

## **BOYCOTTING ISRAEL & JEWISH INTERESTS IS AND SHOULD BE ILLEGAL**

What is BDS? It is an organization devoted to placing economic pressure on Israel for the expressed purpose of allowing the creation of a Palestinian State on the West Bank of the Jordan River. The means chosen by BDS are financial and business boycott and divestiture of Israel companies and entities that do business with the Jewish State.

Recently an article appeared in the *Times of Israel* and other places opposing Pennsylvania's "Stand With Israel Act" House Bill 1018. The Pennsylvania legislature is also considering a Resolution condemning the boycott Israel proponents.

State action to protect Israel from economic warfare is absolutely crucial. The United States is a nation combined of 50 states each with their own strong economic interests.

Pennsylvania, for example, is one of the key birthplaces of modern democracy. In the 1600s there were attempts to bar Jews from doing business in a Delaware territory, which included Pennsylvania. That effort was repulsed.

Attempts to wage economic warfare against Judaism go back to the time of the pharaohs who feared the economic prosperity of the Jews living in Goshen, Egypt. There are voices, including in the Jewish community, that oppose those who want to directly confront the boycott and divestiture movement against the Jewish State.

American jurisprudence has a long history of punishing economic warfare against others. Antitrust laws passed in the United States beginning in the 1890s were specifically calculated to prevent group contracts, conspirists and conspiracies against the economic interests of others. Group boycotts are *per se* illegal under United States law, subject to both civil and criminal damages.

American tort law, as expounded upon by the well respected American Law Institute, provides a cause of action against those who intentionally interfere with the economic relations of others. The states have frequently been promoters and incubators of civil justice remedies to prevent those who are innocent from becoming the victim of economic boycotts and what may properly be called "Economic Warfare".

Conspiracies to restrain trade have been outlawed in the United States, even when the action between actors is simply parallel.

Unfortunately in many places the college campus has become a crucible for fictional accounts concerning the State of Israel. It is important that Jewish people, as well as many Christians and others in the community, be able to stand up to efforts to defame Israel through a genocidal economic campaign. Students can debate whatever they wish on the college campuses, but that should not prevent government agencies from outlawing conduct which would support an illegal boycott movement. Students need to learn the difference between speech and conduct. Part of the educational experience is to understand the American legal system. It is shocking how little students in high school and college really know about the interplay between the federal and state system, what is legal and what is illegal. The battle for the hearts and minds

of students and American citizens in general, must proceed from an honest assessment of the motives behind those who would like to destroy Israel through economic means.

Is it honest, to say that boycotts are illegal? Claiming that supporting and enforcing laws to prevent illegal economic warfare is the equivalent of “two wrongs don’t make a right” is totally ridiculous. Teaching young people the difference between right and wrong should not be a bad thing. It is not a boycott or a limitation of speech to support, enforce and buttress existing legal rules that prohibit group boycotts intended to cause economic damage to others. The state not only has the right to prevent such actions but in fact has the responsibility. Imagine what would happen on the college campus, for example, if two fraternities got together to boycott a third one. Not only would it not be allowed but in fact it would be blatantly illegal. The United States Supreme Court has already held that lawyers in the District of Columbia who did not think they were getting paid enough by the government to represent criminals under the Criminal Justice Act, could not promote a group boycott so that they would be paid more money. That was not speech but rather illegal conduct.

Support for Israel by enforcing and supplementing laws which prohibit economic warfare can only be good for our country. People may argue as much as they like about whether Israel should retain possession of the West Bank of the Jordan River in order to protect itself from another terrorist state. Political opposition to Israel’s policies or negotiating strategy has nothing to do with whether economic boycotts against Israel should be encouraged by doing nothing to prevent anti-Israel and sometimes anti-Jewish bias from being addressed. To say such laws and resolutions would have a “chilling effect” on campus has no basis. The concept of “chilling” usually applies in the context of actions taken which would discourage legal conduct. Economic genocide directed at the State of Israel addresses not legal political activity or speech but rather improper and illegal conduct. More importantly, it is in the interests of the Commonwealth of Pennsylvania and other states to be able to do business with Israel as a national entity, which has a right to set its own internal policies. Group boycotts, whether of an individual, an institution or the Israeli government have a pernicious effect. They degrade the entity or person being boycotted, wreak economic despoliation and suggest that the conduct of the enemies of Israel is to be tolerated.

The end to the BDS movement needs to be a priority of Americans, regardless of their religious affiliation or political views. If we permit the only democratic society that the Middle East has ever known to become the victim of financial ruin at the hands of a group boycott, the ability to pressure others based upon prejudice alone will know no bounds.

*Clifford A. Rieders, Esquire  
Rieders, Travis, Humphrey,  
Waters & Dohrmann  
161 West Third Street  
Williamsport, PA 17701  
(570) 323-8711 (telephone)  
(570) 323-4192 (facsimile)*

*Cliff Rieders, who practices law in Williamsport, is Past President of the Pennsylvania Trial Lawyers Association and a member of the Pennsylvania Patient Safety Authority. None of the opinions expressed necessarily represent the views of these organizations.*