

January 27, 2011

**For the attention of:**

David Rotem, MK  
Chairperson, Constitution, Law, and Justice Committee  
Knesset

Constitution, Law, and Justice Committee Members  
Knesset

**Re: the Prohibition on Imposing Boycotts Bill, 5770 – 2010**

Ahead of the hearing in the Knesset Constitution, Law and Justice Committee scheduled for Feb. 15, 2011, we respectfully present to you our position regarding the proposed **Prohibition on Imposing Boycotts Bill, 5770 –2010 (P/2505/18)**

At the outset, we would like to make clear that the Association for Civil Rights in Israel (ACRI) opposes this piece of legislation, in that it harms the freedom of speech, freedom of dissent, and freedom of association of Israeli citizens and residents who seek to protest against what they consider to be social or political injustice, or any other form of injustice. Boycotts are a legitimate, legal, and non-violent means of political or social activism designed to bring about change, express protest, and proffer criticism. Even if these boycotts are perceived by some of the public as outrageous and infuriating, nevertheless there is no denying that boycotts are an accepted tool practiced throughout the civilized world, including in Israel where boycotts have been utilized on many occasions by different groups spanning the entire political spectrum.

Not only has the proposed legislation sought to prohibit this legitimate and commonly accepted means of protest – thus violating the right to freedom of speech, freedom of dissent, and freedom of association of people from across the political spectrum, Right and Left - but it further appears to be a discriminatory piece of legislation. Reading the bill and its explanatory notes, one gets the impression that the bill's sponsors are asking to limit only certain specific boycott initiatives, for example those that protest against the Occupation (boycotts of products made in the settlements or academic boycotts relating to the Occupation.) Such selective legislation essentially only limits certain types of expression – those that the current political majority in the Knesset object to. As such, the legislation would undermine and harm democracy in Israel.

The implications of the proposed legislation are both far-reaching and extremely serious:

1. As mentioned above, this bill – like others currently being advanced in the Knesset – is applied unequally in that it only limits the activities of a certain political positions and groups, solely because those activities are looked upon unfavorably by the current political majority sponsoring the legislation. Which is to say, the promotion of this legislation is an illegitimate means of silencing political opponents.

2. The bill attempts to circumvent the government's need to respond to legitimate social or political criticism directed at the state and its outcomes, and this is achieved through a harsh and dangerous attack on the underlying principles and basic rights of democracy. Though criticism may prove unpleasant and even economically or politically damaging, a commitment to democracy demands that we not stifle or silence criticism, but rather that we deal with it through appropriate and legitimate means.

3. Beyond the damage to the fundamental principles of democracy, the text of the bill raises a host of other serious concerns. Under its current formulation, the bill would seek to censure any criticism of the government or the state that could be later used as a basis for a call to boycott – a device designed to silence any criticism of the state. The “cooling effect” of such a provision would be extremely dangerous for Israeli democracy.

4. The bill would prohibit, *inter alia*, “the provision of any assistance or information with the purpose of promoting [a boycott.]” This is an extremely problematic provision, since the publication of any information by anyone could be used by others to promote a boycott. According to the bill, the publisher of the information would be held liable, and practically it would be extremely difficult to determine or prove otherwise.

5. The bill would allow for an illegal form of punishment (halting payment of funds to foreign countries and using those funds to compensate those harmed by the boycott).

6. The bill would harm Israeli ties with foreign countries and foreign individuals. Beyond the negative and anti-democratic image of Israel that such legislation would project abroad, as well as the negative implications it will have, the bill also states that any foreign individuals or foreign countries involved in a boycott against Israel would be punished in various illegitimate and legally questionable ways by the State of Israel. These include non-transfer of payments that Israel is obligated to remit, and the use of these funds to compensate interests hurt by the boycott; prolonged ban of foreign citizens from entering Israel; denial of legitimate and legal business activities of foreign countries and foreign citizens in Israel.

7. Even if the bill seeks only to limit certain types of boycotts, in practice it de-legitimizes the entire institution of boycott as a means of legitimate protest, including, for example, consumer boycotts. It should be emphasized that in Israel, a diverse population of citizens and residents make use of boycotts in order to express their protest over an array of different social and political matters, and to various different ends. Just recently, MK Shelly Yachimovich and others called for a boycott of Bank Mizrahi (in the form of closing bank accounts) because of wage differences of employees which was viewed as morally corrupt. Ultra-Orthodox (*Haredi*) citizens have called for years for a boycott against retail chains that operate on the Sabbath. Many Israelis, including workers' unions and professional organizations, have called for a boycott of vacationing in Turkey (which, it should be noted is against the backdrop of political protest against a foreign state, and which would be illegal under the current bill in relationship to Israel!) There have been various initiatives to boycott donations to certain Israel academic institutions and to boycott certain lecturers from Israeli universities whose opinions, in the eyes of the boycotters, are not sufficiently “Zionist”. And there are numerous other examples. All these would be considered illegal under the proposed legislation. (Any attempt to differentiate between these initiatives and claim that some are legitimate boycotts that

should be permissible under the proposed law only proves that the purpose of this bill is to silence political opposition.)

8. If passed, the law would proscribe to a wide range of activities that could be interpreted as promoting boycotts – for example, the ranking of companies by how well they protect workers' rights, care for the environment, etc. According to the spirit and logic of the bill, these could be construed as promoting and/or aiding in the imposition of a boycott.

In this context, we would also like to address some of the explanatory notes to the bill, which attempt to portray the proposed legislation as resembling existing American law. We would like to clarify that there is no real similarity between the US legislation and the current proposed bill. First, the purpose of the American law (which was passed in the 1970's in response to the Arab boycott) was to prevent pressure from being brought to bear on American companies, requiring them to cooperate with a policy that ran contrary to US foreign policy. Contrary to the explanatory notes, the US law does not prohibit individual citizens or American corporations from initiating, participating in, or aiding any boycott directed against US policy in any area or matter. In fact, boycotts are a very popular means of protest and of affecting social and political change in the US. Moreover, US law enables no private actionable suits against anyone involved in a boycott, but only allows the government to examine and address such boycotts when it sees fit – this in order to prevent the abuse of legislation and the violation of freedom of protest and free speech.

In conclusion, we wish to reiterate that any economic or academic boycott, infuriating as it may be, is a legal, legitimate non-violent means for advancing political and social struggle. In recent years, we have witnessed various boycott initiatives, originating both in Israel and abroad, in a variety of fields and subjects.

Even when these initiatives are controversial or infuriating, they are part and parcel of the public discourse Israel and around the world and, as such, a democratic state can not prohibit them by law.

Criticism, even if it is unpleasant and even if it has economic and other repercussions, must be dealt with within the ground rules of democracy. The proposed legislation before us represents one more step in the attempt to limit the scope of democracy in Israel, and the attempt to withdraw from criticism, both at home and abroad.

**We urge you to oppose the proposed legislation.**

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