

New House Bill Would Empower Donald Trump to Punish U.S. Companies that Boycott Israel

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The House Committee on Foreign Affairs unanimously passed a measure on Thursday that would give the Trump administration power to decide how to punish U.S. companies that engage in or promote boycotts of Israel — including through criminal penalties.

The committee passed an amendment by voice vote from Rep. Ed Royce, R-Calif., that largely replaced the text of a bill called the Israel Anti-Boycott Act. When the original legislation was first introduced last year, it drew [outrage from activists](#), and the American Civil Liberties Union warned that by threatening to impose steep criminal penalties on boycott activists engaged with international bodies' boycotts, the bill was unconstitutional.

After the uproar, the initial bill, which was supported by the influential America Israel Public Affairs Committee, lost momentum. But Royce's effort to move his version out of the Foreign Affairs Committee is part of a push to reinvigorate Capitol Hill's efforts to use statutory means to clamp down on the growing movement to boycott, divest from, and sanction the Jewish state for human rights violations against the Palestinians.

Pro-Palestinian activists said Royce's amendment, despite being an apparent attempt to work around civil liberties concerns, could be the most dangerous version of the bill yet, because it delegates the lawmaking power to the Trump administration.

"This is another blatant attempt to criminalize Americans' right to boycott and potentially even more dangerous than previous attempts to do so," Josh Ruebner, policy director for the U.S. Campaign for Palestinian Rights, told *The Intercept* by email. "Given the Trump administration's track record on trampling civil liberties through executive action and its pledge to crack down on boycotts for Palestinian rights, this would be an especially egregious derogation of power."

Royce's amendment rewrites the bill to direct the administration to issue regulations that prohibit U.S. companies from involvement with the BDS movement, as it is known. The bill covers those companies that attempt to "comply with, further, or support" United Nations or European Union calls for a boycott of Israel, including merely by "furnishing information" about them.

The Royce amendment does not specify the penalties that should be incorporated into the regulations, but it requires them to be "consistent with the enforcement practices" of the 1979 [Export Administration Act](#) — which allows for a [range of civil and criminal penalties](#) topping out at a maximum of \$1 million fine and 20 years in prison.

Rep. Brad Sherman, D-Calif., the Democratic sponsor of the bill in the House, told the committee during Thursday's mark-up hearing that the authors had addressed First Amendment concerns and that the bill was only aimed at preventing U.S. companies from being "pressured" by the U.N.'s nonbinding resolutions.

"I'm pleased to be the lead Democrat on this bill," said Sherman. "Let me make it clear: Nothing in this bill says that any domestic organization can't protest Israel or boycott its products or those of any other ally of the United States. It simply says that we will not allow American citizens to be pressured into that."

Committee members nonetheless made clear that the bill was aimed at diminishing the influence of the BDS movement, a top priority of Israel's right-wing government and its American supporters.

"The BDS movement encourages economic warfare against Israel – our strongest ally in the Middle East – and demonizing Israel harms the world's only Jewish state," said Rep. Lois Frankel, D-Fla. "It also creates a roadblock on the path to peace."

The 1979 Export Administration Act was originally passed in response to the Arab League Boycott of Israel. In the 1970s, countries in the regional Arab League alliance tried to force U.S. companies to boycott Israel as a precondition for doing business in the Middle East and North Africa. In response, Congress passed the export law to forbid companies from boycotting allied nations at another country's request. That gave U.S. businesses legal cover to refuse foreign demands to boycott Israel and most of the Arab League countries caved on their demands.

The Israel Anti-Boycott Act aimed to expand the Export Administration Act to prohibit U.S. companies from complying with voluntary requests from the U.N. to boycott Israel for political reasons, spurring the ACLU to quickly come out in opposition.

"Whereas the EAA was meant to protect U.S. companies from these compulsory boycotts, the Israel Anti-Boycott Act seeks to dictate the political activities Americans can and can't engage in," [wrote](#) ACLU attorney Brian Hauss at the time.

In response to criticism from the [ACLU](#) and Palestinian rights activists, Sen. Ben Cardin, D-Md., a stalwart ally of pro-Israel groups, introduced a [compromise version](#) of the bill that clarified that U.S. persons would not be imprisoned for boycotting Israel. The Royce amendment approved on Thursday in the House contains no such language.

None of the versions of the bill include a distinction between Israel's 1948 armistice line and Israeli settlements in the occupied Palestinian territories, which are considered illegitimate enterprises by virtually every government in the world, including the U.S. Even some liberal, pro-Israel groups in the U.S. engage in boycotts of the Israeli settlements on the grounds that settlements damage the prospects of the moribund peace process with the Palestinians. The absence of the distinction in the anti-boycott legislation would mean that companies who engage in or promote U.N. and EU calls for boycotts of the settlements

could face sanction.

In the past four decades, U.S. courts have [consistently upheld](#) boycotts as a protected method of political expression and, in January, a federal judge [issued an injunction](#) forcing Kansas to stop enforcing its anti-Israel boycott law.

Despite the precedents, activists say that these laws divert time, attention, and energy to fighting for freedom of expression, rather than the causes they support.

“Even though they lose in court over and over again, there is a benefit for pro-Israel partisans to bring bills like this,” said Max Geller, an [organizer](#) with the Palestinian Solidarity Committee in New Orleans. “They force activists to talk about their First Amendment rights, and not the human rights violations they’re protesting.”

The Israel Anti-Boycott Act is part of a much wider attempt to push back on boycott activism in the United States.

According to the [ACLU](#), 24 states have passed laws aimed at punishing the boycott movement, and more than 100 bills have been considered by state and local legislatures across the country. These bills come against a backdrop of consistent harassment and censorship on college campuses — the group Palestine Legal documented more than [200 instances last year](#) of universities attempting to suppress Palestinian rights activism.

“Our elected officials need to start listening and responding to the growing movement for Palestinian rights here in the U.S.,” said Rahul Saksena, legislative counsel for Palestine Legal, “instead of enacting unconstitutional laws aimed at silencing that movement.”

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