



Israel Anti-Boycott Act Is Unconstitutional Infringement on Free Speech, Attempt to Legitimize Israeli Settlements

- The US Campaign for Palestinian Rights, a national coalition of hundreds of groups working for freedom, justice and equality, strongly **urges Members of Congress not to cosponsor or vote for the Israel Anti-Boycott Act** because the bill is an unconstitutional infringement on free speech and a blatant attempt to legitimize illegal Israeli settlements constructed in Occupied Territory in violation of international law.
- The Israel Anti-Boycott Act ([S.720](#) and [H.R.1697](#)) seeks to amend the Export Administration Act of 1979 to **impose fines on corporations** that boycott business dealings with illegal Israeli settlements or divest assets from corporations profiting from illegal Israeli settlements. The bill also seeks to amend the Export-Import Bank Act of 1945 to **deny loans to corporations** that similarly boycott or divest from business dealings with illegal Israeli settlements.
- The bill appears to be narrowly tailored to target corporations that make such decisions in direct response to calls to do so from intergovernmental organizations. The United Nations and the European Union, both of which have taken steps in this direction, are specifically named. However, under this bill, if a corporation based in an Israeli settlement happens to be the target of a UN or EU boycott, even **an independent decision taken by a US corporation not to do business with that corporation could require the imposition of penalties against that corporation**. This infringes upon **US corporations' right to adhere to their own corporate codes of conduct and respond to shareholder accountability efforts** to ensure that corporations do not profit from human rights violations.
- As [Palestine Legal](#) has noted, “The Supreme Court has held that ‘**speech on public issues occupies the highest rung of the hierarchy of First Amendment values, and is entitled to special protection.**’” [*NAACP v. Claiborne Hardware Co.*, 458 U.S. 886, 911 (1982) (citing *Carey v. Brown*, [447 U. S. 455](#))] The Court has specifically held that political boycotts, like boycotts for Palestinian rights, are unquestionably protected under the First Amendment. [Id.] The Israel Anti-Boycott Act, by seeking to penalize corporations which exercise that right, is an unconstitutional infringement on freedom of speech.
- The **State Department also has repeatedly supported the right of individuals and corporations to engage in boycotts against Israel or Israeli settlements** even if the United States opposes such acts. In response to Israeli legislation to create a database of its citizens and foreigners who support boycott, divestment and sanctions, State Department spokesperson Mark Toner [said](#) on March 21, 2017: “We’re strongly opposed to boycotts and sanctions of the state of Israel. That’s well known. At the same time, **we value freedom of expression...even in cases where we do not necessarily agree with the political views espoused.**”
- Since 1967, stated bipartisan US policy has opposed the creation and expansion of Israeli settlements in Occupied Territory on the basis that these settlements constitute violations of the Fourth Geneva Convention. (For additional details, please see our [policy memo](#).) Even though the Israel Anti-Boycott Act disclaims any construction of a policy statement on final status issues to be negotiated between the parties, nevertheless, **its intent and effect is to encourage business dealings with corporations based in illegal Israeli settlements and to penalize corporations which refuse to do so**, thereby legitimizing and entrenching those settlements in opposition to official US policy.