

TURKISH AMERICAN NATIONAL STEERING COMMITTEE
(U.S. National and Michigan Member Organizations)

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Washington DC 20001
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April 18, 2016

Senator Phil Pavlov
Chairman
Senate Education Committee
By Email: senppavlov@senate.michigan.gov

Re: Recommendations regarding HB4493

Dear Mr. Chairman:

On behalf of one million Turkish and Turkic Americans nationwide, including over 50,000 in the State of Michigan, the Turkish American National Steering Committee (TASC) **respectfully requests that you not support HB4493 as it is currently worded.** We take strong exception with the Bill's erroneous characterization of the Armenian case as genocide, which would not be good for Michigan's already challenged education program.

We commend and support the careful education of our children regarding historical tragedies that are characterized by mass deaths and suffering, including the Holocaust, genocide, ethnic cleansing, and crimes against humanity. But we emphasize the critical importance of defining terms precisely to ensure that education is based on facts, law, sound reasoning, as well as the ethical considerations of justice and fairness. Such would also help to enhance inter-community dialogue and mitigate animosities within Michigan's diverse communities by avoiding the pitting of Christian against Muslim, which HB4493 unwittingly threatens to do.

The bill as originally proposed in the House focused on the Holocaust. Indeed, the crime of genocide was defined in reaction to the Holocaust. 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.

To date, no U.S. or foreign court has ever found liable any person or state for the crime of genocide related to the Ottoman-Armenian tragedy.

In 1985, the United Nations declined to accept a report that characterized the Armenian case as genocide. In 2000, 2007 and 2015, United Nations Spokespersons reiterated that the UN has not accepted the Armenian case as genocide. *Please see Addenda 1 & 2, UN Statements.*

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In light of the foregoing, we respectfully submit the following recommendations:

1. **Specificity of Genocide:** The Bill should state that whether a case constitutes genocide is a judicial determination. Accordingly, the following sentence should be inserted:

“Genocide is a crime specifically defined by the United Nations Convention on the Prevention and Punishment of Genocide (the “Genocide Convention”) and Title 18 Section 1091 of the United States Code. For the purposes of the revised school code, genocide shall be solely those events adjudged to be genocide by a court of competent jurisdiction applying the definition provided by the Genocide Convention and the U.S. Code.”

2. **Removal of Reference to the Controversial Armenian Case:** The Senate Education Committee should remove all references to the Armenian case, because the Armenian case has not been adjudged to be genocide. It would suffice to return to the original version of HB4493 as introduced, prior to the substitute bill being proposed to the House Education Committee.

Federal Preemption: Long standing United States policy has been not to define the Ottoman-Armenian tragedy as genocide. Rather, successive U.S. administrations have sought to encourage Armenia and Turkey to resolve their historical differences bilaterally, without U.S. interference. Indeed, in the recent case of *Movesian vs. Victoria Versicherung AG*, 670 F. 3d 1067 (9th Cir. 2012,) the 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 Michigan legislature should similarly defer to the federal executive in this matter, lest it pass a statute that plainly will not survive a constitutional challenge.

International Law: Furthermore, applying international law in the recent case of *Perincek v. Switzerland*, ECHR Application No. 27510/08, recently the European Court of Human Rights invalidated a Swiss law that made it a crime to contest the Armenian viewpoint on history, holding that the Armenian case was not based on a judicial determination, but instead constituted only an allegation that a crime had been committed, and therefore deserved open and free debate. The court contrasted the Holocaust, stating that the Holocaust was a genocide confirmed by the Nuremberg Tribunals and other judicial acts. Similarly, in the recent case of *M. Vincent R.*, (Décision n° 2015-512 QPC du 8 Janvier 2016), the French Supreme Court held that unlike the Holocaust, the Armenian case was not a confirmed case of genocide, and therefore challenging the Armenian viewpoint could not be criminalized whereas Holocaust denial could be.

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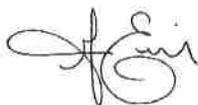
Censorship by Terror: Importantly, the era of Armenian terrorism by ASALA and JCAG that targeted Turkish diplomats, five of whom were assassinated in Toronto, Boston and Los Angeles, as well as scholars who disagreed with the Armenian perspective, is thankfully over, for now. Unfortunately, the damage continues as the Armenian perspective has ever since filled the silence created by terror's assault on free speech. HB4493's reference to the Armenian case as genocide is a product of this silence. Many people of Turkish heritage did not speak up about their history and did not share opposing viewpoints because they feared violence against their persons and families. But, today, people of Turkish heritage deserve the benefit of the doubt as they state a narrative that is supported by the vast majority of scholars who qualify as experts on the Armenian matter and who do not agree with the Armenian point of view.

Once censored by terrorism, 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 Addenda 3 & 4, Expert Witnesses.* The Armenian Revolt resulted in the deaths and displacement of 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 Michigan 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).*

One piece of history that terrorists did not want students to learn is the full story of Clara Barton, who had cared for both Confederate and Federal soldiers in the American Civil War (1861–65). Silenced and nearly forgotten 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 in 1915 through which the United States and the Ottoman Empire jointly provided humanitarian assistance to victims on both sides of the Ottoman-Armenian conflict. Indeed, Clara Barton's historic home in Washington DC proudly displays two flags, American and Ottoman Turkish, for her good work.

In conclusion, while we believe that HB4493 seeks to serve a worthy purpose, it ought to be amended as recommended above in order to accurately reflect history and not tread on federal foreign policy. Failing that, it should not pass.

Respectfully,



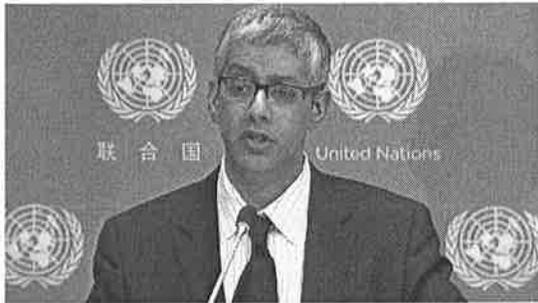
Gunay Evinch
Co-Chairman

ADDENDUM 1
U.N. STATEMENT



STATEMENT

U.N. Spokesperson Farhan Haq



New York, 9 April 2007 and 10 October 2000

As for Armenia, in any case, the UN has not expressed any position on incidents that took place long before the United Nations was established. 9 April 2007.

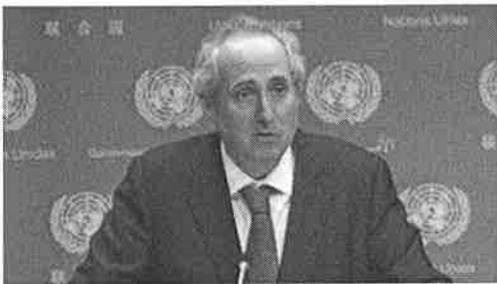
The UN has not approved or endorsed a report labeling the Armenian Experience as genocide. 19 October 2000.

Provided by the Turkish American National Steering Committee (TASC)
c/o 1050 K Street NW Suite 1150
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STATEMENT

U.N. Spokesperson Stéphane Dujarric



New York, 13 April 2015

The Secretary General is mindful that, on 24 April of this year, Armenia and others around the world commemorate the centenary of the tragic events of 1915.

He's also fully aware of the sensitivities related to the characterization of what happened in 1915, 100 years ago.

The Secretary General firmly believes that commemorating and remembering those tragic events of 1915 and continuing to cooperate with a view to establishing the facts about what happened should strengthen our collective determination to prevent similar atrocity crimes from ever happening in the future.

**Provided by the Turkish American National Steering Committee (TASC)
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ADDENDUM 3
PRINCETON UNIVERSITY HISTORIAN BERNARD LEWIS
C-SPAN TRANSCRIPT

**THE VAST MAJORITY OF EXPERTS ON THE OTTOMAN EMPIRE
DO NOT DEFINE THE ARMENIAN CASE AS GENOCIDE**

Turkish Americans acknowledge the massacres of Ottoman Armenians, while they also remember the deaths and displacements of over 1.1 million Ottoman Muslims and Jews who perished in eastern Anatolia under the same conditions of civil war and Russian invasions.

Turkish Americans believe, however, that the Armenian Tragedy does not constitute genocide. For this, they rely on the findings of experts on Ottoman history, the vast majority of whom do not accept the Armenian case as genocide, such as Bernard Lewis, David Fromkin, Guenther Lewy, Andrew Mango, Tal Buenos, Michael Gunter, Christopher Gunn, Avigdor Levy, Stanford Shaw, Masaki Kakiszaki, Norman Stone, Edward Erickson, Heath Lowry, and Justin McCarthy, to list just a few notables.

The following critical observation is by Princeton University Ottoman Historian, Professor Bernard Lewis, author of dozens of books on Turkey, Islam and the Middle East:

[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.

But to make this a parallel with the holocaust in Germany, you would have to assume the Jews of Germany had been engaged in an armed rebellion against the German state, collaborating with the allies against Germany. That in the deportation order, the cities of Hamburg and Berlin were exempted, persons in the employment of the state were exempted, and the deportation only applied to the Jews of Germany proper, so that when they got to Poland they were welcomed and sheltered by the Polish Jews. This seems to me a rather absurd parallel".¹

¹ April 14, 2002, at the National Press Club on C-Span 2

ADDENDUM 4
EXPERT WITNESSES

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USCMO Statement on 1915 Turkish-Armenian Events

(Washington, DC, April 19, 2015) -- The US Council of Muslim Organizations (USCMO) the largest umbrella group of mainstream Muslim American organizations is aware of the painful history of over 30 nations fighting for over 4 years and the loss of over 37 million lives in World War I, including those of the Armenians.

As April 24 comes near, we share the pain suffered by Armenians during this period. We also believe that any acknowledgment by religious or political leaders of the tragedy that befell Armenians should be balanced, constructive and must also recognize Turkish and Muslim suffering.

In this respect, characterizing the events of 1915 as genocide without proper investigation of these events by independent historians will not only jeopardize the establishment of a just memory pertaining to these events, but will also damage the efforts aimed at achieving reconciliation between Turks and Armenians.

As Americans, we are concerned about alienating a key ally, Turkey, through one-sided declarations that political and religious leaders have made on this subject. The events of 100 years ago should be based on a consensus among historians and academicians with access to archives and documents from that era.

As the only Muslim-majority member of NATO and current President of the G-20 Summit, Turkey has taken on a unique regional and global leadership role in ensuring peace and prosperity for all. Our government has been closely cooperating with the Turkish government on defeating ISIS while also alleviating the suffering of Syrian refugees.

While Muslim Americans sympathize deeply with the loss of Armenian lives in 1915, we also believe that reconciliation must take into honest account the broader human tragedy of World War I. Muslim Americans expect our leaders to act accordingly to ensure that American-Turkish strategic relations are not damaged by a one-sided interpretation of the 1915 events.

