Divestment from Companies whose Direct Violations of International Law have an Injurious Impact on Palestinians:
Petition to the Trustees of Stanford University

In accordance with the Trustees' responsibilities under the University's Statement on Investment Responsibility Concerning Endowment Securities (hereinafter the "SIRCES"), and in recognition of the fact that the "specific actions" of certain companies are "resulting directly" in an "injurious impact" on Palestinians and other individuals and groups, where the actions of those companies "violate ... rules of ... international law intended to protect individuals and/or groups against deprivation of basic freedoms [and] human rights," and where the actions of those companies are "proximate to and directly responsible for" the "identifiable social injur[ies]," we hereby petition the Trustees of Stanford University to take the actions required by section 2.3 of the SIRCES, including—where applicable—selling the securities held by Stanford, with respect to all companies that do one or more of the following:

1. **Facilitate acts of collective punishment** in the Occupied Palestinian Territories—including home demolition, land confiscation, and military action against civilians—in violation of Article 33 of the Fourth Geneva Convention, which states that "no protected person may be punished for an offense he or she has not personally committed."²

2. **Operate within Israeli-only settlements** in the Occupied Palestinian Territories in violation of Article 49 of the Fourth Geneva Convention, which states that: "The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies."³

3. **Support the building and/or maintenance of the "separation barrier"** constructed by Israel in the West Bank, deemed "contrary to international law" by the International Court of Justice.⁴

4. **Engage in practices that institutionally discriminate** against people of a particular race, religion, or ethnicity in Israel and the Occupied Palestinian Territories, in violation of Article 2 of the International Convention on the Elimination of All Forms of Racial Discrimination (which requires all parties "to engage in no act or practice of racial discrimination against persons, groups of persons or institutions") and Article 2 of
the International Covenant on Civil and Political Rights (which expands the protected characteristics of individuals to include "colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status").

Prominent examples of companies that do one or more of the above are Ahava, Motorola, Caterpillar, Lockheed Martin, Riwal, Roadstone Holdings, Mekorot Water Company, and Veolia Transport; therefore, to the extent Stanford is invested in these companies, we urge the Trustees to immediately take the actions required by section 2.3 of the SIRCES. However, there are many other companies that directly contribute to one or more of these illegal and injurious activities; therefore, we also urge the Trustees to publicly adopt the above criteria as indicative of "substantial social harm" under the SIRCES, so that the Stanford community is well-placed to bring other relevant companies to the Trustees' attention.

Given the role of divestment in ending systematic apartheid in South Africa, advancing the dialogue on human rights violations in the Sudan, and undermining the conflict minerals trade in the Congo, we believe that divestment can also generate the pressure necessary for Israelis and Palestinians to negotiate peace. We remind the Trustees of Stanford's Code of Conduct, which requires all of us "to ensure we fulfill our legal and ethical obligations ... to persons outside Stanford," as well as Stanford's founding grant, which stipulates that the objectives of the university include "promot[ing] the public welfare by exercising an influence on behalf of humanity and civilization."

Sincerely,

The Undersigned

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1 All quotation marks in this paragraph refer to the text contained in endnote 1 of the SIRCES.

2 The de jure applicability of the Fourth Geneva Convention to Palestinians in the Occupied Territories has been confirmed by:

- the International Court of Justice (see paras [90]-[101] of Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004, p. 136),
- the General Assembly of the United Nations (e.g. A/RES/57/269, March 5, 2003),
- the Security Council of the United Nations (e.g. S/RES/681, December 20, 1990),
the International Committee of the Red Cross (see the ICRC's Statement dated December 5, 2001), and

all parties that participated in the Conference of High Contracting Parties to the Fourth Geneva Convention (see this Declaration).

For a detailed academic discussion of the international consensus, see the Harvard Program on Humanitarian Policy and Conflict Research’s Review of the Applicability of International Humanitarian Law to the Occupied Palestinian Territory (July 2004).

The Israeli government’s use of “home demolition, land confiscation, and military action against civilians” as collective punishment has been well documented. Some of the most comprehensive resources are:

- Amnesty International's 2004 report titled Israel and the Occupied Territories: Under the Rubble: House Demolition and Destruction of Land and Property;
- the 2003 report written by international human rights lawyer Shane Darcy for the Palestinian human rights organization Al Haq, titled Israel's Punitive House Demolition Policy: Collective Punishment in Violation of International Law; and
- the website of the Israeli Committee Against House Demolitions.

Regarding the applicability of the Fourth Geneva Convention to Palestinians in the Occupied Territories, see endnote 2.

The existence of Israeli-only settlements in the West Bank is undisputed. The illegality of those settlements has been confirmed by:

- the United States Government (see the letter dated April 21, 1978 written by State Department Legal Advisor Herbert J. Hanssell, extracted at para [84] of this United Nations Report);
- the International Court of Justice (see para [120] of Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004, p. 136),
- the General Assembly of the United Nations (e.g. A/RES/51/592, February 20, 1997),
- the Security Council of the United Nations (e.g. S/RES/471, June 5, 1980),
- Amnesty International (see Amnesty's 2010 Report into Human Rights in Israel and the Occupied Palestinian Territories),
- Human Rights Watch (see page 1 of Human Rights Watch's 2011 Report into Human Rights in Israel and the Occupied Palestinian Territories), and
- the Israeli NGO B'Tselem (see page 22 of B'Tselem's 2010 Report into Human Rights in the Occupied Territories).

In summary, the International Court of Justice found that:

- "the construction of the wall ... severely impedes the exercise by the Palestinian people of its right to self-determination, and is therefore a breach of Israel's obligation to respect that right" (para [122]);

- "the construction of the wall has led to the destruction or requisition of properties under conditions which contravene the requirements of Articles 46 and 52 of the Hague Regulations of 1907 and of Article 53 of the Fourth Geneva Convention" (para [132]);

- "the construction of the wall and its associated régime impede the liberty of movement of the inhabitants of the Occupied Palestinian Territory ... as guaranteed under Article 12, paragraph 1, of the International Covenant on Civil and Political Rights", ... impede the exercise by the persons concerned of the right to work, to health, to education and to an adequate standard of living as proclaimed in the International Covenant on Economic, Social and Cultural Rights and in the United Nations Convention on the Rights of the Child", and "by contributing to ... demographic changes ..., contravene Article 49, paragraph 6, of the Fourth Geneva Convention" (para [134]); and

- "the specific course Israel has chosen for the wall was [not] necessary to attain its security objectives" and "cannot be justified by military exigencies or by the requirements of national security or public order" (para [137]).

The applicability of the International Covenant on Civil and Political Rights (ICCPR) to the Occupied Palestinian Territories was confirmed by the International Court of Justice in Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004, p. 136 (para [111]). The court's reasoning was that "the object and purpose of the ICCPR [make it] seem natural that, even when [a State exercises its jurisdiction outside its territory], States parties to the Covenant should be bound to comply with its provisions." The same reasoning had previously been adopted by the UN Human Rights Committee (see General Comment No. 31, para [10]).

There is no obvious way to justify a different conclusion in the case of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), and indeed the UN Committee on the Elimination of Racial Discrimination (CERD) has repeatedly stated that both the ICERD and the ICCPR apply to the Occupied Palestinian Territories for the same reason (see para [368] of CERD's 1991 Annual Report, para [12] of the Concluding Observations of the CERD meeting held on March 19, 1998, and para [225] of CERD's 2007 Annual Report). Furthermore, the ICCPR and the ICERD are both considered applicable to the Occupied Territories by Amnesty International (see Amnesty's 2007 Submission to CERD and its 2010 submission to the UN Human Rights Committee) and Human Rights Watch (see page 144 of Separate and Unequal, a report into "Israel's Discriminatory Treatment of Palestinians in the Occupied Palestinian Territories").

The institutional discrimination that characterizes Israel's control of the West Bank and Gaza is well-documented. Human Rights Watch's recent Separate and Unequal report contains a particularly detailed description of the situation in the Territories, while other relevant documents include the Report of the Special Rapporteur on the Situation of Human Rights in the Palestinian Territories Occupied Since 1967 (presented to the General Assembly of the UN on August 30, 2010), the Association for Civil Rights in Israel (ACRI)'s Shadow Report to CERD dated January 2006, and Amnesty International's 2010 submission to the UN Human Rights Committee.