

THE ASSOCIATED STUDENTS OF ARIZONA STATE UNIVERSITY
UNDERGRADUATE STUDENT GOVERNMENT SENATE

LEGISLATURE

REGULAR SESSION

FEBRUARY __, 2014

SENATE BILL XX

INTRODUCED BY

A Resolution to Divest from Caterpillar Inc. for its Human Rights Abuses in Palestine

The Undergraduate Student Government Senate,

WHEREAS, in September of 2012, the ASU Undergraduate Student Government passed a resolution to create an advisory committee for overseeing socially responsible investment; and

WHEREAS, in April of 2012, the USG passed SB 53, “An act imploring human rights divestment,” by a unanimous vote; and

WHEREAS, according to the International Court of Justice’s (ICJ) 2004 ruling, the establishment and expansion of settlements in the West Bank and East Jerusalem is illegal under international law [1]; and

WHEREAS, under the Fourth Geneva Convention, UN GA ES-10/6, and other UN resolutions, the establishment and expansion of settlements in the West Bank and East Jerusalem is in violation of international law [2]; and

WHEREAS, according to US policy, “the legitimacy of continued settlement activity” has not been accepted by any US administration, and the Obama Administration chose to “reiterate our long standing opposition to Israeli settlement activity” [3]; and

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

WHEREAS, among others, these investments include \$120,977.46 (ASU) and \$165,690 (UA) in investments in Caterpillar Incorporated, according to the most recent public financial information [4]; and

WHEREAS, Caterpillar, an American company, has helped sustain the illegal occupation by providing bulldozers and engineering tools used to destroy Palestinian

homes and farmland, expand illegal settlements on the confiscated Palestinian land, and assault refugee camps in violation of international humanitarian law, as documented by the United Nations, Amnesty International, and Human Rights Watch [5.1–5.5]; and

WHEREAS, Caterpillar bulldozers have been used in at least two instances of harmful U.S. government militarization of the Mexico–U.S. borderlands [6]; and

WHEREAS, given that numerous reports by human rights groups, ranging from Amnesty International to the American Public Health Association, have identified the humanitarian crisis resulting from U.S. border militarization including at least six thousand migrant deaths in the desert, the USG is concerned that the military–style use of Caterpillar equipment on the Mexico–U.S. border is a direct violation of international law by the U.S. government [7]; and

WHEREAS, in particular, Amnesty International demanded in 2004 that “Caterpillar Inc., the US company which is contracted to produce the bulldozers used by the Israeli army, should take measures -- within the company sphere of influence -- to guarantee that its bulldozers are not used to commit human rights violations, including the destruction of homes, land and other properties,” and, “should adopt a code of conduct which complies with the UN Human Rights Norms for Business and should respect and ensure the application of Article 3 of the UN Norms, which states that Trans National Corporations and other business enterprises shall not engage in, nor benefit from, war crimes, crimes against humanity and other violation of international humanitarian law” [8]; and

WHEREAS, Caterpillar has ignored this and similar calls from Human Rights Watch, the United Nations High Commissioner for Human Rights, and the Presbyterian Church USA to end its complicity in the illegal demolition of Palestinian homes [9.1–9.3]; and

WHEREAS, in June of 2012, the influential Morgan–Stanley Capital Index (MSCI) dropped Caterpillar from its prominent socially responsible investing list. MSCI stated one of the “key factors” for the decision was the “ongoing controversy associated with use of the company’s equipment in the occupied Palestinian territories.” [10]; and

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

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

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

WHEREAS, the following Universities and Colleges have resolved to divest from companies complicit in human rights and international law violations in Palestine: Earlham College, Evergreen State College, Oberlin College, UC Berkeley, UC Irvine, UC Riverside, UC San Diego, University of Massachusetts – Boston, University of Michigan – Dearborn, University of Wisconsin – Platteville, Wayne State University [11]; and

WHEREAS, numerous Israeli human rights groups, like B'Tselem, Israeli Committee against Home Demolitions, Rabbis for Human Rights, and Checkpoint Watch, have spoken out against the Israeli government's illegal home destructions; and

WHEREAS, our sister school University of Arizona is petitioning Arizona Board of Regents about their university's investments and complicity in Caterpillar; and

WHEREAS, 480 students recently signed a petition calling on ASU to divest from Caterpillar; and

THEREFORE BE IT RESOLVED, that the USG supports divestment from and ceasing all business with Caterpillar Inc.

BE IT FURTHER RESOLVED, that the USG will call for ASU Foundation's Investment Committee and the Outsourced Chief Investment Officer to remove ASU funds from Caterpillar stocks, specifically, in the portfolio of Adage Capital Partners.

BE IT FURTHER RESOLVED, that the USG will call for ASU's contractors to cease the use of Caterpillar equipment on ASU property.

BE IT FURTHER RESOLVED, that the USG will examine its assets and ASU assets for funds being invested in companies that a) provide weaponry or other military support for the occupation of the Palestinian territories or b) facilitate the building or maintenance of the wall or the demolition of Palestinian homes, or c) facilitate the building, maintenance, or economic development of illegal settlements on the Occupied Palestinian Territory, or d) aid and abet the militarization of the US-Mexico border and the resultant humanitarian crisis.

BE IT FURTHER RESOLVED, that if at any time it is found that campus or ASU funds are being invested in any companies meeting any of these criteria, including Caterpillar, the USG will itself divest, and will advocate that the ASU Endowment Fund divest, all stocks and investments in such companies with the goal of maintaining the divestment, in the case of said companies, until they cease the specific offending practices; moreover, the USG will not make further investments, and will advocate that the ASU system not make further investments, in any companies materially

supporting or profiting from occupation in the above-mentioned ways, until a point in time at which they cease such practices.

BE IT FINALLY RESOLVED, that if at any time USG funds or ASU funds are found to be invested in companies profiting from organizations that target Israeli civilians, the USG and the ASU System should follow similar steps as outlined in the prior clause and divest those funds.

References

- [1] <http://www.icj-cij.org/docket/index.php?pr=71&code=mwp&p1=3&p2=4&p3=6&ca>
- [2] <http://unispal.un.org/UNISPAL.NSF/0/E29F7195C53CDDA905256729005035E4>
- [3] <http://www.state.gov/r/pa/prs/ps/2011/06/166371.htm>
- [4] <https://docs.google.com/document/d/1xelpDxm250B0ARuKAahBMNZqArT27e2j2KDMn1dVwK8/edit?usp=sharing>
- [5.1] <http://www.amnesty.org/en/library/asset/MDE15/033/2004/en/2193fae2-d5f6-11dd-bb24-1fb85fe8fa05/mde150332004en.pdf>
- [5.2] <http://www.hrw.org/print/reports/2004/10/17/razing-rafah>
- [5.3] <http://www.hrw.org/reports/2002/israel3/israel0502-01.htm>
- [5.4] <http://www.haaretz.com/print-edition/news/the-un-vs-caterpillar-1.125315>
- [5.5] <http://www.rabbisletter.org/caterpillar-tells-methodists-it-will-not-change-business-practices-relating-to-palestine/>
- [6] <http://www.mauricesherif.com/blog/index.php/the-u-s-government-said-it-plans-to-build-70-miles-of-16-foot-tall-5-meter-border-fencig-in-southern-texas/>
- [7] http://www.amnestyusa.org/sites/default/files/ai_inhostileterrain_032312_singles.pdf
- [8] <http://www.amnesty.org/en/library/asset/MDE15/033/2004/en/2193fae2-d5f6-11dd-bb24-1fb85fe8fa05/mde150332004en.pdf>
- [9.1] <http://www.hrw.org/en/reports/2004/10/17/razing-rafah>
- [9.2] <http://www.haaretz.com/print-edition/news/the-un-vs-caterpillar-1.125315>
- [9.3] <http://www.pcusa.org/news/2010/7/6/committee-recommends-denouncing-caterpillar-action/>
- [10] <http://bigstory.ap.org/article/caterpillar-pulled-social-indexes>
- [11] <https://docs.google.com/document/d/1gGv602E5kPs3hHxpgMvarwhJ5aAVEcUsgGX3j5adxh0/edit?usp=sharing>