



Amended Israel Anti-Boycott Act Still Unconstitutional

On Saturday, March 3, Sen. Ben Cardin (D-MD) released an [amended version](#) of S.720, the Israel Anti-Boycott Act. The new version of the bill was timed to coincide with the Tuesday lobbying day of the American Israel Public Affairs Committee (AIPAC), whose supporters are expected to lobby both for this amended version of S.720 and [S.170](#), the Combating BDS Act.

The original version of S.720 came under scrutiny after the [American Civil Liberties Union](#) (ACLU) wrote to Senators last July that the bill was “in direct violation of the First Amendment” because it “would impose civil and criminal punishment on individuals solely because of their political beliefs about Israel and its policies.”

Sen. Cardin [claims](#) that the amended version of S.720 does not “diminish or infringe on any right protected under the First Amendment.” However, by monetarily punishing corporations and individuals associated with corporations for supporting an international organization’s call to boycott Israel or Israeli settlement goods, the **amended bill is still fundamentally an unconstitutional act of viewpoint discrimination at odds with the First Amendment.**

The amended version additionally raises concerns about the potentially broad swath of associations that could be penalized under this proposed law. The amended version designates “any domestic concern” as being covered by the \$1 million penalty.

Since “domestic concern” is not defined in the amended version, the US Campaign for Palestinian Rights has grave concerns that this would include any corporation, including nonprofits and sole proprietorships. This would negatively impact their ability to exercise their First Amendment right to support boycotts for Palestinian freedom, justice, and equality called for by international organizations.

For example, [dozens of churches](#) have voted to boycott Hewlett-Packard Enterprises, which provides biometric equipment to the Israeli military to constrain Palestinians’ freedom of movement. If the UN Human Rights Council’s (UNHRC) database of corporations profiting from Israeli military occupation were to include Hewlett-Packard Enterprises and churches expressed their support for that decision, then they could be fined under the amended version of the bill.

Similarly, if a caterer were to boycott Israeli wines produced in illegal settlements in support of the UNHCR’s inclusion of these wineries in its database, then they could be fined under the amended version of this bill as well.

In short, **the proposed amendments do nothing to diminish the First Amendment concerns about this bill. American companies, nonprofits, and small business owners have an absolute, First Amendment-guaranteed right to boycott for Palestinian rights whether they are doing so in response to a call from an international organization or whether they are doing so of their own volition.**