

## **Stephen Zunes: Reasons to oppose proposed state anti-boycott bill**

The California State Assembly is considering a bill entitled the “Boycotts, Divestment and Sanctions of Recognized Sovereign Nations or Peoples Act” (AB 2844) that could lead to penalizing California businesses that boycott any country or any products from a particular country — even if the product is being made in a colony or occupied territory or if it is made under illegal, inhumane or environmentally deleterious conditions. It would also deny state or local government contracts to sole proprietorships who participate in such boycotts.

Originally written to target the growing use of boycotts and divestment campaigns as efforts to force changes in Israeli policies, the bill has since been amended to drop specific mention of Israel and has been expanded to include “any sovereign nation or peoples recognized by the government of the United States.” If passed, the new law could therefore affect companies that support international boycotts not only in regard to the Israeli occupation, but to Moroccan-occupied Western Sahara, Russian-occupied Crimea and Chinese-occupied Tibet. It would also target companies that boycott Sudan for its genocidal campaign in Darfur, Saudi Arabia for its treatment of women and religious minorities, or any other specific country over such practices as sweatshops, killing whales, destruction of rainforests, or other issues.

Assemblyman Richard Bloom, the bill’s author, has falsely claimed that such tactics, when targeting the Israeli occupation, are being used to “attack Jews” and “destroy the state of Israel.” In reality, the leading endorsers of such boycotts and divestment have included major peace and human rights organizations like the American Friends Service Committee and mainstream religious denominations like the Presbyterians and Congregationalists that have supported similar campaigns against illegal and unethical practices by other governments and corporations as well. They are not singling out Israel, much less wanting to destroy that country or to “attack Jews.”

Campaigns for corporate responsibility have a long history in this country including the lettuce and grape boycotts in support of California farmworkers, the boycott of J.P. Stevens for union busting activities, protests against Nike for supporting overseas sweatshops and the divestment campaign targeting companies investing in apartheid South Africa. Had AB 2844 been in effect in the 1980s, companies boycotting the white minority regime and individuals advocating divestment from companies that refused to do so could have been subject to heightened scrutiny.

Support for and the act of boycotting, including the selling of stockholdings on ethical or political grounds, have long been recognized as a First Amendment right. One may agree or disagree with the motivation behind such actions. For example, boycotts were used in this country both in opposition to and in support for segregation. But federal courts have consistently found that they are a form of political speech, entitled to the highest level of protection. The mere act of including companies suspected to have participated in a boycott on a blacklist would likely deter them from engaging in political speech, thus causing an unconstitutional “chilling effect” on such speech, even if no penalties are added by subsequent legislation. As a result, passage of the bill could lead to lengthy and expensive litigation.

The American Civil Liberties Union, the Bill of Rights Defense Committee, the Center for Constitutional Rights, and the National Lawyers Guild are among the groups that have expressed their opposition. In addition, our state senator, Bill Monning, has expressed concerns about the bill’s vagueness, noting that it is “unclear how the state would determine a violation and enforce it” by denying contracts with state and local governments. Our state Assembly member, Mark Stone, as chair of the Judiciary Committee, voted with the majority of committee members to advance the bill to the floor.

The bill would require the Office of the Attorney General to investigate and constantly monitor the thousands of contracts local and state agencies have with various companies and individuals and whether or not they engage in “discriminatory business practices in furtherance of a boycott” of most any foreign country. City governments would have to devote countless employee hours to providing such information.

In short, not only would the passage of AB 2844 raise troubling ethical, political and constitutional questions, it would create a costly and bureaucratic mess.