

Equity in Student Petitions

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ABSTRACT

Despite an ideological framework of rationality and fairness, decisions of a college committee on student petitions are found to favour certain categories of petitioners, and certain types of argument. The patterns of decision-making are analysed within a theoretical framework. The greatest difficulties in making decisions occur when compromise must be achieved between conflicting values about education. The present study suggests that different notions of equity are involved. Tendencies to regularize equity in the name of rationality and fairness may actually reduce responsiveness of the petition process both to the student needs for which it was established, and the changing flux of political compromise between different educational values in the college.

RÉSUMÉ

L'équité et les pétitions étudiantes

Bien qu'elles se situent dans un contexte idéologique de rationalité et d'impartialité, les décisions prises par les administrateurs de collège face aux pétitions étudiantes favorisent certains groupes de pétitionnaires et privilégient certains types d'arguments. Les différents modèles de prises de décision sont analysés suivant une approche théorique. La prise de décision devient très délicate lorsqu'il s'agit de trouver des compromis entre des valeurs opposées du système d'éducation. La présente étude amène à penser que différentes notions d'équité sont mises de l'avant. La tendance actuelle à définir et orienter cette notion même d'équité afin de satisfaire les objectifs de rationalité et d'impartialité, réduit la sensibilité du processus de pétition vis-à-vis des besoins étudiants d'une part et des équilibres éphémères entre les différentes valeurs d'éducation collégial d'autre part.

The quality of mercy is certainly strained as it falleth from the judge's bench or the administrative tribunal. John Hogarth (1972) has shown that the social background of the

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magistrate may be a better predictor of his sentencing practice than the facts of the cases before him. Lorne Tepperman (1973) has demonstrated that even the size of the court's case load can alter the quality of justice.

Yet, as Tepperman (1973) notes, "a patina of rationality" covers the judicial process, and judges are quick to charge with contempt of court even those who, be they federal cabinet ministers, dare to suggest that the course of justice is not true and impartial. Likewise, if one asked the members of the academic petition committee of any college to explain the process by which they decide the various petitions before them, the same patina of rationality would appear.

"We approve exceptions to the rules asked by these petitions only when the facts fully justify an exception." "We try to remember that what we are prepared to grant to one student should be available to all." "We give equitable treatment to each petition without fear or favour." Naturally the committee members would deny that any given category of petitioners receives preferential treatment, unless that preference were itself a part of the academic basis of the college. For example, "A" students may deserve certain exceptions from the rules which would not be available to "C" students (such as opportunities for "study abroad"). But there would be nothing in the college rules to justify a preference, for example, of female petitioners over males.

In addition to participant observation for several years by the author, the data for the present study derive from the complete file of petitions, 487 in all, presented to the committee that heard academic petitions at an arts and science college during two recent calendar years.¹ In order to reduce the sometimes lengthy verbal content of the petitions to manipulable data, a coding system was devised. Once the confidential content was reduced to codes, clerical assistance was possible for computation of their statistical variations. Some readers may be unfamiliar with the business of a college or university petition committee so I will provide a brief background before proceeding with my analysis.

The petitions studied represent one submission for each fourteen students enrolled in the college during the period studied. This statistic is important, because the rate of submission per capita had been rising in the college, and reached one in every ten regularly enrolled students by 1975. The overall rate of success of petitions in the first year of the period studied was 58 per cent, but this rate varied markedly according to the category of petitioner. Despite the patina of fairness, female senior students consistently proved more worthy of unstrained mercy from the committee than any other group, while male juniors were the least deserving. This was true in various categories of petitions, considered according to the problem of the student, and therefore does not reflect the submission of different kinds of problems by the two sexes or the two academic levels. What it does reflect is the tendency of females to argue their reasons in terms of personal feelings and difficulties, while the males tended to argue more academically. That is, female petitions were more expressive, male petitions more instrumental, and the committee seemed to have greater difficulty in denying the expressive. (Incidentally, the committee did not include a female member during this period.)

1. I believe this is the first time the confidential contents of a file of college student petitions have been made available for study and I am most grateful to the head of the college for the opportunity to examine them.

A petition such as a request for late withdrawal from a course without academic penalty because the student has been unable to keep up with the work, and is in fear of failing, can be argued on the basis of personal reasons such as exhaustion from trying very hard to keep up (supported perhaps by evidence of consultation with a physician, or a letter from home). Or it can be argued on academic grounds – for example, that the amount of work assigned was unreasonable, compared to work loads in other courses. During the period of this research, the committee definitely preferred the first line of argument to the second. We shall see why later.

The range of exceptions from academic rules requested by students is quite wide, but almost any petition could be argued mainly in terms of personal reasons, or mainly in terms of academic reasons. As an indication of the range, petitions in the period studied sought special consideration because of illness or other “extenuating circumstances” such as bureaucratic error, or a misunderstanding about forms and paperwork; special admission to courses from which they would ordinarily be barred; credit for study elsewhere; permission to drop out of a course, or enrol late; extensions of time beyond deadlines; extra marks to compensate for difficulties the student experienced because of part-time work, or family or marital problems; another opportunity to write an examination because the student forgot to show up, or suffered an “anxiety crisis” or “mental block.” Indeed, there seemed almost nothing for which a student might not petition, as might be summed up in the plea of the student who asked for special consideration simply because his plans to graduate that year had been disrupted by poor marks.

The decision-making process

As in most colleges, the committee studied which ruled on each student petition was made up of faculty representatives from each sector of disciplines, together with several administrators, usually from the Registrar’s office. Since the late 1960’s, in response to student activism, several student representatives had also been members of the committee. However, membership was not attractive, as there was little political power involved, and much detailed and often tedious discussion. Thus attendance, especially among the students, often was poor, and the main load was usually carried by a few faithful members.

Members of the committee were not individually responsible to anyone for any committee decision. However, decisions could be appealed, first to the committee itself, and then to a higher level of administration. The committee kept scant records of the detailed arguments leading to a decision, and an appeal could have started the case over again from scratch, with perhaps a different complement of members in attendance than for the first decision.

The committee had no record of its own precedents, nor the principles on which they were based. More like a tribal council than a magistrate’s court, the committee functioned by memory of its oldest (longest-serving) members. An oral tradition passed the basic principles from older members to newer ones. A long-time member might say something such as “I recall the last time we had this sort of petition we did thus and so.” Perhaps another member might contradict, suggesting “Yes, but that was unusual. We have usually done so-and-so, as in the case of petition “X”.” The memory of the longest-term members generally went unchallenged, except in the case of some intrepid newcomer who might ask

“Why?” or suggest “That was all very well under the old administration, but I think the principle that should guide us now is so-and-so.”

This oral tradition worked remarkably consistently. When the 487 petitions for the two years studied were divided into categories of similar petitions for similar kinds of petitioners (for example, late withdrawal petitions from senior males) it turned out that in only eleven cases had the decision of the committee varied significantly from the pattern established for that category.

When the committee ruled on a petition, the only record of its judicial process was often the brief note entered at the bottom: “Petition denied” (or “granted”). Indeed, the committee generally operated on the basis that there was no need to explain its refusal to grant an exception from the rules. After all, no student had a *right* to an exception. Sometimes the committee might add an explanation such as: “Students are not permitted to use extra courses to clear conditions incurred in subsequent sessions.” Of course, the student already knew that was the rule — that’s why he put in a petition.

Most decisions were by consensus, but if a vote was taken, it was not recorded, nor were the arguments of the two opposing factions recorded. However, the oral tradition carried these arguments to successive meetings (and complements of members), until perhaps a previously defeated argument now found a majority of supporters. At this point a new petition on the same rule might start a new pattern of disposition.

However, to protect the “patina of rationality” and prevent the appearance of arbitrariness, long-term members of the committee would often specifically seek an expression of the new pattern in terms of some distinguishing principle. For example: “The reason we are granting this petition, when we denied others like it earlier, is that this the student has provided convincing *documentation* of an honest error, rather than merely leaving it up to us to find a good story credible.” Or, “we denied this exception to students with grades under 70 per cent, but in this case, the student has a good B record.”

All committee business was done without actually meeting the petitioner. Neither the student (nor, if involved, the professor or administrator relevant to the issue) appeared for a “hearing” before the committee. Matters were concluded entirely on the basis of written documentation. This usually included the student’s file, kept by the college, so the committee would have access to the student’s academic record, and previous history of petitions. Ironically, students themselves did not have access to such files, since they may have contained material supplied to the college in confidence that the student would not see it.

Most students were unfamiliar with the labyrinth of academic rules and their administration, and did not actually originate a petition. Rather, they went to some faculty or administrative person with a “problem” and received advice on how to write a petition. Indeed, many petitions appeared in the third person. “This student has had problems with his parents . . .” Thus, the members of the college staff who were competent in interpreting the committee’s decision-making process could and did act from time to time as “legal advisors” to help students prepare a convincing petition. Alternatively, if unsympathetic, they could refuse such solicitous assistance. More recently than the period under study, the students’ council has begun to offer students advice on submitting a petition.

Obviously, much discussion is possible on the “justice” of the committee’s decision-

making process, but, except for a final comment on equity, I prefer to restrict myself in this paper to an analysis of the way the system works, leaving it to the reader to ask whether it provides “true justice.”

A theoretical framework

Ideally, most members of the committee see the decision-making process operating under Weber’s “*sine ira et studio*” – that is, without hatred or passion, affection or enthusiasm. (Weber, 1947:340). The relevant rules of the college are known; the facts of the student petition are presented and weighed; the appropriate disposition is made.

Alas, the world is rarely so simple. Some rules seem to contradict others, because of the “all-pervading” expansion of bureaucracy in the modern academic environment. (Dubin, 1967:234). As Merton demonstrated (1967), a system of sentiment develops which may become much more important in the application of the rules than any “rationality” of ideal Weberian bureaucracy. Indeed, a sort of safety is sought in the rules. “I’m sorry, but that’s the rule, and I don’t make the rules, I just enforce them.” (Blau, 1963:236).

Student activism in the 1960’s has led to a student norm in the 1970’s, that the rules can and should be bent to accommodate student needs, and even student convenience. Expressed in the student handbook of the college studied, this norm reads:

“If you want to know what the rules are, break them.”
 “If you want something, ask for it and hound them until you get it.”
 “Never accept ‘No’ for an answer. In a university, nothing is impossible . . .”

In the language of an individual petition from the period under study (when such a norm was perhaps a little less common than it would be now):

I’ve been told and told that it’s impossible . . . but I’m asking that the rules be set aside in this case. It must be remembered that I’m the student here; the rules are guidelines, not law. There isn’t any reason for not allowing me to do so. Somebody can do something!

Thus, the analysis of the committee’s decision-making process must account for differences not only about the facts of the matter in relation to a known rule, but also an increasing number of cases where the rules and/or the facts may not be at all clear in their implications.

For our purposes, the theoretical framework proposed in a paper by James D. Thompson, proved most useful. In his “Strategies, Structures and Processes of Organization Decision” (1959), Thompson suggested a two-by-two framework based on two aspects of decision making. In each instance, there may be agreement on the facts at issue, or not; and agreement on the values or principles involved, or not. Thus, adopting Thompson’s framework, petition discussions can be divided as follows:²

2. This is admittedly a loose adoption, suited to the needs of the present study. I am grateful to Professor Leslie Howard for first drawing my attention to Thompson’s work.

Facts involved	Values involved	
	<i>Agreement</i>	<i>Disagreement</i>
Agreement	1. Computation. Decisions can be referred to the bureaucracy	3. Compromise. Decisions based on a compromise between conflicting values held by committee members.
Disagreement	2. Majority judgement. Decision based on the majority view of the facts involved.	4. Inspiration. Decision based on the "bright idea" of a charming or charismatic member of committee

1. *Computation.* This cell is the most obvious. Members of the committee discover the rule(s) involved to be straightforward and unambiguous, and the facts to be easily determined. For example, a student asks for an opportunity to write an examination which was missed because of illness which is certified by a bona fide medical certificate. Instead of hearing each such petition, the committee can simply instruct an official in the Registrar's office how to recognize a bona fide certificate (for example, it is on the physician's stationery, specifies a definite illness, and is dated on or about the date of the examination). The official is instructed to arrange a new examination with the professor in each such instance.

Over the years, the committee under study has sought to handle its increasing work load (as the absolute enrolment of the college grew, together with the per capita rate of petitions), by laying down computable rules, or asking other administrative bodies to do so. Obviously the major bureaucratic goal of any complex organization is to have as much of the decision-making activity restricted to cell 1 as possible.

The fact that some ninety percent of the student enrolment do not petition any rule in any given year, either because they have found the bureaucratic computations of their fees, grade reports, enrolment restrictions and so forth to be acceptable, or not worth protesting (or else did not know how to protest, or that they could), is some indication of the success of the administration in keeping most decisions in cell 1.

2. *Majority judgement.* When the principles involved in the case are agreed (both those stated by the rules, and the many important underlying assumptions which "rationalize" the rules), but the facts of the actual case are in doubt, the committee will usually seek to resolve the problem by getting "more data," and then voting on the matter, if the data still seem contradictory.

Letters can be sent to relevant instructors and their superiors, administrators who have dealt with the student, and to the student himself, asking for more documentation. For example, a student petitions for an extension of a deadline because of lost time due to working part-time outside the college to earn necessary income. The office providing student services can verify whether the student really "needs" income; for example, by evidence that he has already borrowed the maximum government loan, and still has unmet debts. The employer can verify that the student actually worked on the dates claimed. A relative can verify that the student does not live at home and is estranged from his parents, so can expect no income from that source.

The operating principle in cell 2 is that when the facts are in doubt, the accumulation

of as many facts from as many sources as possible, followed by a majority judgement of the committee about such facts, will resolve the issue. For this method to work best, the "majority" should be a reasonable number of judges, not merely two against one. Thus there must be a "quorum" of the "court."

When the student is the only possible source of facts of the case, and the issue resolves itself into one of "credibility of the (absent!) witness" then majority judgement is particularly vulnerable. For example, a student claims to have taken an essay to a professor's office for submission, but found the door locked, so he slid the essay under the door. Later, he learns that the professor appears never to have received the essay.

The committee may well agree on the principle that if the student actually did what is claimed, the loss is not "his fault", and he should have an opportunity to reconstruct the essay again from his notes. But are the facts *true*? Is the story "credible"? (Note that if there is disagreement about "fault" the issue goes to cell 3).

In another instance, a student claims to have done poorly on an examination because of severe headache, or eyestrain caused by overuse of contact lenses the night before, while preparing for the examination. The student mentioned the condition to the invigilator (or even visited the college nurse for medication). Was the condition sufficient to warrant special consideration when the examination is marked?

When the "facts" become as intangible as claims of "memory block" or "acute anxiety" then the ability of a majority of members to rule on the facts, is strained indeed. How much mercy shall be meted out? Sometimes the student is referred to the "college shrink" as the psychiatrist is affectionately known, and his decision is accepted as "fact."

3. *Compromise*. Disagreements on values cannot be resolved merely by accumulating more data, nor by adding to the number of persons whose perspectives comprise a majority judgement. A settlement is possible only "at the expense" of one or the other value, or at some midway point in which a portion of each value is sacrificed.

It is in the decisions located in cell 3 that a relationship develops between the varying patterns of "justice" and "mercy" meted out by the committee, and the different values about education held by members of the committee. The differing values can be considered as different "models" of education. Hitherto, the sociology of education has generally distinguished between two fundamentally conflicting models of education, as proposed by Ralph Turner in 1960: the "sponsored" model and the "contest" model. The author has recently proposed a third model, "failsafe", (Lee, 1975, 1976).

Contest models function in a Social Darwinist environment. The emphasis is on competition, "measuring up", the survival of the fittest. Education is a democratic race which all may enter, but an exhausting one in which only the best win prizes. The American university was Turner's example of the contest system, with its rigorous weeding out, or as Burton Clark called it, "cooling out", so that only the best achieve the final postgraduate degree. (Clark, 1960).

Sponsored systems select only a few to enter the race, but this elite-to-be is treated as if "called" to success, and is sponsored with all the assistance necessary to assure that entrants eventually graduate. Turner's example was the grammar school entrants in England who are selected by the "eleven-plus" examinations, especially those who enter the "public" (that is, private) school system.

The failsafe model combines some features of each of Turner's models, together with new features. Everyone enters the democratic race, but everyone is sponsored to win. There is a new assumption, distinct from that of competition or "calling". This is the belief that "almost anyone, given enough time, and working at his own pace, can learn almost anything." Learning is believed to proceed best from success rather than from failure (that is, we do not learn from our mistakes). The student is constantly protected against the experience of failure; hence the name, "failsafe". (Lee, 1976)

When the college from which the data of the study are derived opened in the early 1960's, its educational model reflected the contest model typical of North American colleges. In fact, the first administration boasted that the college would become a place of "outstanding" performance in general arts and sciences. Early conditions were extremely competitive, and failure rates in many courses were quite high — in some cases, fifty per cent of the class enrolment. Students were instructed in large introductory classes by television lectures, in which the onus was on the student to apply the material and master it, in sharp contrast to the small-group, near-individual instruction which would be necessary for a "sponsored mobility" model. (Lee, 1971)

However, the college's television scheme failed to fulfill expectations, and the experiment was abandoned. At the same time, the report of the Hall-Dennis commission on education in 1968, produced a new environment (or more accurately, expressed a change in the educational environment) in which competitiveness became almost anathema. (Lee, 1976) In the language of the report, each student "must be made to feel that the world is waiting for their sunrise". (Living and Learning, 1968:45).

The college, searching for a new vision to replace the fading television image, soon fixed on the new educational philosophy, and introduced a program in which students could proceed to a Bachelor's degree at their own pace. Under the new program each student could plan his or her own program of studies from all of the courses available. There were no compulsory courses.

The transition from one model to another in the college was by no means easy, or complete in a short space of time. Faculty took opposing positions, in favour of the values of one or the other model. Naturally faculty of each view could be found on the academic petitions committee. Thus the values of the contested and failsafe models frequently clashed when petitions were discussed.

The contest model had, of course, become fully entrenched in the early work of the committee, and through the oral tradition, had produced a number of axioms which were cited whenever relevant to a petition. For example, it was long accepted that "the committee should not come to the aid of a failing student". If a student had neglected to withdraw from a course prior to the early deadline (November), and was now floundering, pleading overwork or incapacity to keep up, the committee's philosophy was "sink or swim". After all, it was the business of the academic enterprise to separate the strong from the weak.

With the emergence of the failsafe model, a new value began to be enunciated in committee. "What is the point of making a student stay in a course he is going to fail anyway?" "Isn't it our responsibility to help students learn, not merely to evaluate them?" "Shouldn't we help each student to find the subjects he can do best, and let him out of those where he has no ability?"

Conflict between these values created considerable strain on the quality of mercy dis-

pensed by the committee. For example, during the two years studied, the committee dealt with 138 petitions for late withdrawal (comprising 28 per cent of all petitions heard). The pattern of disposition of these 138 petitions plainly reflects the tensions of compromise between conflicting values. It was observed in statistical analysis of the petitions that this type of petition was particularly susceptible to variations according to the sex and year of the student.

Male students fared worse on late withdrawals than any other category, with a success rate of 40 per cent of all years. Among freshman males, the success rate dropped to a low of 28 per cent. Female students, in sharp contrast, fared better on late withdrawals than the average for all petitions – 62 per cent success (compared with an overall 58 per cent average). While freshman women fared poorer than the average, at 44 per cent, they still bettered the males; and senior women achieved a 75 per cent success on these petitions. Yet, throughout the period, committee members were unaware of these variations and believed in the committee's "fairness to all".

The key to the variations in the quality of mercy seems to be the nature of reasoning offered by students in attempting to justify a late withdrawal from a course. Female students tended to offer reasons related to their own personal problems: health, family misfortunes, difficulties with parents or mate, and so forth. Of the 45 petitions submitted by females during the two-year period, requesting a late withdrawal without an academic penalty, 31 argued personal reasons, and 27 of these were granted.

Males who, existing sociological data indicates, are more competitive in the academic environment (Hall, 1962, Henschel, 1974) tended to argue educational rather than personal reasons for late withdrawal. Of their 93 petitions, only 41 are based on health, family or personal problems, and on these the males fared well – 31 were granted. But of the 52 argued on such educational reasons as academic overwork, or excessive demands of the professor in question, or boredom with the course, or a change in career plans which made the course irrelevant, only seven petitions were successful. Even the females arguing educational reasons fared better, with three successes in 14 petitions, but it is clear that what the committee opposed was the idea of a student escaping his "obligations" in a course, for any educational reason. If the difficulties were ostensibly "not the student's fault" but the outcome of some misfortune, then relief was granted. Males are sex-rolled to be in greater control of their lives and emotions than females in our society, hence the committee could more readily "forgive" females for getting into difficulties which required abandonment of the "obligation" they had implicitly contracted by enrolling and remaining in a course for some months. No doubt this male paternalism was facilitated by the absence of women on the committee.

Thus the committee resolved the disagreement of the values of two models of education, by compromise decisions located in cell 3. No member of the committee was aware of the structure of this compromise, until a statistical count of petition decisions was made. The members operated under the rational patina of equal justice (or mercy) for all. But the data demonstrate the structure of the compromise: apply the contest model to the freshmen students and the males, and the failsafe model to the senior students and females. Moreover, just as there was a hidden logic for the male-female division, there was like-wise logic for the freshman-senior division. Better to "weed out" or "cool out" in the lower years, than after a considerable academic investment has been made. (Clark, 1960).

Compromises are never stable social arrangements; there is constant tension pulling toward one or the other value. Each “believer” resents the degree to which his cherished value remains partly “sacrificed” in the name of committee agreement. Finally a crucial petition shattered the compromise we have examined. I will call it the “failsafe petition” because it ultimately led to complete installation of the value of the failsafe model on the issue of late withdrawals.

The student in question wanted out of a course in the late winter, well after the deadline, not because he was in fear of failure, but because he was averaging only a “B” in the course. In order to enter graduate school, he required an “A” average. In all his other courses, present and past, the student had averaged an “A” standing. He was widely acknowledged by his professors to be an outstanding student. His reason for slipping a little was economic; in order to save money for graduate school he felt compelled to take part time work in his final year. He proposed to withdraw from the course where he was averaging only a B, lighten his academic load, and “make up” the dropped course at summer school.

Clearly the student did not violate the old axiom of the contest model, that the committee should not rescue a failing student. This student was hardly failing. On the other hand, there was no tradition of granting students the mercy of late withdrawal merely in order to improve one’s average marks. If the student had been failing for reasons of misfortune beyond his control, even financial misfortune, the committee could have given relief, as it had, especially to many female students, for personal reasons. But no female student had been allowed withdrawal merely for getting a B rather than an A.

The committee did have another relevant tradition – that of granting certain mercies to “better students” which were denied “poorer students.” However, the logic of this tradition required that the preference should be related to petitions for special study. For example, if a student wanted to enrol in an advanced course without credit in the prerequisite, it seemed logical to consider such a privilege for a B+ or A average student, but to deny it to a C average student. There was, however, no such tradition of preferential mercy to better students where grades were essentially irrelevant (as for example, in a petition for a new examination, where headache or an honest error was claimed).³

In the “failsafe” petition, the committee compromised by agreement on another value, that of “equal justice for the rich and the poor,” – in this case, rich and poor in marks. It was argued, especially by the proponents of failsafe values on the committee, that an exception should not be made for this student, which had been denied to so many other students who were in far worse condition, not merely in danger of a B, but of a failure.

The proponents of the contest values accepted the “equal justice” compromise in committee. But from outside the committee, the compromise was vociferously attacked. One professor wrote:

to deny a privilege to a student who is carrying very poor grades should not require us to deny a similar request, in order to satisfy the demands of fairness, to an outstanding student. What looks, on the surface, in a situation of this

3. Unfortunately, it was not possible in this study to determine whether the committee had an overall hidden preference for petitions from better students. Petitions records did not contain data on grades, and the search and correlation of other records to provide such data was beyond the resources of the present study.

kind, like consistency, can be seen, if one examines the problem more carefully, to be blindness to the fact that students can and do differ.

The committee, caught in the web of its own pattern of delicate and now gravely threatened compromise between sharply conflicting values, refused to budge. The pressure shifted elsewhere, to a college committee concerned with the making of academic rules, rather than the granting of exceptions from them. The final outcome of the grinding pressures was an earthquake. The college suddenly and radically shifted from a November withdrawal deadline, to a March deadline. The vast category of late withdrawal petitions was instantly abolished. Now students had until the end of term to decide whether they would pass with a high enough mark to warrant remaining in a course.

4. *Inspiration.* Extremely few petitions in the college under study have fallen in the cell where agreement is impossible on both facts and values. When this occurs, the committee is likely to refer the petition to a higher administrative tribunal, where there might be a greater agreement on facts or willingness to compromise on values. On the rare occasion when a committee member has attempted to cut the Gordian knot with an inspired solution based on oratory rather than on argument, the other members have met the proposal with scepticism. Charisma is distrusted among intellectuals.

It is clear that cell 3 is the crucial one for an analysis of the decision-making process of academic committees dealing with student petitions. I propose now to generalize from the above comments to a theory of equity, as it applies to college petitions.

A theory of equity

The process of making exceptions to the college rules is often that of "equity." The notion of equity is a very old one in law. Equity may be defined as "the application of principles of justice to legal adjustment of differences in particular cases, where the law, by reason of its universality, is deficient." (New College Standard Dictionary). Equity is the recognition that treating everyone alike is not necessarily to treat everyone equally. As the professor quoted above put it, "students can and do differ". Unfortunately, concepts of equity differ too.

The argument in equity must be a convincing argument that a rule which applies fairly to all others, should not apply in the present instance. This case is not quite like the others, and an application of the rule for the sake of universality would actually work a hardship in the present case, which would not occur in other cases.

Obviously not all petitions are requests for equity. Some concern allegations of error or bad judgement. Others argue the opposite of equity, namely, that a rule which was applied to all others was not applied to oneself, and this has worked a hardship. But equity is the essence of the decision-making process in cell 3. In its search for a resolution of *conflicting values*, the committee, (as long as it rationalizes itself as a "judicial" body) must paradoxically appear to be fair to everyone in compromises which will never fully satisfy anyone. Equity is the judicial process which attempts to make exceptions to rules seem fair by the rules. The difficulty is the fact that there are different legal traditions of equity within the western system of justice. Indeed, there are three possible approaches: 1) equity by grace, 2) equity by right, 3) equity by merit.

1. *Equity by grace.* Equity by grace has a long history in western Christendom, stemming from the notion of God's grace or "unmerited gift." The ruler grants a boon by sovereign grace, for which no more justification can be sought or provided than God was willing to provide Job. The king, by divine right, *is* the law, so he is also the exception from the law. (Newman, 1961). If the king makes a law, then makes exceptions from it, both are "fair" and "just", for the king, like God, is justice itself.

2. *Equity by right.* As legal systems became more complex in response to an expanding social order, the king found himself too busy to hear every petition, and delegated chancellors to dispense equity. Chancellors, however, are not divine, and so must seek some justification. Thus "rules about making exceptions from the rules" developed, which, in the English judicial system, eventually became the framework of a court of equity, or Chancery. (Davis, 1969) The concept of equity by right, within a system of rules, eventually overshadowed that of equity by grace. Yet even today, the British monarch may make certain exceptions from the law without legal justification – that is, by royal grace.

The distinction between these two approaches to equity can still be heard in academic committees ruling on student petitions. One member argues "We can't grant that. We'll have every student in the college asking for it. If we make an exception for one, we have to make an exception for everyone else in the same position." "Not so," answers another who rejects the former's appeal to equity by right, and substitutes grace: "No student has a right to an exception. Students are only entitled to what the rules provide. If we choose to go further for one than for others, that is no injustice to the others. No one suffers because one is given a little more than others. We don't need to justify any exception to all the other students, because we choose to grant it to one."

Another member may join in, arguing that exceptions can indeed do harm to those who do not get them: "All the other students completed their work in time for the deadline. They could have benefitted by the extra week we are granting this student. We can't arbitrarily give this student an extension just because of a hard luck story, even if it is credible. We need some *rule* about when we will grant extensions." And thus, perhaps, a new rule will be informally struck to guide the committee's decisions about when to make exceptions from the rule. Such rules may also be negative; for example: "the committee should not come to the aid of a failing student." But the new rule is no more likely to cover all future cases than the old one, so grace will again have its day in court.

3. *Equity by merit.* If equity by grace appears to be a doctrine of absolutism and equity by right "more democratic" then equity by merit is mid-way between. It proposes a doctrine of aristocracy or meritocracy. "Some are more deserving than others" of relief from the hardship of universal laws. Thus equity by merit is a special case of equity by right. The outstanding student deserves a privilege not equally merited by the ordinary student. In support of equity by merit it is argued that a college exists to encourage academic excellence.

The argument for equity by merit appears whenever a member, puzzled about the nature of the compromise of values facing him and other members, mildly enquires, "Have you got the student's academic record there?", and takes a position on the petition accordingly. The resort to merit is particularly obvious when grades have little to do with the problem discussed in the petition, but become a hook on which to hang a justification

for a workable compromise. “Well, he *does* have a pretty good record. I feel more inclined to grant the petition than I would if this was a poor student, who would be more likely to try to con the committee.” That is, the credibility of the witness (the student) in court is assessed by his “social class” (his marks).

The flux of justice

The delicious irony of the committee’s pursuit of an appearance of fairness and equity in its compromises between conflicting values, is this: *the more the committee attempts to establish consistent rules about the exceptions it is prepared to make from the rules, the less effectively can it handle those petitions which fall in cell 3.*

Rules about suspending the rules, rules of courts of Chancery, tend to become as rigid as the rules from which the petitioner sought relief in the first place. If decisions under “equity by right” as well as those under “equity by merit” (assuming that sharp lines of distinction are drawn between various levels of merit) could be nicely settled by rules on how to make exceptions from the rules, the whole process could be comfortably shifted to cell 1. Equity would become merely a matter of computation. At worst, where the facts were unclear, equity would move to cell 2, for majority judgement. But once a dispute between irreconcilable values is involved, as between failsafe and contest education, and the decision moves to cell 3, the application of “rules” (even the most informal traditions) *about how to reach a compromise*, vitiates the very process of political compromise.

In short, when the committee must operate in cell 3, it is eventually forced into that shadowy realm of absolute sovereign grace in which a decision is ultimately indefensible by any systematic set of rules. For academics who would rather appear logical and consistent, this is indeed slippery ground. They would much prefer to grasp some rule-about-breaking-rules, than surrender to the reality of political negotiation. Yet the very process of defining rules about bending or breaking the rules, handicaps the flexibility of the committee in dealing with the inevitable future case which is unanticipated, and unprovided for, in the existing rules and rules about rules.

As numerous legal analysts have pointed out, when equity becomes locked into a complex set of rules, as in the courts of Chancery which Dickens so effectively mocked, then true equity (as defined by the dictionary) becomes impossible. (Cohen, 1933; Newman, 1961). In the case of college committees, one of the very needs for which the committee was established – the need to respond to student pleas for exceptions from the rules – becomes impossible to meet when the committee locks itself into a pattern of equity by right or merit. All flexibility is lost, unless the committee is willing to sustain the risks of equity by grace – equity without obvious foundation in the rules, but rather, in the “humanity” of the court itself. (This “humanity” is the modern analogy of the King’s “divinity.”)

Thus both the political necessities of decision-making within the committee, and the administrative (and ultimately political) necessities of response to students outside the committee, require the elasticity of grace in which two opposing sides each “give” for the sake of a working agreement (a compromise in cell 3).

However, all grace costs something, in terms of the resentment inevitably consequent on apparently unjustifiable (unrightful or unmerited) gifts. Just as the citizenry sought

to contain the king's sovereign powers within laws to prevent arbitrary grace, so the college seeks to limit academic grace. Political pressure will focus on an apparently unjustifiable compromise – a petition like the “failsafe” petition on late withdrawal – and force the framing of a new law to deal with future instances of the problem involved.

Such adjustments are necessary because it is not permanently feasible for administrators to work for kings who frequently and unaccountably change their minds. It is much safer to reduce matters to rules and laws, even if these merely postpone for a time a future resort to grace. As Kenneth Davis (1969) has noted, the sharp distinction sometimes made between the “rule of men” and the “rule of law” does not reflect reality. Laws do not enforce themselves. Even judges must choose their precedents. The judicial system is a constant interplay between the rule of law and the rule of men – between equity by right (including the “rights” of merit) and equity by grace.

College petition committees must accommodate themselves to a condition of political flux, especially in a pluralistic society where profoundly conflicting values are likely to find their protagonists in the committee. How then, can an overall sense of “justice” be obtained, rather than a conviction among the students that the whole process is “merely” a political one? I promised to analyse, rather than make judgements, but on this matter I do have an opinion.

Protection against the power plays, the backroom deals, the “unfair” resolution of problems which we so often equate with “politics”, can only be obtained in a college judicial process by openness of the system to scrutiny at all levels. “Openness is the protection against arbitrariness,” Davis argues (1969:111). No system of rules, committees, appeals, legal advocates or any of the other expensive and time-consuming measures which appear to be developing in some universities to deal with student protests, can provide the desired protection. Only the justice which is seen to be done will satisfy.

If this be so, many academic petition committees fall short of the mark. Their proceedings are not open, and their decision-making processes, far from being plainly observable, are scarcely recorded for future consideration. Even the members of such committees have been unaware of the records (and the underlying pattern of decisions), much less the college in general. Until colleges provide a system of petitioning which is fully open to examination by all concerned, the goal of equitable justice for all will not be met. But that will be no easy matter, for it has long been a principle of such committees that students should have the right to confidential, private consideration of their problems. I leave it to the reader to puzzle how we might be able to maintain the necessary privacy of individual cases, yet provide the maximum publicity for the decisions made on various levels of petitions.

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