

School Employee Sues District for Israel Loyalty Oath in Contract

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*In a return to the bad old days of McCarthyism, **Bahia Amawi**, a US citizen of Palestinian descent, lost her Texas elementary school job after refusing to pledge in writing that she would not participate in the Boycott, Divestment and Sanctions (BDS) movement. Earlier this month, Amawi sued the school district that fired her.*

The BDS movement against Israel has become a hot button issue in the closing month of 2018. A bipartisan group of senators tried to [attach](#) the [Israel Anti-Boycott Act](#) to the unanimous spending bill that Trump almost signed to avoid the current government shutdown. Meanwhile, Donorbox, a US software company, [blocked](#) the BDS fundraising account at the behest of a pro-Israel group.

“The language of the affirmation Amawi was told she must sign reads like Orwellian – or McCarthyite – self-parody, the classic political loyalty oath that every American should instinctively shudder upon reading,” Glenn Greenwald [wrote](#) at The Intercept.

On December 12, the Council on American-Islamic Relations filed a lawsuit on Amawi’s behalf in the US District Court for the Western District of Texas against Pflugerville Independent School District, alleging that Texas’ law requiring the oath violates the First Amendment. Amawi’s complaint says the law constitutes an impermissible attempt “to impose an ideological litmus test or compel speech related to government contractors’ political beliefs, associations, and expressions.”

Amawi had contracted with the school district for nine years to work with students with autism and developmental disabilities in Austin. This fall, for the first time, Amawi was required to sign an oath that she would not boycott Israel. When she refused to sign it, she was fired.

“The point of boycotting any product that supports Israel is to put pressure on the Israeli government to change its treatment, the inhumane treatment, of the Palestinian people,” Amawi [explained](#). “Having grown up as a Palestinian, I know firsthand the oppression and the struggle that Palestinians face on a daily basis.”

The Boycott, Divestment and Sanctions Movement

The BDS movement was launched by representatives of Palestinian civil society in 2005, calling upon “international civil society organizations and people of conscience all over the world to impose broad boycotts and implement divestment initiatives against Israel similar to those applied to South Africa in the apartheid era ... [including] embargoes and sanctions against Israel.”

This [call](#) specified that “these non-violent punitive measures” should last until Israel fully complies with international law by (1) ending its occupation and colonization of all Arab lands and dismantling the barrier wall; (2) recognizing the fundamental rights of the Arab-Palestinian citizens of Israel to full equality; and (3) respecting, protecting and promoting the rights of Palestinian refugees to return to their land as stipulated in United Nations General Assembly Resolution 194.

Even though it is a nonviolent movement, Israel sees BDS as a threat to its hegemony over the Palestinians. Israel illegally occupies Palestinian territories, maintaining effective control over Gaza’s land, airspace, seaport, electricity, water, telecommunications and population registry. Israel deprives Gazans of food, medicine, fuel and basic services, and continues to build illegal Jewish-only settlements in the occupied West Bank.

“There will not be progress toward a just peace without pressure on Israel to respect Palestinian rights,” [said Rebecca Vilkomerson](#), executive director of Jewish Voice for Peace. “Bringing about that pressure, through a global grassroots mobilization, is exactly what BDS is about.”

After Amawi’s firing, The New York Times editorial board [wrote](#),

It’s not just Israel’s adversaries who find the [BDS] movement appealing. Many devoted supporters of Israel, including many American Jews, oppose the occupation of the West Bank and refuse to buy products of the settlements in occupied territories. Their right to protest in this way must be vigorously defended.

Omar Barghouti, co-founder of BDS, [said](#) in an email to The New York Times,

“Having lost many battles for hearts and minds at the grass-roots level, Israel has adopted since 2014 a new strategy to criminalize support for BDS from the top” in order to “shield Israel from accountability.”

Barghouti [called](#) Shurat HaDin, the group behind the Donorbox action blocking the BDS account, a “repressive organization with clear connections to the far-right Israeli government” that is “engaging in McCarthyite ... tactics ... in a desperate attempt to undermine our ability to challenge Israel’s regime of apartheid and oppression.”

Twenty-six US states have [anti-BDS laws](#) and 13 others are [pending](#). The Israel Anti-Boycott Act, which would have to be reintroduced when the new Congress convenes in January, was [supported](#) by Senate Republican Majority Leader Mitch McConnell and Democratic Minority Leader Chuck Schumer. Senators Bernie Sanders (I-Vermont) and Dianne Feinstein (D-California) opposed the bill.

Boycotts Are Protected by the First Amendment

The [law](#) that triggered Amawi's firing prohibits the State of Texas from entering into government contracts with companies, including sole proprietorships, that boycott Israel. It defines "boycott Israel" to include "refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory."

Boycotts are a constitutionally protected form of speech, assembly and association. They have long been [used](#) to oppose injustice and urge political change. The Supreme Court has [held](#) that "speech on public issues occupies the highest rung of the hierarchy of First Amendment values, and is entitled to special protection." The high court [ruled](#) that advocating and supporting boycotts "to bring about political, social, and economic change" – like boycotts of Israel – are indisputably protected by the First Amendment.

The National Lawyers Guild, Palestine Legal and the Center for Constitutional Rights wrote in a [legal memorandum](#) challenging anti-BDS legislation in New York that such laws "harken back to the McCarthy era when the state sought to deny the right to earn a livelihood to those who express controversial political views." The memo says,

"The courts long ago found such McCarthy-era legislation to be at war with the First Amendment," as they "unconstitutionally target core political speech activities and infringe on the freedom to express political beliefs."

Even staff members at the [right-wing Anti-Defamation League \(ADL\) opposed](#) anti-BDS laws and admitted they are unconstitutional. Although the leadership officially favors outlawing BDS, ADL staff wrote in an internal 2016 memo that anti-BDS laws divert "community resources to an ineffective, unworkable, and unconstitutional endeavor."

Greenwald cited the grave danger anti-BDS laws pose to freedom of speech, [tweeting](#),

"The proliferation of these laws – where US citizens are barred from work or contracts unless they vow not to boycott Israel – is the single greatest free speech threat in the US."

Demonstrating the incongruity of allowing Amawi to boycott any entity but Israel, Greenwald [noted](#),

"In order to continue to work, Amawi would be perfectly free to engage in any political activism against her own country, participate in an economic boycott of any state or city within the US, or work against the policies of any other government in the world — except Israel."

The US government remains Israel's lap dog on the world stage. On December 5 the United Nations General Assembly overwhelmingly passed a [resolution](#) calling for an end to Israel's occupation of Palestinian territories. The United States [opposed](#) the resolution.

Meanwhile, the BDS movement continues to [achieve victories](#). After more than 24,000

people complained to HSBC, the banking giant pulled out its investments in Israeli arms company Elbit Systems. Elbit sells military equipment, including drones, aircraft, artillery and weapon control systems to the Israeli army, US Air Force and British Royal Air Force. It also provides surveillance equipment to the US Customs and Border Protection agency.

On the legal front, the ACLU has mounted successful court [challenges](#) to anti-BDS laws in Kansas and Arizona and has filed litigation in Arkansas and Texas.

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