

The AFCON Sentinel

Newsletter of the Academic Freedom Coalition of Nebraska

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Yes, You Have the Right to Advocate Genocide

David Moshman

In their infamous testimony before a committee of the U.S. House of Representatives in December 2023, the presidents of the University of Pennsylvania, Harvard, and MIT were asked whether students could be punished for advocating genocide of Jews and responded that it depends on the context. They were then ridiculed nationally for not stating clearly that advocacy of genocide against Jews would not be tolerated on their campuses and two resigned within a month.

But I think the responses of the presidents were essentially correct. People have a right to say what they believe, no matter what they believe, but they don't have a right to say it at any time, in any place, and in any manner. Advocacy of genocide cannot be banned, but context does matter.

Advocacy of genocide is protected at all public universities by the First Amendment, which protects all points of view on all topics without exception (Strossen, 2018). Private universities such as Penn, Harvard, and MIT are not legally subject to the First Amendment but routinely claim to fully respect its principles because intellectual freedom is crucial to all academic

endeavors. But the First Amendment does not protect all speech in all contexts. Harassment of particular individuals, for example, is not protected by the First Amendment, nor are true threats or inciting imminent violence.

But shouldn't there be a more general exception for advocating genocide? One problem with any such exception is that it would quickly expand to other categories of speech deemed hateful or otherwise objectionable. Another problem is that determinations of what speech is sufficiently genocidal, hateful, or otherwise objectionable to merit censorship or punishment would be made by those in power. Laws against "genocide ideology" and "hate speech" are routinely used all over the world to restrict political dissent and other disfavored speech (Moshman, 2020; Strossen, 2018).

What is genocide? This is a highly contested question (Moshman, 2001). For present purposes I provide a definition from my own research that acknowledges and attempts to resolve some of the complex issues that arise in defining genocide and classifying particular cases of group violence:

"By genocide, I mean an act or process of destruction aimed at an abstractly defined

group of people. There may be many perpetrators but their actions must be sufficiently coordinated to constitute a singular act or process. The genocidal process may include deliberate acts of mass killing, but it may also consist, entirely or in part, of other actions undermining the biological, social, or cultural integrity of the victim group. The acts of destruction may be aimed at individuals, but the individuals are targeted on the basis of their actual or perceived association with a national, ethnic, racial, religious, political, socioeconomic, or other abstractly defined group. The group must be deliberately targeted, but the process may be deemed genocidal even if the motives of the perpetrators are complex and multifaceted, even if their perceptions of the victim group are wildly inaccurate, and even if the extent of destruction is less than total.” (Moshman, 2007, p.116).

If I proclaim my support for the Palestinian intifada following the Hamas massacre of 1200 Israelis, am I advocating genocide? If I say “I Stand with Israel” at a time when Israel is killing tens of thousands of Palestinians, displacing 85% of the Gazan population, leveling buildings, and destroying hospitals and cultural institutions, am I advocating genocide?

Maybe so, in both cases, but not necessarily. “Intifada” refers to a struggle against oppression, which may consist of nonviolent tactics such as boycotts, divestment, and sanctions. “I stand with Israel” may be a statement of support for the nation of Israel, not necessarily for its present government or current actions.

Even if I endorse or advocate violence, not all violence is genocide. Very few people

explicitly advocate genocide, but many people who talk about Israel and Palestine advocate actions that many others deem genocidal. We cannot discuss these matters seriously if expression is chilled by worries about what those in power may deem genocidal.

Suppose I use the slogan “from the river to the sea” or the full version “From the river to the sea, Palestine will be free.” Both are deemed by many to advocate genocide against Jews. The river in question is the Jordan and the sea is the Mediterranean. Thus this statement refers to Israel and all territories under its control, including Gaza (a strip of land on the edge of the Mediterranean), the West Bank (of the River Jordan), and all of Jerusalem.

What does it mean to say this land should be free? Should it be free of Jews? That would require removing a population of 7 million, a process of ethnic cleansing that would be genocidal in its cultural impact even if it could be accomplished with minimal killing. Removing most or all of the 7 million Palestinians would also be a genocidal process of ethnic cleansing.

But many use this slogan to advocate freedom for all, not just Palestinians and not just Jews. For example, the entire area could become a constitutional democracy founded on equal rights for everyone regardless of race, ethnicity, or religion, a possibility advocated by many Palestinians (Abunimah, 2006) and many Jews, including me (Moshman, 2015). Perhaps this aim is naïve or unworkable, but it is not genocidal to promote a vision of liberty and justice for all, from the river to the sea.

So yes, you have the right to advocate genocide. Please don't, of course. But when others are saying things you deem genocidal, rather than trying to shut them up, try to determine what they actually mean and what they believe that led them to say that. And keep in mind that some of what you advocate may seem genocidal to some others, and that some of them might sometimes be right.

References

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Strossen, N. (2018). Hate: Why we should resist it with free speech, not censorship. New York: Oxford University Press.

David Moshman is a professor emeritus of educational psychology at UNL and author of seven books including Reasoning, argumentation, and deliberative democracy. He has served on AFCON's Board of Directors since 1988 and is now AFCON's envoy to Texas, where he moved to read censored books with his grandchildren.



AFCON Elections 2024

The following officers were elected for 2024:

President: Shee Covarrubias
President-elect: Wyatt Packard
Secretary: Peggy Adair
Treasurer: Rod Wagner

Thanks to our candidates!

From the President Shee Covarrubias

Hi everyone. I am a single mother of two residing in LaVista, Nebraska. As a parent to bi-racial children it is, and has always been, important to me that all children receive a balanced education that is reflective of the true and accurate history of this country. I am a tireless advocate for equity for all marginalized communities under the eyes



The Nebraska Legislature

Bills were still being introduced as the AFCON Board met on January 13, 2024 but the following are bills the AFCON board has decided to monitor, support or oppose. List compiled by Peggy Adair for the 108th Legislature, Second Session

LB1034, Lippincott, permits school employees to display, discuss, and promote their religious beliefs while on duty at school. AFCON position: oppose



of the law. My advocacy extends to my community, as well as the education of not only my children, but all children. I became involved in AFCON in 2020 as a result of my advocacy within my local school district and in addition to assuming the role of President, I serve as AFCON's Communications Director.

LB1064, Lippincott et al, eliminates tenure at the Nebraska University system and the Nebraska State College system. It does not eliminate tenure at community colleges. AFCON position: oppose

LB1065, Lippincott et al, permits K-12 schools to hire chaplains as school counselors. The bill does not define "chaplain." No professional qualifications are listed as prerequisites for hiring chaplains, and they need not be credentialed. AFCON position: oppose

LB1066, Lippincott et al, allows for students to participate in elective courses in religious instruction off-campus during the school day. Any religion is okay unless it "undeniably promote[s] licentiousness." AFCON position: oppose

LB1071, Dungan. Protects the free speech rights of student journalists and student media advisers. The AFCON student journalism bill is back! It reads similarly to Senator Morfeld's previous student journalism bill, with the first section addressing postsecondary educational

settings and the second section dealing with student journalism rights in high schools.

AFCON position: support

LB1091, Murman et al (21 co-sponsors). If a school board allows a “professional employees’ organization” to have email and other access to teachers, it must allow all professional employees’ organizations to have similar access.

AFCON position: monitor

LB1092, Murman, adopt the Online Age Verification Liability Act. AFCON position: monitor

LR278CA, Murman, changes the parameters of electing/appointing members of the state board of education such that the board will become controlled by the governor rather than remaining independent. AFCON position: oppose

AFCON

www.academicfreedomnebraska.org

The Academic Freedom Coalition of Nebraska was founded in 1988 to promote intellectual freedom in Nebraska education and research, including freedoms of belief and expression and access to information and ideas.

AFCON Board of Directors

Shee Covarrubias, President and

Communications Coordinator

Wyatt Packard, President-elect

Peggy Adair, Secretary and Legislative Liaison

Rod Wagner, Treasurer

David Moshman, Policy

Coordinator

Todd Schlechte, Webmaster

Vicki Wood, Newsletter Editor

John Bender

Kari Bulgrin

Nancy Comer

Robert Haller

Laurie Thomas Lee

Regina Werum

From the AFCON Constitution, Article I:

The purpose of AFCON shall be to promote academic freedom in Nebraska, defined as intellectual freedom in educational and research contexts. This includes freedoms of belief and expression and access to information and ideas. In pursuit of this general goal, AFCON shall:

1. support application of the First Amendment in academic contexts, including schools, colleges, universities, and libraries.

2. educate Nebraskans in and out of academic settings, citizens and professionals, parents and students about the meaning and value of intellectual freedom, intellectual diversity, mutual respect, open communication, and uninhibited pursuit of knowledge, including the role of these ideals in academic contexts and in democratic self government.

3. assist students, teachers, librarians, 7 researchers, and others confronted with censorship, indoctrination, or suppression of information or ideas in academic settings.

4. act as liaison among groups in the State of Nebraska that support academic freedom.

JOIN OR RENEW

Rod Wagner, Treasurer

If you are interested in defending and expanding academic freedom in Nebraska, we welcome you or your organization as a member of AFCON. Annual dues are \$120 for institutions, \$15 for individuals, and \$5 for students. Individual life memberships are available for \$150. You can pay by visiting our website at

<https://www.academicfreedomnebraska.org/>

Memberships and donations can also be made by check (payable to AFCON). Send check to AFCON Treasurer, 3901 S. 27th St., #47, Lincoln NE 68502.

Organizational members are entitled to a representative on the AFCON board. We also

have at-large board members. You may express your interest to the president to be considered for appointment to the board.

Local Links

Plattsmouth school board member recalled following library book controversy:

<http://omaha.com/>

State Board of Education member Kirk Penner's proposed changes to Rule 10: <https://kirkpenner.com/wp-content/uploads/2024/01/Library-Media-Technology-Rule.pdf>

Nebraska senators seek to abolish tenure: <https://nebraskaexaminer.com/2024/01/08/senators-seek-to-eliminate-tenure-for-college-professors-do-away-with-state-inheritance-tax/>

National Links

Moms for Liberty Sex Scandal: [Florida Sex Scandal Shakes Moms for Liberty, as Group's Influence Wanes - The New York Times](https://www.nytimes.com/2024/01/08/us/politics/moms-for-liberty-sex-scandal.html)

Oklahoma appoints book banner as advisor to state's Department of Education Library Media Advisory Committee. <https://s2.washingtonpost.com/camp-rw/?trackId=596b3005ae7e8a44e7d37a95&s=65b3cd2f3e0fca4d4607292d&linknum=2&linktot=85&linknum=2&linktot=85>

Superintendent Greg Poole explains what students are expected to learn from the school system's hair regulations: "Being an American requires conformity."

<https://thehill.com/homenews/ap/ap-u-s-news/ap-a-texas-schools-punishment-of-a->

[black-student-who-wears-dreadlocks-is-going-to-trial/](https://www.nytimes.com/2024/01/24/magazine/college-free-speech.html)

Law Professor Stephen Carter on free speech in higher education.

<https://www.nytimes.com/2024/01/24/magazine/college-free-speech.html>

Academic Freedom Coalition of Nebraska Board of Directors Meeting

Via Videoconference

January 13, 2024

Present:

Peggy Adair, secretary, legislative liaison
John Bender, representing UNL Faculty Senate
Kari Bulgrin, representing Nebraska School Librarians Association
Nancy Comer, representing Nebraska State Literacy Association
Bob Haller, chief baker, director at large
Laurie Thomas Lee, representing ACLU Nebraska
Dave Moshman, policy coordinator
Wyatt Packard, president-elect, representing Nebraska Library Association
Todd Schlechte, webmaster, director at large
Rod Wagner, treasurer, representing Nebraska Center for the Book
Vicki Wood, immediate past president, director at large

MINUTES

Immediate past president Vicki Wood called the meeting to order at 10:02 a.m.

MINUTES: A motion was made by Moshman, second by Bender, to approve minutes of the AFCON board meeting held on October 14, 2023. Motion carried on a voice vote.

TREASURER'S REPORT: Wagner presented the treasurer's report. Balance on hand as of January 11, 2024, is \$3,919.54. Wagner suggested providing special certificates for lifetime members. Packard volunteered to design the certificates.

NEWSLETTER: Editor Wood set a deadline of January 20, 2024, for the February edition of the *Sentinel*.

LEGISLATIVE REPORT: Adair presented a list of AFCON-related legislative bills that have been introduced in the first eight days of the session. Board members discussed these bills and offered additional bills for discussion.

A motion was made by Moshman, second by Bender to support LB1071. Motion carried on a voice vote. A motion was made by Bender, second by Moshman, to oppose LB1064. Motion carried on a voice vote. A motion was made by Comer, second by Moshman, to oppose LB1065. Motion carried on a voice vote. A motion was made by Moshman, second by Bender to oppose LB1066. Motion carried on a voice vote. A motion was made by Moshman, second by Bender, to oppose LB1034 as written. Motion carried on a voice vote. A motion was made by Moshman, second by Packard, to oppose LR278CA. Motion carried on a voice vote. The board agreed by consensus to monitor LB1091 and LB1092. A list of the legislative bills with brief descriptions is attached to these minutes.

Bender volunteered to write official AFCON statements in support of LB1071 and in opposition to LB1064, LB1065, and LB1066.

STATE BOARD OF EDUCATION REPORT: Comer reported the state board meetings are less contentious than they were last year. The board is focusing on the important issues of solving the teacher shortage and improving the reading skills of students.

POLICY COORDINATOR: Moshman presented his article regarding free speech on college campuses as affected by the current hot war between Israel and Hamas. Moshman's article will be printed in the February issue of the *Sentinel*.

MEMBER ORGANIZATIONS: Nebraska Library Association – Packard reported the NLA has developed a strategic plan.

Advocacy Day plans are also under way. The focus this year will be a positive celebration, with workshops, continuing education opportunities, reading events in the Capitol, and a gathering at the Cornhusker Hotel.

Nebraska School Librarians Association – Bulgrin reported they had a board meeting January on 12, 2024. They are looking forward to Advocacy Day and working with the Nebraska Library Association.

There being no further business, the AFCON board meeting adjourned at 11:49 a.m.

Respectfully submitted,
Peggy Adair, Secretary



The AFCON Sentinel is the newsletter of the Academic Freedom Coalition of Nebraska, published bimonthly in February, April, June, August, October, and December. Unless otherwise indicated, articles represent the views of the authors. All issues of the AFCON Sentinel are available here:

<https://www.academicfreedomnebraska.org/the-sentinel.html>

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