

**An Open Letter
to the Members of the ASUC Senate
and its President**

Thursday, 8 April 2010

Re: Senate Bill 118a passed on 17 March 2010
Re: Presidential Veto of aforesaid bill on 24 March 2010

Dear Senator,

Although I was not in attendance at the meeting in which Senate Bill 118a was discussed and resolved, I can well imagine that much was raised for discussion that was ignored, and much that was discussed was misunderstood. Nevertheless, the issue is hardly new for anyone seriously concerned about it, and it is hardly the job of the Senate to educate its President. On the contrary, it is the job of the Senate to serve the UC Berkeley student body in the best manner possible. It is to this purpose that I would like to make the following several points:

1. Although a vote of 16 to 4 is not unanimous, it is clearly above even a three-quarter majority -- what is necessary to amend the Constitution of the United States. In a democracy it is understood that no one should make sacrifices all of the time, but everyone must sacrifice something some of the time.
2. Although the bill clearly targets specific companies, it does so in the spirit that any company engaging in similar such activity is also eligible for punishment. Equally important is that divestment in these companies only applies in so far they continue to support activity -- either directly or indirectly -- that is illegal under international law.
3. Although it is clear that the Jewish population is a minority population in the United States, it would be a grievous error to believe that any member of the American Jewish population is not protected under the US Constitution. In short, Israel is a foreign state that is clearly in violation of international law, and it is Israel that is being targeted -- not the American Jewish population.
4. Although the bill clearly commits the student body toward taking action against US corporate behavior that supports the illegal activity of the government of a foreign state, it does so in a spirit of constant vigilance and adjustment. Thus, should it for some reason be demonstrated that the Senate has erred, than reinvestment can take place.
5. Finally, if at any time the State of Israel feels that its security is endangered because of the action taken by UC Berkeley and other US institutions of higher education, then it need only curb its illegal behavior for reinvestment to take place.

In conclusion, I find the President's veto unreasonable and his principal arguments ill-advised. Therefore, I heartily encourage you to override his veto on 24 April 2010.

A former member of the Berkeley community and advocate of international law and order.

Sincerely,

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A Bill to In Support of UC DIVESTMENT FROM WAR CRIMES

Authored By: Emiliano Huet-Vaughn and Tom Pessah

Sponsored By: Senators Gaurano , Carlton, Kwon, Oatfield

1. WHEREAS, the ASUC notes the complexity of international relations in all cases, including the Middle East, and recognizes the inability of a body such as the ASUC to adjudicate matters of international law and human rights law, or to take sides on final status issues on wars and occupations throughout the world. Yet, we do note the following findings from the United Nations and other leading human rights organizations regarding the Israel/Palestine conflict, and use it as a case study; and,
2. WHEREAS, prior and subsequent to the bombing the Israeli government has engaged in collective punishment of the whole of the Palestinian population, in the view of the human rights community,¹ as exemplified by the ongoing 32 month blockade on Gaza, of which Physicians for Human Rights-Israel has written, “the prolonged siege imposed by the Israeli government on Gaza, the closing of its borders, the tightening of policies regarding permission to exit Gaza for medical purposes, and the severe shortage of medications and other medical supplies all severely damage the Palestinian health system and endanger the lives and health of thousands of Palestinian patients,”² and of which the Red Cross has said “the whole strip is being strangled, economically speaking” making life in Gaza “a nightmare” for the civilian population, with essential supplies, including electricity, water, and fuel, being denied to the 1.5 million inhabitants 90% of whom depend on aid to survive;³ and
3. WHEREAS, within the occupied West Bank (including East Jerusalem), the Israeli government continues a policy of settlement expansion that, in the opinion of the United Nations Security Council, Human Rights Watch, the International Committee of the Red Cross, and numerous other organizations concerned with enforcement of international law, constitutes a direct violation of Article 49, paragraph 6 of the 4th Geneva Convention which declares “an occupying power shall not deport or transfer parts of its own civilian population into territories it occupies.”⁴; and
4. WHEREAS, in the context of this bill, “occupation” refers to the current state of Palestinian life under Israeli’s military control in the West Bank and Gaza; a definition that is consistent to commonly-held international law; and
5. WHEREAS, student research⁵ has revealed that, according to the most recent UC investment report⁶, within the UC Retirement Program fund and the General Endowment Program fund there exist direct investments in American companies materially and militarily supporting the Israeli government's occupation of the Palestinian territories, including American companies General Electric and United Technologies; and
6. WHEREAS, General Electric holds engineering support and testing service contracts with the Israeli military and supplies the Israeli government with the propulsion system for its Apache Assault Helicopter fleet, which, as documented by Amnesty International and Human Rights Watch, has been

1 *Amnesty International: Israeli Military Action is Collective Punishment – <http://www.amnesty.org/en/report/info/MDE15/045/2002>

*United Nations press release - <http://www.unhcr.ch/hurricane/hurricane.nsf/0/183ED1610B2BCB80C125751A002B06B2?opendocument>

*Human Rights Watch 'Israel/Gaza: Donors Should Press Israel to End Blockade' <http://www.hrw.org/en/news/2009/02/28/israelgaza-donors-should-press-israel-end-blockade>

2 *Physicians for Human Rights; <http://www.phr.org.il/phr/article.asp?articleid=506&catid=55&pcat=45&lang=ENG>

3 *Red Cross report "Dignity Denied in the occupied Palestinian territories" - http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/13_12_07palestineicrc.pdf and The Palestinian International

*BBC - "British MPs Granted Gaza Access" - http://news.bbc.co.uk/2/hi/uk_news/7890977.stm

4 Human Rights Watch "Israel's Settlements Are on Shaky Ground" - <http://www.hrw.org/en/news/2009/06/28/israels-settlements-are-shaky-ground>

*International Committee of the Red Cross - <http://www.icrc.org/ihi.nsf/c525816bde96b7fd41256739003e636a/77068f12b8857c4dc12563cd0051bdb0>

5 * *The research has been conducted over the past year by a group of Berkeley students. A report of the findings is available from ucbdivest@gmail.com

6 * http://www.ucop.edu/treasurer/report/UCTreasurer_AnnualReport_2009.pdf

used in attacks on Palestinian and Lebanese civilians, including the January 4, 2009 killings of Palestinian medical aid workers⁷; and

7. WHEREAS, United Technologies supplies the Israeli government with Blackhawk helicopters and with F-15 and F-16 aircraft engines and holds an ongoing fleet management contract for these engines, and, Amnesty International has documented the Israeli government's use of these aircraft in the bombing of the American School in Gaza, the killing of Palestinians civilians, and the destruction of hundreds of Palestinian homes;⁸ therefore, be it

RESOLVED, that the ASUC will ensure that its assets, and will advocate that the UC assets, do not include holdings in General Electric and United Technologies because of their military support of the occupation of the Palestinian territories; be it further

RESOLVED, that the ASUC will further examine its assets and UC assets for funds being invested in companies that a) provide military support for or weaponry to support the occupation of the Palestinian territories or b) facilitate the building or maintenance of the illegal wall or the demolition of Palestinian homes, or c) facilitate the building, maintenance, or economic development of illegal Israeli settlements on occupied Palestinian territories; be it further

RESOLVED, that if it is found that ASUC and/or the UC funds are being invested in any of the abovementioned ways, the ASUC will divest, and will advocate that the UC divests, all stocks, securities, or other obligations from such sources with the goal of maintaining the divestment, in the case of said companies, until they cease such practices. Moreover, the ASUC will not make further investments, and will advocate that the UC not make further investments, in any companies materially supporting or profiting from Israel's occupation in the abovementioned ways; be it further

RESOLVED, that this ASUC resolution not be interpreted as the taking of sides in the Palestinian/Israeli conflict, but instead as a principled expression of support for universal human rights and equality; be it further

RESOLVED, that the ASUC Senate engage in education campaigns to publicize the divestment efforts and violation of international human rights law, and that furthermore, a committee of 5 members, 2 senators selected by the senate body as a whole, 2 members of or students selected by the UC Berkeley Divestment Task Force, and the ASUC President or a representative from his/her office, form at the end of this semester to monitor and promote university progress in regards to the above mentioned ethical divestment goals; be it finally

RESOLVED, that this Committee will recommend additional divestment policies to keep university investments out of companies aiding war crimes throughout the world, such as those taking place in Morocco, the Congo, and other places as determined by the resolutions of the United Nations and other leading international human rights organizations

7 * Amnesty International – 'Fuelling Conflict: Foreign Arms Supplies to Israel/Gaza'

<http://www.amnesty.org/en/library/asset/MDE15/012/2009/en/5be86fc2-994e-4eeb-a6e8-3ddf68c28b31/mde150122009en.html#4.0.4.Aircraft%20and%20Helicopters|outline>

* Human Rights Watch – 'Fatal Strikes: Attacks on Civilian Homes'

<http://www.hrw.org/en/node/11265/section/5>

8 * New England Conference of the United Methodist Church Divestment Task Force Report and Recommendations - <http://www.neumc.org/pages/detail/178>
* Amnesty International – 'Fuelling Conflict: Foreign Arms Supplies to Israel/Gaza'

<http://www.amnesty.org/en/library/asset/MDE15/012/2009/en/5be86fc2-994e-4eeb-a6e8-3ddf68c28b31/mde150122009en.html#4.0.4.Aircraft%20and%20Helicopters|outline>

* New England Conference of the United Methodist Church Divestment Task Force Report and Recommendations - <http://www.neumc.org/pages/detail/178>

*Israeli Air Force:

<http://www.iaf.org.il/Templates/Aircraft/Aircraft.IN.aspx?lang=EN&lobbyID=69&folderID=82&docfolderID=211&docID=18321¤tPageNumber=5>
<http://palestineinformation.org/divestment.htm>

ASUC Presidential Veto II, dated March 24th, 2010

Preamble to Presidential Veto of Senate Bill 118a, entitled “A Bill to In Support of UC DIVESTMENT FROM WAR CRIMES,” a bill enacted in a meeting of the ASUC Senate on Wednesday, March 17th, 2010.

Whereas, It is the role of the ASUC to maintain the overall health and well being of our entire student body and campus community, and to balance all voices, perspectives, and views in the most fair, honest, ethical, and comprehensive way possible; and

Whereas, When issues of grave consequence that have significant ramifications for diverse members of our campus community and the world at large are being considered, there is no substitute for continued dialogue and open, thorough, and intense debate and deliberation; and

Whereas, As UC Berkeley students, we have a longstanding tradition of examining critical issues of our time thoroughly and honestly, appreciating the complexity and nuances of world affairs, along with a responsibility to place our discussions in a clear and accurate contextual and historical framework; and

Whereas, The goal of achieving responsible investment standards that rightfully insure that ASUC and University of California funds do not go to support weapons, war crimes, violations of human rights, and other similar materials and practices is undeniably noble and good, and the ASUC should continue to strive to achieve those standards in the most positive and effective way possible; and

Whereas, The mission of the ASUC and fundamental purpose of this bill should be to strive for peace, discourse, reconciliation, and responsible investment, and to achieve this, the ASUC must subsequently provide further context, understanding, and discussion; and

Whereas, The bill, as it currently stands, calls for divestment specifically from two companies materially supporting the Israeli government and the occupation of Palestinian territories; and

Whereas, While individuals and organizations have researched and developed various divestment strategies in the past, the ASUC Senate considered this bill for the first time on March 17th, 2010, and it should be noted that truly effective and meaningful divestment strategies of this magnitude are not built, considered, and voted upon in only one week’s time; and

Whereas, Significant policy decisions made in haste fail to allow adequate time for thorough analysis of complex issues and an understanding of the ramifications of the actions being considered; and

Whereas, The act of singling out Israel, a sovereign nation involved in an incredibly complex, intense, and historic conflict over land and borders, without providing adequate context, creates an array of questions and issues that compel the ASUC Senate to thoroughly examine and reconsider features of the bill:

- 1) Major divestment strategies deserve substantial scrutiny and deliberation, for example the consideration of testimony or evidence regarding: (a) the likely or probable impact of mandatory divestment on existing or future ASUC or UC Finances; (b) the likely or probable effect on the safety or security of human beings in Palestine and Israel; and (c) the overall effectiveness of a blanket divestment policy in achieving the aims of peace and security for any human being or group of people
- 2) Given that some ASUC Senators and others have compared the Israel/Palestine conflict with that of South African apartheid in the 1980s, it should be noted that a) the analogy itself is highly contested, and b) the divestment strategies employed against the apartheid government were not introduced and agreed upon after mere hours of discussion, but involved lengthy and serious deliberation and analysis
- 3) To achieve and maintain campus unity and peace, the perception of the bill as a symbolic attack on a specific community of our fellow students and/or fears of the bill being used as a tool to delegitimize the state of Israel cannot be understated; and

Whereas, While the ASUC as a body has stated convincingly that it does not want ASUC and UC dollars going to fund weapons, war crimes, or human rights violations, this veto has to do with the mechanism by which the ASUC achieves its mission of building peace and goodwill in a way that avoids the shortcomings of the bill (a selective, one-sided focus on a specific country that lacks important historical context and understanding); and

Whereas, This veto does not condone, approve of, or deny specific actions taken by any party involved in the Israel/Palestine conflict, and its intended purpose is to communicate the idea that a dichotomous framework only fosters misunderstanding instead of providing a pathway to peaceful progress; and

Whereas, For the purposes of exploring potential options for responsible investment, the ASUC should reject calls for immediate divestment from specific countries or regions, and instead, should initially establish broad resolutions for ethical investment, and create a task force for responsible investing in line with the ASUC's values; and

Whereas, We must insure that any decisions made by the ASUC are fair to *all* people concerned and all sides of an issue, and do not discriminate unfairly against anyone; and

Whereas, It is the overarching ethical and moral obligation of the ASUC student government to maintain a positive campus climate that seeks to promote peace, harmony, honesty, and academic freedom above all else;

Therefore, Pursuant to Article II, Section 2, Paragraph B of the Constitution of the ASUC, It is hereby ordered that:

Senate Bill 118a, a bill enacted in a meeting of the ASUC Senate on Wednesday, March 17th, 2010, and entitled "A Bill to In Support of UC DIVESTMENT FROM WAR CRIMES," is hereby vetoed effective as of this 24th Day of March, 2010.

Respectfully Submitted and Ordered:

DATED: March 24, 2010

BY:



**Will Smelko,
President, Associated Students of the University of California 2009-2010**