

Ten Reasons to Oppose “An Act Prohibiting Discrimination in State Contracts”

As Trump continues to trample on basic rights, Senator Creem and Representative McMurtry have introduced a bill [S.1689/H.1685](#), deceptively framed as anti-discrimination legislation, which in fact is a dangerous attempt to restrict our right to use boycotts to advocate for human rights.

1. **This act is not about discrimination.** While it purports to target discrimination, there is no question that S.1689/H.1685 is intended to penalize Boycott, Divestment and Sanctions (BDS) activism for Palestinian human rights. The Jewish Community Relations Council (JCRC), lobbyist for the bill, calls it “[Anti-BDS Legislation](#)” needed to “support Israel”. Sponsor [Rep. Steven Howitt](#) says, “This bill clarifies to businesses that either support BDS or who boycott Israeli-owned businesses and products that the Commonwealth of Massachusetts will not engage in commerce with them.”
2. **This bill would be [unconstitutional](#) if applied to persons engaging in BDS.** The right to engage in peaceful boycotts for political purposes is protected as a form of free speech under the First Amendment; the state cannot make someone give up that right as a condition of contracting. The [ACLUM](#) says, “an anti-boycott motivation calls into question the constitutionality of the legislation, even if it is neutral on its face...” Just as Trump’s “Travel Ban” has been challenged because of its anti-Muslim intent, this bill can be questioned for its anti-free speech intent.
3. **This bill is not necessary to protect from discrimination and will intimidate businesses.** Contractors with the state are [already](#) required to certify under penalty of [perjury](#) that they will not discriminate. Moreover, S.1689/H.1685 will cause confusion for businesses that withdraw from Israel regardless of the reason (it might prohibit the state from contracting with Veolia on [environmental projects](#), for example, because Veolia sold off its businesses in Israel after losing contracts worth billions). The bill is redundant, confusing and a waste of legislators’ time.
4. **This bill feeds into the Trump agenda.** As the current administration engages in a full-blown attack on our rights, we urgently need to stand against all threats to our rights to peaceful protest. As [Boston Workmen’s Circle](#) says in its statement opposing S.1689/H.1685 “In our current national political climate, it is imperative that Massachusetts make clear that the First Amendment right to freedom of expression is a critical component of our democracy and will be protected.”
5. **This bill’s promoters make false claims about BDS.** BDS by definition is not discriminatory because it targets policies, not people. As Palestinian BDS co-founder [Omar Barghouti](#) explains, the BDS movement is “anchored in the Universal Declaration of Human Rights [and] is a human rights based, non-sectarian, inclusive movement that rejects all forms of racism, including anti-Semitism”. BDS does not target people based on religion, ethnicity or national origin; it targets injustices and human rights violations.
6. **This bill actually *protects* discrimination.** Israel has enacted more than [50 laws](#) since 1948 that directly or indirectly discriminate against Palestinian citizens of Israel in all areas of life, including their rights to political participation, access to land, education, state budget resources, and criminal procedures. S.1689/H.1685 aims to penalize opposition to this discrimination. As Israel moves to expand settlements and annex the West Bank in blatant violation of international law, peaceful economic pressure is needed as never before.
7. **One does not have to agree with BDS to oppose this bill.** As [Rabbi Jill Jacobs](#) says, “I oppose boycotting or divesting from Israel. Yet the right to free speech means, ...even if I disapprove of what you say ... I will defend to the death your right to say it.”
8. **This bill would NOT protect immigrants, refugees, Muslims from discrimination.** Because the bill does not apply to federal sanctions or “laws affecting sovereign nations or their nationals” (section B of S.1689/H.1685), Trump’s immigration and Muslim bans get a pass under this bill.
9. **This bill denigrates Massachusetts history.** The Commonwealth has a noble record of using economic pressure in the form of boycotts to challenge violations of human rights. If this law had been in place at the time of South African apartheid, it would have penalized those who engaged in the boycott of apartheid, including workers who waged a successful boycott to end Polaroid’s dealings with the South African government. Likewise those who took part in the 2013 boycott against Stolichnaya to protest Russia’s treatment of LGBT people would have been barred from state contracts had S.1689/H.1685 been in effect at the time.
10. **Opposition to the bill is widespread.** This bill is opposed by more than [100 organizations](#) in Massachusetts. The [National Council of Churches](#), representing 38 Christian faith groups in the US, 100,000 congregations and 40 million people, has called for “an end to the current wave of legislative efforts to penalize the use of non-violent economic measures to influence policy in Israel.”



Alliance for Water Justice in Palestine
<http://waterjusticeinpalestine.org/>



Jewish Voice for Peace-Boston
<http://jvp-boston.org/>



Massachusetts Peace Action
<http://masspeaceaction.org/>