BDS Questions with SRIAC Responses

March 4, 2015 5:00p

The following questions were submitted on December 12, 2014 by Earlham students and alumni who are concerned that SRIAC has not recommended that Earlham divest from investments in Caterpillar, Hewlett-Packard, and Motorola Solutions. SRIAC responses to those questions are shown in italics.

BDS Earlham Questions:

• In a great deal of SRIAC’s responses to divestment proposals on campus, there has been concern regarding campus unity with regards to divestment measures. For example, in response to BDS’s 2012 resolution to divest from Hewlett Packard, Motorola Solutions and Caterpillar, SRIAC wrote “that there is substantial disunity and polarization on how best to proceed [with divestment].” BDS has continued to pursue divestment through educating the campus about the Occupation and opening up spaces for conversation. As we proceed in these efforts, we seek to better understand the standard of unity among the Earlham community that SRIAC envisions as necessary in order to move forward with divestment measures.

SRIAC is reluctant to recommend taking an institutional stance on which the broader Earlham community is not in substantial unity. Our concern is not simply campus unity, but also unity among the broader group of stakeholders who have contributed to Earlham’s endowment, and to those who will benefit from it in the future. This list of stakeholders include students, teaching and administrative faculty, staff, alumni, donors, parents, trustees, and other friends of the College, including those who contributed in the past and to whom we are obliged in perpetuity. It would be poor stewardship to use the reputation of the College to advance a cause not directly related to the mission of College if doing so would divide the community against itself or against the institution. While we recognize that absolute unity would be difficult to achieve or measure, substantial disunity warrants great care. Further, we are mindful that taking an institutional stance may have the effect of marginalizing or alienating members of the community who disagree with that stance. For these reasons, we set a high threshold for unity in order to make a divestment recommendation.

A worthwhile example for comparison might be the case of apartheid in South Africa. Opposition to apartheid and support for South African divestment was virtually universal among all parties associated with Earlham, and opposition could reasonably be inferred for deceased Earlamites and Friends whose bequests we manage. This opposition resulted in a decision to divest from some companies doing business in South Africa. [Note: Earlham did not divest from all companies doing business in South Africa. We did divest from companies that were considered to be the worst offenders according to Sullivan Principles.] We do not sense there is comparable support for divesting in Motorola Solutions, Caterpillar, and Hewlett-Packard.
• In SRIAC’s response to BDS’ 2012 divestment proposal, it was indicated that: “SRIAC has considered information submitted subsequently by the BDS campaign at Earlham, and gathered through meetings with students supporting BDS and other students on campus. SRIAC has also gathered information through contacts with representatives of Caterpillar, Motorola Solutions, and Hewlett Packard and with other institutions that have addressed similar proposals related to socially responsible investing”, what did the information gathered from meeting with other institutions, the firms, and students, on campus indicate regarding to BDS?

Information gathered from BDS and other students on campus, and from alumni and donors, indicated that there was substantial disunity with regard to recommending divestment.

The responses from Caterpillar, Motorola Solutions, and Hewlett-Packard confirmed that their involvement was sufficiently indirect or of such a percentage of sales or profit as to be excluded from general consideration by the SRI Policy. For instance, Caterpillar affirmed their published claims that they do not sell bulldozers to the Israeli Defense Force (IDF), nor do they armor them. Instead, they sell to the US government, which delivers them to a variety of recipient countries. Any armor is added after delivery.

Our contacts with other organizations made us more keenly aware of the ways in which other organizations are accountable to different constituencies and operate under different policies, standards, and decision-making processes.

Recently, on February 6, 2015, two members of SRIAC met with BDS students and alumni to further discuss specific claims against these companies with respect to human rights violations. SRIAC will give further consideration to these claims during the Spring of 2015.

• Previously, SRIAC has raised concerns regarding the impact that a decision to divest from Motorola Solutions, Hewlett Packard, and Caterpillar would have on the school’s educational mission. In SRIAC’s response to BDS’s 2012 divestment proposal it was stated “such an action is likely to do more harm than good to Earlham in carrying out its educational mission”. In the most specific terms possible, please explain the rationale behind this assertion. On the contrary, does SRIAC see ways in which a decision to divest could serve the school’s educational mission? Has SRIAC been in contact with other educational institutions that have chose to divest?

Any time Earlham places a firm on our Do Not Buy list, we lose investment flexibility. This may mean accepting a lower return on our investments or increasing risk due to lower diversity, either of which harms our educational mission by reducing our financial resources. Because legally we have a fiduciary responsibility to make optimal use of our endowment to fund the College, the Trustees have placed a high bar on disinvestment.

Additionally, a recommendation to divest would likely alienate a significant number of
students, faculty, alumni, parents, and donors who support the institution in a number of ways: by attending, by teaching, by representing Earlham in the wider world, by entrusting their students to our care, and financially. We believe that such alienation would diminish financial and other valuable support for the institution. Further, a decision to divest in the face of substantial disunity would undermine the ongoing conversation on campus and within the wider Earlham community about how to best facilitate peace in Israel/Palestine. It is difficult to imagine ways in which divestment in the face of substantial disunity could further Earlham’s educational mission. We are not aware of any peer institutions who have divested from these companies.

- For alcohol, tobacco, and firearms companies there are set numbers on the amount of returns that a company can receive from the sale of these products, which would make them uninvestable by the SRI Policy standards. However, under Section II Subsection A in the SRI Policy, there is no number determining how much of a company’s overall return can come from “active involvement with governments in the violation of human rights” in order to make them uninvestable under the SRI Policy. While the section states that these practices must be “persistent and widespread,” such a marker is vague when viewed in relation to the explicit standards set for alcohol, tobacco, and firearms. Could members of the committee concretely convey SRIAC’s understanding of what constitutes “persistent and widespread behavior”?

SRIAC interprets the phrase “persistent and widespread” in the context of the numeric thresholds established for alcohol, tobacco, gambling, and firearms. That is, abusive behavior associated with 40% of a company’s operations would prima facie be persistent and widespread; abusive behavior involving 0.1% of a firm’s operations would not be. We do not establish a zero-tolerance stance toward companies that deviate in any way from our policy, but that any ill-gotten gains must be significant and substantial. We interpret “persistent” to mean over a substantial period of time. We interpret “widespread” to mean in many parts of a firm’s operations—in many parts of the world, in many of the company’s divisions, etc. In the context of the BDS request, we acknowledge that some units of all of these companies have been engaged with Israel over a substantial period of time. We have not been persuaded that, in the context of these firms as a whole, there has been persistent and widespread abuse.

- (a). Do other institutions use “persistent and widespread” as the sole screen to determine whether or not to divest from companies complicit in human rights abuses. For example, there may be cases where a given practice may not be “widespread” if measured in terms of a firm’s overall returns, but is persistent and particularly grave. Are there any other institutions that utilize this standard? Is this a standard that you all have taken into account in your decisions?

We have not examined the policies of other educational institutions specifically with respect to the terms “persistent and widespread”. We believe it reasonable for the policy to include language that requires the abuse to be significant or substantial. We acknowledge that a sufficiently egregious abuse could engender widespread support for divestment even if the abuse were not widespread.
• (b). In part this question comes in response to SRIAC’s response to BDS’s 2012 divestment proposal, where SRIAC stated that the companies targeted by BDS provide goods and services that are used throughout the world in many different contexts. SRIAC wrote that it “judges that these goods and services are, by a wide margin, more often used for good and peaceful purposes”. Given the ambiguity of the “widespread and persistent” stipulation in the SRI Policy, we are wondering what standards the committee used to deem the morally objectionable practices of Hewlett Packard, Motorola Solutions, and Caterpillar as neither persistent nor widespread. Please be specific as possible. Does the fact that these companies provide goods and services that are beneficial negate that they are involved in committing human right violations in other parts of the world?

We did not reach the clear conclusion that the practices of these companies constituted human rights abuses, nor did we reach the clear conclusion that these companies are not complicit in human rights abuses. Reasonable people disagree about this. We concluded, simply, that the profit derived from engagement in Israel, if ill-gotten, was well below the threshold to warrant divestment. For instance, Motorola Israel’s sales are about 1% of those of Motorola Solutions, and much of those sales have been to do things like building civilian mobile phone systems.

• In the SRI Policy, it is stated that SRIAC seeks to act “in concert with other like-minded investors” in giving “witness” to the “belief that that life and dignity that every person should be respected.” We are wondering if SRIAC has been in contact with other Quaker or otherwise like-minded institutions when deliberating on decisions regarding divestment. Given the rise of both Quaker and religious institutions that have chosen to divest from both profiting from and aiding the occupation of Palestine (companies that include Hewlett Packard, Caterpillar, and Motorola Solutions), we are wondering how those decisions may impact SRIAC’s potential decisions regarding whether or not to invest in the companies currently being targeted by BDS. If SRIAC has not been in contact with other Quaker or religious institutions who have chosen divestment, we are wondering if we could help facilitate conversations between SRIAC and other institutions that have chosen to divest.

SRIAC consulted with other organizations (Quaker organizations Friends Fiduciary and American Friends Service Committee) and noted other public decisions during its deliberations. We found that the policies, decision processes, and constituencies of those organizations were in significant ways different from those of Earlham and may have reasonably led those organizations to other conclusions.

• Lastly, we are wondering what the role of alumni in the wider discussion regarding divestment. As growing numbers alumni are raising concerns with regards to Earlham’s investments, we are wondering how alumni are being contacted regarding this matter? What is the role of the alumni council in particular in the question around divestment?

The College and members of SRIAC have received letters on both sides of this issue from
alumni, but we have not actively or broadly sought input from alumni. If it is within the charge of the Alumni Council to consider such questions, SRIAC would certainly welcome their considered opinion on the topic. However, we believe that such matters are outside the realm of Alumni Council and its charter. The AC is primarily a collection of volunteers who support various activities of the College and is not constituted in a way that is meant to represent alumni in matters of College governance. In any case, SRIAC, not the Alumni Council, is responsible and accountable for making any recommendation regarding socially responsible investment in accordance with the Policy approved by the Trustees and the Foundation Board.

Alumni Questions:

- Have other alumni contacted the SRIAC about this issue?

There have been a handful of letters that have come to our attention. Others may have been responded to directly by the Alumni or Development offices.

- Are there alumni on SRIAC? If not, is there a direct avenue through which alumni are involved in investment decisions, given that alumni contributions are a significant part of Earlham’s operations? Is SRIAC in dialogue with the Alumni Council?

Three of the nine members of SRIAC are alumni, which is typically the case. Two members of the committee are designated members of the Board of Trustees. Currently, 18 of the 24 members of the Board of Trustees are alumni of the College. The President of Alumni Council is a member of the Board of Trustees. The Alumni Council has not communicated any decision or recommendation on this matter to SRIAC.

- In concrete language, what is the most pressing concern of SRIAC in accepting a proposal from BDS?

SRIAC is to recommend divestment from companies whose persistent and widespread behavior results in active involvement with governments in the violation of human rights. It is not clear to the Committee that the activities of these companies rise to the level of human rights abuses, or that these activities are widespread.

- What’s the threshold? Why have the SRIP if we’re not using it to guide our investment principles?

The threshold is “persistent and widespread”, about which we have elaborated in some detail above. We dispute the claim that we are not using the Socially Responsible Investment Policy to guide investments or to guide our investment principles. We take our responsibilities seriously, but recognize that not everyone reaches the same conclusions about these companies or on how to best proceed with respect to Israel/Palestine.