

Refocusing the Questions on Ethical Investment Policies: From Defining ‘Controversial Weapon’ to Divestment from All Arms

A Submission to the Ethical Investments Representations Review Subcommittee (EIRRS),
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I . Executive Summary

As academics across Oxford’s Social Sciences Division, and as concerned students and faculty of the University, we respond to the University’s review of its current investment restrictions.

This paper argues for complete divestment from direct and indirect holdings in companies manufacturing arms, not just weapons considered controversial. Furthermore, the evidence we present suggests the University should also divest from all companies which enable war crimes, apartheid, and other human rights violations, including companies which are not related to armament. We will address concerns raised by the EIRR Subcommittee regarding:

- dual use (Section II.c),
- right of defense (Section II.c),
- military expertise on ‘controversial arms’ (Section II.b.(i)),
- charity law (Section II.b.(ii)),
- academic freedom (Section II.b.(i)), and
- small holdings (Section III)

We problematize insufficiency of ‘illegal’ and ‘controversial’ definitions of weapons as the bases for ethical inquiry into the University’s policies on investments in the arms industry, arguing based on principles of academic freedom, legal duties for institutions of higher education, and a framework of ethical consistency.

Finally, we emphasize the importance of investing in sustainable financing that is disentangled entirely from the military-industrial complex.

II. Inquiry into the Premises of this Discussion

Firstly, we insist that Pro-Vice Chancellor Patrick Grant FREng and Professor Harish Bhaskaran FREng recuse themselves from any discussion, decision-making process, and vote regarding the University's ethical investment policies related to arms investments. As we argue in Section II.b(i) Academic Freedom, the relationships that these members of EIRRS have to the arms industry represent clear conflicts of interest regarding the topic.

In this section, we will

- a) examine the current University policy for exclusion related to 'illegal arms',
- b) respond to the question raised by EIRRS 'What should be considered a "controversial weapon" beyond those already banned under UK law?', and
- c) expand upon the ethical consistency that should be expected and implemented for Oxford and for UK higher education more broadly.

a. 'Illegal Arms' - Failings of the Current Policy

Related to armament, the current Investment Policy Statement (Section 3.2.5)

- Prohibits direct investment in companies which manufacture arms that are illegal under
 - the Cluster Munitions (Prohibitions) Act 2010
 - the Landmines Act 1998
- Prohibits indirect investment in funds which invest primarily in such companies

As documented in the SRIRC rationale for the current policy, the ethical grounds upon which this exclusion was made relate to the 'broad issue of legality. That is, the University should not invest in arms manufacturing companies which are behaving illegally in the broadest sense of the word'. Despite this, the current policy does not in fact accomplish the exclusion of 'illegal' arms, including allowing indirect investment in funds which have smaller holdings in such companies.

The two acts of 2010 and 1998 cited above do not address the legal duty of companies to comply with international law, nor do they take into account the UK strategic export licensing criteria which halt exports in the case that 'the items would, overall, undermine peace and security' and 'that the items will be diverted to an undesirable end-user or for an undesirable end-use'. Indeed, the Global Legal Action Network (GLAN), War on Want, Campaign Against Arms Trade (CAAT), and the International Centre of Justice for Palestinians (ICJP), have given over twenty arms companies with major UK operations notice of potential criminal liability for atrocities and crimes currently taking place in Gaza¹. The University of Oxford has known investments and relationships with a number of these same arms companies.

The policy and its references make no mention of human rights violations, despite the University's status as a University of Sanctuary and its commitment to welfare and safety. The

¹ "Arms Companies Warned They Could Face Prosecution If They Continue Selling Arms to Israel ." *ICJP*, 15 July 2024, www.icjpalestine.com/2024/06/20/arms-companies-warned-they-could-face-prosecution-if-they-continue-selling-arms-to-israel/.

University's potential ties to illegal activity and atrocities thus demonstrate a lack of ethical consistency. Though College financial considerations are separate from Central University processes, legal action similar to the recent ICJP formal complaint with the Charity Commission regarding All Souls College is relevant. Just as All Souls maintains business interests in illegal Israeli settlements in the occupied Palestinian territory, the University is maintaining its investments in companies such as Elbit Systems, Rolls-Royce, Barclays, and Hewlett Packard Enterprise.

While the EIRR Subcommittee has asked for comment on an appropriate definition of 'controversial weapon' beyond definitions by the aforementioned Acts of 2010 and 1998, we argue that the premise of this question is an inappropriate starting point for an institution of higher education.

b. 'Controversial Arms' - Inappropriate Point of Departure for Higher Education

Though certain investors distinguish (non-uniformly) between 'controversial weapons' and 'conventional weapons', we argue in this section that this distinction is based on a presumption of the ethical value of weapons manufacturing, which does not align with the University's role as an institution of higher education.

The inherent purpose of weapons is to cause harm. Ethical inquiries into the University's role in conflicts should not seek to distinguish between appropriate and inappropriate weapons for investment, but rather to address the broader questions of preventing violence and prioritizing peaceful resolution.

Conventional weapons lead to broad and consistent harm to human life.² Due to compounding consequences of weapons manufacturing and failed regulation, an unacceptable death toll and life-threatening conditions are experienced by populations across the world, including in Yemen, Syria, Myanmar (Burma), Sudan, DR Congo, Ukraine, Lebanon and Palestine. For example, conventional arms manufactured by the world's leading 100 arms manufacturers have led to hundreds of thousands of civilian deaths over the last decade in the still ongoing war in Yemen,³ and the UK government has admitted that Saudi Arabia used weapons made by companies across the UK in its attacks on Yemen⁴.

Examining the necessary and appropriate disentanglement between the UK government and the University of Oxford leads to a number of points relevant to the role of an academic institution within these geopolitical contexts, including

- dedication to academic freedom and
- legal duty under UK Higher Education and Charity Law.

² "Sobering Impact of Conventional Weapons Deserves 'no Less Attention' than Weapons of Mass Destruction, First Committee Told | Meetings Coverage and Press Releases." *United Nations*, 23 Oct. 2023, press.un.org/en/2023/gadis3724.doc.htm.

³ Bindman, Polly. "Why ESG Funds Are Full of Weapons." *Capital Monitor*, 20 July 2022, www.capitalmonitor.ai/analysis/how-exposed-are-esg-funds-to-weapons/.

⁴ "UK Arms Sales to Saudi Arabia Unlawful, Court Rules." *BBC*, 20 June 2019, <https://www.bbc.co.uk/news/uk-48704596>.

i. Academic Freedom

As academics who take their responsibility to forward academic freedom in this and other institutions of higher education seriously, we express concern that accepting funding from and conducting research with arms companies in fact restricts the scope of research that may be undertaken. Mirroring conditions of higher education in the United States, ‘the academy has largely opened its doors to serving private and governmental interests and, in doing so, has compromised its role as a democratic public sphere... [and] undermined the university as a site of criticism, dissent and critical dialogue’⁵. Indeed, cooperation with arms companies and acceptance of their influence over the University’s investment policy is a clear example of how our ethical arguments are being influenced by these financial giants. Instead of discussing which role, if any, armament should play in educational institutions, the discourse is limited to questioning which weapons should be considered ‘controversial’, with a military expert as contributor, de facto excluding voices of those most harshly affected by these arms.

During the first informational webinar hosted by the EIRR Subcommittee, there was reference made to the invitation of an unnamed military expert for commentary on the definition of ‘controversial weapons’. While other expertise is listed on the EIRRS web page, the foregrounding and seeming preference towards this form of expertise is problematic in and of itself. A similar analogy would be inviting a pharmacist to speak about the ethics of investment in the pharmaceutical industry, which raises an inherent conflict of interest towards investment given a pharmacist’s positionality and potential to profit within the debate.

We require more appropriate expertise on the ethics of weaponry, as contextualised within research on structural violence and suffering related to systems, institutions, and the political economy of violence. Deliberations on ethics of weaponry are incomplete without an account of the lived experiences of civil populations who have been targeted by weapons of mass destruction and analysis of how surveillance, automation, and artificial intelligence technologies are evoked within technocratic tactics aimed at inflicting violence. This is not a case of consideration of multiple equally valid forms of expertise – military expertise is irrelevant in the context of an ethical review. Relevant and appropriate expertise can instead be readily found within the faculty across the Social Sciences Division and directly from those who experience the impacts of weapons-enabled war crimes and advocate for their communities.

Additionally, we raise questions about the positionality of Pro-Vice Chancellor Patrick Grant FReEng, who is a member of the EIRRS receiving this submission and conducting this review. He is also a member of the Rolls-Royce Materials, Manufacture and Structures Advisory Board. This again represents a direct conflict of interest, as Rolls-Royce is the second largest arms manufacturing company in the UK and would be a potential arms company for the University to divest from under an expanded exclusion of the current policy.

⁵ Giroux, Henry A. “The Militarization of US Higher Education after 9/11.” *Theory, Culture & Society*, vol. 25, no. 5, 2008, pp. 56–82, <https://doi.org/10.1177/0263276408095216>.

Similarly, Professor Harish Bhaskaran FREng, another member of EIRRS, also has ties to the arms industry through a defense partnership via Bhaskaran Labs. Those with such clear conflicts of interest (i.e. incentive to limit exclusions on arms-related investment) should be excluded from taking part in EIRRS, rather than accounting for two out of six members of the committee.

Having established some of the arms industry's influence over University decision-making and related constraints to academic freedom, we further argue that the University's current financial ties in armament negatively impact the conditions under which research and education can (variably) continue. This includes the University's role in enabling scholasticide and its failure to meet its duty of care for all its students regardless of background, some of whom were and are directly affected by the products of these arm companies.

A recent Amnesty International investigation concluded that Israel is committing genocide against Palestinians in Gaza⁶, describing the degree of horrifying impact felt intimately by many members of the University's student and faculty body. There has also been mounting evidence of direct attacks to education, including concerning patterns of attacks on schools, universities, teachers, students, and other education infrastructures such as libraries and cultural heritage sites⁷. The University conducts research for Lockheed Martin, weapons supplier to Israel, manufacturer of the F35 fighter jets which attack Gaza. These jet have components made by Rolls Royce and BAe Systems, both of whom have contributed millions in research grants to the University in recent years⁸. This targeting of teaching, learning, and educational institutions is not unique to Palestine, nor is the material evidence of University investments which link this institution to scholasticide elsewhere limited to one case of genocide or one set of war crimes.

Finally, we address the argument from the SRIRC that investing in arms manufacturing companies is consistent with current research objectives of the University, given existing University research undertaken in cooperation with these types of companies. Current investment restrictions on tobacco and fossil fuels do not prevent important work undertaken on these topics, such as research on traditional medicinal practices incorporating tobacco or studies on decarbonizing and effective transition policy implementation. Since their update, the investment policies pertaining to tobacco and fossil fuels have, on occasion, appropriately influenced higher ethical security towards research objectives which involve these categories. The influence of updated ethical investment policies in informing sensitivity to ethics in related research objectives has precedent.

⁶ "Amnesty International Concludes Israel Is Committing Genocide against Palestinians in Gaza." *Amnesty International*, 5 Dec. 2024, www.amnesty.org/en/latest/news/2024/12/amnesty-international-concludes-israel-is-committing-genocide-against-palestinians-in-gaza/.

⁷ "UN Experts Deeply Concerned over 'Scholasticide' in Gaza." *OHCHR*, 18 Apr. 2024, <https://www.ohchr.org/en/press-releases/2024/04/un-experts-deeply-concerned-over-scholasticide-gaza>.

⁸ "CAAT - Mapped: The UK Companies Arming Israel, Including Producers for the F-35 Combat Aircraft." *Campaign Against Arms Trade*, 20 Nov. 2024, caat.org.uk/data/countries/israel/mapped-all-the-uk-companies-manufacturing-components-for-israels-f35-combat-aircraft/.

If anything, entanglement with arms companies could limit the scope of research on related topics and introduce bias. One can wonder indeed how research on [e.g.] the harmful effects of tobacco would have developed if much of the University's investments lay in the tobacco industry. We see a similar possibility for the arms sector and the University's policies towards investment exclusions.

ii. UK Higher Education and Charity Law

Under Charity Law, Universities have a fiduciary duty to act in the public interest and in line with their charitable objectives. These include promoting public benefit and ethical governance. Policies that allow for partnerships with companies which manufacture arms, particularly when they benefit from public funding, contradict these obligations, as will be discussed further in the following Section II.c. Universities are also bound by the UK Higher Education Code of Governance which mandates transparency and ethical decision-making. These governance principles are also being violated. We argue that the University is failing to uphold its responsibility to the public good and is complicit in fostering global violence.

While Charity Law also includes a duty for trustees to maximize financial return, relative to the level of risk acceptable for the charity, the University's current spending is not aligned. We argue that the current level of risk for the charity is not acceptable. Trustees further cannot engage in activities, including investment decisions, that conflict with the objectives of the charity.

Just as restrictions on ethical grounds pertaining to tobacco and fossil fuels have been incorporated into updated considerations for trustees in enacting their duties, so too can updated ethical grounds pertaining to exclusions of all arms companies. There is precedent for this in other organizations with sustainable and ethical investment policies that are perfectly compatible with their duties to maximise financial return⁹, including the Church of England¹⁰, De Montfort University¹¹, University of Glasgow¹², Trinity College¹³, University of York¹⁴, Newcastle University¹⁵, and University of Birmingham¹⁶.

⁹ UN Principles for Responsible Investment, “What are the Principles for Responsible Investment?” URL: <https://www.unpri.org/about-us/what-are-the-principles-for-responsible-investment>

¹⁰ Church of England, “How We Invest”, URL:

<https://www.churchofengland.org/about/leadership-and-governance/national-church-institutions/church-commissioners-england/how-we>

¹¹ “Ethical Investment.” *De Montfort University*, www.dmu.ac.uk/about-dmu/sustainability/social-responsibility/ethical-investment

¹² University of Glasgow (2021), “Policy on Socially Responsible Investment (SRI)”, URL: <https://www.gla.ac.uk/myglasgow/sustainability/ethicalinvestment/investments/>

¹³ Connolly, S. (2022), “Trinity has Divested from Arms and Weapon Companies, College Confirms”, Trinity News, Oct 13th 2022, URL:

<https://trinitynews.ie/2022/10/trinity-has-divested-from-arms-and-weapon-companies-college-confirms/>

¹⁴ University of York (2024), “Our New Responsible Investment Commitments”, 29 April 2024, URL: <https://www.york.ac.uk/students/news/2024/responsible-investment/>

¹⁵ Newcastle University, “Investing Responsibly”, URL: <https://www.ncl.ac.uk/sustainable-campus/themes/ethical-investment/>

¹⁶ University of Birmingham (2024), “Responsible Investment Policy”, URL: <https://www.birmingham.ac.uk/university/social-responsibility-sustainability/ethical-investment-and-finance>

c. Ethical Consistency - The Imperative of Complete Arms Divestment

Having shown that narrowly defining exclusions by listing types of ‘controversial arms’ is insufficient, we propose that ethical consistency with the University’s stance on academic freedom, as well as UK Higher Education and Charity Law, offers a better framework for addressing exclusions related to companies linked to weapons manufacturing, war crimes, or human rights violations. We argue that the University has an opportunity to join those disentangling from the military-industrial-academic complex, to better promote academic freedom currently stymied by military interests. We additionally emphasize the importance of the University to adhere to its duty to promote public good and its duty of care to its students.

We refute rationales for certain arms being somehow used for good as a basis for denying the need for this institution to divest from arms companies completely. While there exists the international law-based right to self defense, a distinction is to be made between the university-level and the state-level. The University should not function as a state actor or extension of the arms industry. Just as the University has restricted investment in the tobacco and fossil fuels industries despite the continued legality of tobacco and fossil fuel companies, it could do the same in the case of the arms industry.

An institution of higher education must have an unwavering commitment to peace and human rights, not political alignments or geopolitical interests. Weapon surpluses prolong wars. The only neutral position is taking a stance against the global arms trade which fuels war. By divesting from all arms companies, the University would enact a commitment to preventing escalation and prolonging of conflicts. Reliance on weapons undermines diplomacy, shifting focus away from peaceful resolution methods.

There is an inevitability of misuse, as documented in research which demonstrates an increase in the overall likelihood of conflict as arms fall into the hands of actors with varying moral frameworks. Additionally, even when used with the intent of minimizing harm, weapons cause harm regardless to non-combatants, infrastructure, and the environment.

As an educational institution holding firm values of political neutrality, openness, inclusivity and tolerance to students of all backgrounds, it seems impossible to continue investing in armament on ethical grounds without obvious political positioning at odds with the institution’s values and legal duty.

What one group or nation considers ethical use (e.g., defense) may be seen or worse, directly experienced as aggression by another. One of the authors of this paper points out:

‘For example, as a student from Lebanon at the university, debating the ethicality of drones when people (including your own students’ family) have been targeted or surveilled daily by them for more than a year is unacceptable. Maybe drones could have potential advantages in agriculture (and this too is actually debatable). But whether such potential speculative progress justifies directly funding the massacre of civilians with

these same technologies is a call a restricted committee, within a supposedly global, neutral and inclusive university, should not be making’.

The University has no power to choose which causes or entities its investments and partnerships benefit or supply, and has maintained itself as a strategic political advancer of militarism. The University also has no ability to accurately tell to what extent a weapon is dual use, and should as a point of ethical consistency, refuse dual use weapons in acknowledgement that they contribute to murder and destruction of lives, even if in limited circumstances. Further, the governance mechanisms under which the university is controlled, including Charity Law, due diligence, and the responsibility of trustees, is undermined by such investments and partnerships. Beyond the impossibility to control how weapons financed by the University are distributed and used, and the potential avenue for coercive shaping of the institution by various geopolitical actors, we argue that it is not the University’s prerogative to fight the state’s imperial wars. If the University is serious about its commitment to education and to ‘impartiality’, it wouldn’t uncritically adopt the British state’s position on what constitutes a war of ‘defense’.

III. Comments on Practicality

Following on the ethical considerations above, and the argument for complete exclusion (direct and indirect) of investments in all arms companies and all companies known to feature significantly in weapons manufacturing, enablement of war crimes and other human rights violations, we offer a number of comments in response to concerns regarding fund size and potential impacts to research and educational funding.

In address of the University’s current policy which does not comment on small holdings of indirect funds, and the general arguments that pooled investment portfolios are challenging to navigate, we argue that the University has a role in taking ethical leadership over financial loss, especially given the small amounts of financial impact in these instances. Doing the logistical work and research to identify and divest from these small holdings, while possibly labor intensive initially, builds towards the longer-term disentanglement of the University from adverse impacts to its legitimacy, reputation, and commitment to fostering the appropriate neutral conditions for knowledge production and research. Engaging in financial ties with arms companies is not passive work, but rather is actively maintained.

In response to the concern of large funds and financial losses, as noted in the EIRRS comment ‘that significantly greater restrictions is likely to reduce the funds available to the university for teaching and research’, we firstly emphasize again the ethical and legal arguments made above to expand the exclusions as suggested above. In addition, we note that this reliance on the military-industry is an inherent risk to the University and its legitimacy and ability to ‘strengthen and further its pre-eminent position—nationally and internationally—as a place of outstanding learning, teaching and research,’ given the outsized influence that the military industry currently has over University activities, policies, and research, and the mounting international reputational damage emerging from its current investments position.

The University’s investment committee should be focused on diversifying and growing its investments in sustainable and ethical ventures which are completely divorced from warfare and

human rights atrocities. The University has an opportunity to pair its necessary role in disarmament with economic conversion, the conversion of technologies, companies, and human skills involved in military production to non military use, in a comprehensive approach to peace. This is a commitment and investment into a better future for our world, and longer-term flourishing of the institution.

IV. Conclusions

As argued above, we suggest an alternative framing of investment exclusions which go beyond ‘controversial weapons’ to include necessary divestment from all arms companies and all companies with known roles in armament and human rights violations. We see divestment of this nature as inevitable, not unlike the movement for divestment from fossil fuels. As we observe smaller actors internationally who have begun to take this step, we anticipate that an institution with the endowment size and influence of Oxford might contribute substantially in the necessary shift from the state of universities as political advancers of militarism.