

Fact Sheet: Repeal MN Statutes 3.226 and 16C.053,  
Title: "Contract with Vendors Who Discriminate Against Israel Prohibited"

- Enacted in 2017 with 35 House authors (Daudt, et. al.), and 1 Senate author (Limmer), the law is unconstitutional and should never have been signed.
- Individuals have the right to boycott a nation-state: it is accepted free/political speech.
- The State of Minnesota should not discriminate against a prospective contractor based on that contractor's political beliefs.
- The ACLU believes the law is unconstitutional.
- The Minnesota law has not yet been tested in court, although other states' similar laws have been successfully challenged.
- One can disagree with boycotting of Israel, but still uphold the First Amendment right for any person to boycott any country.
- There are historical precedents of movements for the boycott of nation-states, U.S states, and companies. Individuals who used their First Amendment right to boycott in these instances were not targeted by any Minnesota laws.
- By establishing a legal discrimination against pro-Palestinian supporters of the BDS movement, the law can have a "chilling effect" on not only potential contractors but the free political speech of the general population.
- Discrimination against a country ??
  - A dictionary definition of discrimination: "2. treatment or consideration of, or making a distinction in favor of or against, a person or thing based on the group, class, or category to which that person or thing belongs rather than on individual merit: *racial and religious intolerance and discrimination.*"
  - Nowhere in this definition does it mention the possibility of discrimination against a *country*.
  - We maintain that "discrimination against a country" is meaningless.
- Definition of discrimination in the statutes:
  - "(b) For purposes of this section, 'discrimination' includes but is not limited to engaging in refusals to deal, terminating business activities, or other actions that are intended to limit commercial relations with Israel, or persons or entities doing business in Israel, when such actions are taken in a manner that in any way discriminates on the basis of nationality or national origin and is not based on a valid business reason."
  - The authors have conflated "Israel" with "Israelis," and by extension, "Israelis" with "Jews." But twenty percent of Israel's citizens are non-Jews. And many Jews, inside and outside of Israel, support boycotts against Israel to urge the country to end its human rights violations.
- The bills were written to give the appearance of compliance with the First Amendment of the U.S. Constitution. In reality, the revised wording is misleading and unlikely to stand up in court.

- A legal precedent:  
In *NAACP v Claiborne Hardware Store*, 1982, the U.S. Supreme Court, in an 8 to 0 decision, held that:
  - 1. (a) Through exercise of their First Amendment rights of speech, assembly, association, and petition, rather than through riot or revolution, petitioners sought to bring about political, social, and economic change.
  - 1. (b) While States have broad power to regulate economic activities, there is no comparable right to prohibit peaceful political activity such as that found in the boycott in this case.
  - 2. Petitioners (NAACP and those participating in the boycott) are not liable for economic damages sought by the hardware store. The First Amendment “restricts the ability of the State to impose liability on an individual solely because of his association with another.”
- Aggravating the unconstitutionality and the chilling effect of the Minnesota law, the law is vaguely written. A typical potential contractor may not know what is and is not prohibited.