



STATEMENT OF

THE TURKISH AMERICAN LEGAL DEFENSE FUND

REGARDING: SENATE BILL 234, AS AMENDED

**“AN ACT TO AMEND § 51225.3 OF THE EDUCATION CODE
[TO INCLUDE ORAL HISTORY]”**

**BEFORE THE CALIFORNIA STATE ASSEMBLY
COMMITTEE ON EDUCATION**

JULY 8, 2009

Dear Mr. Chairman and Members of the Committee:

My name is Bruce Fein, and I am pleased to present the views of the Turkish American Legal Defense Fund (TALDF) regarding SB 234, as amended. In principle, TALDF has no objection the bill directing the Curriculum Development and Supplemental Materials Commission to consider adding an oral history reference component in the proposed changes to the 2014 history-social science curriculum framework that relate to genocide. But TALDF would oppose any implementation of the recommendation that transforms the presentation of history regarding asserted genocides into political indoctrination or anything other than an opportunity for students to weigh and examine educationally suitable competing factual and legal perspectives. The United States Supreme Court lectured in *Yick Wo v. Hopkins* that, “Though the law itself be fair on its face, and impartial in appearance, yet, if it is applied and administered by public authority with an evil eye and an unequal hand, so as practically to make unjust and illegal discriminations between persons in similar circumstances, material to their rights, the denial of equal justice is still within the prohibition of the constitution.”

We believe the legislation as amended requires additional precision.

First, the assertions in the proposed legislation underscore the importance of balance and care in educating youths about genocide—the crime of crimes, and how they may learn to distinguish it from other crimes such as war crimes and crimes

against humanity. The federal definition of genocide contained in treaty and federal statute, which is binding on California and all other States by virtue of the Constitution's Article VI Supremacy Clause, limits the crime of genocide, for instance, to a specific intent to destroy physically through extrajudicial killings or otherwise an ethnic, racial, religious, or national group in whole or in substantial part *solely because of their ethnicity, race, religion, or nationality*. Killings motivated by war or politics do not prove genocide, though they may constitute other crimes.

SB 234 refers to the "Darfur, Rwandan, Cambodian, Jewish Holocaust, or Armenian genocides" as if they were all indistinguishable and proven. This is an oversimplification that will not serve the youth of California well. For example, the International Criminal Court recently declined to endorse a genocide characterization for Darfur in authorizing an arrest warrant for Sudanese President Omar Bashir for crimes against humanity or war crimes. The pending prosecutions in Cambodia for the grisly wrongdoing of the Pol Pot regime do not charge genocide, but crimes against humanity. When the British searched for evidence of Ottoman Muslim complicity in race murder of Armenians during World War I to be presented against more than 100 officials detained on Malta, nothing was found either in British, Ottoman, or U.S. State Department archives; and, the detainees were released. In contrast, independent and impartial tribunals did render verdicts of genocide in the cases of Rwanda and the Jewish Holocaust.

The purpose of education is to expose students to balanced educationally suitable materials and to teach the art of reasoning to enable them to make sound judgments about history and events. And that requires a curriculum and reference materials pivoting solely on educational merit and careful scientific inquiry—not on political clout or bias.

Accordingly, TALDF believes that SB 234 should be further amended. It should stipulate that if the Commission decides in favor of an oral history reference component regarding instruction in genocide, the references shall be compiled based exclusively on educational value considering the background, experience, history credentials, and credibility of the speakers irrespective of their view of the historical event in question.

As regards the study of the Armenian genocide thesis, that would mean that the oral history reference component should include interviews with Turkish Americans with stories to tell about the deaths of four million Ottoman Muslims during World War I and its aftermath from military invasions, including the Russian-Armenian invasion; internal Armenian revolts; foreign blockades; disruption of agriculture and trade, which occasioned famine, plague, typhus and other diseases; and, Armenian massacres. Turkish Americans should also be interviewed about Jemal Pasha, commander of the Ottoman Fourth Army in Cilicia, Syria, and Palestine in 1914-17. He provided humanitarian protection and assistance to Armenians; and, saved thousands of lives by diverting Armenian exiles to southern Syria and Lebanon where there were no killings. Turkish

Americans should be additionally asked about their recollection of the large Armenian populations in Istanbul, Izmir, Edirne, and Aleppo who were left undisturbed and were not relocated in World War I.

The reason for these recommendations is simple: Turkish and Armenian histories are tightly interwoven. It is impossible to learn the history of one without learning that of the other.

Of course, Armenian Americans should also tell their side of World War I. No one, and certainly not the TALDF or its sister organization, the Turkish Coalition of America, denies frightful numbers were killed by war crimes or otherwise. The Armenian American story must be told in all its moods and tenses to enable students to evaluate all the credible evidence relevant to the genocide question.

TALDF also believes that any oral history reference material should alert the student to the potential biases or errors that might creep into the stories related by the speakers. Are they telling about things they witnessed first-hand, or things told to them by others? What was their opportunity to see what they reported? How fallible is historic memory? What motivations might the speakers have to shade the facts? How detailed are the stories? These questions will assist the students in assigning proper weight to oral history references.

In sum, TALDF does not oppose SB 234 as amended if it is clarified that materials on the Armenian genocide thesis will be balanced and evenhanded and

selected exclusively by educational suitability, as opposed to political correctness, clout, or other non-educational criteria.