



March 13, 2018

Honorable Sara Howard, Senator
Nebraska Unicameral Legislature
State Capitol, Room 1402
Lincoln, NE 68509
Office: (402) 471-2723
Email: Showered@leg.ne.gov

Care of Mr. Dave Schinzel

RE: Legislative Bill 640
• Diminishes Holocaust and Dilutes Definition of Genocide;
• Instills Hateful, Historically and Legally Erroneous Allegations Regarding Turkish People

Dear Senator Howard:

The Turkish American National Steering Committee (TASC) represents the broadest diversity of Turkish Americans nationwide, including Turkish Americans, Azerbaijani Americans, Turcoman refugees from Iraq, and Ahiska Turkish refugees from Russia in North Dakota. In addition, we represent many Turkish American and Turkish foreign students and faculty in the University of Nebraska System.

Respectfully, we oppose Legislative Bill 640 as currently worded. LB640 seeks to amend Section 79-719 (Reissue Revised Statutes of Nebraska) by injecting the Armenian allegation of genocide as true in fact and law, dangerously diluting the meaning of the Holocaust and the crime of genocide, and threatening multiculturalism:

“Multicultural education includes, but is not limited to, studies relative to . . . (b) . . . other acts of genocide, which may include, but not limited to, such acts in Armenia . . .”

Princeton University Professor of Ottoman History, Bernard Lewis, discerned the Armenian allegation of genocide:

“[T]hat the massacre of the Armenians in the Ottoman Empire was the same as what happened to Jews in Nazi Germany is a downright falsehood. What happened to the Armenians was the result of a massive Armenian armed rebellion against the Turks, which began even before war broke out, and continued on a larger scale”

Addendum 3, Professor Bernard Lewis, C-SPAN Transcript.

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We respectfully recommend that the Amendment be revised to discourage the politicization of the definition of genocide, stop the targeting of Americans of Turkish heritage in the state, and honor the rule of law. Specifically, whether a case constitutes genocide is a judicial determination that grants the benefit of the doubt, applies due process; and applies the UN Convention on the Prevention and Punishment of Genocide which the US ratified in 1988.

We respectfully submit that Section 79-719 should read in relevant part as follows:

79-719 For purposes of sections 79-719 to 79-723, multicultural education includes, but is not limited to, studies relative to . . . (b) the Holocaust and other cases that a U.S. or U.N.-sanctioned court of competent jurisdiction applying rigorous standards of due process, has determined that the crime, as defined by the United Nations Convention on the Prevention and Punishment of Genocide, has been committed."

We further submit that LB640's reference to Armenia is not accurate for the following reasons:

1. The United Nations Does Not Accept the Armenian Case as Genocide

The 1948 United Nations Convention on the Prevention and Punishment of the Crime of Genocide (the "Genocide Convention") was drafted and adopted precisely to respond to the unique crime of killing a group of people solely because of their ethnic, racial and religious identity, as exemplified in the Holocaust. The definition of genocide provided by the Genocide Convention is the only definition of genocide that the United States accepts, and it has been incorporated into U.S. law at 28 U.S.C. § 1091.

In 1985, the United Nations, with the strong leadership of the United States, declined to accept a report, which in a footnote erroneously characterized the Armenian case as genocide. In the years 2000, 2007 and 2015, successive United Nations Spokespersons reiterated that the UN does not accept the Armenian case as genocide. *Please see Addenda 1, 2, and 8, Statements of UN Spokespersons, 2000 and 2007, and 2015, respectively.*

2. The United States Does Not Accept the Armenian Case as Genocide

Long standing United States foreign policy has been not to define the Ottoman Armenian experience as genocide. Rather, successive U.S. administrations have sought to encourage Armenia and Turkey to resolve their historical differences bilaterally, without U.S. interference. While the United States, European Union and Turkey agree to the formation of a Historical Commission, Armenia shuns all efforts to have the facts of history considered in neutral surroundings by qualified historians and others who approach the matter from all sides. Indeed, LB640, as currently worded, generally shuns the application

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of scientific methods in the formation of curriculum on this historical controversy by preempting any questioning of whether the Armenian case actually constitutes genocide.

3. United States Courts Reject Armenian Accusations

The United States Supreme Court in 2012: In the case of *Movesian vs. Victoria Versicherung AG*, 670 F. 3d 1067 (9th Cir. 2012,) the United States Supreme Court let stand the U.S. Court of Appeals for the Ninth Circuit's 11-0 *en banc* decision invalidating a California law that characterized the Armenian case as genocide because such characterization unconstitutionally interfered with U.S. foreign policy on this matter. The Ninth Circuit concluded that the Armenian allegation of genocide "continues to be a hotly contested matter of foreign policy around the world." The Nebraska legislature should similarly defer to the federal executive in this matter, lest it pass a statute that plainly will not survive a constitutional challenge.

4. European Courts Reject Armenian Accusations

The European Court of Human Rights in 2015: Applying international law in the recent case of *Perinçek v. Switzerland*, ECHR Application No. 27510/08, recently the European Court of Human Rights and High Commission invalidated a Swiss law that made it a crime to disagree with the Armenian viewpoint, holding that the Armenian case was not based on a judicial determination, but instead constituted only an accusation that a crime had been committed, and therefore deserved open and free debate. The ECHR and High Commission contrasted the Holocaust, stating that the Holocaust was a genocide confirmed by the Nuremburg Tribunals and other judicial acts.

The Supreme Court of France in 2016: Similarly, in the recent case of M. Vincent R., (Décision n° 2015-512 QPC, 8 Janvier 2016), the French Supreme Court held that unlike the Holocaust that was confirmed by the Nuremburg Tribunals, the Armenian case was not a legally determined and confirmed case of genocide.

The British Tribunals in Malta in 1920: In 1920, Britain arrested and deported 144 Ottoman Officials to the island of Malta on charges of war crimes: (i) failure to comply with the Armistice terms; (ii) ill-treatment of British prisoners of war; and, (iii) outrages to Armenians in Turkey and Transcaucasia. Fifty-six of the deportees were eventually selected for prosecution, based on prima facie evidence provided by Armenian revolutionaries. After examining the diplomatic and intelligence archives of Britain, France and the United States, the British Procurator General determined that it was "improbable that the charges would be capable of proof in a court of law," and exonerated and released all 144 detainees after two years and four months of detention without trial. Thus, the charges were exhaustively probed, investigated, and studied, resulting in the Allies agreeing that the charges could not hold. No compensation was ever paid to the 144 wrongfully detained Ottoman officials or their families.

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5. Censorship by Terrorism and Violent Extremism:

According to the FBI, between 1974 -1985, two of the most active terrorist organizations on American soil were the Armenian Secret Army (ASALA) and Armenian Justice Commandos (JCAG), which killed six people in north America while injuring dozens and placing the lives of hundreds in danger, and causing hundreds of millions of dollars of property damage.

As a result, the Armenian ultra nationalist perspective dominated the silence created by terror's assault on free speech. Most scholars, as well as Americans of Turkish heritage, did not provide opposing viewpoints for fear for their lives. Tragically, LB640's reference to the Armenian case as genocide is an unwitting product of this deadly silence and terror's assault on free speech.

Today, Americans of Turkish heritage deserve the benefit of the doubt when they describe a narrative that is supported by credible scholars who qualify as experts on the late Ottoman Empire matter, and who question the Armenian allegation of genocide.

Today's brave specialists in Ottoman History openly publish research that describes how an Armenian Revolt (1885–1919) sought to carve out an ethnically, religiously, and politically homogenous Armenian Orthodox state in eastern Turkey during the late 19th and early 20th centuries. *Please see Addendum 4 Expert Witnesses.* The Armenian Revolt resulted in the deaths and displacement of over 1.1 million Ottoman Muslims and Jews on one side of a bloody secessionist war, and over 600,000 Armenians on the other side in eastern Turkey. All of these deaths and displacements are regrettable and tragic. To single out only Armenian suffering, therefore, is a critical weakness of the proposed legislation. To extra-judicially declare the Armenian case genocide and incriminate people of Turkish, Ottoman and Muslim heritage in Nebraska underscores the dangerous lack of information and perspective driving the proposed legislation. *Please see Addendum 5 Statement of United States Council of Muslim Organizations (USCMO), Addendum 6 Le Petit Journal Rendition of The Armenian Revolt of 1895, and Addendum 7 US-Turkish Fulbright Commission Executive Summary on March 1915 Van Revolt.*

One piece of history that Armenian violent extremists as well as peaceful activists do not know, or do not want you to know is the full story of Clara Barton, who had cared for both Confederate and Federal soldiers in the American Civil War (1861-65). Silenced is that fact that she was later hosted by the Ottoman Empire to establish the Red Cross in Turkey. The Near East Foundation was established through which America and the Ottoman Empire jointly provided humanitarian assistance to victims on both sides of the Ottoman-Armenian secessionist war. Indeed, Clara Barton's historic home in Washington DC proudly displays two flags, American and Ottoman Turkish, for her good work.

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The children of Nebraska, especially Turkish children, should not be forced to honor a false accusation, let alone be academically punished for not giving the answer the Armenian lobby wants. This bill ignores ample scholarship proving that the Armenian case is not a black and white case of genocide, alienates fellow Nebraska citizens based on ethnicity and religion, rewards Armenian violent extremism and terrorism, and undermines America's broader interests.

On behalf of the Turkish American, Iraqi Turcoman American, Ahiska Turkish American, and Turkish American student communities in Nebraska, we respectfully urge that you please employ the above recommended language to make LB640 fair and accurate.

We convey our best wishes and avail ourselves to any further questions or requests for information you may have regarding Legislative Bill 640.

Respectfully,

Gunay Evinch, Esq.
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