



CHALLENGING ANTI-BOYCOTT LEGISLATION IN THE US

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Across the US, lawmakers and interest groups are ramping up efforts to shield Israel from accountability for war crimes, occupation, and apartheid. This is occurring at the cost of US Palestine solidarity advocates' First Amendment rights to free speech and political boycotts. The implications are far-reaching: not only are anti-boycott laws limiting spaces for Palestine solidarity, they represent the first step in a wider assault on the constitutional protections designed to safeguard US citizens' rights to advocate for justice. US citizens must take matters into their own hands to defend their constitutional rights. This policy brief recommends several steps that should be taken in order to do so.

As of October 2022, bills and executive orders designed to penalize those participating in boycotts of Israel have been [introduced in 34 states](#) and apply to over 250 million US citizens. In 2018, The Arkansas Times, a local newspaper based in Little Rock, [sued the state of Arkansas](#) after an advertising contract with a public university was withdrawn as punishment for refusing to relinquish their right to boycott Israel. In July 2022, the Eighth Circuit Court became the highest-level court to consider the issue when it [ruled against the newspaper](#), stripping it of its right to boycott. This ruling, which is binding to Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota, is a sign of what may be to come.

The ongoing proliferation of anti-boycott bills, recently [described by Human Rights Watch](#) as “part of an increasingly global campaign” against Palestine rights advocates, has been spearheaded by the Israeli regime itself. Over recent years, Israel has successfully bypassed US foreign interference laws by [establishing non-governmental organizations](#) through which it funnels millions of dollars to US groups who then advocate for anti-BDS legislation. But the Israeli regime is not alone. The war on boycotts of Israel is being led by the same reactionary lawmakers and interest groups, including evangelical Christian organizations, actively engaged in undermining the tenets of a healthy democracy. To be sure, this is a bipartisan effort.

While the judiciary can prove instrumental in countering attempts to curb constitutionally protected rights, US citizens should not depend upon it alone to safeguard civil liberties. That is, while [only 59 of the 261 anti-boycott bills](#) introduced have so far been passed at the state and local levels, the pro-Israel lobby continues to adapt. As long as the Boycott, Divest and Sanctions (BDS) movement remains under assault, so too is the right to use boycotts as a tool for advocacy on a range of issues. In other words, the ongoing crackdown on freedom to boycott has wider implications, even for US citizens who do not support the BDS movement.

In fact, several states have already used anti-BDS legislation as a template for “copycat laws” that would criminalize other boycotts and forms of protest, such as preventing businesses from boycotting fossil fuels and firearms industries. Since 2017, [38 states](#) have enacted anti-protest bills, mostly in reaction to the Black Lives Matter (BLM) movement and environmental protesters. [Heightened voting restrictions](#) in key swing states are making it

increasingly difficult for US citizens to carry out their civic duty. As a result, black activists and other disadvantaged communities are disproportionately targeted.

The willingness to trample upon the rights of Palestinians and their allies is opening the door to a larger assault on civil society and the core tenets of a healthy democracy. It is critical to raise awareness, mobilize grassroots activism aimed at pressuring lawmakers, and develop stronger checks to a flawed system. More specifically:

- Members of Congress should fulfill their constitutional duty to defend the rights of US citizens, including the First Amendment right to participate in political boycotts. This means voting against pending federal anti-boycott legislation.
- Activists, civil rights defenders, and concerned citizens should contact their representatives to express opposition to laws that restrict their right to boycott. They should highlight the intersectional nature of this assault on social and political expression, and organize alongside other groups being affected by boycott legislation.
- As workers across the country unionize at the [highest rates in decades](#), civil society organizations should prepare union leaders and members to collectively mobilize against attempts by employers to revoke constitutionally protected rights. Trainings and briefings should prepare union leaders to explicitly incorporate the right to boycott into their labor demands and provide support to Palestinian or pro-Palestine workers who are targeted for their engagement in boycotts or other forms of political protest.
- Activists, academics, and NGOs should coordinate efforts to produce informational material for public campaigns aimed at raising general awareness and providing US citizens with tools to advocate for their constitutionally-protected rights.