

NATIONAL REVIEW

BDS, Hypocrisy, and Our Barren Public Sphere

Free-speech advocates across the political spectrum fight a Senate bill that would ban boycotts of Israeli products.

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Sometimes in the course of our political life, someone proposes something so mind-bogglingly stupid that it's hard to know exactly what to say about it. Senate Bill 720 is one of those things.

Over the past few years, a small but prominent movement has cropped up, using the age-old tactic of boycott to protest what it sees as Israel's unjust occupation of territories that are assumed to belong rightfully to the Palestinians. Called "BDS" (boycott, divest, sanction) after the strategy it employs against the state of Israel and goods produced therein, it has acquired a certain notoriety on college campuses, not least for its uncomfortable associations with veritable anti-Semites.

Israel's supporters in the Senate, justifiably seeing this as a problem, have come up with an innovative solution: Make participation in BDS or other boycotts of Israel a felony, punishable by enormous fines and up to two decades in prison. The Israel Anti-Boycott Act enjoys remarkable bipartisan support: It's not often you can get Ted Cruz and Ben Sasse to sign onto a measure alongside Chuck Schumer and Kirsten Gillibrand. Its proponents number 43 in the Senate and 234 in the House.

The American Civil Liberties Union opposes it. "This bill would impose civil and criminal punishment on individuals solely because of their political beliefs about Israel and its policies," the organization writes in a [letter to senators](#). The thrust of its criticism is simple. Many companies and individuals conduct no transactions with Israel, for lack of a need to; the bill would make illegal such an action only if it bears a political motivation. The bill therefore penalizes political beliefs and so is both unconstitutional and unconscionable.

This is correct, and we should be pleased that the ACLU has taken a break from mind-numbing Resistance-focused anti-Trump litigation and has rediscovered the meaning of the "civil liberties" so prominent in its name. This proposed legislation is indeed unconstitutional and unconscionable, an abridgment of the right to free speech, which is quasi-sacred in American life and enshrined in the founding document of our government. The senators who currently support it should be, quite frankly, ashamed of themselves; they have lost sight of one of the founding principles of American government, allowing it to be overshadowed by the spectral world of the Israeli-Palestinian dispute.

This condemnation will, I would hope, suffice for those on the Left whose first instinct, on hearing the news of the bill's consideration, was to ask somewhat sardonically when the ostensible right-wing defenders of free speech would profess their opposition to the bill. Sean McElwee wrote on Twitter: "I expect our valiant campus speech warriors will stay silent." From *The New Republic*'s Jeet Heer: "It's interesting how silent free speech absolutists are when attack is not on campus but from Senate."

This point, now made rotely on the left, is meant to insinuate that those on the center and Right who care deeply about the state of free speech on campus — Conor Friedersdorf, Nicholas Christakis, Jonathan Chait, even some at National Review — are in fact nothing but reactionaries dishonestly appropriating the "free speech" argument to keep the boots of the rich, white, and powerful stamped down upon the backs of leftist agitators.

This is, of course, total bunk. A significant number of prominent supporters of campus free speech have also expressed opposition to the Senate bill. Nicholas Christakis has; Jonathan Chait has; Yair Rosenberg has; Walter Olson has. The hypocrites whom those on the left desperately wish their opponents to be have not materialized; they are, by and large, a highly principled bunch.

Such is exactly how most debates over free speech have played out recently. Consider the case of Lisa Durden, an adjunct professor at Essex County College who was fired after making controversial comments on Fox News. Leftists jumped on the apparent lack of outcry as prima facie proof of conservative hypocrisy on the subject: Conservatives care only when it's one of their own facing opprobrium. One commentator wrote:

In contrast to other free speech-related controversies on college campuses, there has been almost no media coverage of Durden's ouster. That omission is part of a pattern: When wealthy, right-wing speakers encounter protest, the tendency among both right-wing and centrist writers is to scold "snowflake" students while dutifully preaching the virtues of diverse ideas in a college education, no matter how outré or dangerous those ideas may be. When marginalized faculty, often women of color, encounter professional censure, the same centrist writers say nothing. One could almost conclude that the "PC-run-amok" and "trigger warning" controversies exist solely to reaffirm existing power dynamics. It's not really about free speech on campus at all.

And, yes, when it comes to Mike Cernovich and Milo Yiannopoulos or Tomi Lahren, that's more or less correct; they really are distasteful hypocrites who care not one bit about free speech and who use the principle instead to advance their particular cause. They are of the new breed of conservatism that views its primary goal as melting special snowflakes and doesn't give much of a damn about anything beyond that. But we knew that already; we've always known they're unprincipled actors seeking only to aggrandize themselves. Their silence on Lisa Durden tells us nothing new or interesting about their character. Their place in the intellectual debate over free speech is marginal in any case, and what really matters is not what they think but what the more rational, principled minds of the Right and center say. From them we might be able to glean whether the defense of free speech is something truly principled or is just a veil for contemptible beliefs.

From them we hear a near-universal condemnation of Durden's firing. Jonathan Haidt of Heterodox Academy, a centrist talisman for the free-speech cause, wrote that "in 2017, it's clear that the threat profile is now bipartisan." Jonathan Marks, a conservative, said, "I am no fan of Lisa Durden. . . . Yet it is precisely as an academic conservative that I must say, to coin a phrase, 'I'm with her.'" Similar reactions could be found across the span, from right to center, of defenders of free speech. Again, the supposed hypocrites were not what they were presumed to be.

As goes the debate over free speech, so drifts the broader current in our public sphere. Over and over again, it seems, we care more about scoring partisan points in the eternal shouting chamber of Twitter than we do about achieving concrete change in the tangible conditions of everyday life. Rank partisanship has allowed us to rest quite content with having uncovered hypocrisy on the other side. This tactic is nothing but a cheap cop-out. We blissfully avoid all the difficulties of a serious debate that challenges our intellectual precepts. It is possibly the least edifying, most counterproductive way to run a civil society. It only heightens the tensions already latent in our partisan system. It distracts us from the content and merits of the issue at hand.

I've focused on the Left so far, but I don't mean to suggest that this phenomenon occurs only there. It's prominent enough on the right as well — publications like *The Federalist* specialize in a sort of "Obama did it too!" smarminess, always allowing them to elide the actual issue at hand. Through this strategy, they decline to express an opinion on the content of the actual matter, instead directing their ire at the Left. This is a convenient way to avoid being trapped in the contradictions and convulsions of the Trump administration, but it's a terrible way to run a public sphere in a democratic society.

What, then, is a reasonable path forward? Besides taking a Luddite approach to Twitter — a remarkably poor platform for any sort of reasoned and constructive discussion, prone more to aggravation than to conciliation — the world might be a substantially better place if we simply decided to step away from the partisan register in which we conduct our debates. Stop thinking about what the other side thinks, at least for a while. Start looking more critically, with a more penetrating eye, at what you and your side think. Otherwise the cycle of finger-pointing will do little but deepen, and our public sphere become all the more barren.