

Report

of the

Advisory Committee on Corporate Responsibility in Investment Policies (ACCRIP)

To Recommend Divestment from Companies that Facilitate
the Israeli Occupation of Palestinian Territory

January 2020

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The Advisory Committee on Corporate Responsibility in Investment Policies (ACCRIP)

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**Charge of ACCRIP
(As Described in the ACCRIP Official Charter)**

The Advisory Committee on Corporate Responsibility in Investment Policies (hereafter “Committee”) shall:

- a. consider issues of moral responsibility in the investment policies of Brown University. The Committee shall evaluate information on such questions that are submitted to the Committee from individuals, groups, and organizations within and outside the University community;
- b. examine all proxy resolutions that are presented to the University as a shareholder in any company and that raise issues of social responsibility. The Committee shall develop guidelines for voting on proxy resolutions and from time to time, as appropriate, amend these guidelines. The guidelines and any amendments shall be submitted to the Advisory and Executive (A&E) Committee for their review and approval. After A&E approval of such guidelines, each proxy resolution shall be reviewed and, if the resolution clearly is covered by the guidelines, that resolution shall be voted in accord with the guidelines. If a particular proposal is not covered by the guidelines, that proposal shall be considered by the Committee. If the Committee recommends voting against the proposal, that vote will be cast. If the Committee recommends voting in favor of a proposal or abstaining from a vote, that recommendation will be sent to the Proxy Committee of the Corporation, for its review and action;
- c. consider requests by any member of the Brown Community to examine issues of alleged "social harm" with respect to the activities of corporations in which the University is an investor. Social harm is defined for the purpose of this charge as the harmful impact that the activities of a company or corporation have on consumers, employees, or other persons, or on the human or natural environment;
- d. carefully balance (in making its judgment on any specific question of social harm) the gravity of the social harm, the potential effectiveness of various means of influencing corporate policy, the University's need to maintain a sound financial policy, and the consistency of various proposed courses of action with the maintenance of an environment at Brown conducive to teaching and scholarly inquiry. In no event will a recommendation be made that an endowment security be selected or retained solely for the purpose of encouraging or expressing approval of a company's activities or, alternatively, for the purpose of placing or leaving the University in a position to contest a company's activities;
- e. not recommend action on any proxy resolution or other aspect of investment that advances a position on social or political questions unrelated to the conduct of the company's business or the disposition of its assets;
- f. have the power to recommend one or more of the following actions if it deems a proxy or other issue raises a significant question of "social harm" (as defined above):

- i. that letters of inquiry and/ or protest be directed to the corporation(s) involved, expressing the University's concerns and requesting further information, and that (in appropriate cases) such letters establish specific terms and deadlines for the correction of the social harm involved and suggest that the University might divest itself of its shares in that corporation if these terms are not met;
 - ii. that the University make its views on these issues known to the public;
 - iii. that a representative of the University appear at the shareholders' meeting where the proxy is to be voted and present on behalf of the University its views on the issue;
 - iv. that the University cooperate with other interested groups and institutions to exert additional pressure upon the company (or companies) involved to correct the social harm; and
 - v. that the University pursue any other measures the Committee deems likely to be constructive.
- g. recommend divestiture (keeping in mind the fundamental principle of sound financial policy, the legal responsibilities of the Corporation to sustain fiscal soundness and stability of the endowment fund, and the kinds of balanced judgment called for above) when divestiture will likely have a positive impact toward correcting the specified social harm, or when the company in question contributes to social harm so grave that it would be inconsistent with the goals and principles of the University to accept funds from that source.
 - h. conduct open meetings, except when the Committee specifically votes that they should be closed, and
 - i. report annually to the University community on its actions by posting this report on the Committee's website.

Summary of the Brown Divest Proposal

The following section summarizes the major points of the Brown Divest Proposal.

1. Goal of Brown Divest: Divestment from companies which profit from human rights abuses in Palestine.
2. Referendum Results: 69% of those undergraduate students who voted for the referendum voted yes to the question, “Should the Brown University administration divest all stocks, funds, endowment, and other monetary instruments from companies complicit in human rights abuses in Palestine and establish a means of implementing financial transparency and student oversight of the University’s investments?”
3. Suggested Criteria for Identifying Corporations for Divestment:
 - a) Provide products or services that contribute to the maintenance of the Israeli military occupation of Gaza and the West Bank;
 - b) Provide products or services to the maintenance and expansion of Israeli settlements in the occupied Palestinian territories;
 - c) Establish facilities or operations in Israeli settlements in the occupied Palestinian territories;
 - d) Provide products or services that contribute to the maintenance and construction of the Separation Wall;
 - e) Provide products or services that contribute to violent acts against either Israeli or Palestinian civilians.
4. Identified Companies for Divestment: AB Volvo, Airbus, Boeing, DXC, General Dynamics, General Electric, Motorola, Northrop Grumman, Oaktree Capital, Raytheon, United Technologies.
5. Noted ACCRIP’s Role in the History of Divestment at Brown: South African Apartheid, Sudan, Tobacco.

Summary of ACCRIP Meetings on the Brown Divest Proposal

List of ACCRIP Meetings for Addressing Brown Divest Proposal

April 16, 2019: A group of Brown students presented the Brown Divest proposal to ACCRIP. ACCRIP members discussed whether ACCRIP should review the Brown Divest proposal. The majority agreed to review the proposal.

May 14, 2019: ACCRIP discussed whether this Committee should continue discussing the Brown Divest proposal or postpone the discussion by the new ACURM Committee next fall. Majority of ACCRIP members agreed to discuss the Brown Divest proposal. ACCRIP members discussed the rationale for considering this proposal, significance of the student referendum, and potential significance of divestment.

October 15, 2019: Professor James Morgan, Chair of Faculty Executive Committee, met with ACCRIP to discuss the replacement of ACCRIP by ACURM. Professor stated that ACCRIP should continue to function until the end of this academic year. ACCRIP members discussed the process for reviewing the Brown Divest proposal, including the discussion of social harm, details of companies mentioned in the proposal, potential impact of divestment on Brown investment, and comparison between Brown Divest proposal to previous Brown divestment from tobacco and Sudan. ACCRIP also invited students who oppose Brown Divest proposal to give a counterpoint presentation at the next ACCRIP meeting.

November 12, 2019: A group of Brown Students gave an Anti-Divest presentation to ACCRIP, followed by questions and answers. ACCRIP members proposed the following two next steps: a) discussing the Brown Divest and Anti-Divest presentation, and b) initial voting to determine if the issue mentioned in Divest Proposal constitutes social harm.

December 2, 2019: Two separate groups of Brown faculty gave two separate presentations. The first faculty presentation opposed the Brown Divest proposal. The second faculty presentation supported the Brown Divest proposal. ACCRIP members voted on two motions, as described in a separate section in this report.

On the Conduct of Meetings

In compliance with item 1h of the ACCRIP Charter, ACCRIP conducted open meetings for addressing the Brown Divest Proposal. In the recent past, ACCRIP has voted in public meetings on proxy resolutions. Therefore, voting in open meetings is consistent with ACCRIP's official Charter and current practice.

ACCRIP meetings are only one hour long, so most of the work done by Committee members takes place outside of the meeting room, when they have time to perform adequate research and form a well-educated perspective. The topic of possible social harm in Palestine and the potential impact of divestment was thoroughly explored by Committee members inside and outside of the meeting room. Committee members engaged in conversations with reputable sources: experts, researchers, academics, and those with lived experiences on both sides of this conflict. Additionally, at least one member of the Investment Office was present at every meeting held on this issue, to ensure the Committee had consistent input on fiscal responsibility during the considerations. Many Committee members also attended on-campus events where this difficult topic was debated among students and faculty here at Brown University.

Considering the complex and emotional nature of the Israel-Palestinian conflict, Committee members took great care in their deliberations on this proposal. Committee members understood the serious responsibility they were tasked with, and so they did their best to facilitate an ongoing and open dialogue. The Chair of the Committee disseminated all relevant letters, presentations, and other research to Committee members. He provided timely, balanced responses to all inquiries, informational and procedural, raised by Committee members and members of the Brown community. If any Committee member requested a meeting with a specific individual or group, or had specific questions, they received ample attention from the Chair and other Committee members. The Chair also ensured that every student or faculty group which requested an audience with the Committee received one. He accommodated several last-minute requests, including Professor Teller's presentation at the December 2 meeting.

As a result of these efforts, when the motion to vote was made on December 2, most Committee members felt that they were well prepared to vote on this important matter. Since ACCRIP's official Charter (item h) specifies open meetings, and all other meetings the Committee held on this issue were open, the majority of Committee members felt it was appropriate to hold the vote in an open meeting. The open meeting format on December 2 was emotionally charged, due to the presence of protesters and supporters who needed to be quieted multiple times by the Committee. However, most Committee members believe that this problem was outweighed by the value of maintaining transparency for our community.

Motions and Voting Results

Motion #1: Does the Israeli occupation of Palestinian territory constitute social harm?

Yes: 7

Abstain: 2

Motion #2: We recommend that the Brown Corporation exclude from Brown's direct investments, and require Brown's separate account investment managers to exclude from their direct investments, companies identified as facilitating human rights violations in Palestine. In addition, the Investment Office will share with all investment managers the University's desire to adhere to this investment philosophy. We recommend that the Corporation and Brown's separate account investment managers maintain the withdrawal of investments from said companies until they cease to engage in social harm.

Yes: 6

No: 2

Abstain: 1

Majority Opinion

As indicated by the two-thirds majority, the Committee overwhelmingly voted in favor of divestment. We who voted in the majority opinion submit the following rationale for and discussion of our decision below. We focus on how our vote in favor of divestment relates to sections 1c, 1d, and 1g of the ACCRIP Charter.

1c. Social Harm.

We who voted in the majority opinion believe that the Israeli occupation of Palestinian territories inflicts social harm on the Palestinian people. During the course of our deliberations, we heard from students, alumni, and faculty on both sides of this issue. There was not a single group that rejected the claim that the Palestinian people experience social harm under Israeli occupation. In fact, it was a firm point of agreement among groups with otherwise irreconcilable differences of opinion. This consensus mirrors the consensus in the international community, and among human rights groups.

The relevant harmful and illegal activities which have been identified by the international community can be broadly classified in the following categories: (1) building of settlements in the West Bank and East Jerusalem, (2) building of the separation wall through Palestinian land, and (3) collective punishment of Palestinian people and home demolitions.

(1) Building of settlements in the West Bank and East Jerusalem

The occupation of Palestinian land by the Israeli government violates article 49 of the Fourth Geneva Convention, as Israel has consistently transferred parts of its own civilian population into occupied Palestinian territories. In 2016, the UN Security Council reaffirmed the illegality of these settlements in Resolution 2334, which states that “the establishment by Israel of settlements in the Palestinian territory occupied since 1967, including East Jerusalem, has no legal validity and constitutes a flagrant violation under international law.”

(2) Building of the separation wall through Palestinian land

The Israeli West Bank barrier, also known as the separation wall, is being built inside of the West Bank, instead of along the 1967 Green Line between Israel and the West Bank. The wall will total 440 miles upon completion, and currently 85% of it is located on Palestinian land. The total area of Palestinian land on the Israeli side of the wall amounts to 9.5% of the West Bank, according to the UN Office for the Coordination of Humanitarian Affairs. The placement of this wall has therefore allowed for additional land annexation by Israel, and there are currently 80 Israeli settlements between the wall and the Green Line, per OCHA. A 2005 UN report on “The Humanitarian Impact of the West Bank Barrier on Palestinian Communities” describes the humanitarian consequences of the wall: “Where the Barrier has been constructed, Palestinians face economic hardship from being restricted from or not being able to reach their land to harvest crops, graze animals, or earn a living. Residents have also been cut off from schools, universities, and specialized medical care by the constructed Barrier... [it] also fragments communities and isolates residents from social support networks.” The report concludes that “it is difficult to overstate the humanitarian impact of the Barrier. The route inside the West Bank severs communities, people’s access to services, livelihoods, and religious and cultural amenities.”

Given the humanitarian crisis that the separation wall has created, the International Court of Justice has voted in favor of the following advisory opinion requested by the United Nations General Assembly regarding the separation wall:

“(A) The construction of the wall being built by Israel, the occupying Power, in the occupied Palestinian territory, including in and around East Jerusalem, and its associated regime, are contrary to international law; (B) Israel is under an obligation to terminate its breaches of international law; it is under an obligation to cease forthwith the works of construction of the wall being built in the occupied Palestinian territory, including in and around East Jerusalem, to dismantle forthwith the structure therein situated, and to repeal or render ineffective forthwith all legislative and regulatory acts relating thereto... (C) Israel is under an obligation to make reparation for all damage caused by the construction of the wall in the occupied Palestinian territory, including in and around East Jerusalem; (D) All States are under an obligation not to recognize the illegal situation resulting from the construction of the wall and not to render aid or assistance in maintaining the situation created by such construction; all States parties to the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 have in addition the obligation, while respecting the United Nations Charter and international law, to ensure compliance by Israel with international humanitarian law as embodied in that Convention; (E) The United Nations, and especially the General Assembly and the Security Council, should consider what further action is required to bring to an end the illegal situation resulting from the construction of the wall and the associated regime, taking due account of the present Advisory Opinion.”

(3) Collective punishment and home demolitions.

Under Israeli military law, the Palestinian people are subjected to a system of separate and unequal laws and services. The conditions that Palestinians live under are discriminatory and dangerous. Human Rights Watch confirmed that the Israeli occupation is maintained through “repression, institutionalized discrimination, and systematic abuses of the Palestinian population’s rights,” which it classified into the categories of “unlawful killings; forced displacement; abusive detention; the closure of the Gaza Strip and other unjustified restrictions on movement; and the development of settlements, along with the accompanying discriminatory policies that disadvantage Palestinians.” A grievous example of this systematic repression is the collective punishment of Palestinians in the form of home demolitions.

Article 33 of the Fourth Geneva Convention states: “No general penalty, pecuniary or otherwise, shall be inflicted upon the population on account of the acts of individuals for which they cannot be regarded as jointly and severally responsible.” According to Amnesty International, Palestinian civilians are collectively punished in the form of home demolitions by the Israeli government, either as a response to Palestinian attacks against Israelis or as a preventative measure against such attacks. As many as 10 or more homes can be destroyed in a single retaliatory or preventative demolition, and nearly 50,000 Palestinian structures were razed by the IDF from 1967-2019. According to a 2004 Amnesty International Report on Israel and the Occupied Territories: “Forced evictions and house demolitions are usually carried out without warning, often at night, and the occupants are given little or no time to leave their

homes... Thousands of families have had their homes and possessions destroyed under the blades of the Israeli army's US-made Caterpillar bulldozers. In the wake of the demolitions men, women and children return to the ruins of their homes searching for whatever can be salvaged from under the rubble: passports or other documents, children's schoolbooks, clothes, kitchenware or furniture which were not destroyed... Families are left homeless and destitute. They must rely on relatives, friends and charity organizations for shelter and subsistence."

It is evident from the consensus of the international community that the occupation of Palestine constitutes a humanitarian crisis. The difference of opinion on this issue largely stems from disagreements on the correct action to take to mitigate this crisis, not on whether the crisis exists. We believe that the severity of these social harms are more than sufficient to compel ACCRIP to act.

1d. Balance.

As discussed, we who voted with the majority believe the gravity of the social harm experienced by the Palestinian people living under occupation is sufficient to compel a response from ACCRIP. However, we had to take care to decide which response would be the most appropriate to recommend to the Corporation.

Brown University has made commitments to promoting good-will solutions to the conflict on campus, through discussion, outreach, and education. The University hosts speakers, seminars, and events on the conflict, which has for the past several years included a regular Israel-Palestine Lecture Series. Brown University has demonstrated that it seeks to use its significant influence to foster "peace, prosperity, and stability" in the region. However, the consistent, growing activist pressure from the Brown community signals to us as a Committee that the University's efforts are insufficient.

The latest proposal from the Brown Divest group has strong support from students, alumni, and faculty. In the spring, 69% of voting members of the undergraduate community indicated they agreed with the motion. This motion is also supported by 63 Brown University faculty members, including the Chair of Africana Studies, the Chair of the Sociology Department, the Chair of American Studies, the Chair of Theatre Arts and Performance Studies, the Director of the Cogut Institute for the Humanities, the Director of the Joukowsky Institute for Archaeology, the previous chair of the Department of Cognitive and Linguistic Sciences, and the previous director of the Watson Institute for International and Public Affairs. Forty Brown Alumni signed a letter in support of the motion as well.

The issue of the Israeli-Palestinian conflict has been brought to ACCRIP several times in the past, each with increased support from the community. On each occasion that this issue has been brought to ACCRIP via student activism, the Committee has recommended various courses of action, but never directly divestiture. In 2012, ACCRIP felt it was prudent to recommend initiating a discussion on divestiture. As outlined above, the living situation in Palestine has only worsened, and the international community has responded to the harm the Palestinian people experience in the strongest terms. The Committee has spent over eight months deliberating this topic, with consistent input offered by the Investment Office. At this point, it is clear that the actions taken by the University and the recommendations made by ACCRIP have been inadequate. The gravity of the humanitarian crisis necessitates a response. We believe that

further action is necessary on the part of the University in order to fulfill its responsibility to our community.

1g. Positive Impact.

It is difficult to predict with certainty if any single act will assist in correcting social harm. We believe that Brown University can only honor its responsibility to its community, and the international community, with a consistent corporate policy. Therefore, we look to past precedent, especially of our own Committee, to make informed decisions about the best response in cases of urgent social harm. When recommending divestment from Sudan, ACCRIP noted: “Precedents suggest that there is a real possibility the signal sent by Brown and other organizations will lead some of the companies concerned to suspend their operations, that difficulty raising capital will slow the growth of operations of other such companies, and that the resulting slow-down in economic growth and in growth of government revenue will encourage the Sudanese government to change its behavior.” Due to Brown’s significant social influence, divestment campaigns like those against Sudan and South Africa were also effective in socially stigmatizing the human rights violations carried out in those countries. Additionally, when an institution like Brown stands up against blatant human rights violations, it sends a signal to peer institutions to do the same.

We believe that this precedent provides clear guidance on which recommendation will produce the greatest positive impact in the case of the Israeli-Palestinian conflict: it directs us to recommend divestiture from corporations facilitating human rights abuses in Palestine.

It is clear that the Israeli occupation inflicts human rights violations on the Palestinian people, with the help of corporations providing technological support. Any company that profits from the Israeli occupation of Palestinian land is complicit in human rights abuses. If Brown University is directly invested in such companies, it certainly has the moral duty to break any financial relations with them. Withdrawal of direct investment in companies identified as complicit in this crisis will reduce social harm with minimal impact on Brown’s investments, as Brown has limited direct investments in individual companies. Therefore, we believe that recommending divestiture is the most appropriate response to the severe social harm experienced by the Palestinian people.

The next step for our Committee in this process is to compile a set of criteria for the Investment Office which will allow them to identify those companies that directly profit from the humanitarian crisis in Palestine. We look forward to addressing this important part of our recommendation to the Corporation with responsibility and careful consideration.

Dissenting Opinion

Two Committee members disagree that the ACCRIP Charter requires the posting of this report on divestment publicly, and instead note that the Charter specifically requires ACCRIP, in clause 1i, to “report annually to the University community on its actions by posting this [annual] report on the Committee’s website.” Further, there is no precedent for publishing such a report on ACCRIP’s findings.

As the intent of ACCRIP is to be advisory to the President, these Committee members have requested that their opinions be removed from the report to be published on the Committee website and, at the suggestion of the Chair, have sent their opinions directly to the President to be read in conjunction with the report that will be submitted to the President.

Abstention Opinion

1c. Social Harm. Both the student and faculty presenters in the previous meetings shared compelling evidence of social harm occurring as a result of the occupation. While the social harms presented and the motion's wording related to the actions of a state actor rather than actions of corporations, I voted yes on the motion because AACRIP has focused on state actors before (i.e. the action to divest from companies supporting the government-sponsored genocide in Darfur). I believe that the principles that guided this definition of social harm apply to the actions of many other countries, which is something AACRIP should consider going forward.

This Committee member abstained from voting for or against motion #2 on the Divest Proposal.

On Reporting to the Brown University Community

In compliance with item 1i of ACCRIP's official Charter, the Committee plans to submit this report to President Paxson and post this report on ACCRIP's website.

During the spring semester, ACCRIP will discuss criteria for identifying individual companies for divestment. ACCRIP will continue its discussions and maintain a respectful, open dialogue on this issue, as well as all future humanitarian issues that the Committee chooses to deliberate.