

# United States Senate

WASHINGTON, DC 20510

December 19, 2018

The Honorable Mitch McConnell, Jr.  
Majority Leader  
U.S. Senate  
317 Russell Senate Office Building  
Washington, DC 20510

The Honorable Chuck Schumer  
Minority Leader  
U.S. Senate  
322 Hart Senate Office Building  
Washington, DC 20510

Dear Leader McConnell and Leader Schumer,

We ask that you not include the “Israel Anti-Boycott Act,” (S. 720) in any year-end appropriations bill. We believe including this bill would violate the spirit of cooperation and commitment that Senate appropriators have made to oppose controversial riders on appropriations bills.

While we do not support the Boycott, Divestment and Sanctions (BDS) movement, we remain resolved to our constitutional oath to defend the right of every American to express their views peacefully without fear of or actual punishment by the government.

As the ACLU has repeatedly stated in its opposition to S. 720, this bill would violate Americans’ First Amendment rights. Federal district courts in Kansas and Arizona have similarly considered state laws that target political boycotts of Israel and found them to violate the First Amendment. For example, in *Jordahl vs. Brnovich*, the court held in granting a preliminary injunction, “The type of collective action targeted by the [law] specifically implicates the rights of assembly and association that Americans and Arizonans use ‘to bring about political, social, and economic change.’” The courts’ reasoning in both those cases applies with equal force to S.720.

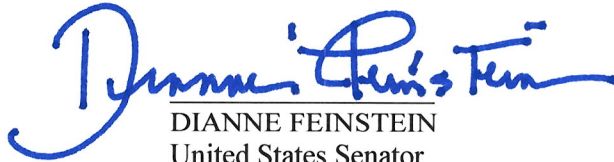
Furthermore, the bill would prohibit and penalize certain constitutionally-protected political activity aimed solely at Israeli settlements in the West Bank, thereby extending US legal protection to the very settlements the United States has opposed as illegitimate and harmful to the cause of Israeli-Palestinian peace for more than 50 years. Whether one opposes such targeted measures or not, criminalizing acts such as the mere furnishing of information on companies that do business in the settlements would represent a significant and heavy-handed departure from five decades of bipartisan opposition to the settlement enterprise. At a time when the Netanyahu government is pursuing policies clearly aimed at foreclosing the two-state solution, it is deeply disappointing that Congress would consider penalizing criticism of those policies.

We deeply respect the passionate and distinct views that members of the Senate bring to issues affecting U.S.-Israel relations, Israeli and Palestinian recognition, and Middle East peace. As the world's oldest deliberative body, we are happy to debate S. 720 on its merits as freestanding legislation. However, we respectfully ask that you reject any effort to include this controversial legislation in a must-pass, year-end appropriations bill.

Sincerely,



BERNARD SANDERS  
United States Senator



DIANNE FEINSTEIN  
United States Senator