

A Bill In Support of Human Rights in the West Bank and Gaza Strip

Authored By Senator George Kadifa, Senator Nils Gilbertson

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WHEREAS, UC Berkeley’s “Principles of Community” are intended to serve “as a guide for our personal and collective behavior, both on campus and as we serve society [1];” and,

WHEREAS, as outlined in UC Berkeley’s Principles of Community “we (UC Berkeley) believe that active participation and leadership in addressing the most pressing issues facing our local and global communities are central to our educational mission [1];” and,

WHEREAS, as further outlined in UC Berkeley’s Principles of Community, it is UC Berkeley’s duty to maintain the values of “honesty, integrity, diversity, and excellence” and “strive to uphold a just community in which discrimination and hate are not tolerated [1];” and,

WHEREAS, UC students have a legacy of standing against oppression and injustice at UC Berkeley and across the U.S.; and,

WHEREAS, the role of student activists in exposing South Africa’s apartheid system and supporting equality, freedom, and dignity sets an example for us to follow as students of global conscience; and,

WHEREAS, as the example of South Africa shows, it is imperative for students to stand unequivocally against all forms of racism and bigotry globally and on campus, including but not limited to Islamophobia, anti-Semitism, and the anti-Palestinian discrimination practiced under Israel’s system of illegal occupation in the West Bank, Gaza, and East Jerusalem; and,

WHEREAS, the Occupied Palestinian Territories are controlled militarily by the Israeli government [2]; and,

WHEREAS, Israeli government violations of human rights and international law have been recognized

and condemned by the international community including by the UN General Assembly in dozens of resolutions (i.e., 106, 111, 162, 171, 228, 248, 250-252, 256, 259, 262, 265, 267, 270, 271, 279, 280, 285, 298, 313, 316, 317, 332, 337, 347, 425, 427, 444, 446, 450, 452, 465, 467-469, 471, 476, 478, 484, 487, 497, 498, 501, 509, 515, 517, 518, 520, 573, 587, 592, 605, 607, 608, 636, 641, 672, 673, 681, 694, 726, 799, etc.); by the UN Security Council; by the International Court of Justice's 2004 Advisory Opinion on the Route of the Separation Barrier in the West Bank; and by the Human Rights Council Fact-Finding Mission to Gaza, among others; and,

WHEREAS, certain companies have promoted and been complicit in many of the ongoing human rights violations systematically committed by the Israeli government, which have been documented by human rights organizations including Amnesty International, Human Rights Watch, Defence for Children International, B'tselem, Adalah, Physicians for Human Rights, and the Israeli Committee Against House Demolitions; and,

WHEREAS, these ongoing human rights violations and violations of international law are recognized to include the following; and,

WHEREAS, according to the International Court of Justice's (ICJ) 2004 ruling, the creation and use of the Separation Wall to expropriate Palestinian lands is illegal under international law [3]; and,

WHEREAS, according to the same ICJ decision, the establishment and expansion of settlements in the West Bank and East Jerusalem is also illegal under international law[4]; and,

WHEREAS, under the Fourth Geneva Convention, UN GA ES-10/6, and other UN resolutions, the establishment and expansion of settlements in the West Bank and East Jerusalem is in violation of international law [5]; and,

WHEREAS, according to US policy, "the legitimacy of continued settlement activity" has not been accepted by any US administration, and, as recently as December, the Obama administration chose to "reiterate our long standing opposition to Israeli settlement activity"[6]; and,

WHEREAS, according to the United Nations' Special Rapporteur on Human Rights in Palestinian Territories, John Dugard, "the Occupied Palestinian Territory [is] of special concern to the international community" because "the international community, speaking through the United Nations, has identified three regimes as inimical to human rights - colonialism, apartheid and foreign occupation. Numerous resolutions of the General Assembly of the United Nations testify to this. Israel's occupation of the West Bank, Gaza and East Jerusalem contains elements of all three of these regimes" [6.5]; and,

WHEREAS, Israel’s systematic violations of Palestinian rights to property, freedom of movement, due process, freedom of assembly, freedom from discrimination, and other basic rights enshrined in the UN Declaration of Human Rights, have been further delineated via extensive documentation by respected human rights organizations such as Amnesty International, Human Rights Watch, and B’tselem; and,

WHEREAS, our university invests in, and thereby profits from, companies that have an active role in materially aiding Israel’s illegal occupation and the resulting human rights abuses, thereby making it a complicit third-party; and,

WHEREAS, among others, these investments include \$5,390,073 in investments in Caterpillar Incorporated, \$7,477,533 in investments in Cement Roadstone Holdings, and \$2,042,208 in investments in Hewlett Packard according to the most recent UC Retirement Program and UC General Endowment Fund annual holdings reports available on the official Treasurer of the Regents website [6.7]; and,

WHEREAS, Caterpillar, an American company, has helped sustain the illegal occupation by providing bulldozers and engineering tools used to destroy Palestinian homes and farmland, expand illegal Jewish-only settlements on the confiscated Palestinian land, and assault refugee camps in violation of international humanitarian law, as documented by the United Nations, Amnesty International, and Human Rights Watch [8-9]; and,

WHEREAS, Cement Roadstone Holding (CRH), an Irish company, has contributed to Israel’s illegal occupation through its partial ownership in Mashav, the distributor of Liebherr earth-moving and heavy construction equipment used in illegal settlement and Separation Wall construction, and is the supplier of cement and other building materials used in the construction of the Separation Wall and settlement infrastructure [10];and,

WHEREAS, Hewlett-Packard Company (HP) has supported restricting the freedom of movement of the Palestinian peoples within the West Bank by providing biometric identification systems used in the Israeli military checkpoints; and,

WHEREAS, these companies have been previously engaged by various human rights organizations, churches, and concerned investors about their complicity in the previously mentioned human rights violations of the Palestinian people [11]; and,

WHEREAS, in particular, Amnesty International demanded in 2004 that “Caterpillar Inc., the US

company which produces the bulldozers used by the Israeli army, should take measures – within the company sphere of influence – to guarantee that its bulldozers are not used to commit human rights violations, including the destruction of homes, land and other properties,” and, “should adopt a code of conduct which complies with the UN Human Rights Norms for Business and should respect and ensure the application of Article 3 of the UN Norms, which states that Trans National Corporations and other business enterprises shall not engage in, nor benefit from, war crimes, crimes against humanity and other violation of international humanitarian law”[11.5]; and,

WHEREAS Caterpillar has ignored similar calls from Human Rights Watch, the United Nations High Commissioner for Human Rights, and the Presbyterian Church USA to end its complicity in the illegal demolition of Palestinian homes [12]; and,

WHEREAS, Cement Roadstone Holdings was approached by Amnesty International in 2004 regarding its investments aiding Israel’s illegal occupation, with Amnesty making clear that "the construction by Israel of the fence/wall inside the Occupied Territories violates international law and is contributing to grave human rights violations" [13]; and,

WHEREAS, Hewlett Packard has been approached by faith leaders and human rights groups via letters, conference calls, e-mails, face-to-face meetings and shareholder resolutions regarding the use of its products in the infrastructure of Israel's occupation and violation of Palestinian freedom of movement; and,

WHEREAS, these companies have chosen to disregard these entreaties to be more socially responsible corporate actors and have instead knowingly continued to sell their products to the Israeli military as it violates international law and Palestinian human rights through its illegal occupation; and,

WHEREAS, UCB students enjoy peace of mind knowing that their university is barred by federal law from making investments that aid Palestinian militant organizations which engage in attacks that threaten the human rights of Israeli students and their families; and,

WHEREAS UCB students are not able to enjoy the same peace of mind with respect to investments that threaten the human rights of Palestinian students and their families as our university profits from the human rights abuses visited upon these students and their families in the course of Israel’s illegal occupation; and,

WHEREAS, any attack directed at Israeli, Palestinian, or any other civilians is unacceptable; and,

WHEREAS, the University of California does not currently take a neutral position on the occupation of the Palestinian Territories, as it is invested in such companies profiting from the violation of Palestinian human rights; and,

WHEREAS, the ASUC has a long tradition of pursuing socially responsible investment in other areas, targeting South African apartheid, removing funds from Sudan over the conflict in Darfur, unanimously supporting divestment from fossil fuel producers, and most recently endorsing a proposal to divest from the prison-industrial complex; and,

WHEREAS, the UC Regents have similarly established a record of ethical divestment, including divesting from South Africa under apartheid, Sudan over the conflict in Darfur, and, most recently, from the firearms manufacturer Bushmaster; and,

WHEREAS, pension fund giant TIAA-CREF removed \$72,943,861 worth of Caterpillar shares from its Social Choice Funds portfolio in June 2012, after a sustained campaign spearheaded by Jewish Voice for Peace and other collaborating organizations, asking TIAA-CREF to remove its investments in Caterpillar and other companies that profit from and materially support Israel's illegal occupation [14]; and,

WHEREAS, on November 13th, 2012, the Associated Students at UCI passed a resolution, "Divestment from Companies that Profit from Apartheid," by a unanimous vote; and,

WHEREAS, on March 14, 2013, the Associated Students at UCSD passed a resolution, "Resolution in Support of University of California San Diego Corporate Accountability through Divestment from Corporations Profiting from the Illegal Occupation, Siege, and Blockade of Palestine;" and,

WHEREAS, as American residents, our tax dollars go to providing Israel an average of \$3.1 billion in military aid annually, helping to make Israel the largest cumulative recipient of U.S. foreign military assistance since World War II, creating a special responsibility among Americans for Israel's illegal military occupation; and, [15]

WHEREAS, the Center for Jewish Arab Economic Development is founded on the guiding principle that economic cooperation in Israel is essential to the peace process and economic stability in Israel and the region at large and is a nonprofit; and,

WHEREAS, New Generations Technology is a project in Israel that has grown partnership between

Palestinians and Israelis; and,

WHEREAS, the Palestine International Business Forum rules that Palestinian private sector developments is one of the core pillars towards creating economic stability, increasing employment, and improving standards of living, as well as fighting poverty, thus contributing to a sustainable solution to the conflict; therefore,

WHEREAS, while agreeing with the tactic of targeted, specific divestment, linguist and political activist Noam Chomsky, who was involved in divestment from South African apartheid as well as the divestment from the Vietnam War, has pointed out that, “U.S. support for Israel, which is decisive, is a fraction of U.S. crimes”, pointing out the obligation to condemn our own governments support for the atrocities.[1]

WHEREAS, political scientist, activist, and author Norman Finkelstein has pointed out that “the settlements are illegal...East Jerusalem is occupied Palestinian territory...the West Bank and Gaza are occupied Palestinian territory...but it is also correct that Israel is a state...if you want to use the law as a weapon or as leverage in order to reach public opinion, you can’t be selective with the law...the law is a package deal”.[2]

WHEREAS, the ASUC acknowledges the human rights violations committed by other states, particularly the United States of America, and makes a commitment to targeted, specific divestment from all human rights violations, with no discrimination based on what state is committing the atrocities. WHEREAS, no part of this bill should be considered or misconstrued as support for any advocacy external to this bill.

BE IT RESOLVED that while the ASUC supports specific and targeted divestment from companies contributing to human rights violations, they also support international law stipulating Israel’s right to be a state.[3]

THEREFORE BE IT RESOLVED, that the ASUC will examine its assets and UC assets for funds being invested in companies that a) provide weaponry or other military support for the occupation of the Palestinian territories or b) facilitate the building or maintenance of the wall or the demolition of Palestinian homes, or c) facilitate the building, maintenance, or economic development of illegal Israeli settlements on the Occupied Palestinian Territory; and,

BE IT FURTHER RESOLVED, in addition to targeted divestment of funds that the ASUC will instruct the managers of the Boston Trust to seek investment opportunities that strengthen Israeli-Palestinian cooperation in the pursuit of a peaceful resolution to the conflict; and,

BE IT FURTHER RESOLVED, that the ASUC calls upon the EAVP to write a letter to Senators

Feinstein and Boxer and Congresswoman Lee expressing this bill's sentiments and encouraging them to publicly support the views espoused within, and to write a letter to the student governments of the other University of California campuses suggesting they adopt a similar resolution; and,

BE IT FURTHER RESOLVED, that if at any time it is found that campus or UC funds are being invested in any companies meeting any of these criteria, including Caterpillar, Cement Roadstone Holdings, and Hewlett Packard Company the ASUC will itself divest, and will advocate that the UC system divest, all stocks and investments in such companies with the goal of maintaining the divestment, in the case of said companies, until they cease the specific offending practices; moreover, the ASUC will not make further investments, and will advocate that the UC system not make further investments, in any companies materially supporting or profiting from Israel's occupation in the above-mentioned ways, until a point in time at which they cease such practices; and,

BE IT FURTHER RESOLVED, that if at any time ASUC funds or UC funds are found to be invested in companies profiting from organizations that target Israeli civilians, the ASUC and the UC system should follow similar steps as outlined in the prior clause and divest those funds; and,

BE IT FINALLY RESOLVED, the ASUC calls upon the EAVP to write a letter containing a copy of this resolution to other student governments throughout the UC system and recommend that they adopt a similar bill.

[1] <http://www.berkeley.edu/about/principles.shtml>

[2]

<http://www.amnestyusa.org/our-work/countries/middle-east-and-north-africa/israel-and-occupied-palestinian-territories>

[2.3] <http://unispal.un.org/UNISPAL.NSF/0/E29F7195C53CDDA905256729005035E4>

[3] <http://www.icj-cij.org/docket/index.php?pr=71&code=mwp&p1=3&p2=4&p3=6&ca>

[4] <http://www.icj-cij.org/docket/index.php?pr=71&code=mwp&p1=3&p2=4&p3=6&ca>

[5] <http://unispal.un.org/UNISPAL.NSF/0/E29F7195C53CDDA905256729005035E4>

[6] <http://www.state.gov/r/pa/prs/ps/2011/06/166371.htm>

<http://bigstory.ap.org/article/us-slams-israel-new-settlement-plan>

[6.1]

<http://www.whitehouse.gov/the-press-office/2013/03/21/remarks-president-barack-obama-people-israel>

[6.5] <http://electronicintifada.net/artman/uploads/a-hrc-4-17.pdf>

[6.7] http://www.ucop.edu/treasurer/_files/invpol/UCRP_Holdings_12-31-11.pdf
http://www.ucop.edu/treasurer/_files/invpol/GEP_Holdings_12-31-11.pdf

[8]

<http://www.amnesty.org/en/library/asset/MDE15/033/2004/en/2193fae2-d5f6-11dd-bb24-1fb85fe8fa05/mde150332004en.pdf>

<http://www.hrw.org/print/reports/2004/10/17/razing-rafah>

[9] <http://www.hrw.org/reports/2002/israel3/israel0502-01.htm>

<http://www.haaretz.com/print-edition/news/the-un-vs-caterpillar-1.125315>

<http://www.rabbisletter.org/caterpillar-tells-methodists-it-will-not-change-business-practices-relating-to-palestine/>

[10] <http://projectcleanhands.wordpress.com/2010/04/30/2009-project-clean-hands-report-crh/>

<http://www.whoprofits.org/company/cement-roadstone-holdings-crh>

<http://www.taavura.co.il/244.html>

<http://whoprofits.org/company/liebherr>

[11] See 11.5,12 as well

<http://wedivest.org/2012/06/activist-report-from-inside-the-caterpillar-shareholder-meeting/>

<http://www.amnesty.org/en/library/asset/MDE15/033/2004/en/2193fae2-d5f6-11dd-bb24-1fb85fe8fa05/mde150332004en.pdf>

<http://www.whoprofits.org/company/cement-roadstone-holdings-crh>http://whoprofits.org/sites/default/files/cemex_corporate_watch_may_2011.pdf

[11.5]

<http://www.amnesty.org/en/library/asset/MDE15/033/2004/en/2193fae2-d5f6-11dd-bb24-1fb85fe8fa05/mde150332004en.pdf>

[12] <http://www.hrw.org/en/reports/2004/10/17/razing-rafah>

<http://www.haaretz.com/print-edition/news/the-un-vs-caterpillar-1.125315>

<http://www.pcusa.org/news/2010/7/6/committee-recommends-denouncing-caterpillar-action/>

[13] <http://www.cemnet.com/News/story/147836/amnesty-asks-crh-to-explain.html>

[14]

<http://mondoweiss.net/2012/06/msci-statement-on-caterpillar-key-factor-in-the-downgrade-was-on-going-controversy-associated-with-use-of-the-companys-equipment-in-the-occupied-palestinian-territories.html>; <http://forward.com/articles/158433/israel-was-key-issue-in-caterpillar-dump/>

[15] <http://www.fas.org/sgp/crs/mideast/RL33222.pdf>

[16] <http://www.youtube.com/watch?v=H5hY-gffV0M>

[17] <http://www.youtube.com/watch?v=O18xhTySKfM>

[18] <http://www.nydailynews.com/opinions/lies-truth-article-1.1271323?pgno=1#ixzz2LzEtgezC>

[19] <http://www.bdsmovement.net/call>

[1] <http://www.youtube.com/watch?v=H5hY-gffV0M>

[2] <http://www.youtube.com/watch?v=Ol8xhTySKfM>

[3] <http://www.thejewishweek.com/news/new-york-news/finkelstein-seen-moderate-far-left-panel>