



THE CASE AGAINST DIVESTMENT

Divesting from companies supporting Israel's national security will not reduce social harm and will damage Brown University.

**Written by
students in
opposition to
divestment**

Executive Summary

The proposal to divest from companies supporting Israel's national security, as advocated by the Brown Divest Coalition (BDC), poses significant risks to Brown University.

I. Divesting from companies supporting Israel's national security violates the ACURM charter and harms Brown University.

II. The Brown Divest Coalition pressured the administration to bring its divestment proposal to the Corporation.

III. Both ACURM and the Brown Corporation must consider the BDC proposal in the context of Brown's liberal values.

IV. All of the Israeli policies BDC raises as examples of social harm are legitimate national security and self-defense decisions of a democratic government contending with decades of war and terrorism that have caused tremendous suffering and harm to its citizens. The BDC's claims dehumanize Israelis by omitting them from the harm analysis, sending a profound message that the lives and wellbeing of Israelis are inconsequential. Such a narrative not only disregards the complex geopolitical realities but also fosters a hostile and divisive atmosphere on campus.

- Israel is a democracy.
- The security barrier is an effective and necessary protection against terrorism.
- We are deeply saddened by the human suffering occurring in Israel and Gaza. That being said, there is no genocide in Gaza.
- The impact on Palestinian educational institutions is the result of radicalism and Hamas using universities as bases for terrorism.
- Investment in military equipment producers keeps Israelis of all backgrounds safe.

V. Divestment would hinder Brown's ability to sustain an environment conducive to scholarship and would damage its reputation.

- Divestment would be functionally antisemitic and would stigmatize Jewish students.
- Divestment would discourage debate and endorse simplistic and reductive thinking.
- Other leading academic institutions have recently rejected similar antisemitic BDS proposals.
- Divestment would be anathema to the broader American public.
- Divestment would set a dangerous precedent.

VI. Divestment could damage endowment returns and create expensive legal exposure for Brown

- Divestment would be entirely symbolic, as there would be minimal impact on the target companies, and such a decision could, in turn, harm Brown University's endowment and financial stability.
- Divesting from Israel could constitute a breach of fiduciary duty that could expose trustees to personal liability.
- Given Rhode Island's anti-BDS law, divestment would place any current or future contracts between Brown and the state at risk.

Divestment would hinder Brown's ability to sustain an environment conducive to scholarship and intellectual freedom. By endorsing a polarizing stance, in which many scholars disagree, Brown risks alienating members of its community, stifling dialogue, and damaging its reputation as an institution committed to academic excellence and inclusivity.

I. Introduction	4
II. Background	5
III. Criteria for a Decision: ACURM and the Brown Corporations' Guidelines	7
IV. Social Harm: BDC Ignores Geopolitical Reality	8
V. Negative Impact on Campus Environment	14
VI. Financial and Legal Implications	21
VII. Conclusion	24
Appendix	25

I. Introduction

The Brown Divest Coalition (BDC) fails to make the case that Brown University should divest from ten named companies – as their proposal does not satisfy any of the criteria articulated in the “General Guideline for Operations” of the Advisory Committee on University Resource Management (ACURM).

- BDC’s proposal fails to prove social harm. The allegations of social harm alleged in BDC’s proposal are either factually incorrect or fail to take into account the geopolitical realities Israel faces, Israel’s security responsibilities to its citizens, and whether alternative policies might create more social harm.
- ACURM’s charge prohibits symbolic acts. Given the endowment’s investment strategy, any practical implementation of BDC’s proposal would have no tangible impact and would remain purely a symbolic act, violating ACURM’s charge.
- Divestment is harmful to Brown’s environment and reputation. Divestment would harm the University environment and create a double standard that stigmatizes many Jewish and Israeli students.
- Divestment poses financial and legal risk to Brown and the Corporation. Divesting would violate the Rhode Island Uniform Prudent Management of Institutional Funds Act, the “Anti-Discrimination in State Contracts” law that makes divestment in Rhode Island illegal, and Title VI.

The geopolitics of the Middle East are complicated, but the choice in front of ACURM is simple. Israel is a vibrant democracy that has seen its offers to make peace scorned repeatedly for decades. Hamas, Hezbollah, and the Palestinian Islamic Jihad support theocracy, seek Israel’s destruction, and serve as proxies of the Islamic Republic of Iran in its quest for hegemony over the Middle East.

Brown is the only leading American college or university to provide a hearing for divestment with its highest governing body. Cornell University, Columbia University, Amherst College, Williams College and Occidental College all dismissed divestment proposals this year with little dispatch.

The eyes of the nation will be on Brown University this fall.

What message do ACURM’s members want to send to those watching on campus and across the country: Will they cast their lot with democracy, however imperfect, or theocracy? Will they seek truth or accept the falsehood that Israel is committing genocide in Gaza, contrary to all demographic evidence and expert opinion? Will they stigmatize Jewish supporters of Israel’s right to exist by advising the Corporation to hold that country to a standard applied to no other state, democratic or otherwise? And will they deny the right of democratic states like Israel to defend themselves against terrorism if those that seek their destruction make sufficiently dishonest pleas in the press, successfully manipulate domestic political groups, and help cause the harm they decry?

II. Background

Student activist groups have proposed divestment from companies conducting business with Israel for more than a decade. They renewed their demands after 1,185 innocent people were brutally slaughtered and tortured by Hamas terrorists on October 7, 2023.

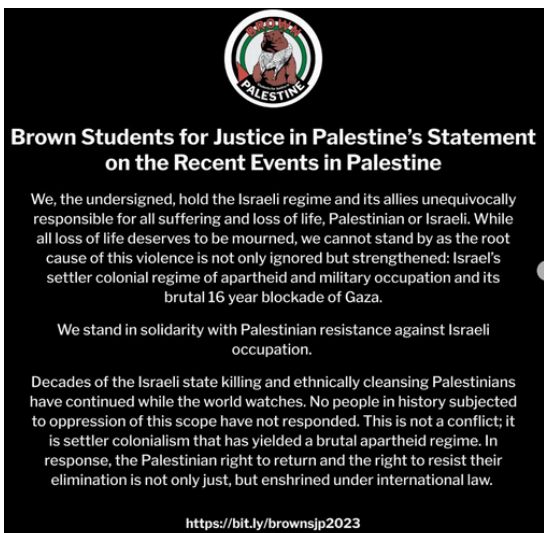
During the 2010-2011 academic year, Brown SJP accused the Israeli government of human rights abuses in the West Bank and petitioned the Advisory Committee on Corporate Responsibility in Investment Policies (ACCRIP) to recommend divestment from Caterpillar, Boeing, Motorola, Raytheon, and other companies [1]. ACCRIP acknowledged the multifaceted and divisive nature of divestment in that case and requested that President Christina Paxson consider initiating a forum for further exploration of the issue [2]. In her response, President Paxson noted that the conflict is “deeply troubling, complex and divisive” and expressed her desire for “concerted diplomatic efforts of many countries to resolve the conflict and establish the lasting peace that all of us would like to see.” President Paxson also pointed out the many existing forums to discuss conflict in the Middle East, including the Brown University Community Council, the Ivy League Intercollegiate Leadership Colloquium on the Israeli-Palestinian Conflict, the Janus Forum, and multiple events sponsored by the Watson Institute [3].

ACCRIP again took up divestment from Israel in the 2019-2020 academic year. In January 2020, it reported its members had voted that Israeli occupation of the West Bank constituted social harm and that the Brown Corporation should exclude a range of companies providing products to the Israeli military and security services from its direct investments and from separately managed accounts overseen by external fund managers. ACCRIP’s report to President Paxson gave no indication of having considered how terrorist groups such as Hamas oppose the existence of the Israeli state or Israel’s legitimate national security objectives in preventing terrorist attacks on its civilian population [4]. On March 9, 2021, President Paxson responded with a letter, noting that the standard for any divestment action is high and that Brown’s endowment “should not be used as an instrument to take sides in contested geopolitical issues over which thoughtful and intelligent members of the Brown community vehemently disagree.” ACCRIP’s recommendation, she wrote, did not meet the standards for rigorous analysis of how it would reduce social harm, as described in the committee’s charter. Therefore, the administration could not forward the proposal to the Brown Corporation for a vote [5].

Hamas’ October 7th massacre of civilians reenergized the divestment movement at Brown. The response from student groups was immediate and uncompromising – and notably before any Israeli military response. Shortly after news of the attacks reached campus, weeks before any Israel incursion into Gaza, groups posted statements on social media justifying murder and celebrating the terrorist attack [6].

Exhibit 1

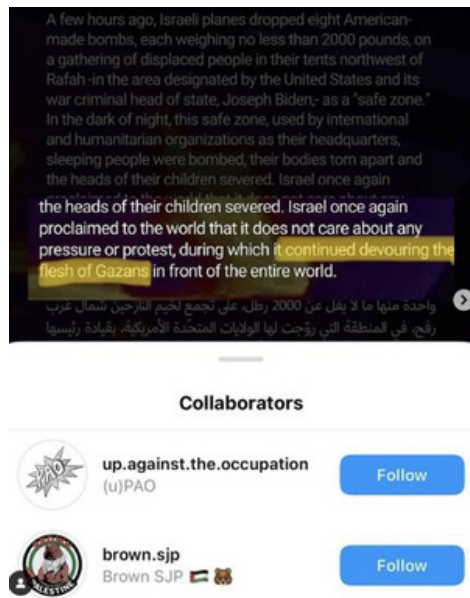
Posts to Social Media Forums



In the weeks and months that followed October 7th, protests against Israel's right to exist as a secure, democratic, and Jewish state were widespread, often featuring messages that justified and supported the annihilation of the Jewish people. Students wanting a late-night, post-party snack found themselves accosted by SJP members at 2 a.m. in Josiah's Dining Hall. During a hunger strike, SJP occupied the Blue Room and refused to let anyone, including Jewish students, enter without signing an anti-Israel pledge. They denounced a speech by the CEO of the Anti-Defamation League (ADL) as racist and unacceptable and walked out [7]. Not even Spring Weekend, Brown's quintessential student-organized music festival, was immune to this hatred.

Exhibit 2

Pro-Hamas Violence and Anti-Semitic Blood Libel Imagery



Jewish students report having to choose between their friends and their principles, with some being dropped from friend groups for refusing to denounce their Zionist identity – their belief in the Jewish people's right to self-determination in their ancestral homeland. They experienced hostility in Middle Eastern studies classes – where, for example, a professor spoke about Jewish "Kristallnact mobs" as "thirsty for Palestinian blood"[8]. Many Jewish students say they felt unwelcome on campus in the most recent academic year and only truly felt comfortable and safe at Brown RISD Hillel or Chabad House.

In April, "Gaza Solidarity Encampments" took over university campuses worldwide. Brown SJP and other protest groups set up their own encampment on Brown's Main Green, in open defiance of University policy, as was communicated to the Brown community in an email written by Provost Francis Doyle [9]. The protests quickly escalated. Students were seen gleefully dancing to the chant: "there is only one solution, intifada revolution," and one student screamed in an Israeli student's face, "intifada, bitch"[10]. While the intent of the person saying this phrase may be different, the impact on the Jewish community remains the same. Given the thousands killed in terror attacks during periods of Intifada, this phrase is often understood as encouraging violence against Israelis, Jews, and institutions supporting Israel [11].

Brown eventually reached an agreement with BDC; the administration would agree to evaluate the case for divestment if the students disbanded the encampment and ceased to violate the Student Code of Conduct. The BDC's proposal is now being considered as a compromise.

III. Criteria for a Decision: ACURM and the Brown Corporations' guidelines

A review of ACURM's General Guidelines for Operations indicates a set of criteria that the committee should use in evaluating proposals:

1. Whether a proposal will reduce social harm associated with University investments or expenditures – harmful impact that the “investment or expenditure of University financial resources may have on the University community, consumers, employees, or other persons, or on the human or natural environment.”
2. The effectiveness of a proposal in reducing social harm via changing investment or expenditure of financial resources – “ACURM shall not recommend any action that advances a position on social or political questions unrelated to the investment or expenditure of University financial resources under consideration.”
3. The consistency of maintaining an environment of “teaching and scholarly inquiry, including the Corporation Statement on Academic Freedom for Faculty and Students.”
4. Whether a proposal is consistent with the University's need to maintain a sound financial policy [12].

The Corporation members have a responsibility to “oversee the University's faithful and consistent adherence to its mission and values” and ensure policies that “preserve and enhance the University's financial strength, provide for its financial support, and maintain sound financial controls, enabling the University to pursue its mission at the highest levels of distinction”[13].

Brown University President Henry Wriston effectively summarized Brown's mission and values in his 1945 revision and republication of the University charter:

And furthermore, it is hereby enacted and declared that into this liberal and Catholic institution shall never be admitted any religious tests: But, on the contrary, all the members hereof shall forever enjoy full, free, absolute, and uninterrupted liberty of conscience: And that the places of Professors, Tutors, and all other officers, shall be free and open for all, And that youth of all religious denominations shall and may be freely admitted to the equal advantages, emoluments, and honors of the College or University; and shall receive a like, fair, generous, and equal treatment during their residence therein, they conducting themselves peaceably, and conforming to the laws and statutes thereof. And that the public teaching shall, in general, respect the sciences; and that the sectarian differences of opinions shall not make any part of the public and classical instruction; although all religious controversies may be studied freely, examined, and explained by the President, Professors, and Tutors in a personal, separate, and distinct manner to the youth of any or each denomination: And above all, a constant regard be paid to, and effectual care taken of, the morals of the College [14].

IV. Social Harm: BDC ignores geopolitical reality

The “social harms” described by BDC completely ignore the highly nuanced issues surrounding this topic: the difficulty between defense or aggression, how and when this conflict started, the numerous offers from Israel to create a Palestinian state, and the refusal of each of the overtures. Trivializing or simply ignoring consequential details in this debate is beneath the academic rigor of an institution such as Brown.

When viewed objectively, Israel is not engaged in conducting genocide, nor is it an apartheid state. The BDC proposal relies on conclusory statements and sources that are intentionally misleading and misrepresent Israeli policies. It avoids wrestling with the full set of facts surrounding the adoption and implementation of those policies and instead resorts to asserting nefarious motives and omitting inconvenient context. The proposal also fails to engage with historical context or demonstrate any understanding of the harm that has been wrought on Israeli civilians by decades of terrorism. It demeans the Palestinian leadership and people by failing to accord them any agency and refusing to acknowledge that they, too, are in part authors of their own national circumstances. Most importantly, BDC fails to ask, “what is the alternative?” in order to examine what options the Israeli government faces (other than committing national suicide as the BDS and SJP movements prefer) and whether those alternatives might reduce social harm. A close look at the specific issues at hand indicates that Israel’s policies are the rational choices of a democracy that must contend with enemies, including Iran, which has wielded its proxy terrorist groups throughout the region to advance its stated goal of destroying the Jewish state.

More than nine million Jews, Muslims, and Christians live in the State of Israel. Israelis have co-existed in a robust democracy for decades. Israel is a democracy facing an implacable, theocratic enemy, with only contempt for Palestinian and Israeli life and well-being.

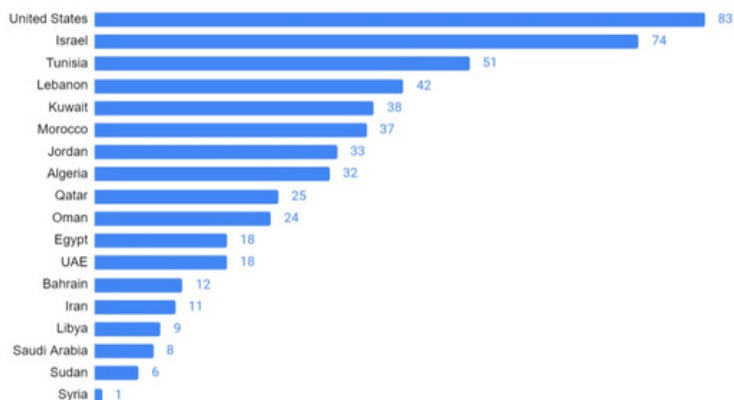
A. Israel is a democracy

In 1948, the South African National Party won elections, formed a government, and implemented its policies of apartheid, setting in place regulations that classified citizens by racial group, segregated public facilities, limited the franchise by race, and proscribed inter-racial relations [15]. None of these features of apartheid exists in Israel.

According to Freedom House rankings, Israel is the most free country in the Middle East, with a score much closer to the United States than that of any other country in the region (See Exhibit 3.) [16].

Exhibit 3

Freedom House Score



Israeli law guarantees the equal rights of all of Israel's citizens, regardless of race or religion [17]. In fact, the Israeli Supreme Court favors Israel's minorities, ruling that while Arabs may not be excluded from majority Jewish communities, Jews may be barred from residing in Bedouin Arab towns [18]. While gaps exist between various demographics in Israel, as they do in any democratic society, the disparities in Israel are substantially less in many respects than that of Western European societies [19]. Israeli Arabs not only vote and serve in the Knesset, but also have attained prominent positions in Israeli society. Among them is Ghassan Alian, a Major General in the IDF, Khaeld Kabub, a Supreme Court Justice, and various ambassadors to or consuls in other countries, such as Ali Yahya.

BDC fails to acknowledge that the Israeli Arab population is increasing, not decreasing. According to a 2019 report, the annual growth rate of the Arab Israeli population is 2.20%, and the annual growth rate of the Jewish Israeli population is 1.60% [20]. Overwhelmingly, Israeli Arabs reject Hamas and its actions, and more than 70 percent report feeling they are part of Israel as a country [21].

BDC's further attempt to claim that a system of apartheid separates treatment of the West Bank from the remainder of Israel ignores the fact that, as an occupied territory not annexed into Israel proper, the West Bank is not formally part of the State of Israel, and its Palestinian residents are not Israeli citizens, nor do they wish to be. The BDC proposal fails to reckon with either the dominion of the Palestinian Authority (PA) over virtually all Palestinians in the West Bank, multiple Israeli attempts to negotiate with the Palestinians the future of the West Bank, or Israel's legitimate security concerns, given the terrorism that has emanated from the West Bank [22].

For Israel to be maintaining a system of apartheid, it would have to be denying rights to its citizens based on their race or ethnicity. Israel, however, does not, and has never, claimed the West Bank as part of its state, nor do Palestinians claim to be Israel's citizens. Israel gives full legal and political equality to people of all races, ethnicities, and religions, including over 2 million Israeli Arabs, who reside within its borders. Rather, since 1967, when it took control of the West Bank as part of a defensive war against a vastly larger and better armed coalition of Arab nations, Israel has exercised military administration over parts of the region in an effort to prevent the fulfillment of West Bank terrorists' pledges and attempts to destroy it, while the Palestinian Authority exercises primary governance authority over much of the region, and some governance authority in almost all of the region [23]. In addition, Israel has repeatedly attempted—at least five times since 2000 alone—to give back administrative control of the West Bank to the Palestinian Authority in order to help Palestinians realize their national aspirations and achieve peace, including offering to give up 95% of the West Bank (along with significant territorial concessions from inside Israel) at the 2002 Taba Summit and 92% of the West Bank at the 2000 Camp David Accords [24]. Each time, Palestinian representatives ultimately rejected Israel's overtures, and continued to support terror campaigns ('intifadas') aimed at murdering Israeli civilians. Finally, Israel continues to work with the Palestinian Authority, which controls medical and educational services, and some construction in Area C, which Israel is otherwise primarily responsible for administering [25]. BDC's dismissively totalizing use of the term 'apartheid' to describe this system's attempt to balance self-governance and security in an area whose political future Israel has repeatedly tried, but has as yet been unable, to resolve, is thus inapposite and fails to account for the complex geopolitical realities that explain Israel's continued control over parts of the West Bank.

While a full rebuttal of the apartheid charge is beyond the scope of this document, it is necessary to point out that the allegations made by BDC have been credibly challenged. Numerous reviews have shown that, in addition to relying on novel and deeply flawed definitions of the elements of the crime, the allegations of apartheid are undermined by a plethora of factual and legal errors [26]. When an allegation of a violation of international law is made, what matters is not who made the charge but rather the arguments and the supporting evidence. This is especially so when the accusers have a record of getting the facts egregiously wrong [27], refusing to correct inaccurate claims when alerted to the errors [28], hiring openly biased and antisemitic staff [29], and applying controversial interpretations of the law [30].

B. The security barrier is an effective and necessary protection against terrorism.

The PA launched the Second Intifada in 2000, sparking a bloody uprising against Israel; even as the PA supposedly negotiated with Prime Minister Ehud Barak to end its conflict with Israel, Palestinians attacked Israeli civilians with suicide bombings, drive-by shootings, and rockets [31, 32]. Within just a few years, more than 3,000 attacks originating in the West Bank took 1,622 lives inside Israel's internationally recognized borders and wounded thousands more [33]. These attacks included the bombing of the Dolphinarium nightclub in Tel Aviv, killing 21 people, Sbarro's restaurant in Jerusalem, killing 15 people, and Hebrew University cafeteria, killing 9 people. On March 27, 2002, when hundreds of Israelis gathered in the Park Hotel in Netanya to celebrate the first night of Passover, a suicide bomber incinerated their Seder. 30 Israelis were killed and another 140 were wounded [34].

Hamas spokesman Usama Hamdam proudly acknowledged that Hamas authored the attack and terrifyingly proclaimed that Israelis “have to expect those attacks from everywhere, from every Palestinian group” [35]. In response to this violence, Israeli Prime Minister Ariel Sharon’s government launched a three-pronged strategy: the Defensive Shield military operation, the security barrier, and a political initiative which emphasized that, if the Palestinians changed their leadership, reformed their institutions, and forswore violence, the U.S. and Israel would continue to work with them in creating a Palestinian state [36].

One principle guided architect Danny Tirza’s proposal in laying out the route for the security barrier: maximum security for Israel combined with minimal impact on Palestinian lives. Even so, the Israeli High Court of Justice considered 124 petitions about the barrier route, and the court ordered changes based on five of those petitions. Not a single Palestinian home was demolished in order to build the barrier. As Tirza pointed out, Israel did not intend for the barrier route to be final – “the fence is only a temporary security route that will be changed the minute we sit and negotiate and agree on a border”[37].

The barrier has succeeded in reducing murderous violence. A paper submitted to the United States Air Force Air Command and Staff College concluded that the barrier reduced terrorist attacks, prevented the infiltration of weapons into Israel, limited the ability of Palestinian snipers to shoot at Israeli civilians, and had the potential to further the peace process by creating the starting point for a border between Israel and a potential Palestinian state and creating incentives for Palestinian leaders to choose negotiation over violence [38].

Israel did not construct the barrier for reasons of territorial aggrandizement. In the time immediately preceding the Second Intifada, Israel had been negotiating in good faith under PM Barak for the creation of a Palestinian state. It built the barrier to protect its citizens from deadly terrorist attacks.

Are ACURM and the Corporation prepared to compare the relative social harm of increased difficulty crossing a security checkpoint with the social harm caused by bus bombings and exploding pizzerias and nightclubs? BDC has forced upon this body the question of which social harm is worse. Is this body prepared to make that judgment?

C. While we are deeply saddened by the human suffering occurring in Gaza, there is no genocide.

It is a fundamental principle of both international law and broader systems of ethics that nations have a right to defend themselves against threats to their existence [39]. On October 7, 2023, Hamas invaded Israel and, as has been well documented by numerous sources, slaughtered nearly a thousand civilians and maimed, raped, and kidnapped hundreds more. Hamas pushed half the distance between the Gaza Strip and the West Bank in a brutal campaign that included murdering attendees at a music festival and butchering members of community cooperatives in their homes [40]. The primary goals of Hamas’s invasion, which it achieved, were to upend Israeli national security by striking fear and despair into the hearts of the Israeli people on the Jewish celebratory holiday of Simchat Torah, and to provoke an Israeli response that would further alienate Israel from the International Community [41]. Further, the October 7th invasion sought not only to terrorize, but literally to destroy, the state of Israel, with Hamas having issued its gunmen with directions and sufficient supplies to connect with West Bank militants to engage Israel in a protracted war [42]. Hamas’ invasion of Israel on October 7 thus constituted not only a horrific act of violence against Israeli civilians but also a severe blow in furtherance of Hamas’s avowed objective of terrorizing and eradicating the state of Israel and its Jewish population [43]. In these circumstances, with its population terrorized and under serious military threat from an entity devoted to its destruction, responsive violence targeted at weakening or eliminating that threat posed by Hamas is not only legitimate, but a morally necessary fulfillment of the Israeli military’s obligation to protect its people and deter and prevent Hamas from committing, as it has repeatedly pledged to do, further and even worse civilian slaughters and military campaigns [44].

The IDF is adhering to the Law of Armed Conflict. The humanitarian toll of the ongoing conflict has understandably caused widespread concern, and we share it. Thousands of noncombatant civilians have been killed and displaced. BDC fails, however, to contend with the fact that Hamas intentionally uses Palestinian civilians as human shields for their terrorist operations [45] Hamas has launched tens of thousands of rockets and built hundreds of kilometers of terror tunnels underneath civilian areas of Gaza. [46].

In the current conflict, the IDF has released numerous photos showing Hamas rocket launchers near schools and UN structures [47] and has found other military equipment, including RPG missiles and rocket launchers, in civilian homes and bedrooms [48].

Hamas also employs the well-documented strategies of using underground tunnels to transfer personnel and equipment around the Gaza Strip, directly beneath civilian populations and infrastructure such as hospitals [49, 50], as well as disguising its fighters in civilian clothing to make it difficult for Israel to distinguish between a Hamas fighter and an innocent civilian. [51]

Both rockets and tunnels have been used to target and harm Israeli civilians. Israel is under no legal or moral obligation to suffer these attacks and forgo its fundamental right to self-defense simply because terrorist organizations have so thoroughly and systematically exploited civilian areas of Gaza.

In international law, the Law of Armed Conflict forms the *lex specialis* (special law) [52]. As explained by Professor Steven Haines, “A school is ordinarily a civilian object, of course, and not subject to lawful targeting. If, however, military forces use it, the school loses its protected status and becomes a military objective” [53]. Rather than give military forces a cynical incentive to engage in human shielding by forbidding the opposing military from defending itself and hitting back, the Law of Armed Conflict places the primary responsibility on that party that is engaging in human shielding [54].

Israel’s evacuation orders have been designed, in compliance with international law, to seek to remove civilians from the areas in which it must operate to eliminate terrorist targets that have been unlawfully embedded by Hamas [55]. In other words, the legal wrong that led to this displacement is not that of Israel, but that of Hamas and other terrorist organizations that have built their terror infrastructure in and underneath civilian areas and structures.

The Brown Divest Coalition invokes the deaths of civilians as inherent justification for divestment. It is true that, like other wars fought by states against entities that threaten their basic security, the war between Israel and Hamas has entailed significant civilian casualties. These casualties, while obviously tragic, however, do not constitute social harms that warrant divestment. From the Civil War, in which Union troops inflicted massive casualties on civilian and civilian infrastructure in Confederate states in order to halt the threat to American integrity posed by the Confederacy, to World War II, in which Allied forces were forced to lay waste to large portions of civilian populations of entire nations as part of their effort to break Axis powers’ grip on much of Europe, Asia, and Africa, nations are often required to commit significant amounts of violence in pursuit of justice or safety for their citizens. Indeed, civilian casualties were arguably far more avoidable in the above examples of U.S. military action than in Israel’s military response to Hamas’s attack, since Hamas uniquely endeavors to hide its fighters, infrastructure, and hostages among civilian populations [56]. In so doing, Hamas forces the Israeli military to choose between meeting its obligation to protect and rescue its own people and to prevent the deaths of innocent Palestinians. A nation’s right to protect its citizens from the existential threat posed by a radical para-state terror group cannot be misconstrued as the ethnically targeted genocide the BDC imagines Israel committing.

In addition, evidence disproves the spurious claim that Israel intentionally is starving Gazan civilians. According to the United Nations, three percent of Rafah residents were ill-fed in May 2024 [57]. In fact, in the first four months of this year, nearly 15,000 trucks with more than 225,000 tons of food entered Gaza, providing 3,374 calories per person each day [58]. The greatest barrier to feeding Gazans has been Hamas’ stealing this aid, not Israeli malevolence [59]. Even Fatah-controlled news sources acknowledge that Hamas killed aid workers and stole aid with the intention of manufacturing a crisis [60].

In previous conflicts and in the current war, Israel has warned Gazans of most of its attacks beforehand, dropping seven million flyers, sending 13 million text messages, and making 70,000 phone calls, in Arabic, to encourage civilians to move from the line of attack. As a result, the IDF has killed 1.5 civilians for every combatant. While the loss of civilian life is tragic, this is a low ratio compared to other modern wars, especially given Hamas’ strategy of using civilians as human shields for their fighters. In contrast, U.S. and Iraqi forces killed 2.5 civilians for every ISIS combatant in the 2016-2017 Battle of Mosul [61].

John Spencer, Chair of Urban Warfare Studies at the Modern War Institute at West Point, has spoken with authority on this issue. Spencer served for 25 years in the U.S. Army in the infantry and co-authored the book “Understanding Urban Warfare.” He wrote:

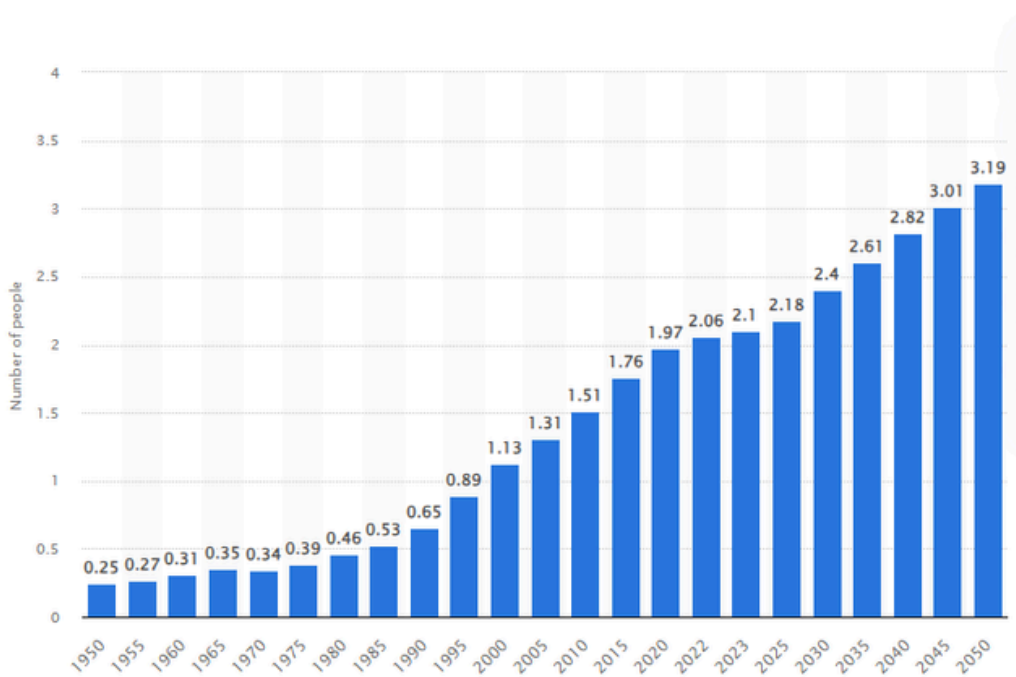
In my long career studying and advising on urban warfare for the U.S. military, I’ve never known an army to take such measures to attend to the enemy’s civilian population, especially while simultaneously combating the enemy in the very same buildings. In fact, by my analysis, Israel has implemented more precautions to prevent civilian harm than any military in history above and beyond what international law requires and more than the U.S. did in its wars in Iraq and Afghanistan [62].

It is clear that the IDF is conducting an ethical war – while Hamas has systematically violated international law by firing missiles from hospitals, storing weapons caches in classrooms, and holding hostages there [63]. It would, in fact, create more social harm if totalitarian states knew they could attack democracies with impunity because they could protect their fighters from attack by hiding their fighters among civilians.

Finally, as an institution of academic rigor, we cannot ignore that there is no numerical evidence of genocide in Gaza. The population has increased by over 50% since Israel evacuated every Israeli from the Gaza Strip in 2005, and the birth rate of 3.5 children per woman in 2022 is a comparably high fertility rate relative to the rest of the world. Growth of population and fertility rates are both measures of evidence of genocide, and, clearly, the data does not support the slogans chanted by the BDC supporters.

Exhibit 4

Total Population of the Gaza Strip from 1950 to 2015 with projections until 2050 [64].



D. The impact on Palestinian education institutions is the result of radicalism and Hamas using universities as bases for terrorism.

ACURM is being asked to conduct legal analyses of the Geneva Conventions and make judgments that belong in a court of international law. Neither ACURM nor the Corporation are in a position to make these judgments, nor are they required to do so under their charges.

The IDF has been forced to conduct raids into the facilities of West Bank universities, because such institutions are notorious hotbeds of radicalism and have been breeding grounds for terrorist activity [65]. The student faction of Hamas, an internationally designated terrorist organization, has won landslide victories in student elections where the candidates campaigned by glorifying the terrorist attacks Hamas had carried out against Israeli civilians [66]. The student factions of Hamas and other terrorist organizations also regularly hold rallies and parades glorifying terrorism, even parading a replica of a bomb that killed 17-year-old Rina Shnerb as she was on a hike with her family [67]. Numerous students from these universities have carried out terror attacks targeting innocent Israelis or have been otherwise involved in terrorist activity [68].

BDC's effort to blame IDF operations for destroying/damaging twelve higher education institutions in Gaza since the onset of the current war ignores the fact that Hamas intentionally commingles its fighters with civilians and civilian infrastructure like hospitals and universities as part of deliberate strategy to place civilians on the horns of a dilemma [69]. Should Israel cease to hold Hamas militants accountable for their terrorist efforts, or let them use the university as a base for terrorism?

ACURM is once again being asked to decide a question far afield from its purview and, with respect, beyond its competence: should Israel be forced to put its soldiers at risk and prolong the war, with all the increased suffering that implies for the entire populations of both Israel and Gaza, because Hamas intentionally commits war crimes as part of its strategy?

E. Military equipment producers keeps Israelis safe, and divestment would cause social harm to all the citizens of Israel.

While divestment would be purely symbolic and inconsistent with ACURM'S mandate, it would have the second-order consequence of sanctioning companies that create defensive systems designed to keep innocent civilians safe. Raytheon and Lockheed Martin, two companies which BDC wants to divest from, assist in protecting Israelis regardless of their religion or ethnicity. Without the Iron Dome and other air defense systems, scores more civilian casualties would occur from rocket attacks.

RTX Corporation, the parent company of Raytheon, co-developed David's Sling, which protects Israel from mid-range rocket attacks, and collaborated with the Israeli company Rafael to produce the Iron Dome, which defends against short-range rocket strikes [70]. Both innovations have saved countless Israeli lives. On October 7, 2023, the Iron Dome (along with other elements of the air defense system) intercepted nearly 2,000 rockets fired from Gaza [71]; David's Sling was used to thwart the Iranian attack that comprised over 300 drones and missiles in April [72]. Lockheed Martin is co-developing the Iron Beam, a laser-based technology that would add to Israel's air defense system and work to save lives [73].

To, in effect, signal that Israeli lives don't matter would be completely inconsistent with the ACURM mandate.

V. Negative Impact on Campus Environment.

Divestment would hinder Brown’s ability to sustain an environment conducive to scholarship and would damage its reputation.

A. Divestment would be functionally antisemitic and would stigmatize Jewish students.

BDC’s proposal is functionally antisemitic in two ways, as it holds Israel to a standard it will not apply to other countries and implies support for the destruction of Israel as a Jewish state. Just because BDC takes care to foreground Jewish students does not mean it is not antisemitic.

If Brown sanctioned Israel, but not Syria, which attacked its own citizens with sarin gas [74], it would say to the world that it holds the only Jewish state to a standard it will not apply to any other country. Brown's failure to consider or adopt sanctions against, among many others, companies that do business with authoritarian regimes, such as those that China's actually genocidal attempt to control, eliminate, and dispossess Uyghurs and Tibetans, or that continue to operate in Russia, which is conducting a war of aggression against Ukraine and perpetrating war crimes against and killing civilians on a mass scale, is inexplicable [75]. It raises the question: why Israel? Unlike these nations, Israel has engaged for decades in efforts to negotiate a peaceful two-state solution with Palestinians and is presently engaged in a defensive war to prevent further mass slaughters of its civilians like the one Hamas perpetrated on October 7 and has committed to perpetrating again and again until Israel is destroyed.

The claim by BDC that the Boycott, Divest and Sanction movement is part of a legacy of non-violence is either disingenuous or naive. The founder of BDS, Omar Barghouti has expressed his opposition to a two-state solution and the continued existence of Israel as a Jewish state again and again. He said, “good riddance! The two-state solution for the Palestinian-Israeli conflict is finally dead. But someone has to issue an official death certificate before the rotting corpse is given a proper burial and we can all move on and explore the more just, moral and therefore enduring alternative for peaceful coexistence between Jews and Arabs in Mandate Palestine: the one-state solution” [76].

When BDC supporters chant “We don’t want no one state – we want 48” and demand a Palestinian state “from the river to the sea,” referencing the proclamation in Arabic that declares, “from the river to the sea, Palestine will be Arab,” they demand the destruction of the world’s largest Jewish community. If that is not antisemitic, what is?

The Jewish population in Arab countries has drastically declined from 851,000 in 1948 to just over 3,300 by 2018 (Exhibit 5). This decline, driven by persecution, violence, and forced displacement, underscores the importance of Israel as a refuge and safe haven for Jews worldwide, offering a homeland where their security and cultural identity are safeguarded.

Exhibit 5

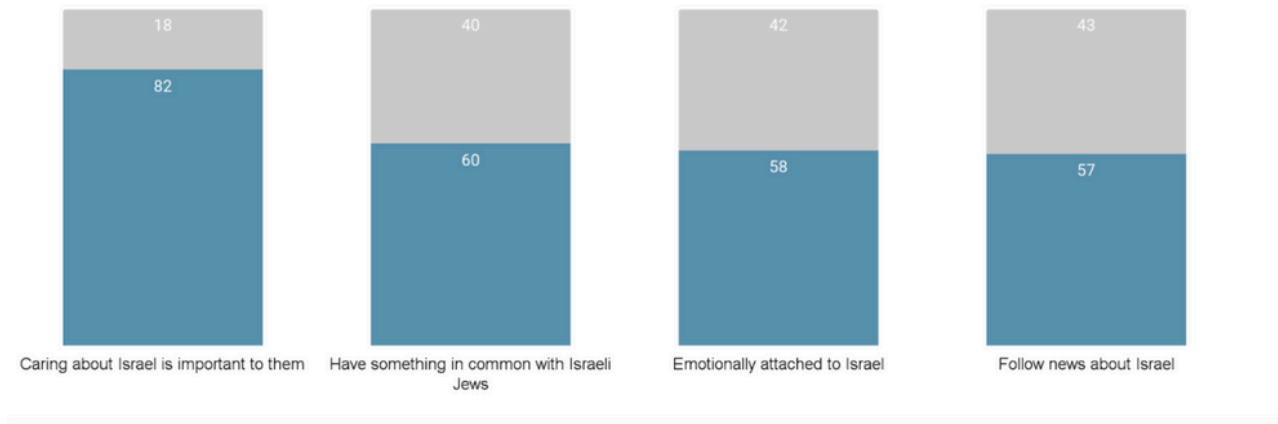
Jewish population in Arab countries [77]

	1948	1958	1968	1978	2011	2018
Algeria	140,000	130,000	1,500	1,000	<50	<50
Egypt	75,000	15,000	1,000	400	100	100
Iraq	135,000	6,000	2,500	350	7	<10
Lebanon	5,000	6,000	3,000	400		<100
Libya	38,000	3,750	100	40	0	0
Morocco	265,000	200,000	50,000	18,000	4,000	2150
Syria	30,000	5,000	4,000	4,500	100	100
Tunisia	105,000	80,000	10,000	7,000	1,500	1050
Yemen/Aden	63,000	4,300	500	500	250	<50
Total	851,000	469,060	69,600	31,790	~6,200	3,330

The BDC's antisemitic proposal will stigmatize Jewish students. In some cases, BDC tries to make a distinction between Jews and Zionists, but most Jews, even younger Jews, believe in Israel's right to exist as a secure, democratic, Jewish state, meaning such individuals are Zionists. Adopting the BDC's proposal would contribute to the stigmatization many Jewish students feel on college campuses and make Brown a less welcoming place for Jewish students. More than 80% of Jewish adults say that caring about Israel is important to their identity as a Jew [78]. This holds true for younger Jews and has increased since October 7, as more than two-thirds of Jews ages 18-35 feel an attachment to Israel [79].

Exhibit 6

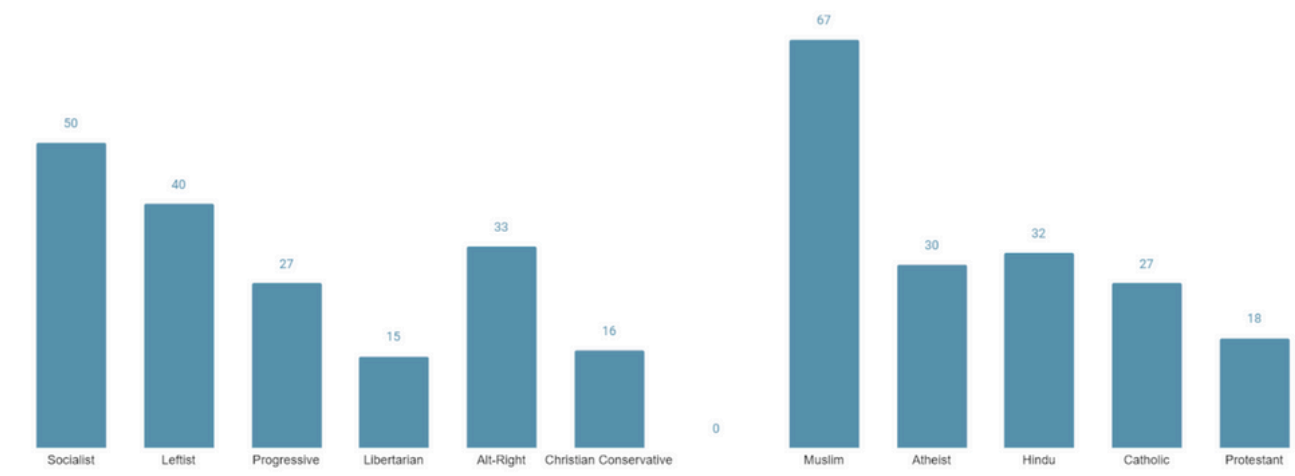
Percent Jewish adults responding affirmatively [80]



Since October 7th, Jewish students have paid a social price for their religion and for supporting the right of Israel to exist. About one-third say they will be judged negatively for participating in Jewish activities and must hide their Judaism to fit in. About two-thirds believe that Jewish students pay a price for supporting Israel as a Jewish state. None of these perspectives is irrational, as large numbers of college students say they would not want to be friends with someone who supports the existence of Israel as a Jewish state [81].

Exhibit 7

Percent of non-Jewish students saying they would not want to be friends with an Israel supporter [82].



Research performed at Brandeis University indicates that selective universities and colleges on the East and West Coasts with progressive cultures are less welcoming to Jewish students than other institutions [83].

B. Divestment would discourage debate and endorse simplistic and reductive thinking.

There are no easy or obvious answers for geopolitics in the Middle East. A glance at any forum where Brown community members congregate shows that they have a range of deeply felt opinions on Israel and the right of Israel to exist. President Paxson noted: “on very contested issues where there are many different views, we don’t feel it’s appropriate for the University to take sides” [84], as doing so would discourage discussion and debate:

Universities—and their presidents—are often asked to take sides on issues related to Israel and Palestine. But I don’t do this, because it would undermine Brown’s primary mission of advancing knowledge and understanding. Rather than taking sides, the appropriate role of a university is to curate opportunities for students and scholars to study, discuss and debate the hardest of issues. It is through this process that knowledge and understanding are advanced. Once a university adopts an official stance on what’s “right,” we shut down discussion and debate—which, in a university, is akin to shutting off the power in a factory. We should never explicitly or implicitly say to our students and faculty that there are questions they should not ask, and ideas they should not contest [85].

SJP and BDC’s condemnation of Israel are based on a combination of ignorance, simplistic thinking and tendentious arguments about an incredibly contentious issue. Brown’s anti-Israel activists appear to have no knowledge of the Levant’s depopulation prior to 1948 [86] or Jewish assumptions that they could live in harmony with their Arab neighbors [87].

Their comparisons of Israel to South Africa disallow constructive dialogue about the areas in which Israel can improve by oversimplifying the complex Israeli-Palestinian situation into one that simply is not the same. Divestment from Israel would be radically distinct from any previous divestment initiative the University has undertaken previously. In each of the few prior instances of divestment, Brown was acting based on undisputed, overwhelming evidence and findings that the entities to be divested were guilty of unequivocal and uniquely horrific moral wrongs -- wrongs about which there was little disagreement within the Brown community or the US as a whole. By contrast, there is profound disagreement and controversy about the legitimacy of Israel’s war in Gaza and its broader treatment of Palestinians. Further, in no prior instance of divestment did a substantial segment of the University community -- students, faculty, and alumni -- find the issue to be a complex one not amenable to one-sided unequivocal condemnation. Nor did a divestment proposal require Brown to condemn an entity central to the religious identity of a significant portion of the Brown community, and thereby likely subject that group to stigmatization.

In addition, the facts grounding the University’s divestment from Sudan and South Africa were tremendously different than those currently before ACURM. When Brown divested from Sudan, for example, the United States government—along with most other major international institutions—had already found that the Sudanese government was guilty of genocide, having been responsible for the deaths over 400,000 people, and had specifically targeted non-Arab populations due to their ethnicity [88]. Similarly, when Brown divested from South Africa, the nation’s government was explicitly and proudly engaged in a campaign of near-total racial segregation that involved denying voting rights and access to public spaces, economic opportunities, and housing to the nation’s black population solely on the basis of their race.

In stark contrast to each of these situations, as discussed above, Israel’s engagement of Palestinians is vastly more complicated, and is based in its desire to secure the state from threats to its existence, rather than to oppress Palestinians because of their race or ethnicity. Why, if Israel is truly seeking to exterminate Palestinians as the Brown Divest Coalition alleges, does it attempt to target only sites where Hamas operatives are confirmed to be? If it were engaged in race-based apartheid, why does Israel give full political equality to its citizens of every race and ethnicity, including over 2 million Israeli Arabs [89]? And if it were engaged in genocide, why has the Israeli government repeatedly offered to halt its war effort if Hamas surrenders and releases the more than 100 civilians it still holds hostage [90]? These questions underscore the clear differences between the fully proven and thoroughly horrific racist violence that has previously merited Brown’s divestment, and the complex and difficult geopolitical struggle into which the University is now asked to wade and declare certitude about the immorality of one side’s position.

Accepting divestment would encourage members of the Brown community to engage another element of the BDS movement by boycotting Israeli universities and academic institutions. Columbia University’s student-led divestment proposal includes severing ties between Columbia and all Israeli academic institutions [91], showing how economic divestment and academic boycotts of Israel go hand-in-hand. Academic boycotts are inconsistent with Brown’s principles of academic freedom, and such boycotts would limit students’ and the faculty’s ability to pursue educational opportunities.

C. Other leading academic institutions have recently rejected similar antisemitic BDS proposals.

Only one higher education institution, Evergreen State College, has divested from companies doing business with Israel [92]. Every other college and university that has considered divestment from companies doing business with Israel has concluded that no consensus existed for divestment and that divestment would be divisive, have no positive impact, and is financially irresponsible.

In April 2024, Former Columbia University President Nemat Minouche Shafik announced that the “university will not divest from Israel”[93]. That same month, Northwestern President Michael Schill told the House Education and Workforce Committee, “I would never recommend to the Board of Trustees divestment of anything or any academic boycott of Israel.”

In May, Cornell President Martha Pollack refused to forward to the University’s Board of Trustees a proposal to divest from companies doing business with Israel. She wrote:

“First, just as Cornell is not primarily an agent to direct social or political action, but rather a forum for analysis, debate, and the search for truth, the principal purpose of our endowment is not to exercise political or social power. Rather, Cornell’s endowment consists of gifts to the university that are invested to generate money that supports the university’s work in perpetuity, funding mission-directed priorities including financial aid and other student support, faculty salaries and stipends, facilities maintenance and upgrades, academic programs, and research activities. I am also troubled by the fact that this referendum singles out companies for providing arms to Israel when there have not been calls for divestment or sanctions from a host of other countries involved in similar conflicts. Finally, the divestments called for risk being in violation of New York State’s executive order 157, which prohibits investment activity intended to penalize Israel” [94].

Amherst College reported in June that its Board of Trustees rejected a divestment proposal. The trustees noted that opinions on divestment were deeply polarized — and they had heard from many students that argued divestment would “effectively reject the sovereign right of Israel to defend itself, indicate support for Hamas, and contribute to a rising tide of global antisemitism” [95]. The Board decided that the divergence of opinions it heard was radically different from what it heard when it decided on divestment related to South Africa and Sudan. As a result:

The Board believes that the proposed endowment action would amount to the College endorsing the moral and political position of some members of our community and rejecting the moral and political position of other members of the Amherst community. Such action would directly violate our principled responsibility to foster a forum for a broad range of positions and to offer opportunities for education so that students, faculty, and others can confront and debate evidence. Such action could chill dialogue and conversations throughout the College and deepen divisions at a time of profound conflict when no clear consensus prevails and when some of our colleagues and classmates would even find it threatening to their safety, as they have expressed. These are real consequences with a direct impact on the immediate and long-term wellbeing of our community. The Board also concluded that divestment would have negative consequences for endowment returns and would be financially irresponsible”[96].

Williams College announced on June 11 that its Board of Trustees decided not to divest from companies doing business in Israel, in accordance with a recommendation made by the college’s Advisory Committee on Shareholder Responsibility (ACSR). In an all-campus email, Williams President Maud Mandel wrote “The Board does not believe that the endowments should be used to advocate positions on world affairs.” The trustees also concluded that divestment would violate their fiduciary responsibilities since it would damage relationships with third-party managers who oversee most of the college’s endowment [97].

In its report, ACSR concluded that there was not a sufficiently well-informed and broad-reaching consensus in the Williams community to support divestment and that divestment would not have any meaningful, positive impact [98].

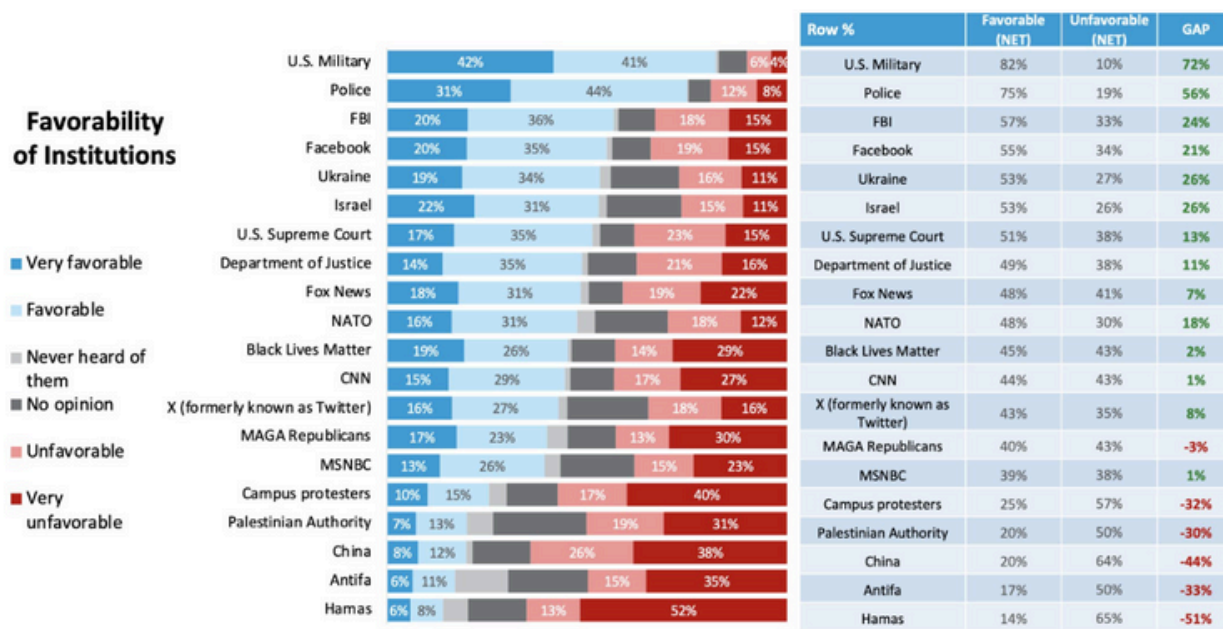
In June, Occidental College declined a proposal to avoid any investments in The Boeing Company, Elbit Systems, Caterpillar, Inc., and Lockheed Martin. Its trustees believe that taking a position on a complex geopolitical situation would “potentially chill the expression of diverse opinions, undermine the expression of pluralism, and alienate members of our community.” They concluded that there was not a sufficient consensus in favor of divestment and that divestment would be “divisive and damaging” to the college’s community. They also took into account the limited likelihood divestment would have any influence on events in the Middle East and the complexities of pursuing divestment given that outside managers invested most of the endowment [99].

D. Divestment would be anathema to the broader American public.

Americans generally recognize that Israel is a liberal democratic ally of the United States and that Hamas is a fascist theocracy serving as a proxy for Iran’s aspirations to regional hegemony. Most Americans support Israel’s right to exist as a secure, democratic, Jewish State, including its right to defend itself against Hamas’ terrorism, and express frustration with campus protesters.

The American public is more supportive of Israel than of the Supreme Court; Hamas is less popular among Americans than is the People’s Republic of China [100]. Only 22 percent of Americans believe Hamas has a legitimate reason for fighting with Israel [101]. Less than 30 percent of Americans support recent protests, compared to nearly half who oppose them [102]. Twice as many Americans believe college administrators have not responded harshly enough to campus protests [103].

Exhibit 8
American votes support for institutions [104].



Anti-American rhetoric and illegal actions employed by those who hate Israel and support divestment will only further alienate the American public. When Israeli Prime Minister Benjamin Netanyahu addressed a joint session of Congress in July 2024, radical activists and protesters burned American flags, raised Palestinian flags in their place, and defaced monuments with graffiti celebrating Hamas.

Vice President Kamala Harris denounced these acts as despicable and condemned “unpatriotic protesters and dangerous hate-fueled rhetoric.” House Minority Leader Hakeem Jeffries responded, saying, “it is unacceptable to deface public property, desecrate the American flag, threaten Jews with violence or promote terrorist organizations like Hamas. Unacceptable. Anyone who engages in that activity should be held accountable to the full extent of the law. Not that complicated” [105].

Most states in this country have recognized that the anti-Israel BDS movement is in fact discriminatory. Thirty eight states across the country, including Rhode Island, have adopted anti-BDS legislation [106]. Likewise, it is why the governors of all 50 U.S. states and the mayor of D.C. have condemned the boycott, divestment, and sanctions (BDS) movement, and affirmed that Israel should remain a U.S. economic partner [107]. Brown should do the same.

E. Divestment would set a dangerous precedent.

Brown SJP and other groups affiliated with BDC have used illegal and intimidating behavior to advance their cause. They illegally occupied Brown's University Hall. They blocked students who do not adhere to their ideology from accessing public spaces on campus. They violated Brown policy in setting up an encampment on the Main Green and threatened to disrupt Commencement. They invited outside activists to participate in their encampment. They directed abusive chants at President Paxson.

This pattern of behavior is not surprising, given BDC's alignment with the BDS movement and SJP, organizations that are both deeply rooted in antisemitic philosophy.

The BDS movement seeks to eliminate Israel.

In December 1945, even before the establishment of the state of Israel, the Arab League said "Jewish products and manufactured goods shall be considered undesirable to the Arab countries"[108] It instructed Arabs "to refuse to deal in, distribute, or consume Zionist products and manufactured goods." In the early 1950s, the Arab League imposed a secondary boycott proscribing Arabs from doing business with any company with a branch in Israel, partners with an Israeli company, advises Israeli companies, imports Israeli goods or prospects for natural resources in Israel. A Central Boycott Office in Syria, with 50 staff members, and national boycott offices in each Arab country administered these restrictions [109]. The boycott has lasted decades and started, fitfully, to diminish only in the 1990s [110].

The modern BDS movement grew out of the 2001 World Conference against Racism in Durban, South Africa. Dozens of non-governmental organizations (NGOs) present there agreed upon a strategy of delegitimizing Israel through international isolation via boycotts and lawfare as well as manipulation via international bodies like the International Criminal Court [111]. Heavily influenced by Iran, the conference issued tendentious condemnations of Israel, without, for example, even noting racism or discrimination in the Arab world. Participants in this alleged "anti-racism" conference even distributed copies of the "Protocols of the Elders of Zion." Leaders from democratic countries denounced the conference. Dan Diker, Director of the Program to Counter Political Warfare and BDS at the Jerusalem Center for Public Affairs, told the Jerusalem Post podcast that the Durban NGO forum "provided the seed and the poisonous root of what would become known as the BDS movement, which is an overtly antisemitic movement" [112].

BDS does not seek to change Israeli policies. It does not seek harm reduction. It does not build toward a future of peace and coexistence. It aspires to the destruction of the state of Israel and the expulsion of Jews from the Middle East. Many Palestinians — who would undoubtedly endure the consequences of boycotts and divestment — do not support BDS. PA President Mahmoud Abbas said in 2013 that he opposes boycotts of Israel, because the Palestinians "have relations with ... (and) mutual recognition of Israel" [113]. Bassem Eid, a Palestinian commentator, noted that Palestinians would lose partnerships and employment opportunities with Israeli businesses if BDS were successful, and global BDS supporters would not suffer from the hardships that would befall the Palestinians whom they claim to support [114]. A good-faith peace proposal is one that advocates for investments in the Palestinian economy and coexistence, not one that places the conflict's entire onus on Israel while increasing Palestinian hardships.

The first Palestinian Conference for the Boycott of Israel was very clear — it foreswore negotiation and emphasized that "the BDS campaign does not only target Israel's economy, but challenges Israel's legitimacy" [115]. The Palestinian BDS National Committee, which coordinates the global BDS movement today, includes the Council of National and Islamic Forces in Palestine [116].

As a result, major Jewish organizations, representing millions of Jews, consider BDS to be antisemitic. They apply the "3-D" test used to distinguish criticism Israeli government policy from antisemitic denial of Israel's right to exist: Does the speaker engage in (1) the demonization of Jews, (2) the application of a double standard, and (3) the delegitimization of the state of Israel? Mainstream Jewish observers like human rights activist Natan Sharansky point out that the BDS movement fails on all counts [117].

The American Jewish Congress (AJC) notes that BDS founder Omar Barghouti has made it very clear that BDS leaders oppose any Jewish state in the Middle East: “definitely, most definitely, we oppose a Jewish State in any part of Palestine. No Palestinian, rational Palestinian, not a sell out Palestinian, would ever accept a Jewish state in Palestine” [118] Destroying Israel would result in the destruction of the world’s largest Jewish population. Israel’s Strategic Affairs Ministry has documented hundreds of cases of the BDS movement using antisemitic language and imagery, including cartoons representing Israel as a hook-nosed Jew, pigs emblazoned with the Magen David (Jewish star), accusations that Jews drink the blood of Palestinian children, and depictions of the Israeli flag with a swastika on it [119].

Liberal, democratic governments have objected to the BDS campaign. British Home Secretary Priti Patel described it as racist and antisemitic [120]. The British government banned UK public bodies from boycotting companies doing business with Israel in 2023 [121]. In America, 38 states, **including Rhode Island**, have laws banning or discouraging BDS activity [122]. In addition, Austria, Canada, the Federal Republic of Germany, the Kingdom of the Netherlands, and the Kingdom of Spain all have laws condemning or discouraging boycotts of Israel like the one BDC is urging Brown to adopt [123].

SJP is a well-funded national organization that uses antisemitic language and seeks Israel’s destruction.

Brown SJP has been a driving force in anti-Israel activism on campus, was central to creating the encampment on the Main Green and is one of the central pillars of BDC. Brown SJP is not an indigenous campus organization, but rather, part of a national SJP network focused on delegitimizing Israel in the hopes of replacing it with a state dominated by Palestinians. SJP is one of the American affiliates of the global BDS movement [124].

The National SJP is probably the most prominent anti-Israel activist group in the United States and inspired or organized pro-Hamas encampments at many universities this spring. According to reporting in the New Yorker, the most doctrinaire perspectives dominate SJP, so that its adherents believe that “what’s happening in Gaza is not ‘complicated’” and that “Israel – ‘the Zionist entity’ – can be understood solely as an oppressive, colonial power” [125]. SJP has engaged in harassment and intimidation of Jewish students across multiple college campuses [126].

SJP receives millions of dollars in funding from groups linked to Hamas [127] and is part of a network of well-heeled national organizations encouraging radical activism on campus [128]. This network receives funding from the Singham Network, which advocates for and maintains close connections with the People’s Republic of China [129]. The US Senate, with bipartisan support, approved a resolution condemning SJP for supporting genocidal violence and endangering the American Jewish community in 2023 [130].

Hatem Bazian co-founded the first SJP chapter at the University of California, Berkeley in 1993 to oppose the Oslo Accords, a peace process between Israel and the Palestinian Liberation Organization that would have afforded the Palestinians self-rule throughout most of the West Bank. He also founded American Muslims for Palestine, which the state of Virginia investigated for illegally raising funds for terrorist activity [131].

Bazian has repeatedly compared Israel to Nazi Germany and said that, “it’s about time we had an intifada in this country [the United States].” He eschews any fig leaf of anti-Zionism and engages in the rawest antisemitism. He has retweeted antisemitic memes, like one showing an Orthodox Jewish man saying “Mom look! I is chosen I can now kill, rape, smuggle organs & steal the land of Palestinians Yay! #Aske-Nazi.” About UC-Berkeley, he also remarked, “look at the names on the buildings around the campus – Haas, Zellerbach – and decide who controls this university” [132].

Enacting BDC’s proposal would not only legitimize their divisive tactics but also foster an environment of intolerance and hostility, undermining the core values of academic integrity and open dialogue.

VI. Financial and Legal Implications

Implementing the BDC proposal would be inconsistent with ACURM's mandate for sound financial management. Furthermore, the Corporation's fiduciary duties, Rhode Island's anti-discrimination law, and federal law under Title VI of the Civil Rights Act of 1964 all support rejecting the BDC proposal.

A. Divestment would be entirely symbolic and will harm Brown University's endowment and financial stability.

The Brown Investment Office has delivered the best performance in the Ivy League over the past five years, yielding a 13.3 percent annualized return, compared to Dartmouth College's 10.8 percent, which had the next best performance, and Harvard University's 9.1 percent annualized return [133]. If Brown had generated the same returns as Harvard, then its endowment would be \$1.1 billion less than it is today.

The endowment that yields these returns is vastly different from the endowments at hand when Brown divested from South Africa in the 1980s. In that era, the endowment owned shares in companies that might have done business in South Africa. Today, like almost all other universities, Brown engages external managers to invest more than 95 percent of its funds in these managed accounts [134]. Brown's investment generally is managed along with investments from other institutions. Most of the best in class asset manager accounts are managed separately, and neither Brown nor other investors can dictate how and where funds will be invested. Funds with high-frequency trading strategies could buy and sell a stock, including one identified by BDC, thousands of times per month. Discussions with Investment Office professionals and outside experts in the alternative asset management sector confirm that high performing hedge funds would tell Brown to take its money elsewhere before forswearing investment in any list of companies. Doing otherwise would involve too much administrative overhead and could mean forsaking valuable investing opportunities. For this reason, when Brown divested from companies doing business in Sudan, it committed only not to invest in those companies directly, not to placing any restrictions on external managers investing money via managed accounts.

Divesting from targeted corporations, ETFs, or managers is entirely impractical to implement, given the nuances of the Israeli-Palestinian conflict. For example, no member of the Investment Office will realistically be able to define the consistent composition of companies within an ETF, let alone if they meet the criteria of a few Brown community members, and they certainly would not take on the burden of making such a representation. Moreover, which group of students, professors, or outside commentators would serve as the judge and jury in determining whether these companies, ETFs, and Investment Managers meet the criteria over time? How often would we require the Investment Office to conduct this analysis? Would we expect them to rebalance the portfolio and its Investment Managers as the criteria change and constantly incur transaction costs?

Divestment would also challenge Brown's ability to recruit and retain the best talent in the Investment Office. Universities struggle to recruit and retain high quality portfolio managers who could be paid more doing similar work in another type of institution. Portfolio managers want to have as much discretion as possible to invest in the best risk/reward opportunities they uncover. Divesting would introduce many constraints that would make working for universities less appealing to portfolio managers who do not want their investment processes and outcomes to be determined by the whims of non-expert students and faculty [135].

Endowments that divest from Israel have the potential to face onerous tax consequences [136]. The 2018 Tax Cuts and Jobs Act requires many institutions of higher education to pay a 1.4% federal excise tax on endowment income [137]. However, Brown puts itself at risk of having to pay higher taxes on its endowment in several ways. For example, legislative proposals that have been made to raise the federal excise tax rate on endowment incomes for universities that allow disruptive protests, fail to shield their students from antisemitism, use their endowment to make political statements, among them divestment, may be taxed at a higher rate. Given all major universities have rejected calls for divestment, does Brown want to take the risk of being the sole institution to defend itself should a hostile legislative body or Attorney General attempt to make an example of Brown?

While student activism today focuses on divestment from Israel, the Israel-Hamas war is not the only world event to which university students will respond with calls for divestment. Divesting from Israel sets the tone for campaigns to divest from other social and political issues or companies, in turn limiting an endowment's financial opportunities. Patterns like this may shrink Brown's endowment's investment opportunities, impacting returns and threatening the endowment's ability to support Brown's goals [138].

Demands for divestment are often accompanied by demands for transparency, including that universities disclose all portfolio assets, including alternative assets, hedge funds, venture capital, private equity, and natural resources. Brown and other universities do not publicly disclose these assets because they are not publicly traded, require lots of work to identify, are risky, and depend on the correct timing of economic cycles. Burdening the Investment Office with capricious inspections from biased students and professors will reduce their ability to continue to have the Endowment provide exemplary returns that benefit the Brown community. If Brown were to disclose the details of the endowment's portfolio assets, the University's potential for the high returns that justify the risk associated with its investments could be reduced [139].

Divesting from Israel would also be a grave financial mistake within the broader context of the venture community. Outside observers have attributed part of the endowment's success to investment in technology-oriented vehicles like venture capital funds [140]. Venture is an attractive asset class, and the best funds are often over-subscribed. At the same time, there is widespread support for Israel in the venture community, in part because of tight connections with Israeli startups. After October 7, more than 500 venture funds almost immediately signed a letter supporting Israel and calling for the global investor community to support the tech ecosystem there [141]. Portfolio managers of leading hedge funds have also publicly expressed their support for Israel [142]. Divestment could also limit the endowment's access to top performing hedge funds.

Investments in directly-owned, publicly traded securities represent just four percent of the endowment's value [143]. These securities include exchange traded funds and shares in health related companies, but no defense contracts and none of the companies from which BDC has demanded divestment. There is nothing to divest; calling for "divestiture" would be a purely symbolic action that would have no influence on Israel or any company doing business there.

B. Divesting from Israel could constitute a breach of fiduciary duty that could expose trustees to personal liability.

Investment committees have fiduciary duties to the health of the universities with which they are associated. This constitutes a legal responsibility to which committee members are bound, requiring those individuals to act with consideration, loyalty, good faith, confidentiality, prudence, and disclosure when managing a university's endowment in order to serve the financial wellbeing of Brown. This is regulated by the Uniform Prudent Management of Institutional Funds Act, a law enacted in numerous states, among them Rhode Island, which effectively protects a university's endowment and requires that a university's endowment is managed wisely [144], in addition to prioritizing Brown's mission when making financial decisions [145]. Brown's mission is to advance and impart knowledge, [146] not to combat so-called colonialism in Israel. Accordingly, even symbolic divestments that are not based on economic reasoning could constitute a breach of fiduciary duty that exposes university trustees to personal liability for not prioritizing Brown's financial health and the endowment portfolio's success [147]. Whether fiduciaries of a nonprofit are held responsible for the mismanagement of their institution's endowments is dependent on the motivations of a state's attorney general.

It is clear that past precedent does not actually support divestment in the way that it is being sought, and the idea that divestment constitutes a breach of fiduciary duty is nothing new. Universities that divested from South Africa in the 1980s often implemented the divestments selectively, such that endowment portfolios were only minimally affected. Fossil fuel divestment likewise could constitute a fiduciary breach, just one for which no one has successfully sued.

This is likely because state attorneys general are the only parties with clear standing to sue universities for mismanaging their endowments. Attorneys general have little reason to monitor nonprofit endowments unless doing so is politically beneficial to them; fossil fuel divestment, to date, has occurred in states where the attorney general had little to no incentive to sue [148]. This will not be the case with divestment from Israel, as general political consensus stands in the way of the BDS movement.

In fact, given that the “Anti-Discrimination in State Contracts” bill that prohibits Rhode Island taxpayer money from supporting companies that boycott Israel passed with such sweeping majorities in the House and Senate [149], it is likely that Rhode Island Attorney General Peter Neronha will feel political pressure to take legal action against Brown University if the University divests from Israel.

C. Divestment would create time-consuming and expensive legal exposure for Brown.

Under Rhode Island’s anti-BDS law, divestment could place contracts between Brown and the state at risk. In July 2016, Rhode Island enacted HB-7736 [150], after it had passed by a 63-4 vote in the Rhode Island House and by acclamation in the Senate [151]. This law prohibits the state from entering into contracts with any institution boycotting Israel or any other ally of the United States. It reads:

“A public entity shall not enter into a contract with a business to acquire or dispose of supplies, services, information technology, or construction unless the contract includes a representation that the business is not currently engaged in, and an agreement that the business will not during the duration of the contract engage in the boycott of any person, firm or entity based in or doing business with a jurisdiction with whom the state can enjoy open trade, and/or the boycott of any public agencies, entities or instrumentalities of the jurisdiction with whom the state can enjoy open trade” [152].

The law defines a boycott as “blacklist, divest from, sanction or otherwise refuse to deal with a person, firm or entity, or a public entity of a foreign state” [153].

As a major institution in Rhode Island and the nineteenth largest employer in the state [154], Brown has significant contracts with the state government. The Medical School and School of Public Health provide extensive research and lab services for the Rhode Island Department of Health. The Masters in Public Health program benefits from a “privileged relationship with the Rhode Island Department of Health” that “affords students exceptional research opportunities and participation in community service through the Department of Health and other state and community agencies” [155]. Brown’s undergraduate student financial aid packages are funded, in part, by grants from the Rhode Island government [156].

Brown also just negotiated a major alliance with Lifespan Health System, which will take the name Brown University Health and receive more than \$150 million in investment from Brown over the next seven years [157]. As the largest healthcare network in Rhode Island, Lifespan has millions of dollars in annual contracts with the state government. A decision by Brown to divest from companies doing business with Israel could complicate this alliance and create both legal and financial risks.

The people of Rhode Island also benefit from state and city contracts with Brown. In 2022, Brown provided \$7.5 million in scholarships to Rhode Island high school graduates. In 2023, Brown entered into an agreement with the City of Providence to provide scholarships to Providence Public School District students who are admitted into Brown’s Pre-College Programs [158]. These scholarship agreements advance the University’s mission to promote academic growth. Between 2018 and 2022, Brown spent \$619 million on construction in Rhode Island [159]. In 2023, Brown agreed to voluntarily pay \$175 million to the City of Providence over the next 20 years [160]. These payments, known as PILOT (Payment In Lieu Of Taxes) payments, exempt Brown from having to pay taxes to the city; if this agreement is declared void as a consequence of divestment, Brown may have to pay large sums in taxes.

Divestment would endanger collaboration between Brown and any organization of the Rhode Island government, harming members of the Brown community and the Rhode Island community alike. It could reduce revenue and research opportunities for the Medical School and School of Public Health, harm Rhode Island students by taking away scholarship funding, and deplete Providence of much-needed money. Given the extensive connections between Brown and the state of Rhode Island, the ramifications of divestment would be vast and severe. Any attempt to skirt the letter of HB-7736, while violating the spirit of the law, should be examined with extreme caution due to the precedent it sets in opposing Rhode Island’s intentions.

VII. Conclusion: BDC’s proposal satisfies none of the criteria described in the ACURM charter.

The ACURM charter lays out four criteria for evaluating an investment proposal. The BDC has not demonstrated that its proposal meets any of the criteria in the ACURM charter, indicating that the Committee should dismiss the BDC’s demands that they forward the proposal to the Corporation for consideration.

Criteria	What the evidence demonstrates
Whether the proposal addresses social harm	<p>BDC objects to legitimate policies the democratically elected government of Israel pursues to protect its citizens</p> <p>Alternative policies Israel might pursue would likely create more social harm by reducing Israel’s ability to prevent murderous terror attacks</p> <p>Supporting divestment would create social harms by signaling support for fascist theocracy and supporting a norm that terror groups should be able to attack liberal democracies with impunity, all of which would embolden and empower Iran in its bid for regional hegemony</p> <p>Supporting divestment would signal support for the destruction of the Jewish state and the subjugation, murder, or expulsion of its inhabitants</p>
Whether divestment will influence behavior – or is it just advancing a position on a social or political question	<p>Brown cannot require external managers to refrain from investing in particular companies</p> <p>Brown does not currently invest in defense companies or virtually any other individual equity</p> <p>Therefore, “divesting” would be a purely symbolic action with no influence on Israel or any company</p>
Whether divestment is consistent with fostering “teaching and scholarly inquiry”	<p>Divestment would discourage debate and endorse simplistic and reductive thinking</p> <p>Divestment would encourage groups to use disruptive, illegal, and abusive tactics to get a hearing with the Corporation</p> <p>Divestment would be functionally antisemitic and would stigmatize Jewish students</p> <p>Divestment would align Brown with groups hostile to the United States and its democratic values</p> <p>In divesting, Brown would stand alone, making a decision that other leading academic institutions have stated is contrary to their values</p>
Whether divestment is consistent with sound financial management	<p>Divestment could damage relationships with external managers and limit the endowment’s access to attractive investment opportunities</p> <p>Given Rhode Island’s anti-BDS law, divestment could place contracts between Brown and the state at risk and would complicate the University’s alliance with LifeSpan</p>

Appendix: Historical Context

The Gaza Strip

The Gaza Strip is a 140-square-mile region of land along the Mediterranean Sea. It has a population of about 2.23 million, making it more densely populated than any major American city. Gaza shares a border with both Israel and Egypt. There are three crossings in and out of Gaza; the Rafah Crossing connects Gaza and Egypt, while the Erez Crossing in the north and Kerem Shalom Crossing in the south traverse the border between Gaza and Israel [161].

In the decades before 1948, the British Mandate for Palestine was composed of the geographic regions that make up modern-day Israel, Gaza, and the West Bank. In 1947, the UN General Assembly approved a partition plan to divide the region into a Jewish state and an Arab state. The Jews accepted the plan, but the Arabs rejected it. In 1948, despite failing to resolve ongoing tensions between Jewish and Arab residents, the British withdrew from what was then known as Palestine, and the State of Israel was declared. Five Arab countries swiftly attacked Israel, and hundreds of thousands of Arabs were displaced from the land. Eventually, hostilities ended with the modern-day Gaza Strip being occupied by Egypt and the West Bank by Jordan [162]. After the Arab-Israeli War of 1967, Israel gained control over Gaza. In 2005, Israel unilaterally withdrew all settlements and troops from Gaza, in some cases forcefully evicting Jewish settlers who resisted. At the same time, it maintained control over the border, the airspace, and the coast of Gaza, while Egypt controlled its southern border with Gaza [163].

In 2006, the PA held parliamentary elections in Gaza, in which Hamas, which has been a U.S. designated terrorist organization since 1997, won the majority of seats [164]. This precipitated a power struggle between Hamas and Fatah, the rival PA party, culminating in Hamas' complete and violent takeover of Gaza in June of 2007 [165]. There have been no legislative elections in Gaza since. In response to Hamas' victory, Israel imposed severe sanctions against Gaza, shutting parts of the border and limiting imports into the region. In 2008, amidst repeated rocket bombardments from Hamas, Israel expanded the sanctions into a complete blockade, fully sealing the border between Israel and Gaza, save for the passage of essential humanitarian goods. Between 2007 and 2011, the border between Egypt and Gaza was also closed; it has since been opened, restricted, and closed at various points in the last several years. Similarly, in 2018, Israel reduced its blockade on Gaza, allowing thousands of Gazans to cross the border to work in Israel [166].

Throughout the years, various violent conflicts have erupted between Hamas and Israel. Nearly all have quickly ended in a negotiated ceasefire or understanding. After years of rocket attacks, last October, Hamas attempted to realize the commitments in both its original and revised charters: the complete destruction of Israel and its replacement with a theocratic state [167]. On October 7, 2023, Hamas broke the ceasefire agreement signed in 2021 and launched a surprise attack on Israel – murdering 1,185, kidnapping 250 (120 of whom remain in captivity), injuring 4,834, and committing scores of rapes and other horrific acts of sexual violence [168, 169, 170, 171].

Hamas

Hamas was established in 1987 at the beginning of the First Intifada, or Palestinian uprising. Its 1988 charter spells out its desire for the complete destruction of Israel and the killing of Jews, although in 2017, it updated its charter to omit explicit calls for the murder of Jews [172, 173]. Hamas receives significant funding and support from Iran [174]. In the nearly two decades since taking control of Gaza, Hamas has extended its influence into every component of the area. As part of its stated plan to delegitimize and eventually eliminate the state of Israel, Hamas has fully embedded its military personnel and infrastructure among and under the civilian population of Gaza. As *The Washington Post* Editorial Board writes, “Hamas itself has consciously exposed noncombatants to danger by provoking Israel militarily — while protecting its own leaders and fighters in tunnels” [175].

This approach is apparent [176]. As six Israeli philosophers wrote in October, “Hamas notoriously and *intentionally* positions its headquarters, missiles, and tunnels in and below hospitals, schools, mosques, and other civilian facilities, thus deliberately using their own civilians as human shields, both to discourage attack and to implicate Israel as responsible for civilian casualties” [177]. In 2014, Hamas spokesperson Sami al-Zuhari stated on Al-Aqsa TV that “Hamas despises those defeatist Palestinians that criticize the high number of civilian casualties. The resistance praises our people...we lead our people to death...I mean, to war” [178]. Hamas members have also been exposed for wearing civilian clothing as a means to confuse and fool members of the IDF [179]. Maximizing harm to its own noncombatants forms the very core of Hamas' governing strategy. This strategy became horrifically clear on October 7.

While Hamas has fired indiscriminate rockets across the border throughout its rule — most of which are shot down by Israel’s Iron Dome — October 7 was an unprecedented attack [180]. Hamas militants stormed across the border in the early morning of October 7. Terrorists rampaged a peace-focused music festival, murdering hundreds and kidnapping innocent festival attendees. They ransacked civilian houses and *kibbutzim*, raped women, slaughtered babies, and violently dragged hostages into the depths of Gaza. In the meantime, a barrage of Hamas rockets rained down on southern Israel, burning civilian areas to the ground [181]. This was a targeted and wildly successful terrorist attack designed specifically to inflict maximum damage on innocent Israeli civilians. An Israeli medic and first responder poignantly reflected that “what I saw was unspeakable” [182]. The barbaric details of October 7th reveal the full depravity of the enemy that Israel is facing. While Israel mourns and tries to limit the loss of innocent lives, Hamas and its supporters celebrate Hamas’ terrorist murder, rape, and pillage.

Hamas has also spent years constructing about 310 miles of tunnels underneath Gaza. The tunnels are equipped with “specialized sections for launching military attacks, as well as logistics areas, storage facilities and transportation routes” [183]. Members of Hamas have used the tunnels to hold Israeli hostages, move around the region, and likely stage the October 7 attack. Investigations into the tunnels reveal that their construction requires significant sophistication and time. U.S. alternate Ambassador to the UN Robert Wood stated, “instead of building schools and roads and hospitals and proper housing for civilians, which is what the international aid is intended for, Hamas has taken that cement and construction material and the money and the resources and built a city underneath the city, with hundreds of miles — and I’m not exaggerating — hundreds of miles of tunnels underneath the city” [184].

The West Bank

In the decades before 1948, the entire area including modern-day Israel, Gaza, and the West Bank was part of the British Mandate for Palestine. In 1947, the UN General Assembly approved a partition plan to divide the region into a Jewish state and an Arab state, which the Jews accepted but the Arabs rejected. In 1948, despite failing to resolve the ongoing tensions, the British withdrew, and the State of Israel was declared [185]. The Egyptian, Jordanian, Syrian, Iraqi and Saudi Arabian armies almost immediately invaded Israel with the hopes of pushing the Jews into the sea [186]. In 1949, Jordan seized control of the West Bank, ethnically cleansing it of Jewish populations that had lived there for millennia [187], barring Jews from the Western Wall (in violation of the 1948 armistice agreement), laying waste the Jewish Quarter of Jerusalem, and desecrating 58 synagogues [188].

Israel took the West Bank from Jordan in the 1967 war, which was necessarily legal, as Jordan had never ended the state of war that had existed between it and Israel since 1948. Just weeks after the Six Day War, however, Israel offered to return the West Bank to Jordan, and the Arab League responded with “three no’s” – no peace with Israel, no recognition of Israel, and no negotiations with Israel [189].

Israel has tried to negotiate its withdrawal from the West Bank in return for recognition from Arab states and the Palestinian people of its right to exist. In 2000, Israel negotiated with the PA the Oslo Peace Process, even as the PA prepared the Second Intifada, an uprising by Palestinians that killed more than 1,000 Israeli citizens. [190] Since the Oslo Accord, Israel has made what multiple American administrations considered compelling offers for Palestinian statehood, only to see Palestinian leaders reject them [191, 192].

Since the 1995 Oslo Accord, the PA has governed and overseen the security forces in Areas A and B of the West Bank, where 2.8 million out of 2.95 million West Bank Palestinians live. President Abbas has disempowered the PA legislature and courts, attempting to rule as a dictator [193]. He is 19 years into a four year term of office and has refused to hold elections, not because of Israeli restrictions, but because he fears (probably correctly) that his party, Fatah, would lose to Hamas [194].

On multiple occasions, Israeli governments have tried to reach an agreement with the PA to create a Palestinian State comprising virtually all the territory in the West Bank. Each time, PA leaders have refused to reach an agreement because Israel would not agree to an unlimited “right of return.” In 2007 PA President Abbas rejected such a proposal likely because he feared the blowback from radical Fatah factions and from Hamas [195].

Israeli withdrawal from the West Bank might be immediately followed by Hamas’ coming to power or by chaos, with multiple armed factions fighting for control – similar to what took place in 2005 in Gaza. Either would be devastating to Israeli security and to the Palestinians living there themselves.

Appendix: Figures



Brown Students for Justice in Palestine's Statement on the Recent Events in Palestine

We, the undersigned, hold the Israeli regime and its allies unequivocally responsible for all suffering and loss of life, Palestinian or Israeli. While all loss of life deserves to be mourned, we cannot stand by as the root cause of this violence is not only ignored but strengthened: Israel's settler colonial regime of apartheid and military occupation and its brutal 16 year blockade of Gaza.

We stand in solidarity with Palestinian resistance against Israeli occupation.

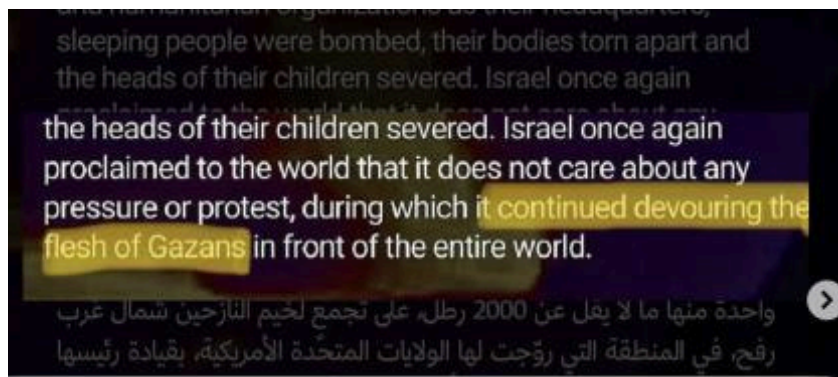
Decades of the Israeli state killing and ethnically cleansing Palestinians have continued while the world watches. No people in history subjected to oppression of this scope have not responded. This is not a conflict; it is settler colonialism that has yielded a brutal apartheid regime. In response, the Palestinian right to return and the right to resist their elimination is not only just, but enshrined under international law.

<https://bit.ly/brownsjp2023>

KOREANS FOR PALESTINIAN LIBERATION

BY ANY MEANS NECESSARY





Collaborators



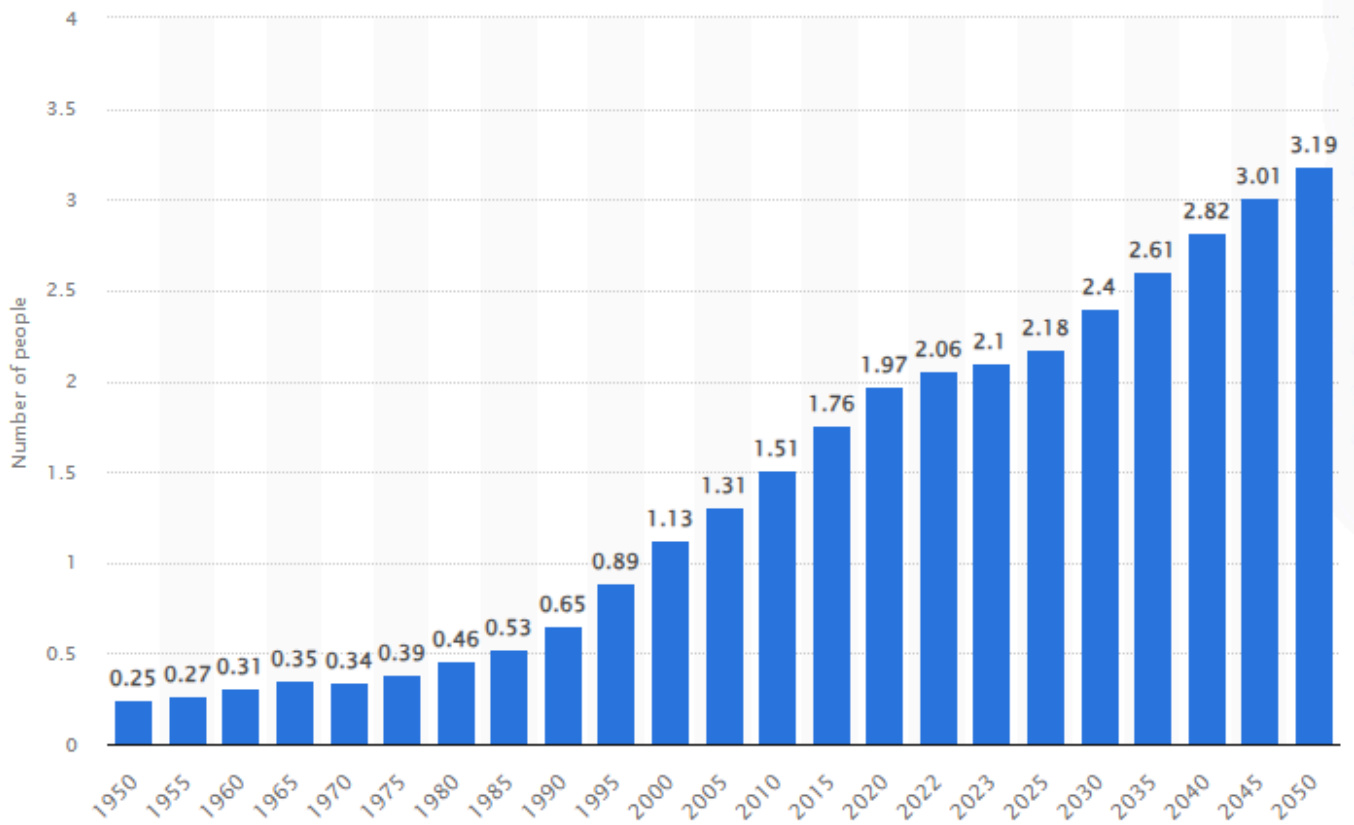
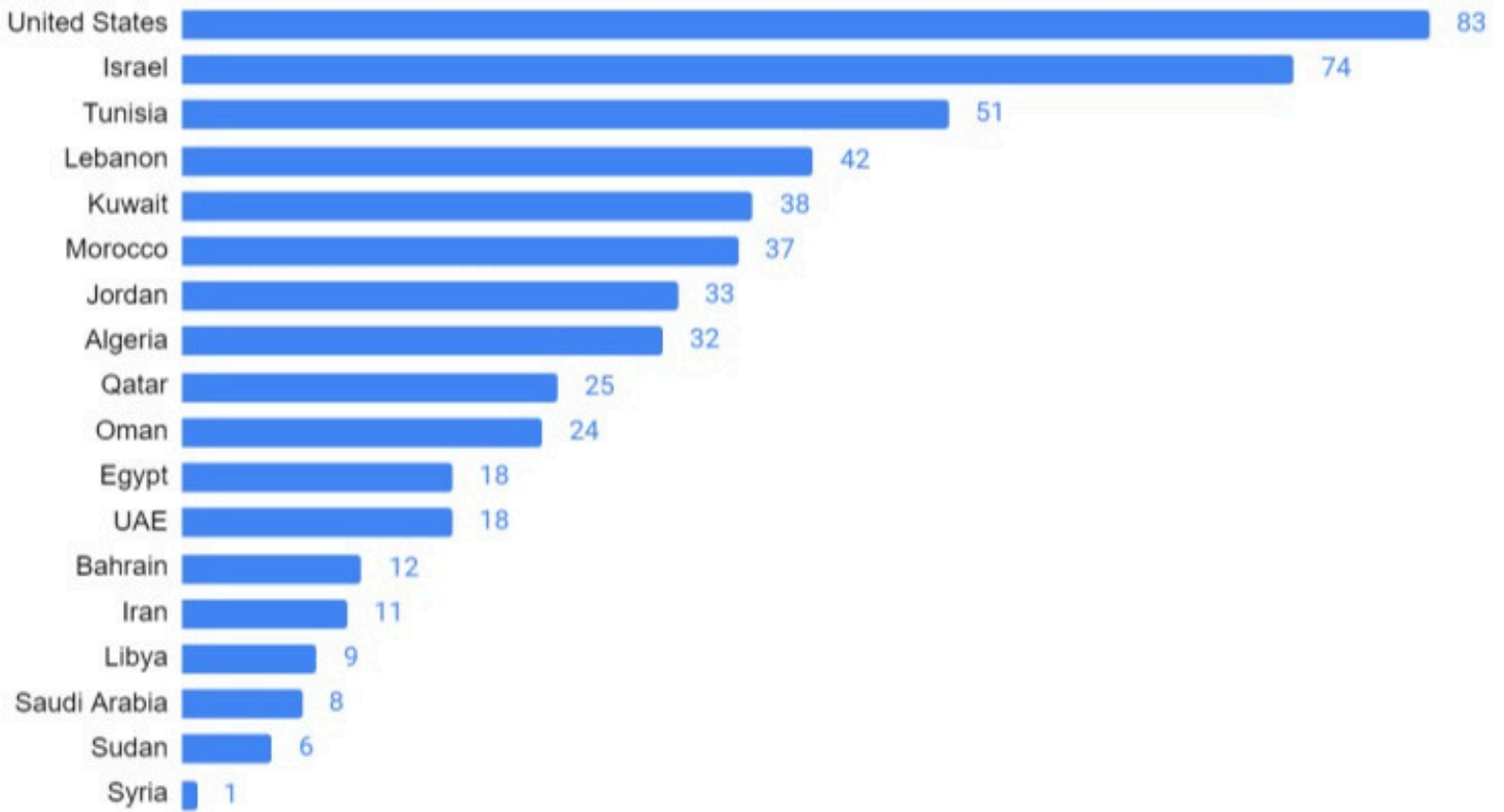
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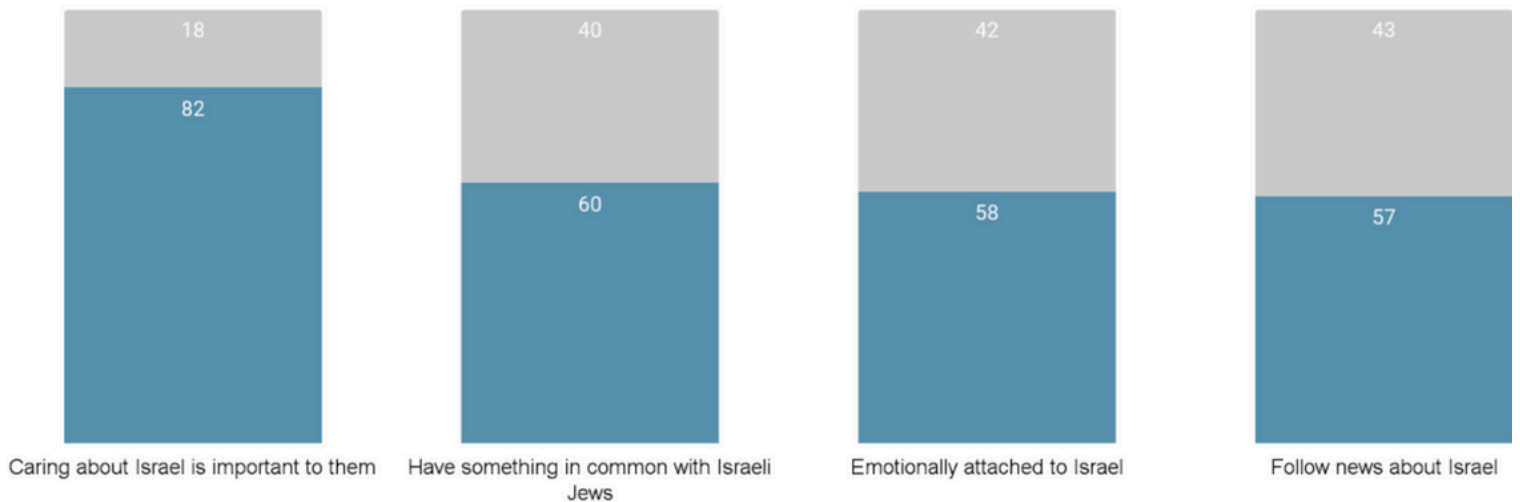


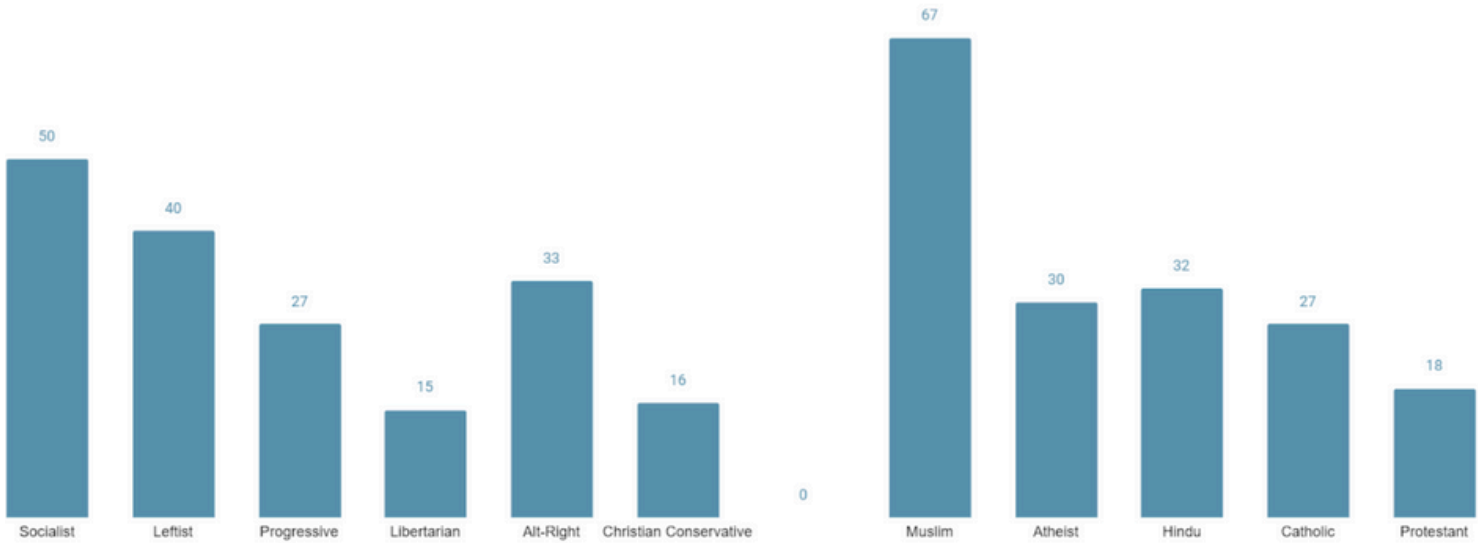
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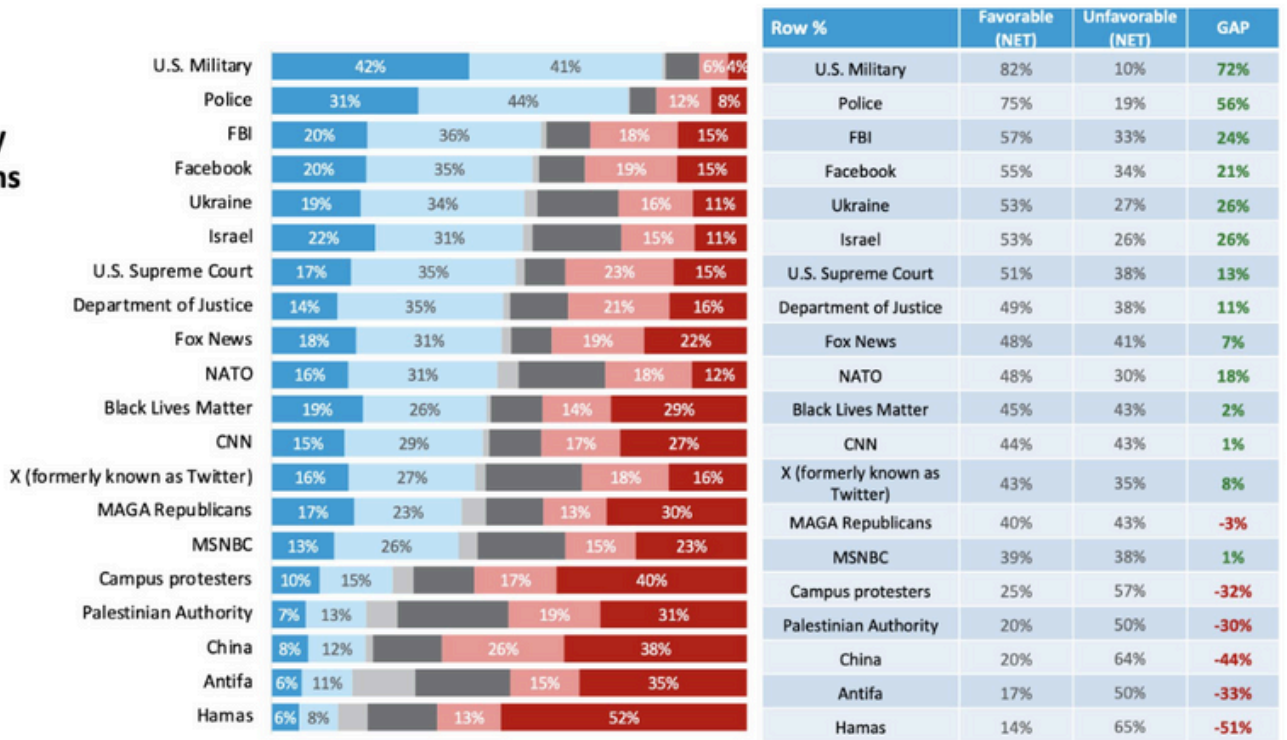
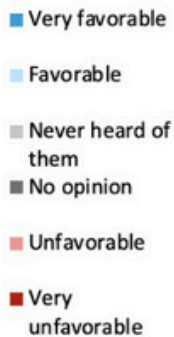


	1948	1958	1968	1978	2011	2018
Algeria	140,000	130,000	1,500	1,000	<50	<50
Egypt	75,000	15,000	1,000	400	100	100
Iraq	135,000	6,000	2,500	350	7	<10
Lebanon	5,000	6,000	3,000	400		<100
Libya	38,000	3,750	100	40	0	0
Morocco	265,000	200,000	50,000	18,000	4,000	2150
Syria	30,000	5,000	4,000	4,500	100	100
Tunisia	105,000	80,000	10,000	7,000	1,500	1050
Yemen/Aden	63,000	4,300	500	500	250	<50
Total	851,000	469,060	69,600	31,790	~6,200	3,330





Favorability of Institutions



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