Background

Organizing American communities around justice for Palestine has historically been met by equally organized attempts to intimidate, harass, and exclude individuals and groups associated with such activities from mainstream political participation. Rooted in what we call the “politics of exclusion,” this “political racism” originally targeted Arab American community organizing efforts. In one tragic instance, it became violently dangerous with the murder of Arab American Alex Odeh for his leadership in the American-Arab Anti-Discrimination Committee in 1985.

Today, many other communities in the United States that advocate for any policy that challenges Israel’s occupation of Palestine, individuals who speak out against Israel’s human rights violations, or policymakers who advocate credible and just policies towards Israel, are targeted alongside the Arab American community to suppress those movements. The structural exclusion of such groups has had a toxic impact on the consistent application of U.S. law, policy, and reasoned debate. Efforts by the same extreme, pro-Israel groups who seek to exclude pro-Palestinian activists have successfully lobbied for exceptions within existing U.S. law to benefit Israel. The broader context these three realities create - the exclusion of pro-Palestinian groups from political discourse, the inconsistent protection of all U.S. citizens’ constitutional rights, and the explicit exceptions to U.S. law granted to Israeli interests - have resulted in a dangerous, anti-democratic, and restricted debate on issues of critical importance to U.S. foreign and domestic policy alike.

The Problem

The chilling effect anti-Palestine groups have had on the freedom of speech and the freedom of association is frightening and contradictory to the democratic values on which the United States was founded. Among the most egregious examples of the suppression of these rights are the organized efforts at both the state and federal levels to limit first amendment protected political speech, the targeting of college campus activities and the selective application of U.S. law.

Efforts to Suppress Political Speech

More than two dozen anti-Boycott, Divestment, and Sanction (BDS) bills and resolutions have been introduced at the state, local and federal level. These bills are attempts to stifle participation in the nonviolent BDS movement when in fact, boycotts are a protected form of political speech under the First Amendment. BDS has a celebrated historic significance in the movement against South African apartheid as well as the Montgomery Bus Boycott. Attempts by lawmakers and advocacy organizations to suppress the growing nonviolent, grassroots movement in the U.S. is anti-democratic and unconstitutional.

College Campuses

College campuses serve as an important battleground for the grassroots efforts to organize around Palestine and the challenges those efforts are met with. In 2014, the Louis D. Brandeis Center for Human Rights Under Law released a report insinuating that Middle East studies centers or programs at universities and colleges across the U.S. have promulgated hostile, anti-Israel campus environments.

The Brandeis Center launched a campaign challenging the Department of Education’s (DOE) funding of these programs under Title VI of the Higher Education Act. Both the report and the accompanying campaign are based on factual inaccuracies, wildly biased assertions, and criteria requiring “diverse perspectives” that in fact does not govern funding decisions. The Brandeis Center and its partners are lobbying the DOE to either cut funding to these programs or engage in intrusive oversight that would subject academic centers to political abuse and severe infringements on
academic freedom and free speech.

College students and professors are also under attack by groups that want to punish and ultimately disband student-run organizations that associate with BDS and organizations that advocate for Palestine as part of a social justice agenda. One such group that is gaining attention is Canary Mission - an anonymous group that lists the names and detailed information of college students who have supported causes such as the BDS movement and Students for Justice in Palestine, on its website. Canary Mission claims it combats the “rise in anti-Semitism” on college campuses by profiling people they claim “promote a hatred of the USA and Israel,” yet the students who are profiled, including American Jewish students, are known to have advocated for social justice causes and for some, just displayed ethnic pride, not anti-Semitic views. These students are often harassed due to their profiles on Canary Mission and future employment opportunities are threatened.

Additionally, the increasing popularity of college organizations advocating for Palestine as part of a social justice agenda has been targeted with legal challenges through state legislatures, which have threatened to suspend funding and have denounced these groups. School administrations have vetoed pro-BDS policies passed by popular vote. Outside institutions and individuals, including Sheldon Adelson and Haim Saban, have financed attack ads and media campaigns against the people, positions, and activities of such groups. The alarming effect of these efforts on U.S. campuses and student bodies must be combated.

Inconsistent Application of the Law

There are several key ways policymakers and elected officials have created exceptions and carve outs for Israel and its supporters within U.S. laws that should not exist.

- First, Israel’s extreme supporters in the United States have benefitted from inconsistent determinations the Internal Revenue Service has made to the tax code. The IRS continues to grant tax-exempt status to charitable organizations that contribute to Israeli settlements, contributions that are in violation of the U.S. stated policy towards Israeli settlements built beyond the 1967 green line. There are numerous 501(c)3 organizations and individuals who enjoy tax benefits for donations made to increased settlement building, whether it is through monetary support of new construction, planting trees, “preserving” nature parks, or supporting civil society organizations like private hospitals, schools, and community centers. All such donations, though innocuous sounding, support an underlying effort that undercuts the U.S.’s position on these settlements and they should no longer enjoy tax benefits for doing so. Some of these organizations recently came under fire by a federal lawsuit filed in New York alleging U.S.-based tax-exempt entities that raise funds for Israeli settlements are engaged in money-laundering.

- Israel has also been pushing for exceptional status in U.S. immigration law. The Visa Waiver Program administered by the U.S. Department of State works in cooperation with 37 countries to reciprocally grant temporary visitor waivers to citizens travelling between the two countries. These travel privileges are meant to encourage tourism and ease business travel. The Arab American Institute and our allies have opposed Israel’s entrance to this program in light of Israel’s harassment of Arab American citizens at Israeli ports of entry (namely Ben Gurion Airport) and the frequent denial of entry to U.S. citizens who are politically active, Arab, or Muslim. Based on the history of discrimination in Israel’s immigration practices, Israel does not meet the reciprocity requirement of the Visa Waiver Program. In 2014, serious legislative attempts were made to issue exemptions to the reciprocity requirement for the program (specifically that Israel would not have to meet the refusal rate percent). Based on numerous factors including our advocacy on behalf of Arab Americans unjustly denied entry and other concerns, the attempt to allow Israel to enter the Visa Waiver Program failed.
Moving Forward

It is important to enlist Congress in upholding the rule of law across the U.S. without exceptions, carve outs, or contradictions. Specific measures policymakers can take include:

- Contacting the Department of Education to reaffirm their support of academic freedom and the importance of Middle East Studies programs on college and university campuses;
- Support efforts to investigate the IRS’s tax code determinations for organizations contributing to Israeli settlements and continued occupation;
- Oppose the state-based bills that aim to suppress international or domestic forms of the “Boycott, Divestment, and Sanctions” movement. These anti-BDS bills seek to limit free speech by outlawing a form of non-violent expression.