the SSMU to take an official position, similar to those outlined in the Positions Book, supporting Palestinian liberation **would not** contravene the *Constitution* and the *Equity Policy*.

³ The wording included in this decision is intentionally derived from the "Petitioner's Form P-1: Petition for Hearing" to ensure the utmost clarity and specificity to the questions asked by the Petitioner.

⁴ The mentioning of "Palestinian liberation" under the heading of "Decision" and anywhere else in this document is in no reference to any organization, but to the act of the liberation of Palestine.



- g. The *Reference re Legality of the BDS Motion and Similar Motions* (hereafter *2016 Reference*) remains **in force**.
- i. In the case of a conflict between the *2016 Reference* and this current reference decision, the decision of **this reference** will **supersede and nullify** the previous decision.
1. This supersession shall occur to the specific provisions in conflict, rather than the entire decision.

Reasons

Facts⁵

[1] On 22 February 2016, SSMU General Assembly voted in favour of a motion supporting the Boycott, Divestment, and Sanctions (BDS) movement [“the Motion”]. The Motion called for “SSMU [to] support campaigns associated with the BDS movement through the office of the VP External” and for the President of SSMU to “lobby the McGill Board of Governors in support of BDS Campaigns.”⁶ Following the initial vote, the Motion was sent to online ratification by the SSMU Membership. There, online ratification failed by a margin of 57-43%. This was the third vote in relation to the BDS movement in 18 months.

[2] Following this referendum, this question was brought forth to declare the BDS Motion, and similar motions, incompatible with SSMU’s by-laws, internal regulations, and legal structure more generally. Boycott, Divestment, and Sanctions Action Network (BDSAN), in the context of McGill University, is a group of McGill students who campaign on behalf of the BDS movement. As for the BDS movement itself, it can best be summarized by the BDS movement’s official webpage:

The global movement for a campaign of Boycott, Divestment and Sanctions (BDS) against Israel until it complies with international law and Palestinian rights was initiated by Palestinian civil society in 2005, and is coordinated by the Palestinian BDS National Committee (BNC), established

⁵ As the facts of the original case remain the same, parts of this section have been copied verbatim from the *Reference re Legality of the BDS Motion and Similar Motions*.

⁶ *Motion Regarding Support for the Boycott, Divestment and Sanctions Movement*, SSMU General Assembly Resolution Book, updated as of 03/07/2016, p 51, online: <http://ssmu.mcgill.ca/wp-content/uploads/2009/10/General-Assembly-Resolution-Book-Updated-2016-03-07.pdf>.



in 2007. BDS is a strategy that allows people of conscience to play an effective role in the Palestinian struggle for justice.⁷

[3] During the period that led to the GA vote and the Referendum, there was a sharp increase in harassment, defined pursuant to the *Equity Policy*, around campus.⁸ McGill students who campaigned for BDSAN and those who campaigned against were subject to a barrage of hostilities. Indeed, the BDS vote garnered national attention, with the *CBC* as well as the *Montreal Gazette* running several stories on the matter.⁹ For present purposes it suffices to reproduce the headline of a *Montreal Gazette* story published 25 February 2016: “BDS Vote Stirs Up Hostilities on McGill Campus.”¹⁰ BDSAN’s official position has been that they support their Jewish peers while standing up for Palestine, and have strongly condemned anti-Semitic behaviour on Campus. This is the context in which the *2016 Reference* was made.

[4] On 07 August 2020, the Petitioner requested that the Judicial Board clarify the *2016 Reference* to establish the abilities of the Executive Committee within the confines of the *2016 Reference*, the *Constitution*, and the *Equity Policy*.

Issues

[5] The Board is presented with the following questions :

[a] When should the Judicial Board readdress questions?

[b] Would criticism of the actions of the Israeli government amount to the adoption of a position against a specific country, Israel, as outlined in the *2016 Reference*?

⁷ BDS, *Introducing the BDS Movement*, online (accessed last 31-05-2016): <https://bdsmovement.net>.

⁸ *Equity Policy*, SSMU Policy and Plan Book, p 76. Available online:

<http://ssmu.mcgill.ca/wp-content/uploads/2008/10/SSMU-Policy-and-Plan-Book-2016-04-07.pdf>.

⁹ Elias Abboud, “McGill University BDS movement vows to continue”, *CBC News* (29 February 2016) online:

<http://www.cbc.ca/news/canada/montreal/mcgill-university-bds-movement-vows-to-continue-1.3469713>; see also Marian Scott, “McGill students reject controversial BDS motion”, *Montreal Gazette* (27 February 2016) online:

<http://montrealgazette.com/news/local-news/mcgill-bds-motion-fails-to-rally-student-support>.

¹⁰ Karen Seidman, “BDS vote stirs up hostilities on McGill Campus”, *Montreal Gazette* (25 February 2016) online: <http://montrealgazette.com/news/local-news/bds-vote-stirs-up-hostilities-on-mcgill-campus>.



- [c] Would support for Palestinian liberation amount to the adoption of a position against Israel, a specific country, as outlined in the *2016 Reference*?
- [d] Within the confines of the *Constitution* and the *Equity Policy*, could the SSMU Executive issue a statement denouncing the Canadian government's actions in maintaining the Canada-Israel Free Trade Agreement?
- [e] Within the confines of the *Constitution* and the *Equity Policy*, could the SSMU Executive issue a statement implicitly or explicitly denouncing the actions of the Israeli government, particularly the recently proposed annexation in the West Bank?
- [f] Within the confines of the *Constitution* and the *Equity Policy*, could a motion be introduced to the SSMU Legislative Council which would compel the SSMU to take an official position, similar to those outlined in the Positions Book, denouncing the proposed annexation in the West Bank or any similar actions of the Israeli government?
- [g] Within the confines of the *Constitution* and the *Equity Policy*, could a motion be introduced to the SSMU Legislative Council which would compel the SSMU to take an official position, similar to those outlined in the Positions Book, supporting Palestinian liberation?

Jurisdiction

[6] In its decision, the Judicial Board consulted section 1.1 of the *Internal Regulations of Governance*, section 15.1 of the *Constitution*, and section 7 of the *Judicial Board Procedures* to establish its jurisdiction.

[7] Specifically, section 1.1(a) of the *Internal Regulations of Governance* grants the Board jurisdiction over the “the Constitution, Internal Regulations, Policies, and Plan of the Society” and section 1.1(c) which recognizes this Board’s jurisdiction to render decisions on the “interpretation of all procedures, questions and results of all



Elections and Referenda, including the authority to declare invalid any Referenda or Election that violates the *Constitution or Internal Regulations*.¹¹

[8] Section 20 of the *Judicial Board Procedures* also recognizes this Board’s jurisdiction to render decisions on reference questions made by “the President of SSMU, the Chief Returning Officer, the Board of Directors,” and others.¹² As such, the Board views that this *Reference* falls within its jurisdiction.

[9] However, this Board recognizes that as per section 2.2 of the *Judicial Board Procedures*, the scope and context of the decision remain within the facts presented before the Board specific to this Reference, including but not limited to the hearing process, documents submitted by both the Intervenor and Petitioner, and the final judgement of the *2016 Reference*.¹³

Analysis

A. When should the Judicial Board readdress questions?

[10] The Board may re-examine its decisions when some novel circumstance has come up or simply when a precedent appears flawed, and there are different requirements for each of these possibilities. We are asked to consider this review pertaining to the *2016 Reference*, but only with regard to the specific questions posed by the current SSMU Executive Committee—in other words, regarding the principles established in this decision. We will not rule on the constitutionality of endorsing the BDS movement, because it is not necessary to decide this case, because we have not heard enough evidence about it, and because we may not be qualified to do so, as explained below.

[11] It is clear that the Board has the authority to readdress a question it has already decided on. As the only judicial body in the SSMU, it is not bound by higher decisions, and no provision in its governing documents explicitly prohibits reversing a decision. Additionally, unlike the Canadian judiciary, the Judicial Board is not truly independent from the other branches of power: its decisions must be ratified by the Board of Directors to come into effect.¹⁴ The Board of Directors has delegated its

¹¹ Students’ Society of McGill University Internal Regulations of Governance-03: Judicial Board (2 April 2020), s 1.1 (General Jurisdiction) [“Internal Regulations Governance-03”].

¹² Students’ Society of McGill University Judicial Board Procedures (14 October 2018), s 20 (Reference Questions).

¹³ *Ibid*, s 2.2 (General).

¹⁴ Internal Regulations Governance-03, s 5.3 (General Jurisdiction).



decision-making power on certain matters to the Judicial Board, but retains the final say in approving changes to precedents.¹⁵ It is also clear that the Board of Directors can reexamine its positions, and so the Judicial Board, whose authority partly originates from the Board of Directors, can too. This is even more apparent when the case comes from a reference question submitted by an individual sitting on the Board of Directors.

[12] Now, when is it appropriate for the Judicial Board to provide a new answer to a question previously examined? This issue deserves attention because predictability and stability are of central importance to any legal, or in the SSMU’s case quasi-legal, order. Once a decision is rendered, various actors can consider whether they should adjust their conduct. They must be assured that, unless a meaningful distinction is found, future cases will receive a similar treatment. However, the value of certainty is counterbalanced by that of justice, or correctness of the decision. A mistaken decision disserves not only the idea of justice, but also the coherence and integrity of the legal or quasi-legal order as well as the interests of the parties. Consequently, the application of precedent should not lead to more harm than benefit. The difficulty, of course, is determining the weight to attribute to each of these opposite ends, and thus the situations in which one should be prioritized.

[13] In some cases, novel arguments or changes of circumstances can justify readdressing questions. Though this issue is not examined in depth in the present case, we suggest following the Supreme Court of Canada’s decisions in *R v Comeau*,¹⁶ especially at paragraphs 26-34, and *Canada (Attorney General) v Bedford*,¹⁷ especially at paragraphs 38-47. To summarize, these judgments establish that courts can go against past precedents when a new legal issue has arisen due to: non-consideration of available legal arguments in prior cases; changes in legal doctrine such that aspects of a prior law were not addressed; or changes in the circumstances or evidence.

[14] In other cases, such as the present one, the arguments before the Board are similar to those considered in a precedent, and no significant change has taken place. This approach is also found in Supreme Court jurisprudence, notably in *Canada v Craig*,¹⁸ especially at paragraphs 24-27. The decision to modify a precedent then revolves around whether it has emerged as a mistaken decision. Given the value of

¹⁵ Internal Regulations Governance-03, ss 1.3 (Limited Jurisdiction), 5.4 (Opinion Ratified) and 5.5 (Opinions Overturned).

¹⁶ [2018 SCC 15](#).

¹⁷ [2013 SCC 72](#).

¹⁸ [2012 SCC 43](#) [“Craig”].



stability and predictability, this is “a step not to be lightly undertaken [...] especially so when the precedent represents the considered views of firm majorities”.¹⁹ We keep in mind that the *2016 Reference* was decided unanimously by five justices. Compelling reasons must point to the case being wrongly decided.²⁰ The central issue is the weighing of correctness (and conversely costs of maintaining an apparently misguided answer) and certainty. Sometimes, for example, due to vagueness, continuing to apply a precedent leads to uncertainty, thus undermining the very logic of respecting *stare decisis*, the principle of precedent.²¹ We are tasked with considering whether the *2016 Reference* is such a case.

[15] This second approach—for wrongly decided cases—is not to be applied as strictly for Judicial Board decisions as in Canadian courts. We rely on much less history, institutional expertise and precedents, and no scholarship to guide our decision-making. While we do our best to render appropriate decisions, the likelihood of error is higher. Consequently, the threshold for revisiting judgments must be lower.

[16] We also note that the Board may only reexamine a judgment if it is asked to, namely if a case is brought to it. It cannot decide to reverse decisions of its own accord. Finally, there should generally be more convincing reasons to re-examine a recent precedent as opposed to an older judgment.

B. Would criticism of the actions of the Israeli government amount to the adoption of a position against a specific country, Israel, as outlined in the *2016 Reference*?

[17] *Specific* criticism of the actions of any government, including the Israeli government, does not amount to the adoption of a position against the entire country writ large, as per the *2016 Reference*.

Clarifying the *2016 Reference*

[18] While this Board will not reverse the previous decision given the above discussion, there remain important issues of clarification to consider. This Board has found that certain paragraphs, such as 40-42, of the *2016 Reference*²² are in want of

¹⁹ *Craig*, *supra* note X at para 24.

²⁰ *Ibid* at para 27.

²¹ See eg *Canada (Minister of Citizenship and Immigration) v Vavilov*, [2019 SCC 65](#) at para 20.

²² *Reference Re Legality of BDS and Similar Motions*, 2016 SSMU at paras 40-42.



further elaboration and delineation. These clarifications aim to render the decision more predictable in its application to future analogous situations. As such, the Board favours a narrow interpretation of the previous decision. Such a narrow interpretation restricts its ambit to the specific *2016 Reference*, namely, criticisms of specific and separable government actions (see section F, below, regarding these guidelines).

[19] Further, this Board is not in agreement with the forceful and unequivocal language used in the *2016 Reference*. A meaningful distinction can and should be made between a blanket prohibition on criticisms of a country as a whole and specific criticisms of governmental policies.

Application to the Current Issue: Criticism of a Government's Actions

[20] On this particular question, the specific facts of the *2016 Reference* on the legality of BDS *alone* can be distinguished. While it was unconstitutional for SSMU to adopt the motion it did in 2016, as BDS is an umbrella term with varying degrees of breadth and interpretation, criticizing a specific action is permitted.

[21] There may very well be specific criticisms of Israel as a nation that violate the *2016 Reference*, but generally speaking, criticism of the Israeli government's actions, or any government, are not categorically disallowed.

[22] This is in line with the logic of the *2016 Reference* that favours specificity and precision over broad undefined policies that may or may not contravene equity concerns.²³

[23] Given the limits of its jurisdiction, the Judicial Board exists to rule on specific instances and cases regarding issues that fall within its ambit. Where the Board cannot answer an issue clearly and unambiguously, as it cannot regarding a broad umbrella of policies that may or may not be supported by BDS movements, that decision is not within the scope of the Board. Such issues must be left to SSMU's other decision-making bodies.

[24] Students can and should file appeals to the Board regarding specific policies if and when those become apparent and relevant.

²³ *Reference Re Legality of BDS and Similar Motions*, 2016 SSMU at para 34.



C. Would support for Palestinian liberation amount to the adoption of a position against Israel, a specific country, as outlined in the 2016 Reference?

[25] This question receives the same answer as the previous one, following the same analysis. Indeed, “Palestinian liberation” is not explicitly critical of Israel and, even after considering the context and based on the information we were provided for this specific case, we do not find that it equates to the adoption of a position against Israel according to the above analysis.

D. Within the confines of the *Constitution* and the *Equity Policy*, could the SSMU Executive issue a statement denouncing the Canadian government's actions in maintaining the Canada-Israel Free Trade Agreement?

[26] In this specific case, a statement issued by the SSMU Executives denouncing the Government of Canada’s actions in maintaining the Canada-Israel Free Trade Agreement does not violate the *Constitution* and the *Equity Policy*.

Responsibility of the Executive Committee and Its Members

[27] The Judicial Board of SSMU recognizes the Petitioner’s position in that, as the executive branch of the organization, the Executive Committee must retain power in taking certain positions and stances. However, these positions may not violate the *Constitution* and the *Equity Policy* as the *Constitution* is the governing document of the Society and the *Equity Policy* prevents discrimination and persecution within the Society.

[28] The Board further acknowledges that each executive member plays an integral role when the Executive Committee takes a position on an issue. The *Constitution* declares that the Vice-President External Affairs shall “represent the Society and communicate positions and Policy taken by the Society to external bodies and agencies,” “lobby [...] governments to further the objectives, goals and Policy of the Society,” and “mobilize students on positions and Policy of the Society.”²⁴

[29] In this regard, the *Constitution* grants the Vice-President External Affairs the power to lead the advocacy of the Society’s policies and positions as well as to communicate these policies and positions to the Society’s members. However, the

²⁴ Students’ Society of McGill University Constitution (10 November 2017), s 10.14 (Judicial Board, General) [“SSMU Constitution”].



Constitution does not explicitly prohibit the Executive Committee or its members from taking a position on issues. Therefore, the fundamental understanding of a government’s role, which is to represent its members, applies. The Executive Committee has the power to take a position on a matter and represent its members by advocating such a position to external groups while bearing the responsibility to communicate their position to their members.

Considerations: *Constitution*

[30] The Preamble of the *Constitution* empowers the Society to “demonstrat[e] leadership in matters of human rights, social justice and environmental protection.”²⁵ If the Executive Committee believes that the subject matter in front of it falls within these categories, the Executive Committee is within its *constitutional* right to take a position on the matter.

[31] However, the Preamble of the *Constitution*, also reiterated in the *Equity Policy*, provides that :

All of the Society’s endeavours shall be undertaken with full respect for human dignity and bodily sovereignty and without discrimination on the basis of irrelevant personal characteristics that include but are not limited to race, national or ethnic origin, colour, religion, sex, gender identification, age, mental or physical disability, language, sexual orientation or social class.²⁶

[32] Further, it states that the Society must be “mindful of the direct and indirect effects that Society businesses and organizations have on their social, political, economic, and environmental surroundings.”²⁷ Therefore, the Society, including the Executive Committee, must take into consideration whether their positions violate or discriminate against the explicit provisions written within the *Constitution* of this Society.

Considerations: *Equity Policy*

[33] The *Constitution* provides authority to the Board of Directors to make “decisions or [take] actions on behalf of the society”, and, “between meetings of the Board of Directors,” the Executive Committee has the power to act in place of the

²⁵ SSMU Constitution, Preamble.

²⁶ *Ibid*, Preamble.

²⁷ *Ibid*, Preamble.



Board of Directors. Therefore, the Executive Committee is not only a representative but a decision-making body.²⁸

[34] As a decision-making body, the Executive Committee has the responsibility to take into consideration, when making decisions, that this Society's members come from diverse backgrounds and that its membership includes marginalized students. Therefore, when making decisions and taking a position on issues, the Executive Committee bears the responsibility of taking into consideration the *Equity Policy*, the commitments made through it and the effects that such a position will have on its members.

[35] Further, this Board recognizes that the Executive Committee will take positions that may marginalize its members or further affect already-marginalized members. The Executive Committee, however, as a political and executive body of this Society, has the right to pursue this action. Nonetheless, it must do its due diligence to ensure that their decision to take on a position has the least effect on marginalizing members of this Society.

E. Within the confines of the *Constitution* and the *Equity Policy*, could the SSMU Executive issue a statement implicitly or explicitly denouncing the actions of the Israeli government, particularly the recently proposed annexation in the West Bank?

[36] This question receives the same answer as the previous one, following the same analysis.

F. Within the confines of the *Constitution* and the *Equity Policy*, could a motion be introduced to the SSMU Legislative Council which would compel the SSMU to take an official position, similar to those outlined in the *Positions Book*, denouncing the proposed annexation in the West Bank or any similar actions of the Israeli government?

[37] The SSMU Legislative Council is empowered to, and frequently does, compel SSMU to take positions by way of resolutions.²⁹ The only restriction on resolutions of

²⁸ *Ibid*, s 6.1 & s 11.5 (Board of Directors, The Executive Committee).

²⁹ Students' Society of McGill University Internal Regulations of Governance-08: Resolutions, Positions, Policies and Plans (2 April 2020), s 1.1 (General) ["Internal Regulations of Governance-08].



the Legislative Council is that they must “not conflict with any Governance Documents of the Society”³⁰ and they must be “distributed to Councillors at least two (2) days in advance of the meeting at which [they] are to be debated”.³¹ Resolutions of the Legislative Council may contain, *inter alia*, “a call to action for the Society to take”, “lobbying points which have an immediate and restrictive timeframe”, or “a stance on a specific issue or event”.³²

[38] Thus, whether the Legislative Council may compel the SSMU to take an official position denouncing the proposed annexation in the West Bank or any similar actions of the Israeli government turns on the constitutionality of such a position under the *Constitution* and the *Equity Policy*.

[39] As elaborated above, criticisms and denouncements of specific government action do not contravene the *Constitution*, nor the *Equity Policy*. As long as the position is taken against a government action that is separable from the identity or right to existence of the nation and its people, it will not amount to “discrimination on the basis of [...] nationality or ethnic origin”.³³ Similarly, it will not contravene the sections 2.5 and 2.5.1 of the *Equity Policy*.

[40] In the present case, the Board considers that a denouncement of the proposed annexation in the West Bank targets a specific and separable action by the Israeli government. It is worth noting these qualities are not so much criteria as they are guidelines that help inform whether criticisms are constitutional and are not determinative. The Israeli annexation of the West Bank is largely considered to violate international law by other countries and at the least is a clear departure from Israel’s status quo of referring to the West Bank as a “disputed” area.³⁴ Further, there seems to be conflicts within the Israeli government itself over the issue.³⁵ Thus, insofar as a motion introduced by Legislative Council to compel the SSMU to take a position is

³⁰ *Ibid.*

³¹ Students’ Society of McGill University Internal Regulations of Governance-05: Legislative Council (2 April 2020), s 11.2. (Restrictions on Resolutions) [“Internal Regulations Governance-05”].

³² Internal Regulations of Governance-08, s 1.2 (Contents).

³³ SSMU Constitution, *Preamble, Leadership*.

³⁴ United Nations Human Rights Council, “Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967” (15 July 2020); “Explainer: Israel, annexation and the West Bank”, *BBC News* (25 June 2020), online: <https://www.bbc.com/news/world-middle-east-52756427>; The Associated Press, “Netanyahu ally confirms delays in West Bank annexation plan”, *CBC News* (1 July 2020), online: <https://www.cbc.ca/news/world/netanyahu-ally-confirms-delays-west-bank-annexation-plan-1.563405>.

³⁵ *Ibid.*



targeted at the proposed annexation in the West Bank, it does not violate the *Constitution* nor the *Equity Policy*.

[41] On the matter of the Legislative Council introducing a motion to compel the SSMU to take a position denouncing any similar actions of the Israeli government, the Board declines to decide definitely without elaboration of the specific actions of the Israeli government such a motion would denounce. Instead, in line with its clarifications of the *2016 Referendum*, the Board considers that specific and separable government actions or policies are well within the scope of the SSMU to take official positions against. The Board emphasizes that this standard is highly context-dependent and thus a blanket ruling on “similar actions of the Israeli government” is inappropriate.

G. Within the confines of the *Constitution* and the *Equity Policy*, could a motion be introduced to the SSMU Legislative Council which would compel the SSMU to take an official position, similar to those outlined in the *Positions Book*, supporting Palestinian liberation?

[42] This question receives the same answer as the previous one, following the same analysis.