

Testimony in Opposition to Ohio HB 476
House of Representatives
Committee on Government Accountability & Oversight
May 3, 2016

My name is Mark Silverberg, a life-long Ohioan who currently resides in the Cleveland area. I have been a supporter of Israel as far back as I can remember, have lived in Israel, nearly settled there during my college years, and have visited Israel several times since then. I have been active in support of Middle East peace since the mid-1980's, am on the Board of Directors and a National Officer of Americans for Peace Now (APN). APN is a longstanding pro-Israel, pro-peace organization based in Washington, D.C. I am a proud member of the Jewish community of Cleveland, and active in the Jewish Federation of Cleveland. I stand in opposition to the proposed bill and appreciate your consideration of the following information.

The proponents and supporters of this bill have [actively sought to obscure](#) the real intent of this legislation, hiding behind the claim that this measure is merely about stopping Boycott, Divestment and Sanctions (BDS) against Israel. The true basis for this Bill is to advocate for Israeli settlements in occupied territories, which exist in violation of both international law and U.S. foreign policy, clearly expressed by several U.S. Presidents over many decades. These settlements are a major point of debate and contention within the American Jewish community. Attempts to paper over these debates with obfuscatory legislation do a grave injustice to the breadth of opinions, and deep concern and division, within the American Jewish community on these issues.

I oppose both illegal Israeli settlements in occupied territories and the conflation of this issue with the BDS movement. My reasons for opposing this bill are the following:

- **This conflation flies in the face of nearly 5 decades of unbroken U.S. policy opposing settlements. Since 1967, every president, regardless of party, has maintained this policy.** And until recently, every Congress, regardless of which party was in control, supported this policy, including in law (e.g., legislation barring Israel from using U.S. loan guarantees in areas occupied in 1967). Indeed, never before in the history of the Israeli-Palestinian conflict, until now, has there been any serious effort to legislate U.S. support for settlements.
- **This conflation threatens the possibility of a two-state solution to the Israeli-Palestinian conflict.** Despite U.S. opposition, successive Israeli governments have continued to build in settlements for decades, eroding both the credibility and the viability of the two-state diplomatic solution to the conflict. Legislating support for settlements at the State or Federal level can only encourage further settlement expansion and construction, undermining the chances for ever resolving this conflict.
- **This conflation contradicts all U.S. commitments to negotiations as the only means of resolving the Israeli-Palestinian conflict.** By granting “legitimacy” to settlements, these laws seek to impose specific elements of a solution on the parties, outside of negotiations. The future of the occupied territories – and the settlements Israel has built in them – will be determined through negotiations, not by unilateral actions by either side, nor by actions at the United Nations or by the international community, nor by acts of Congress or state legislatures.

- **Those who adopt this conflation are, deliberately or unwittingly, playing into the hands of BDS, rather than fighting it.** They are making common cause with and fueling hardliners and zealots on both sides, including in the BDS movement, who likewise fail to distinguish between Israel and the occupied territories. They seek, instead, a zero-sum goal of one nation, be it Israel or Palestine, extending from the Jordan River to the Mediterranean Sea, which is, in fact, no solution at all.
- **This conflation further discredits America and American leadership in the Middle East arena** – an arena in which even Israel’s closest allies– countries that have not adopted anything even resembling BDS against Israel – have run out of patience with Israeli leaders who talk about supporting two states but keep building settlements and undermining the possibility of a diplomatic solution.
- **This conflation pointlessly puts the U.S. on a collision course with its own allies.** It does so not for the sake of supporting and defending Israel, but for the sake of defending settlements – settlements built in defiance of almost 50 years of U.S. policy and settlements which the Israeli government continues to build, in contradiction to a genuine commitment to achieving a negotiated two-state solution to the Israeli-Palestinian conflict.

This conflation represents an extraordinary twisting of reality. Israel and the settlements are not the same thing. State legislators would do well to note that Israel has never annexed the West Bank, meaning that under Israeli law, the West Bank is not considered part of Israel, and under international law and Israeli court decisions, the West Bank is deemed as being held in a state of belligerent military occupation. Distinguishing between Israel and settlements is neither discrimination against nor unfair treatment of Israel. Rather, it reflects this objective reality, and is both pro-Israel and pro-peace. This is true whether talking about the new EU interpretive notice of November 11, 2015 on indicating the origin of goods products produced within the territories occupied by Israel since 1967, longstanding U.S. Customs rules, or the longstanding policy of Congress that U.S. aid cannot be used in the settlements.

Looking ahead, it is clear that advocates for continued settlement occupation and expansion will continue to exploit concerns about BDS against Israel to legislate the "settlements=Israel" conflation wherever they can. Numerous pieces of legislation are [pending in Congress](#), including measures that are expected to be key ["asks"](#) by AIPAC lobbyists. Likewise, [numerous states](#) are considering, and some have already passed, their own "settlements=Israel" measures.

As a strong supporter of both Israel’s security and legitimacy, and longstanding U.S. foreign policy objectives of two states for two peoples and a diplomatic solution to the conflict, I ask that Ohio HB476 be opposed unless amended. An acceptable amendment would be to remove the words, “or in territory controlled by Israel,” from line 26 of the proposed bill. If these words are removed I would support the proposed legislation, as amended.

Thank you for your consideration.

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