

## Organizing Against State Level Anti-BDS Legislation: The Massachusetts Experience



Jewish Voice for Peace  
Boston



All over the United States, state legislators are taking up bills to combat the Palestinian-led Boycott, Divestment and Sanctions (BDS) movement. These laws take various forms but share the underlying purpose of chilling criticism of Israeli violations of international law and human rights. As such, they undermine First Amendment rights to free speech.

Anti-BDS laws are an integral part of the Israeli government's global strategy to defeat BDS. In 2016 alone, Israel budgeted \$32 million to fight the BDS movement, with measures including blocking the entrance of activists into Israel and encouraging its allies worldwide, especially in the US, to promote anti-BDS legislation. In 2017, the Israeli government formed a new \$72 million [anti-BDS unit](#) called a "public relations commando unit" to leverage non-governmental support to defeat BDS.

In Massachusetts, pro-Israel lobbyists have tried for three years to get the legislature to pass anti-BDS legislation. After several unsuccessful attempts to pass legislation that overtly undermined free speech, a new bill, deceptively entitled "**An Act Prohibiting Discrimination in State Contracts**" (S.1689/H.1685) was introduced in January 2017. Although this bill purported to oppose discrimination, a substantial public paper trail showed its actual anti-BDS intent.

Since it was first introduced, Palestine solidarity, human rights, and free speech organizations have worked to oppose anti-BDS legislation in Massachusetts. The three most active organizations in these efforts– the Alliance for Water Justice in Palestine (AWJP), Jewish Voice for Peace Boston (JVP Boston), and Massachusetts Peace Action (MAPA) – formed a Joint Advocacy Group (JAG) in 2016 to coordinate these efforts. [In February 2018, our labors bore fruit](#): the bill was effectively killed in committee when it was sent to study.

The goal of this document is to provide organizational, strategic, and substantive information about the Massachusetts campaign. We share our experience with those in other states who face similar legislation, with the understanding that no 'one size fits all'.

## Unpacking our campaign

A critical aspect of our campaign was that we were able to start organizing well before this anti-BDS bill was actually filed. We did not know what form the bill would take when we began organizing. [Here](#) is an overview of the timeline including the attempts to file anti-BDS legislation, and the steps in our campaign opposing it. **It is important for any organization with a 501c3 status to consult with a legal team before engaging in lobbying: there are significant restrictions on lobbying for 501c3 organizations.**

These aspects of our campaign turned out to be crucial:

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## Developing a tightly organized working group

"This is a grassroots organizing success story. A small team of activists, highly motivated but without much experience working in the state legislature, came together, worked hard and smart, built a coalition and won!"

Cole Harrison, Executive Director Massachusetts Peace Action

As the move for anti-BDS legislation surfaced in Massachusetts, three organizations (AWJP, JVP Boston, and MAPA) started doing legislative outreach work independently. These

organizations had overlapping membership and were politically aligned around issues relating to Palestine. In June 2016, we formed the **Joint Advocacy Group (JAG)**.

To establish a disciplined working group that could sustain a campaign over the course of the legislative cycle, we did the following:

- Limited the membership to four representatives from each participating organization.
- Started by focusing on the state anti-BDS work.
- Set up an infrastructure (gmail list and google drive accessible to JAG members only).
- Established a Steering Committee (one person from each organization) to set meeting agendas and make decisions between meetings.
- Established team leaders to head up different areas of work: Legal, Lobbying, Communications, Education and Organizing.

We met every two or three weeks for 90 minutes over a period of 18 months.

### Some considerations in forming a working group of several organizations:

- What are the areas of overlap between groups?
- What are the logistics of coordinating?
- How will information be shared across groups about elected officials, their positions, our history with them, and our relationships?
- What kind of materials, meetings, public forums, public pressure should be prioritized with public officials?
- Who else should be in this group? Are there Palestinian individuals/organizations who might want to participate?
- What sub-groups should be set up?

## Developing a multi-pronged political strategy

Our goal was to get legislators to either to kill the bill outright or to send it to study (effectively killing it for this session). This entailed analyzing the local, national and international context. These factors differ state by state. In Massachusetts, the State House is controlled by liberal Democrats and the state has a strong progressive movement; this informed our twin strategies of building a broad coalition and appealing to the liberal (and anti-Trump) bent of legislators.

### In building a broad coalition, we focused on the following:

- **Free speech:** The right to boycott is a fundamental democratic right. Boycott was a foundational strategy in the civil rights movement, the South Africa struggle, and the LGBTQ struggle. The bill threatens this constitutionally protected right.
- **Human rights:** Israeli policies undermine Palestinian human rights and violate international law. Israel is currently an apartheid state built on settler colonialism and ethnic cleansing. U.S. progressives should step up to defend BDS.
- **Intersectionality:** Anti-BDS legislation opens the door to attacks on all forms of protest during this time of political repression (see [this](#) article). And the same underlying dynamics connect the movements for black, indigenous and Palestinian liberation.

### In addressing legislators, we focused on the following:

- **The bill is constitutionally untenable and likely to result in litigation.** Leading constitutional lawyers and legal organizations (including the ACLU) oppose it. You don't have to support BDS to oppose this bill.
- **The bill is deceptive, redundant and extremely controversial.** The legislation isn't really about discrimination (such legislation already exists) and is likely to engender controversy. It would be extremely difficult to implement. State contractors who support BDS would have no idea that they could be perjuring themselves when they signed the state 'anti-discrimination' form.
- **There is broad opposition to the bill among many constituencies.** One hundred Massachusetts organizations signed a Freedom to Boycott letter. Likewise, over a hundred faith leaders signed a letter opposing it.
- **Opposing this legislation is not anti-Semitic.** Many Jewish voices – including JVP Boston, Workmen's Circle (who have no position on BDS but do oppose the bill), some Holocaust refugees, and rabbis oppose this legislation.
- **Israeli policies undermine Palestinian human rights and violate international law.** BDS is neither a form of national origin discrimination nor anti-Semitic. It is a peaceful means of exerting economic pressure.

## Drawing on national resources, support, and lessons

Our goal was to learn as much as we could about the experience in other states and to situate our campaign within the national context. We drew on resources from several national organizations to learn about how to structure our work, to get legal advice and specific guidance for our state.



Jewish Voice for Peace has a *State Fights Legislative Toolkit* (PDF available on request) that provides a useful overview of how to conduct a campaign.



anti-BDS legislation.

Palestine Legal has a range of resources including updated information about state [anti-BDS legislation](#) across the U.S. In addition, they are incredibly helpful in giving advice and guidance related to specific state



US Campaign for Palestinian Rights

The U.S. Campaign for Palestinian Rights has staff and [resources](#) to support state level campaigns against anti-BDS legislation.



situation in Palestine/ Israel. They are especially helpful in supporting media work.

The Institute for Middle East Understanding (IMEU) has [factsheets](#) that are useful in educating legislators and activists about many aspects of the



The ACLU, both nationally and in Massachusetts, has statements and resources which carry a great deal of weight with legislators. [Nationally](#), the ACLU has made a number of statements about anti-BDS legislation and recently has filed lawsuits in Kansas and Arizona challenging anti-BDS legislation. These are important for ALL states in showing the possible repercussions of enacted anti-BDS laws. In Massachusetts, the ACLUM also provided statements opposing S.1689/ H.1685 and testified at the hearing about this bill.

## Building a broad coalition

Our goal in building a broad coalition was to inform activists in other movements and to build power in opposing the bill. We reached out to almost 150 organizations in Massachusetts asking them to sign on to a letter opposing anti-BDS legislation. In addition to informing broadly across the movement about issues of Palestinian rights, free speech, and the upcoming legislation, the letter was a first step in organizing a coalition for ongoing advocacy and activism. It was, of course, an advocacy tool to inform legislators about the breadth of opposition to the legislation.

Outreach to potential coalition partners entailed:

- **Identifying groups** to invite to the coalition and developing a spreadsheet to keep track of asks and responses; categories of organizations included: anti-racism, arts, church, community empowerment, corporate accountability, criminal justice, environmental, health care, housing,

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immigration, international aid, Jewish, labor, legal, LGBTQ, Muslim, peace and justice, political, student and women.

Category	Organization	Contact Person	Email	Phone	Reached out?	Agreed to be in coalition?
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- **Inviting groups** to sign on to the Freedom to Boycott letter. A tool we used to inform our outreach was PowerPrism ([www.powerprism.org](http://www.powerprism.org)) which stresses appealing to the “motivated self-interest” of coalition partners:
- **Assigning JAG members** to contact potential partners (based on prior relationships if possible).

Our outreach resulted in over 100 organizations signing a [Freedom to Boycott](#) letter opposing anti-boycott legislation. Some of the lessons we learned were:

- **Don’t expect consistent activism:** It became clear as the campaign proceeded that while many organizations were willing to sign on to the letter, only a few had the capacity to become actively involved in the ongoing work of opposing the legislation.
- **Organize allies by category:** When we distributed the letter to legislators, we listed the organizations that signed on by category (see above). These categories formed the infrastructure of our own outreach and organizing efforts as the campaign evolved. At the time of the hearing on the legislation, the infrastructure of the coalition was already in place and coalition members were already primed to step up to testify against the legislation.
- **Support coalition partners:** It was also critical that JAG member organizations (JVP Boston, MAPA and AWJP) actively supported coalition groups in their own struggles. So, for example, we participated in Black Lives Matter events, Safe Communities hearings, Muslim Justice League campaigns against Countering Violent Extremism, and other coalition partners’ initiatives.
- **Constituent voices are key:** It was also evident that not all legislators were as impressed by this coalition as we had hoped. A key lesson was that many legislators respond primarily to the voices of their own constituents.

### Building a legal team

We aimed to convince legislators that the bill would undermine first amendment rights and potentially lead to costly litigation. As soon as JAG formed, we began to reach out to legal organizations for support and input. One JAG member is a retired lawyer with many contacts in the legal world. Two retired members of ACLUM are Palestine solidarity activists and provided important input. These connections were critical. We reached out to:

- ACLU of Massachusetts (ACLUM)
- Palestine Legal
- The National Lawyers Guild, Massachusetts chapter
- Defending Rights and Dissent
- Center for Constitutional Rights

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“Spare us all the agony of the litigation that will follow if this bill passes”

John Roberts, Executive Director of the ACLU of Massachusetts 1970-2003

These organizations provided informal consultation, analysis of the legal implications of the legislation, and most important, critical letters and statements to members of the committee considering the legislation. The position of the ACLU carried particular weight. By

the time the hearing for S1689/H1685 was scheduled, these organizations were fully on board and eager to provide legal testimony at the hearings. The Board Chair of one even traveled from New York at her own expense to testify.

Even before we knew the specific form that the legislation would take, we began studying legal issues raised by the anticipated bill. In addition, the team studied the testimony and writings of Eugene Kontorovich, a law professor at Northwestern University who specializes in defending Israeli policies and has provided testimony supporting anti-BDS legislation in other states. This enabled us to anticipate arguments that might be utilized in Massachusetts.

The legal analysis was critical for lobbying, educational work, and ultimately at the hearing about the legislation. A joint letter by Palestine Legal, The National Lawyers Guild, Defending Rights and Dissent, and the Center for Constitutional Rights addressed to members of the committee holding the hearing provided an authoritative legal analysis of the bill, concluding that:

The undersigned groups are dedicated advocates of civil rights. We oppose S1689/H1685 precisely because it is antithetical to the promotion of civil and human rights. This bill offers no new civil rights protections, is rooted in substantial part in animus towards BDS campaigns for Palestinian rights, would violate the Constitution if applied to deny state contracts to persons or entities engaged in BDS and will have a chilling impact on constitutionally protected speech.

### **Lobbying, lobbying and more lobbying**

Our goal was to sustain systematic lobbying targeted at any legislators who could influence the outcome of this bill. Lobbying took place at every stage of our campaign – before legislation was filed, immediately after it was filed, as well as before and after the committee hearing. We organized our own teams of lobbyists with carefully crafted JAG messaging and also trained various groups of people who could do their own independent lobbying.

**Insider contacts:** It was critical to identify friendly legislators, leverage relationships on issues beyond BDS, and consult with legislative allies before legislation was filed. Developing relationships with staff and aides proved key; they were often more knowledgeable and supportive than the legislator, and able to influence his/her position. As a result:

- A state representative with whom we had worked on environmental issues notified us of the stealth anti-BDS amendment that was attached to an economic bill.
- A long-time state representative who had worked on South Africa BDS legislation met with us to strategize and educate us about the legislative process.

- A friendly source secretly passed us the JCRC talking points. This document contained proponents' legal strategy, claims about BDS, and approach to getting the legislation passed. We then produced a counter document that we circulated to legislators.
- Several supportive legislative aides fed us information about JCRC lobbying, timing of the hearing, and other matters.

**Power map:** We developed a power map spreadsheet that ranked each legislator according to their likely position on the bill. Each name contained a link to the legislator's website.

Senator	Rate their sympathy to our position ( 1 = 100% opposed to us, 5 = 100% supportive)	Personal connections (people who know them): NAME	Notes on our communication with them	Party	Office #	Phone	Email	Staff?
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**Targeting priority categories of legislators:** We identified several categories of legislators to prioritize in lobbying based on their likely ability to influence whether the bill would move forward. These included: Jewish legislators, sympathetic legislators, House and Senate leadership, and members of the committee to which the bill had been assigned, especially the co-chairs.

### Clarifying responsibilities

- Identifying lobbying targets and briefing others about their political profiles
- Assigning a leader for each visit who is responsible for setting up the appointment, bringing materials and coordinating other aspects of the visit
- Identifying constituents who can attend the meeting: Legislators prefer to meet with their own constituents; some refuse to meet with a group that does not include at least one constituent. We tried, not always successfully, to find constituents from the legislator's district for each meeting, using personal contacts and emails to databases of JVP MA members and MAPA members.
- Organizing a balanced team to attend each appointment with one participant from each organization and a constituent if possible; we tried to have at least one Jewish-identified person and one person prepared to speak about legal issues at every meeting.
- Preparing the "script" of the visit: we met for half an hour before each visit to assign and rehearse our key talking points. We focused on three or four talking points (not more).
- Taking notes at the meeting and writing a summary of each visit
- Following-up with a thank you to the legislator with links to resources and answers to questions.
- Keeping track of all lobbying visits: dates, times, participants. Debriefing for a few minutes after each visit.

**Repeated lobbying visits:** We began with a lobbying day at the State House that about 30 activists joined. Later JAG members and allies made appointments with key legislators. Initially these meetings focused on the anti-BDS intent of the bill (since it was disguised as opposing discrimination), countering JCRC claims about BDS, and educating legislators about Palestine. Subsequent visits focused on legal information as well as challenging JCRC's misinformation that the ACLU and the Massachusetts AFL-CIO supported the bill. After the ACLU filed federal lawsuits in Kansas and Arizona against anti-BDS laws, we focused on these new legal developments and their implications for Massachusetts.



**Materials for lobbying:** We brought handouts to every lobbying meeting. These included:

**Documents that JAG produced:**

- [A fact sheet](#) about BDS: What BDS is and isn't
- [Evidence](#) that this "anti-discrimination" legislation is actually anti-BDS legislation
- [A rebuttal](#) of the JCRC talking points
- [Ten Reasons](#) to oppose the anti-boycott legislation
- [Handouts about the legal issues](#) and updates about court cases
- [Freedom to Boycott letter](#) signed by 100 grassroots organizations in Massachusetts

**Articles by Jews and Israelis opposing the legislation** to combat the argument that opposing the legislation is anti-Semitic:



- [Anti-BDS law can't be 'pro-Israel' if it tramples on free speech](#)
- [Why I, as a Proud Israeli, Want the World to Boycott Us](#)

"Despite what the mainstream Jewish community may say, the policies of the State of Israel violate the core values of Judaism." Rabbi Brian Walt

**Articles about anti-BDS legislation in other states:**

- [Md. Anti-BDS bill stifles freedom](#)
- [LA Times Editorial](#) slamming anti-BDS ban

**Statements by religious, legal, and civil rights groups:**

- [National Coalition Against Censorship](#) (includes American Jewish Committee, National Council of Jewish Women, and Union of Reform Judaism)
- [Kairos statement](#) on anti-BDS legislation
- [Global ministries](#) statement
- [ACLU](#) on Kansas lawsuit
- [Letter](#) from 100+ Massachusetts faith leaders opposing the legislation

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## The legislation itself

In January 2017, Representatives Paul McMurtry and Steven Howitt, and Senators Cynthia Creem and Bruce Tarr filed the bill deceptively entitled "An Act Prohibiting Discrimination in State Contracts".

### The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court  
(2017-2018)

#### Section 24: Prohibition of Discrimination in State Contracts

A) A person who submits a bid or proposal to, or otherwise proposes to enter into or renew a contract with, a state agency with respect to any contract in the amount of ten thousand dollars (\$10,000) or more shall certify, under penalty of perjury, at the time the bid or proposal is submitted or the contract is renewed, all of the following:

(1) They are in full compliance with Massachusetts Anti-Discrimination Laws (G.L. c. 151b; G.L. c. 151e; G.L. c. 149 §§ 105A, 105B and 105C; G.L. c. 272 § 92A; G.L. c. 272 § 98; An Act to Establish Pay Equity, 2016 Mass. Acts c. 177 (effective July 2018).) and

(2) They do not currently, and will not during the duration of the contract, refuse, fail, or cease to do business with any other person when that action is based upon such other person's race, color, creed, religion, sex, national origin, gender identity or sexual orientation.

B) Any policy adopted by a person or actions taken thereunder that are reasonably necessary to comply with federal or state sanctions or laws affecting sovereign nations or their nationals shall not be construed as unlawful discrimination in violation of Massachusetts Anti-Discrimination Laws.

C) Violation of this Section shall result in rescission of the contract.

SECTION 2. This act shall take effect upon its passage.

## Analysis of S.1689/H.1685

Our goal was to present an analysis that addressed various problems with the bill so that even those who do not support BDS would see its flaws and dangers. Having a legal team in place enabled us to hit the ground running when the bill was introduced. Our analysis covered the following points:

### 1) The intent of S.1689/H.1685 is to inhibit the right to boycott.

Although S.1689/H.1685 appears innocuous, the language of this bill is deceptive. The bill does not mention Israel by name or refer to BDS or boycotts. Many legislators signed onto the bill because they thought they were opposing discrimination. There is, however, [a lengthy paper trail](#) documenting the bill's anti-BDS intent. This is significant because, as the multiple challenges to the Trump Muslim Ban show, intent is a factor in determining the constitutionality of legislation. It was critical to expose its true intent to legislators. As the ACLU said, "An anti-boycott motivation calls into question the constitutionality of the legislation, even if it is neutral on its face." *Collecting documentation of the anti-BDS intent of the bill was critical.*

### Lawmakers to get anti-boycott bill

Legislation based on California law  
By Brett M. Rhyne  
Advocate staff



BOSTON – Legislators intend to file a bill to combat the Boycott, Divestment and Sanctions movement against Israel early in the next legislative session, according to State House sources.

The Jewish Community Relations Council of Greater Boston, the political action arm of Combined Jewish Philanthropies, is reportedly finalizing the language of the bill, which will be co-sponsored in the House of Representatives by Steven Howitt (R-Seekonk) and Paul

### 2) It is based on a false premise and false claims about BDS.

The bill rests on the erroneous premise that BDS is discrimination based on national origin (that BDS discriminates against Israelis purely on the basis of their nationality). The bill's proponents, including the JCRC, think the bill applies to BDS because they regard BDS as a form of national origin discrimination, claiming BDS involves "singling out and refusing to deal with a business owner based on an immutable characteristic [that they are Israeli]." *JCRC Action Alert*, January 2017.

**In fact, BDS has nothing to do with national origin discrimination.** BDS targets are not chosen because of their national origin – which cannot change – but because of what they do – which can change. They are singled out for their complicity in the occupation. For example, Caterpillar, G4S, Veolia, and Hewlett-Packard (not Israeli-owned businesses) were chosen because they profit from the Israeli occupation, and SodaStream (which is Israeli) because it was located in a settlement. Even a future BDS campaign targeting all Israeli businesses would not be due to some immutable characteristic of such businesses, but in order to change Israeli policy towards the Palestinians, and it would end once that policy changed.

Anti-BDS proponents made several other false claims about the BDS movement.

- **That BDS calls for the destruction of Israel.** BDS no more calls for the destruction of Israel than the anti-apartheid movement called for the destruction of South Africa.
- **That BDS is anti-Semitic.** BDS explicitly opposes anti-Semitism. As Omar Barghouti, a founding member of BDS, says, "Anchored in the universal principles of human rights, the BDS movement has consistently and categorically opposed all forms of racism and racial discrimination, including anti-Jewish racism and Islamophobia."
- **That the BDS movement opposes a two-state solution.** The JCRC explicitly said that BDS rejects a two state solution. In fact, BDS takes no position on the two-state solution.

### 3) There are multiple constitutional problems with S.1689/H.1685

Its proponents went to great lengths to defend the constitutionality of the bill, saying, for example, that it "would not raise First Amendment Concerns" (*Talking Points*). Constitutional lawyers disagree:

- **It violates the constitutionally protected right to free speech.** A JCRC *Update on Anti-Discrimination Bill* argues that the bill is constitutional because, "[D]iscrimination is not protected under the First Amendment." They even went so far as to say that "[E]conomic activities, such as the act of boycotting...are granted a lower level of First Amendment protection" (*Talking Points*). However, the act of boycotting, not mere expression of views, was exactly what was at issue in the 1982 Supreme Court decision in *NAACP v. Claiborne Hardware*. That decision held that there is a constitutional right under the First Amendment to engage in peaceful boycott activity to bring about political, social, and economic change. It explicitly stated that while states can regulate economic activity, they may not prohibit peaceful political activity.
- **It would have a chilling effect on the constitutional right of free speech.** A chilling effect occurs when government conduct — even if not specifically directed at constitutionally protected activity — nonetheless deters people from engaging in constitutionally protected activity for fear of punishment or unfavorable social repercussions. This bill does just that.
- **It imposes an unconstitutional condition on state contracts.** The Supreme Court has ruled that a state agency may not impose an unconstitutional condition on receipt of a governmental benefit. This means that a contract with a government agency may not be denied due to the contractor's exercise of a constitutional right that is irrelevant to the nature and performance of the contract. So if the bill is applied as its proponents intend to prevent persons engaging in BDS from contracting with the state, it is unconstitutional.
- **It is too vague.** To pass constitutional muster, a law must not be so vague as to sow doubt regarding what behavior is allowed and what is not. For instance: How is one to know whether a business or organization is discriminating on the basis of national origin? This prohibition on vagueness is much stricter if the consequence of a violation can be criminal prosecution.

"Is this bill opening a door to any advocacy group whose agenda is to sanitize the actions of any nation found in violation of commonly accepted human rights protections? - Lynn Brown, Educator,

**Section B is a huge red flag.** Because the bill does not apply to federal sanctions or "laws affecting sovereign nations or their nationals" (section B of S.1689/H.1685), Trump's immigration and Muslim bans would get a pass under this bill.

### 4) The bill is redundant, confusing, economically harmful, and a waste of legislators' time.

- There are already laws in Massachusetts that prohibit discrimination in state contracts.
- S.1689/H.1685 would cause confusion for businesses that withdraw from Israel for any reason (e.g., as in the case of Veolia which sold off businesses in Israel after losing contracts there).
- It could mean that the state would have to fire all graduate assistants at UMass Amherst because they belong to a union that has endorsed BDS. It could mean that minority businesses that endorse BDS would be disqualified from state contracts, that university professors who support BDS would lose their jobs, and so on.

## Educating activists

Our goal was to educate broadly across the movement both about the issue of justice for Palestinians and about threats to the right to boycott. Even before we knew what form the bill would take, we began alerting and educating activists.

**Factsheets, updates and action alerts:** Each JAG organization posted fact sheets on its website and through email blasts.

**Lobbying workshops:** JVP Boston conducted lobbying workshops to educate participants about BDS and anti-BDS legislation; organizing constituents to attend meetings with legislators; scheduling legislator meetings; preparing for meetings; and organizing agendas for the meetings. They included role-plays and district-based follow-up.

**Forums:** We held two forums. The **first**, in October 2016, served to prepare for whatever legislation was to come and to encourage participants to lobby their legislators in opposition to the bill once it was filed in January. The October forum consisted of a panel and breakout groups. The panel included sections on ***Palestine and BDS*** (What is BDS and why is it important? How does BDS/Palestine solidarity connect to other struggles?); ***The National BDS/anti-BDS context*** (What is happening nationally to suppress BDS? How are these efforts being challenged?); ***The Massachusetts context and the MA Freedom to Boycott Coalition*** (What is the MA legislature doing to suppress BDS? What has been done to oppose MA governmental initiatives?). Breakout groups focused on campus organizing; organizing your own event; meeting/calling/ writing your legislator; writing Letters to the Editor/Op-Eds; and testifying. After the forum, we created a spreadsheet with participants' contact information, areas of interest (e.g., lobbying, testifying, organizing events), and zip codes (for constituency follow-up). We wrote a follow-up letter with action steps and new information. The **second** forum, in June 2017, aimed to prepare activists for the scheduled hearing. It included detailed information about legal arguments, instructions for both oral and written testimony and breakout groups. The complete forum materials can be found [here](#).

## Learning about the state legislative process

Every state has its own legislative process and each part of the process is shaped by context-specific political dynamics. Our goal was to understand the legislative process in Massachusetts so that we knew where, when and how to target our campaign. We consulted activists who had experience with promoting (or challenging) legislation in Massachusetts. We asked about:

- **The committee process:** How are bills assigned to committee? How are committee members assigned? How do they work?
- **Rules for hearing:** Who determines rules? What are they? How long can each person speak? What is the order of testifiers? Are panels allowed? How many people can be on a panel?
- **Committee vote:** When is the deadline for a committee decision? How is the decision made? What are the possible outcomes? What is the role of the committee leadership? What role, if any, do House and Senate leadership play in influencing the outcome of the committee vote?

## Organizing broadly for the hearing

- **Start early:** We started organizing for the hearing before the legislation was filed, alerting our networks about the hearing process and inviting participation. As soon as the bill was filed, we started preparing testimony panels even though we didn't know the hearing date.
- **Identify testifiers:** Over a period of months, via meetings, workshops, forums, email blasts, we solicited people willing to testify. We developed a spreadsheet and email list of potential testifiers.
- **Mobilize ally organizations and consult allies:** We did broad outreach to all organizations in the Freedom to Boycott Coalition to ensure a large turnout at the hearing. We consulted allies who had already participated in hearings and we attended a hearing on another bill to observe the process first hand and to support our allies.
- **Work with the committee chair:** We consulted a committee co-chair about the logistics of the process, asking: How long will the hearing be? How does one sign up to testify? How will it be organized? How many minutes is each person allowed to speak? How many people should be on a panel? How will written testimony be distributed? Will everyone who signs up be able to speak? The chair was happy to answer our questions and provide advice.
- **Organize panels and individuals to testify:** We invited selected people to participate in specific panels so that together the panels covered the major arguments against the legislation (see below). We helped others to prepare individual testimony.
- **Educate:** Our second forum prepared people for testifying. A power point presentation explained the bill in detail to ensure that testifiers thoroughly understood the bill they were testifying about; an ally who had mobilized for a hearing about immigrant rights legislation explained the hearing process; sub-groups at the forum focused on individual testimony, Jewish voices, Freedom to Boycott Coalition members, faith leaders, etc.. Guiding questions for each sub-group were: Who is interested in testifying? What will each person cover? What perspectives are missing?
- **Mobilize:** We developed and widely disseminated [written instructions](#) for testifying individually and in panels. Once the hearing date was announced, we mobilized participants via email and Facebook for the hearing. We gave very specific instructions about logistics (where to go, how to sign up, how long to speak, how to submit written testimony, etc.).
- **Identify a convener for each panel** who organizes the panel (but isn't necessarily on it). Conveners' responsibilities are outlined [here](#).
- **Plan to be visible:** We made brightly colored "Freedom to Boycott" stickers to demonstrate how many opponents of the bill were present. These are easy to make, inexpensive and effective.
- **Assign logistical roles for the hearing:** Scoping out the hearing site; having designated people arrive early to sign up all panels; bringing packets of materials for committee members; designating spokespeople for the press; developing a press release; live streaming via Facebook and tweeting; making a video of the whole hearing; interviewing panelists for a shorter video. Each of these roles involved quite a bit of planning and coordination.

## Crafting a multi-faceted series of “expert” panels

Our goal for the hearing was to cover the arguments against the legislation with a wide a range of constituencies represented. We organized 18 panels with 46 panelists to testify at the hearing.



**Overview panel:** The bill is not about discrimination; it is about prohibiting the state from contracting with supporters of BDS and human rights for Palestinians.

**Two legal panels:** The bill has significant legal problems, many of them constitutional, and major constitutional law organizations oppose it.

**BDS in US history:** Boycotts are a time-honored tradition in the U.S. (e.g., the struggle against apartheid South Africa, Montgomery Bus Boycott and LGBTQ struggles).

**BDS in Palestine:** What is BDS and why is it necessary?

**Implications of bill for state economy:** Israeli businesses are a small percent of the MA economy.

**Implications for small businesses:** The bill will hurt small businesses and contractors.

**The case of Veolia in Massachusetts:** The bill raises questions about the viability of state contracts with Veolia.

**Two Jewish perspectives panels:** The bill is not anti-Semitic.

**Two panels of faith leaders:** Many faith-based organizations locally and nationally support BDS and contract with the state.

**Educators:** This bill threatens public school teachers and university faculty members.

**Students:** Students who participate in unions and student organizations that support BDS may be penalized; graduate student instructors may no longer be able to teach.

**Freedom to Boycott groups:** A broad coalition of grassroots organizations in MA opposes this bill.

**Health professionals:** Health conditions for Palestinians compel health professionals to support BDS.

**Closing panel:** Summary points.

“Israel’s self determination should not come at the cost of oppression of an entire nation of people, and yet it does.”  
Omar Hecht, former IDF soldier

**We had an impressive line-up of panelists including:** an ACLU civil rights attorney; a prominent African American minister; a constitutional lawyer from Harvard Law School; the Deputy Legal Director of the ACLUM; the Board Co-Chair of the National Lawyers Guild Massachusetts; the Board Chair of the Center for Constitutional Rights; the Executive Director of the Muslim Justice League; the founder of Polaroid Revolutionary Workers; a South African anti-apartheid activist; the Executive Director of a Palestinian water rights organization; the U.S. Rep. of Adalah; a former union president; small business leaders and independent contractors with the state; a Holocaust refugee; two rabbis including the Founding Exec Director, Rabbis for Human Rights North America; a former IDF soldier; Methodist, Congregational, Episcopalian, Unitarian, Bethel AME and Presbyterian faith leaders; a K-12 teacher; public university professors; graduate student union leaders; representatives of Grassroots International, Massachusetts Peace Action, the Alliance for Water Justice in Palestine, Jewish Voice for Peace Boston, Jewish Women for Justice in Israel/Palestine, Faculty & Staff for Justice in Palestine (UMass Boston), AFSC, Sabeel, and Cambridge/Bethlehem People to People Project.

### Expecting the unexpected

The best laid plans.... On the day before the hearing, a co-chair of the SARO committee was abruptly switched to a different committee and a new SARO chair installed. All the discussions about how the hearing would be conducted became moot.



“As a person who has experienced discrimination I feel like we are asked to choose between laws that protect against discrimination and political speech that may resist discrimination”. Reverend Mariama White-Hammond, Bethel AME Church, Boston

For the first several hours of the hearing, the convener only called on people from the anti-BDS side, despite the fact that we had been told that speakers from pro and con perspectives would be called on alternately. Our panelists were called as individuals, and we were often not allowed to have all panelists speak that the “rules” were made up arbitrarily

together. It appeared in a way that favored the anti-BDS camp. Fortunately, every one of our panelists was able to testify. Several BDS supporters who were called on to testify as individuals ceded their spots to high-profile panelists.

We believe that our perspective dominated the hearing. In fact, over 60% of the testifiers opposed the bill. Of the 500+ people in attendance, more than half opposed the bill (judging by the fact that we distributed 300 stickers). The hearing clearly signaled to the members of the committee that S.1689/H.1685 is an extremely contentious bill.

It was clear that this bill, which purported to prohibit discrimination, was opposed by an extremely diverse range of testifiers while the other side was monolithically white. Even supporters of the bill admitted that those supporting the bill failed to make their case at the hearing.

“...we failed to get one black, one gay, one transgender person, one Latino, or one feminist activist to stand with [us] at the State House.” Charles Jacobs, President of the notoriously Islamophobic Americans for Peace and Tolerance



## Recognizing that it ain't over till it's over

We did not rest after the hearing, sustaining the campaign with actions including:

- **Writing thank you letters** to each member of the committee.
- **Compiling and distributing written testimony:** We compiled all the panelists' testimony into a bound hard copy book with tabs separating each panel's submissions, and delivered this to every committee member as well as selected leaders in the House and Senate.
- **Producing a [video](#):** We produced a 17 minute video highlighting key testimony to distribute to committee members (since not all attended the hearing and some attended only parts of it).
- **Submitting a [letter](#) signed by over 100 faith leaders** opposing the legislation.
- **Updated legal information:** We developed a fact sheet with new legal developments after the ACLU filed federal lawsuits in Kansas and Arizona about state anti-BDS legislation in those states.
- **Email updates:** We sent a email alerting all committee members of the judge's preliminary injunction in the ACLU's case against the Kansas anti-BDS law only two weeks before the committee was due to make its determination.
- **Ongoing lobbying:** We visited every member of the committee to discuss the new legal developments, as well as their views on the bill.
- **Attempting to meet with representatives of the Attorney General and the Governor:** We were concerned that our governor might try to do an end run around the legislature and issue an executive order to prohibit contracts with entities that support BDS (as governors had done in other states). We met with representatives of the Attorney General (who did not seem interested in the bill). We also attempted to meet with the governor's counsel (to no avail).

## Learning from mistakes

We learned many things the hard way. In working with legislators, we were less systematic than we might have been in reaching out to specific groups. For example, our work with supportive legislators, especially before the hearing, was too little and too late. We didn't have enough of a bench of allies with legislative knowledge. We learned that sustained and serious work with our legislative allies would have benefited us.

In working with coalition groups, we struggled to find the balance between keeping in touch with them and not bombarding them with information and asks. We learned that we needed to communicate on a case-by-case basis, prioritizing those most closely aligned and communicating less with others. At times, we raised issues that made legislators defensive. For example, when JCRC took several committee members on an all-expense-paid trip to Israel and we raised the conflict of interest issue with them, it backfired. We learned to separate this issue from the core analysis of the legislation. Finally, we learned not to believe everything we heard. For example, we were told the hearing would be in October but, in fact, it was in July.

<http://waterjusticeinpalestine.org/> <http://jvp-boston.org/> <http://masspeaceaction.org/>

## Conclusion

On Feb. 7, 2018, the SARO committee voted by a margin of 11 to 1 (with 3 abstentions) to send the bill to study, effectively killing it for this legislative session. One committee member said, "The opposition came out and really did their homework." There were probably many factors that led to this outcome.

- **Legal factors and our sustained communication about ACLU cases:** We had a high power legal team that started early in highlighting constitutional problems with the legislation. We sent all committee members and legislative leadership urgent alerts about the ACLU filed federal lawsuits, and the preliminary injunction against the Kansas anti-BDS law.
- **The contentious nature of the legislation:** Our legislators do not want to be involved in any legislation that may be contentious or risk votes, especially during an election year. The fact that there were so many letters, calls, and meetings from both sides on this issue probably influenced the decision to avoid sending it to the full legislature, as did the huge turnout at the hearing.
- **The hearing:** The testimony against this bill was carefully crafted, powerful and included some very influential representatives of many different kinds of constituency. The huge and visible turnout by opponents of the bill was impressive. Likewise, we heard that the bound copy of all testimony against the legislation made a huge impression on many legislators.
- **Trumpism:** The fact that Netanyahu and Trump are so closely aligned may have played a role. Israel is increasingly associated with Trumpism – an important consideration in a largely Democratic state house. There is a changing discourse on what it means to be pro-Israel and an increased vigilance about legislation that could take away our rights.
- **The bill's messaging was contradictory:** Proponents of the bill tried to have it both ways, arguing that it was not about BDS (on its face just about discrimination) while at the same time arguing that it was about BDS (in their rallying cries for support). Once legislators understood the anti-BDS intent of the bill, many realized that it was deceptive and muddled.
- **Pragmatic factors:** Our messaging consistently highlighted the challenges that implementing this law would face. We emphasized that it would be almost impossible to enforce. We stressed as well that the law would be redundant and create new problems, both economic and practical.

**We realize that while we may have won this battle, the war is far from over.** Israel is spending millions of dollars and waging an all-out war on BDS. There is a chance that anti-BDS legislation will crop up in some form in Massachusetts, or that the Governor will issue an anti-BDS executive order.

**Nevertheless, we see this campaign as a success.** We used it as an opportunity to educate legislators about some of the underlying Palestine/Israel issues. Dozens of legislators heard, perhaps for the first time, some of the truth about these issues. We created an organizing team and infrastructure that can take on whatever comes next. We are already organizing on federal level bills and meeting with national legislators. We have built a team and a coalition that is ready for the long haul.