

Tainted Money: The Ethics and Rhetoric of Divestment

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Philanthropy: Voluntary Action for the Public Good

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Returning to academic life after an absence of ten years in the world of corporate philanthropy, I was disappointed to read that "anti-apartheid students" at the University of Virginia had disrupted a closed meeting of the Board of Visitors and held an overnight vigil in the rotunda. The students reportedly demanded that the board withdraw university investments in companies doing business in South Africa or face continued disruption of its meetings.

I was disappointed, but not surprised. Reports from campuses around the country for several years have made it clear that political theater is the chosen style of discourse for advocates of divestment. I suspect it is because their "movement" has never attracted broad interest, much less strong support. To have their way they must rely on intimidation. Using such tactics does serious harm to what I believe to be the university's central mission: to develop and clarify social thought and to uphold and improve public discourse.

The quality of public discourse is one aspect of my concern. The other follows from my recent experience with the ethical implications of divestment for universities as well as for corporations. My example is drawn from Harvard's decision to announce last October 3rd that it would divest \$158.7 million of stocks and bonds held in nine companies. Five of those companies were oil companies, and one of the oil companies was Exxon. At the time, I was president of the Exxon Education Foundation

(and continue to serve it as a consultant). Because I am also a former college president, I was asked by Exxon management for my comments and suggestions.

It is convenient at times to use Harvard and Exxon to illustrate the divestment controversy because both are symbols of great power, wealth, and responsibility. They can easily withstand the heat of controversy. I have great respect for both institutions, although I am on Exxon's side in this case and critical of Harvard. I speak only for myself, of course, in all of the opinions expressed.

- Given the fact of Harvard's divestment of Exxon's stock, should Exxon continue to make philanthropic grants to Harvard?
- Given Harvard's action, indeed, should Harvard be willing to accept philanthropic contributions from Exxon? (For the sake of argument, set aside Exxon's decision last winter to leave South Africa.) And, in recognition of the recent events at the University of Virginia, the ancient question:
- What is the role of the university in taking stands on specific public issues that have no direct bearing on the university's activities?

There are important practical as well as moral considerations involved, and it is the kind of messy problem that defies simple answers. "The spirit of liberty," as a Harvard document quotes Judge Learned Hand, "is the spirit which is not too sure it is right."¹ I am not at all sure that I am right, but then I'm not too sure that Harvard is. I am most certain that the methods of the protestors at Virginia are wrong.

Harvard announced that it would divest Exxon's stock because there was a possibility that Exxon was selling products that were being used by the South African police and military to implement the system of apartheid. In the spring of 1985 Harvard had decided that that was the bottom line: it would divest from companies whose products or services might be used in that way. Harvard had to assume that Exxon's products were being used by the police and military because Exxon was precluded by South African law both from refusing to sell its products to the government and from making public the details of what it sold.

Harvard was uncomfortable because of "the strong record of the five oil companies and Ford [Motor Company] in opposing apartheid and adopting progressive labor policies." Until this action, Harvard's selective divestment policy was aimed at companies that failed to take the Sullivan Principles seriously. Exxon had always earned the highest rating by Reverend Sullivan's criteria. None of that balanced the requirements of the new policy, however. Harvard praised the companies but denounced the consequences of their work. Harvard recognized that its actions might not be well understood and that "the broader community will not perceive the subtleties of this complex matter." Harvard also admitted that its action could "stigmatize the companies involved. . . ."

Harvard expressed the hope that its arguments would withstand careful scrutiny: "Consistency in the application of our policies is essential for our position to stand against repeated assaults, and we are obviously not pleased if our supporters are bruised in the process by our actions."

Those words are in a letter from Harvard to an oil company (not Exxon), which had posed the awkward question of whether Harvard intended to

¹ Harvard University Corporation Committee on Shareholder Responsibility, "CSR Statement on Investment Policy," *Minerva*, Vol. 24, nos. 2-3, 1986, p.

accept philanthropic support from a company whose stock was deemed unacceptable on moral grounds:

In light of your favorable comments ... and our past relationship, we must point out that part of the financial support you have received from us is generated by the earnings of our affiliate in South Africa, and this shall continue to be the case in the future. Before we consider any new commitments, in view of your strong feeling concerning the morality of [your] decision, we would appreciate knowing whether you wish us to continue our financial support.

Harvard's response followed:

... the specific answer I would like to offer is-yes, Harvard would like to continue its longstanding relationship with [your company], despite the fact that we will be disposing of our security holdings in your company over the next 12 months.

In a separate exchange, a different company posed a similar question to another university:

The question we must ask ourselves now is what we ... should do about future payments in light of the action taken by [your] university....

You can understand our dilemma. We would not wish you to take money from a company you consider to be acting immorally. We would not wish to contribute to an academic

institution that is seeking to use its economic power as a political weapon to compel us to follow policies that would jeopardize the jobs of our employees. We would understand, but hardly sympathize, with an action taken simply to avoid trouble.

The same question has been posed to other divesting colleges and universities and invariably has received the same response: Yes, we cannot hold your stock for moral reasons, and yes, we will be happy to continue to receive your support.

The rationale for the different perspectives has been put this way by a university president in what may become a classic text:

A business corporation exists to make a profit; a university exists to advance an ideal. Your decisions necessarily involve calculations of costs and benefits; ours, though cognizant of economic realities, can take basic moral values into greater consideration. You are constrained by statute and some sense of public image; we face additional constraints imposed by our statement of mission and responsibility to our many disadvantaged constituencies.

Thus on issues like South Africa investment we must adhere to different standards from the ones you espouse....

Another college argues that it doesn't impugn the company's motivations in doing business in South Africa and "we would hope that you would not impugn ours for dissociating ourselves from all business activities in that troubled land."

In spite of these professions of virtue and efforts to avoid appearing moralistic, it seems to me clear (a) that the colleges and universities have made South Africa a moral issue, and (b) that they see themselves in a position morally superior to that of business corporations.

In a guide to the divestment controversy published by the American Council on Education in May 1985, "the argument for divestment" was summarized this way:

Arguments for divestment are based, first, on moral grounds. Along with churches, colleges and universities are expected to reflect in their actions a concern for social values and basic human rights. Thus, responsible investment policy should preclude an investor's profit at the expense of its moral convictions.²

It is of such stuff that moral majorities are made. It is presumptuous for universities to take on a moral role when there is such profound division within them—both about the content of that moral role and about its tendency to impose intellectual conformity on faculty and students.

Should corporations stop making grants to Harvard and to other divesting colleges and universities? Should universities decline to accept gifts and grants from companies that fail to measure up to (changing) standards of behavior in South Africa?

When I tried to assess my own thoughts on the matter, my first reaction was to say that Harvard should refrain from seeking support as long as Harvard is caught up in basing its investment decisions on a narrow moral

² American Council on Education, *Perspective: College Sanction-s on South African Investments*, 1985, p. 33.

position. My conclusion after thinking about the question for six months remains substantially unchanged. To borrow a term used by moral philosophers, I question Harvard's *moral seriousness*. As I understand it, to be morally serious means to be prepared to accept the consequences of one's moral position. I take that to mean in this case that Harvard should deny itself the benefits of corporate philanthropy when that philanthropy is in part dependent on what Harvard has condemned as ill-gotten gains.

Less "consistency in the application of [its] policies" would mean that Harvard return to the more balanced and broader approach to investment in companies doing business in South Africa. The appearance of moral arrogance would be avoided, and both parties could return to disagreements reflecting their different perspectives.

Unlike those who think it is possible to purge investment decisions of all social values, I believe that "ethical investment" is a defensible practice-if one accepts the consequences. If I choose not to invest in gambling casinos because I believe that kind of business to be morally corrupt, I can invest in a "cleaner" business and risk a lower rate of return on my investment.

There are, in other words, not only individual companies I would not invest in, there are whole industries I want no part of. If that means I cut myself off from their philanthropic support as well as investment income, so be it. Benevolence may not cost anything; beneficence does.

There are lots of reasons, good and bad, for -making investment decisions. Some of the reasons are cast in moral terms. The more one bases economic decisions on moral values, the more difficult it will be to survive economically. I have to be prepared to accept the economic consequences of my non-economic values.

And it is a hard world out there. As Derek Bok advised his colleagues at Harvard:

Unless we choose to live like hermits in the desert, we must all be linked in indirect and innumerable ways to the wrongs of the world—through the goods we buy, the taxes we pay, the services we use, the investments we make.³

The problem facing multinational business corporations in today's world is that some of them—like Exxon—often are doing business in as many as a hundred countries. On any given day, Amnesty International will be reporting on human rights violations in many of those countries, and Freedom House will have classified most of them as oppressors of free speech and democracy. (There is also the problem of residual evil from past sins: There are those who have not forgiven the Germans for Hitler, the Russians for Stalin, the Japanese for Pearl Harbor, the British for imperialism, the Americans for Viet Nam, etc.)

Doing business successfully at all in the modern world is difficult. Being ethically sensitive makes it more so. To the extent that being ethical means being consistent, a moral stand on one issue requires a similar stand on similar issues. Knowing where closure comes is difficult.

I conclude that Harvard should not accept support from companies whose stock it disqualifies on moral grounds. Harvard's argument—that there is a fundamental difference between its active role as an investor and its passive role as a recipient of grants—does not wash. Harvard does not want to launder the reputations of the morally unworthy, directly or indirectly.

³ Derek Bok, "An Open Letter to the Harvard Community," *Minerva*, *op. cit.*, pp. 248-249.

What about Exxon? Exxon announced earlier this year that it was selling its interests in South Africa and the question is now moot. Exxon is presumably again qualified to be welcomed back to Harvard's portfolio. The question of Exxon's response is still worth asking, however academic it may have become in the meantime.

My conclusion is simpler about corporations than it was about the universities, although perhaps not easier to defend: Corporations should keep their relationships with colleges and universities in long-term perspective. Those who would applaud an end to corporate philanthropic support of Harvard include (a) some who hate Harvard and (b) some who hate Exxon (apart from those who hate them both for being rich and powerful). There are also those who believe that philanthropy should be doled out only to ideological allies and the well-behaved, and those who believe that corporate philanthropy corrupts the university.

The relationship between business and higher education has served the private interests of both and the public interest as well. There are times when each party tries to take advantage of the other. On the average, however, it has been a valuable and constructive relationship, which is one of the reasons I was so disappointed with Harvard in this case.

What is "Harvard," after all? On the divestment issue I draw on two sources: Roderick M. MacDougall, Harvard's treasurer and chairman of the Corporate Committee on Social Responsibility (he shared with me the letter I've quoted earlier) and one of the most thoughtful and persuasive writers on the South Africa divestment effort, Derek Bok (his two open letters to his Harvard colleagues are masterful). The problem is that he failed to win the argument. I agree with Bok and disagree with MacDougall, and infer that they disagree with each other. It seems certain

that there is deeply divided opinion on the issue at Harvard, especially in the faculty. (Was it Mary McCarthy who once defined a faculty member as "someone who thinks to the contrary"?) Various forces are always at work trying to tie "Harvard" down to one moral or political position or another, and the consensus, if reached, is fragile at best.

Exxon, however, is by definition (at least to this point in time) a much more closed and disciplined organization. It doesn't encourage free-wheeling internal debate on such matters throughout its executive ranks, but assigns problems to specific people for analysis and recommendation. Although the process is more orderly than in universities, it doesn't mean that those charged with the responsibility of dealing with corporate controversies of this kind don't talk and fret and analyze them to death. Responsibility is especially burdensome when one is expected to be wise as well as smart.

Exxon certainly does not see itself as bearing the burden of moral spokesman for society. It gladly leaves that role to others. At the same time, an Exxon is not the amoral, greed-driven monster its critics make it out to be. An Exxon reflects the morality of its society and—voluntarily or under duress—accepts it. It is on such grounds that companies like Exxon have developed over the years "philosophies" of corporate social responsibility. They have gradually modified and broadened their perspective to include "communities of principle" as well as "communities of interest" (Henry Shue, *Basic Rights, Subsistence, Affluence, and U.S. Foreign Policy*, 1980).

It is within the young tradition of corporate social responsibility—say, since the 1920s—that leading corporations like Exxon accepted the Sullivan Principles. In Exxon's case, there was little business interest in South Africa, but it provided philanthropic support to help blacks in South

Africa. It also played a leading role in the South African Exchange Program of the Institute of International Education. Morality—called "enlightened self-interest" to make it more palatable—has infected the economic values of business corporations, too.

The fundamental difference is that Exxon had direct moral as well as economic commitments in South Africa, and Harvard doesn't. There are no risks to the lives of Harvard's employees in South Africa, but there were to Exxon's.

In spite of divestment, Exxon should deal with Harvard in the same way it always has. It should continue to make grants and to provide other kinds of support on the merits. But the matter shouldn't be left there. Somehow, the Harvards and the Exxons should better understand how their conflicts or cooperation affect the public interest. That is unlikely to happen in the sometimes hysterical arena of campus discourse; it might happen behind the closed doors of corporate offices, where critics are too seldom made welcome.

The divestment issue raises a number of vexing problems that only true believers wish to ignore. Divestment raises the question of "tainted money," for example. Although Harvard would like to put the blame on the South African government's policies in this case and let the oil companies merely be the victim rather than the culprit, the fact is that the oil companies may have been engaged in a business activity that Harvard found morally objectionable in its consequences. It might be all right for *them*, Harvard implied, but we have no reason to be a party to such behavior. The implication, if it holds, is that the oil companies, were they only more committed to morality and less committed to their profits, would not have to be tainted by the stain of helping apartheid inadvertently.

The term "tainted money" was coined in 1895 by a Congregational minister named Washington Gladden, an active figure in the Social Gospel movement of the time. In 1905 he led an attack on the mission arm of his denomination for accepting a gift of \$100,000 from John D. Rockefeller. His language echoes over the decades: "The church which accepts the Standard Oil Company as its yokefellow can hardly hope to keep the respect of right-minded young men and women. Gladden offered this motion:

. . . that the officers of this board should neither invite nor solicit donations to its funds from persons whose gains have been made by methods morally reprehensible or socially injurious.⁴

If to be morally serious means accepting the consequences of one's actions and beliefs, then those who hold such views must side with Reverend Gladden. Gladden argued with easy optimism that other good Christians would come forward and provide the \$ 100,000 if the mission board would return Rockefeller's check. The sticky part is that that often does not happen. Those who seek purity in the sources of funds also run the risk that those they set out to help won't get that help. For Reverend Gladden, to be morally pure (as well as morally serious) meant that he must risk denying the Christian message to those in need of it. His moral posture was perhaps more important to him than his commitment to religious mission.

Episcopal Bishop Paul Moore, Jr., a contemporary Washington Gladden, was recently part of a delegation to South Africa. He met with business executives, blacks in townships, and political leaders. He was near a bomb explosion. He heard, from President Kenneth Kaunda of Zambia, "his deep fear that if South Africa were to explode, all of South Africa would be

engulfed and hundreds of thousands would be killed." Even so, Bishop Moore concludes in a newsletter article for the Cathedral of St. John the Divine in New York City that such an outcome is bearable, even supportable:

It may take a long time, more pain, but the people are willing to suffer almost anything in order to attain freedom. You could feel that. It was unmistakable and, in a way, deeper than anything I saw or heard during my visit. It was faith, pure faith.⁵

It may be the faith of black South Africans, but it is also *their* blood; the Bishop's faith, perhaps, but not *his* blood. Nor is it Harvard's. It could have been Exxon's, because Exxon people were there. Nor is the blood that might be spilled that of the "anti-apartheid students" at the University of Virginia.

Nor is it mine.

The moral dilemma of those who seek to do good is that they may instead do harm—in this case, terrible, irreparable harm. Is it more damnable to risk other people's lives by encouraging a more violent course than it is to permit continuing oppression?

I should make my position clear: I believe that it is not in the best interest of black and colored South Africans (or white South Africans, either) that leading American business corporations leave that country. Disinvestment is certain to be followed by a steady deterioration of business practice. For

⁴ Washington Gladden, "Tainted Money," in *The New Idolatry*, McClure Phillips, 1905.

⁵ Paul Moore, Jr., "Danger and Hope: Images of South Africa," from the newsletter of the Cathedral of St. John the Divine, New York, n.d., p. 6.

all their faults, the best American business corporations—and I include my former employer in that category—make serious efforts to be socially responsible. Their failures are probably no more frequent or serious than those of great universities.

To pose another question: What is the proper relationship between donors and donees on social questions like this? If a university comes to a different conclusion from a corporation on the best strategy to help South Africa become a civilized nation, should that break the relationship? The divestment "movement" has pushed moderates like myself to the limit. Others have quickly gone beyond that: "Anyone who won't own my stock doesn't deserve my support," they might argue. "If you won't accept the consequences of your actions, I will."

In the Harvard-Exxon case, so much weight was put on one aspect of Exxon's business activities in South Africa that it outweighed all other considerations. That is questionable in itself; it quickly brings to mind as well the thought that later on, on another issue, Harvard might also decide to ask for purity of result as well as nobility of intention. As Murray Kempton pointed out (in a telling review of a book that seeks to "rate America's corporate conscience,") "the more delicate the calibrations, the worse the confusions in the measurement of conscience."

There are further implications in the South Africa case. A recent initiative would ban investment of public funds in companies doing business in Northern Ireland. Jesse Jackson recently added Argentina, Chile, and Peru to his list. Whose list should we use? How long must it be?

Divestment has a further consequence, familiar to those fortunate enough to have read Albert O. Hirschman's *Exit, Voice and Loyalty* (Harvard, 1970). As long as you own stock, you have voice; when you sell your

stock you exit your relationship and you lose your right to speak. (A Virginia faculty member argued that the university should keep its investments and use its shareholder position to press for disinvestment. The strategy makes sense even if you disagree—as I do—with American business withdrawal from South Africa.)

Whether universities should take positions on issues such as South Africa, either rhetorically or financially, can best be answered by voices from two of my favorite universities. The first is that of Derek Bok:

At bottom, this is also a dispute about the nature of the University itself and the ways in which it should and should not respond to evil in the outside world.... Much as I oppose apartheid, I strongly believe that universities should not use their power to press their political and economic views on other organizations and individuals beyond the campus.⁶

That was written in 1984. In 1967, in an even more highly charged environment, a committee of the University of Chicago issued a "Report on the University's Role in Political and Social Action":

The instrument of dissent and criticism is the individual faculty member or the individual student. The university is the home and sponsor of critics; it is not itself the critic.... In the exceptional instance, these corporate activities of the university may appear so incompatible with paramount social values as to require careful assessment of the consequences. These extraordinary instances apart, there emerges, as we see it, a heavy presumption against taking

collective action or expressing opinions on the political and social issues of the day, or modifying its corporate activities to foster social or political values, however compelling or appealing they might be.⁷

In addition to the moral commitment to protect academic freedom, there is a self-interested reason to hold such views. Intruding in the affairs of others exposes one to retaliatory intrusion in one's own affairs. Is a symbolic action (especially one of dubious effectiveness) worth such risk? How often should one take the risk? What makes an instance extraordinary, exceptional?

In any event, there are other options open to anti-apartheid activists. Universities provide space and often financial and logistical support to a wide range of political organizations. Why is it necessary to force the university as an institution into an extreme and awkward position on the South African issue?

My own opinion is that the divestment "movement" has not been much of a campus movement at all. It is very narrowly based and commands token and largely uninformed support. The tactics of many divestment advocates have obscured the issues and made it difficult if not impossible for the uncommitted to sort out their ideas and come to reasonable conclusions. The discourse of pro-shanty and anti-shanty should perhaps be dismissed as the moral equivalent of panty raids. Even a good cause should not become a convenient excuse for intimidation.

⁶ Derek Bok, *op. cit.*, p. 254.

⁷ University of Chicago, "Report on the University's Role in Political and Social Action," *Minerva*, *op. cit.*, pp. 277-278.

The first purpose of a college education, the historian Karl Weintraub once said, is to learn to understand the complexity of things. If that purpose is loosened by slipshod argument or undermined by coercion, or if it loses place to moral fervor or political ideology, the central mission of the university will be fatally compromised.

Lift the rock of apartheid and you will not find respect for complexity. Those slugs and grubs are blind to it. They see only Truth. The moral life is for them, because it is so simple. They have smothered the spirit of liberty, or perhaps never breathed its air. The moral life is never hard for true believers. But it certainly is for the rest of us.

Where does all this leave "the rest of us?" Given the intellectual complexity of the issues, the moral urgency of a situation steadily becoming more ominous, the pressing need to keep our wits about us, how should we proceed? The divestment effort may have succeeded in so undermining the U.S. business presence in South Africa that we have already lost the constructive influence symbolized by the Sullivan Principles. Xerox has now left, in a decision that its chairman says pleases no one. Eastman Kodak, which tried to keep its products out of South Africa, finds that it couldn't achieve that without going out of business everywhere. Economic pressures seem not to have worked in South Africa, although it is possible that they have permanently changed—damaged, in my view—the relationship of for-profit and not-for-profit organizations in the United States. A college trustee who worked for ten years to persuade his college to divest feels mildly triumphant. He believes his efforts have been a positive contribution to reform in South Africa. Colleges using their economic power to urge their moral convictions on society is, in his view, smart politics. What else, he might ask, can a college do? What else can American college students do? If they can't use their pressure on trustees to divest, what can they do? The situation in South Africa is one of those

exceptional, extraordinary instances the people at Chicago were talking about, isn't it?

Where do we turn for help? Harold Macmillan once said that the purpose of an education is to prepare one to know when someone else is talking rot. The literature of higher education is filled these days with appeals to improve thinking skills," to develop "critical thinking." In another time there was a different word for it: casuistry. Casuistry according to one theological dictionary, is "the application of moral principles to particular situations or to individual circumstances." In another theological dictionary "it refers to any form of argument, usually about moral or legal issues, that employs subtle distinctions and twisted logic in order to justify some act that would generally be considered disreputable." This delightful short essay actually argues in favor of resuscitating casuistry at its best, "the attempt to formulate expert opinion about the existence and stringency of moral obligations in typical situations where some general precept would seem to require interpretation due to circumstances."

The controversy over the right of Reverend Charles Curran to teach theology at Catholic University offers another illustration. Curran argues for precisely the kind of careful, fair, open discourse that I do. If a recent lecture at the University of Virginia is any indication, he tries very hard not to let himself be swept up as a folk hero. He does not want to abandon his commitment to discourse in order to offset the organizational power of his Vatican critics. Curran believes that the church has a moral responsibility to influence political and economic issues. The set of issues he addresses is as thorny and complex and painful as South Africa. Yet, in speaking of abortion, Curran deplores "single-issue politics," the reduction of complexity to simplicity.

Divestment is single-issue politics. A relationship based on the broad economic and social performance of a company is reduced to a single aspect of its activities in a single country. The position seems to me exactly analogous to that of the pro-life opponents of abortion. The congressman is told that all of his votes on other issues don't equal his one vote on this one. This matter is so important that all other matters must yield to it.

Single-issue advocacy has the ring of passion to it, the moral voice that in the church is called prophetic. (To borrow a perceptive remark, a prophet is someone to admire but not someone you'd want to work for.) Prophets are critics of society, and many people now believe that the central mission of the university is to be a critic of society. The collective voice of the institution is louder and more intimidating than the voice of a single protestor or a handful. Divestment advocates add leverage to their case by enlisting the university as an institutional investor, which amplifies its leverage by bringing pressure on the corporation. The hope is that the leverage becomes so great that it causes the South African government to change its policies.

But, it is argued, the passion of the prophet is needed when human beings are degraded as they are in South Africa. We must transmute that passion into political power. That's what prophecy is all about. That's what the social mission of the university is all about.

In a world of prophets, which one to follow? Isn't that the question? How does one choose between Jerry Falwell and Bishop Moore, between Washington Gladden and John D. Rockefeller, between Archbishop Tutu and Helen Susman? If it is on the basis of "faith, pure faith," as Bishop Moore would have it, then choice may be even more difficult. In the university, modern tradition has it, the difficulty of discriminating between

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good thought and bad is so demanding that the quality of thought itself claims primacy.

Universities, I conclude, must turn from prophets to moral philosophers. Moral philosophers must turn from talking to one another to talking to—even occasionally listening to—the rest of us.