

our defense—everything we are as a country—depends first on our sovereignty, as does our support of other nations depend on our sovereignty. This idea of a global world order of some kind is frightening to many people, including myself.

It appears Mr. Koh is reinterpreting our own Constitution to comply with rules of foreign and international law instead of first protecting and defending our Constitution and seeing how we can interface with other governments. Frankly, this statement should frighten American citizens who believe in upholding our Constitution, and I hope it will get the attention of my colleagues. Certainly the President has the right to nominate anyone he wants, but it is our role as the Senate to provide advice, and in this case I think disclosure to the American people, of this nominee and how he might direct our State Department activities.

In 2002, in a hearing before the Senate Committee on Foreign Relations, Mr. Koh testified in support of ratification of the United Nations Treaty on the Convention of the Elimination of All Forms of Discrimination Against Women. Not only did Mr. Koh testify in support of ratifying this treaty, he opposed any conditions to ratification of the treaty, even those proposed by the Clinton administration. This included the very important condition stating that the treaty is not self-executing; that it has no domestic legal effect absent an act of Congress.

Our rules here are that the President can sign a treaty, but it has to be ratified here in the Senate before it is executed. To insist that once this is agreed to by the administration it becomes self-acting violates those principles.

Mr. Koh also claims that allegations by those who opposed the treaty due to its promotion of abortion, the legalization of prostitution, and the abolishment of Mother's Day are untrue. However, one only needs to look at the policies issued by the committee—the United Nations body charged with monitoring countries' compliance with their legal obligations under the treaty—to know that Mr. Koh's claims are untrue.

For example, on May 14, 1998, the committee interpreted the treaty to require that "all states of Mexico should review their legislation so that, where necessary, women are granted access to rapid and easy abortion."

In February 1999, the same committee criticized China's law criminalizing prostitution and recommended that China take steps to legalize it.

This does not represent American values.

Also, in February 2000, the committee made the following outrageous statement regarding Belarus's celebration of Mother's Day:

The Committee is concerned by the continuing prevalence of sex-role stereotypes and by the reintroduction of such symbols as a Mothers' Day and a Mothers' Award, which

it sees as encouraging women's traditional roles.

As these former Soviet republics, countries all over the world, are looking to America for guidance as they develop their democracies and institutions of freedom, these kinds of statements coming out of the United Nations are concerning, and I certainly don't want this same philosophy coming out of our own State Department.

How can anyone argue that ratification of a radical treaty such as we have discussed will not undermine sovereignty? It is pretty obvious it would.

In a speech entitled "A World Drowning in Guns," published in the *Fordham Law Review* in 2003, Mr. Koh states:

If we really do care about human rights, we have to do something about the guns.

That "something" is a "global system of effective controls on small arms."

In that same speech, Mr. Koh also expressed his disappointment that the 2001 United Nations gun control conference had not led to a legally binding document. He urged that the next steps be the creation of international arms registries, giving nongovernmental organizations, such as the International Action Network on Small Arms, power to monitor government compliance with international gun control and stronger domestic regulation.

In a May 4 column in *Human Events*, Brian Darling of the Heritage Foundation writes:

Koh advocated an international "marking and tracing regime." He complained that the "United States is now the major supplier of small arms in the world, yet the United States and its allies do not trace their newly manufactured weapons in any consistent way." Koh advocated a United Nations governed regime to force the U.S. "to submit information about their small arms production."

Dean Koh supports the idea that the United Nations should be granted the power to "standardize national laws and procedures with member states of regional organizations." Dean Koh feels that the U.S. should "establish a national firearms control system and a register of manufacturers, traders, importers, and exporters" of guns to comply with international obligations. This regulatory regime would allow the United Nations members such as Cuba and Venezuela and North Korea and Iran to have a say in what type of gun regulations are imposed on American citizens.

This is not constitutional government in America.

Taken to their logical conclusion, Dean Koh's ideas could lead to a national database of all firearm owners, as well as the use of international law to force the U.S. to pass laws to find out who owns guns. All who care about freedom, should read his speech. Senators need to think long and hard about whether Koh's extreme views on international gun control are appropriate for America.

Let me cover a couple of other things. This one is about the Iraq war. Mr. Koh published a commentary in the *Hartford Courant* on October 20, 2002, entitled "A Better Way to Deal With Iraq." Here is an excerpt from that article.

I believe that terrorism poses a grave threat to international peace and security. I lost friends on September 11 and have shared in the grief of their families. I believe that Saddam Hussein is an evil and dangerous man who daily abuses his own people and who wishes no good for our country or the world. I fear his weapons of mass destruction and believe they should be eliminated. Yet I believe just as strongly that it would be a mistake for our country to attack Iraq without explicit United Nations authorization. I believe such an attack would violate international law.

We need to think for a minute and digest what this means. Even though Mr. Koh believed that attacking Iraq would be in the best interest of America and the world, he believed we should wait on explicit directions from the United Nations before we acted. Both this commentary and his testimony before the Senate Committee on Foreign Relations demonstrate that Mr. Koh believes that if our President and Congress, empowered by our Constitution, decide military action is needed to defend our Nation from harm, we must get United Nations approval or our actions are illegal. This is an incredible position for the chief legal adviser to the State Department to adhere to.

Some may argue that Mr. Koh's position on the Iraq war is merely a principled liberal position. However, his belief that countries—

The PRESIDING OFFICER. The Senator has spoken for 10 minutes.

Mr. DEMINT. Mr. President, I ask unanimous consent for 1 more minute to conclude.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEMINT. Mr. President, I encourage my colleagues to look at the record. Mr. Koh has a very winsome personality, which I appreciate, but the record gives us many reasons for concern that the State Department may not be acting in the best interests of our country under his legal counsel.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The majority leader.

#### UNANIMOUS CONSENT REQUEST— H.R. 2918

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 84, H.R. 2918, which is the legislative branch appropriations bill; that once the bill is reported, the committee substitute amendment which is at the desk and is the text of S. 1294, as reported by the Senate Appropriations Committee, be considered and agreed to; that the bill, as thus amended, be considered original text for the purpose of further amendment, provided that points of order under rule XVI be preserved; provided further that points of order under the Budget Act and budget resolutions be preserved to apply as provided in those measures.

The PRESIDING OFFICER. Is there objection?

Mr. DEMINT. Reserving the right to object, Mr. President, I have no problem going to this bill, but we have been working with Members on our side on a finite list of amendments that we wish to be considered on this bill. I am happy to work with the distinguished leader to obtain an agreement, and if he wishes me to cover some of those amendments today, I will. But at this point I will object to the motion to proceed and hope that we can work out an agreement.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. Mr. President, I say to my colleague, you can offer any amendments you want. We don't care. We just want to get on the bill. And if we can do it, we will be happy to work with the Senator from South Carolina at that time to come up with a list of amendments. The amendments are all governed under rule XVI.

Mr. President, I have a letter here. I have all day held off reading it. It is a letter signed by every Republican Senator, including the Senator from South Carolina. Let me read this letter written to me, dated March 24.

Dear Majority Leader Reid, As you develop the legislative calendar for the rest of this fiscal year we believe it is critical to allocate an appropriate amount of time for the Senate to consider, vote and initiate the conference process on each of the 12 appropriations bills independently through a deliberative and transparent process on the Senate floor.

For a variety of reasons, over the past several years, the Senate has failed to debate, amend and pass each of the bills separately prior to the end of the fiscal year. Far too often this has resulted in the creation of omnibus appropriations bills that have been brought to the floor so late in the fiscal year that Senators have been forced to either pass a continuing resolution, shut down government or consider an omnibus bill. These omnibus bills have not allowed for adequate public review and have clouded what should otherwise be a transparent process. As our President said on March 11, 2009, he expects future spending bills to be "... debated and voted on in an orderly way sent to [his] desk without delay or obstruction so that we don't face another massive, last minute omnibus bill like this one."

The Senate should begin floor consideration of the appropriations bills during the early summer months to ensure that an appropriate amount of time is available to examine, debate and vote on amendments to the bills. We believe the Senate should pass at least eight of the appropriations bills by the August recess. In order to press for a more transparent process, we will consider using all available procedural tools to guarantee regular order for appropriations bills.

Noting our intentions, we hope you will plan accordingly as you work with the leadership of the House to develop the legislative calendar for the rest of this fiscal year. Thank you for your time and consideration.

It is signed by every one of the Republicans, including my friend from South Carolina.

I have here the manager of this bill, the wild-eyed liberal from Nebraska, BEN NELSON. If this is not a place to start—there is no one who has a more measured voice than the Senator from Nebraska. He is an experienced legis-

lator. He has been Governor of his State. He understands problems, and he is a fine person. Why can't we move to this bill?

I say to my friend from South Carolina, we are happy to work on a finite list of amendments, but all we want to do is legislate. We want to get on this bill. The manager of the bill is here. This man has been here for days—well, that is not true, since yesterday—to go to this piece of legislation.

I hope my friend will allow us to go to this bill. We will work with him. Senator NELSON is one of the most reasonable people I have ever worked with. I do not see what fear my friend from South Carolina should have going to the bill. We have no games we are playing. We are not going to try to cut anybody off offering amendments. There will come a time, perhaps, when I talk to the Republican leader and say: Have we had enough of this?

Mr. DEMINT. I say to the Senator, I am prepared to grant a unanimous consent to move ahead right now if I can be guaranteed seven amendments: three by myself, two by Senator COBURN, and two by Senator VITTER. I will be glad to describe what those are if you like?

Mr. REID. I say to my friend, as I told the Senator in my opening statement, the appropriations bills have a little different rules than just a regular bill. But we are happy to work with him. I am curious to find out what amendments he is interested in.

Would you run over them with me?

Mr. DEMINT. Yes, I will be glad to. Again, this is a trust but verify.

Mr. REID. Just give me the general subject.

Mr. DEMINT. We had a few problems getting amendments on some other bills, so I just want to make sure we are in agreement and there are no surprises. I have three amendments we would like. One is related to the Capitol Visitor Center. The other is related to rescinding unspent stimulus money. And the other is asking for a GAO audit of the Federal Reserve.

Senator VITTER has an amendment related to, I believe, our pay raises, as well as a motion to recommit the—I guess he is going to have to explain that one to me.

Mr. REID. I understand that one.

Mr. DEMINT. Senator COBURN has a transparency of Senate expenses amendment as well as something about enumerated powers.

Mr. REID. I am sorry, minority powers?

Mr. DEMINT. Enumerated powers. The minority has no powers. But this is enumerated powers of the Constitution.

These are our amendments. If we can just get agreement now that these can be included, we will be glad to proceed.

Mr. REID. I say to my friend, I served as chairman of the subcommittee for quite a number of years and enjoyed it very much. It appears the GAO one, from the knowledge I have, will be

within the confines of this bill very clearly.

Let's see, what else? The CVC, Capitol Visitor Center, I think that would be—I am looking to Senator NELSON. I think the Capitol Visitor Center would be in keeping with what we have in this bill.

The point is, without going into every detail at this time, anything that is not something that is subject to a rule XVI or some other problem because it is an appropriations bill, we are happy to work with the Senator. We have no problem. But as far as guaranteeing votes, I cannot do that because somebody may want to offer a second-degree.

Mr. DEMINT. I understand the leader's position. I will object and agree to work with you in the next few hours or tomorrow if we can get general agreement and perhaps some compromise if that is possible. We certainly don't want to hold this up, but we would like to participate in the debate with a few amendments.

Mr. REID. Mr. President, I understand the Senator is going to object. I do say you cannot have—we want to go to the bill. We want to play by the rules. As it says here:

In order to press for a more transparent process, we will use all available procedural tools to guarantee regular order for appropriations bills.

I want regular order on appropriations bills.

I think the Senator could check with his own floor staff; I can't guarantee votes. I can't guarantee these matters are germane because we have different rules on appropriations bills.

I think it is another indication of where we are just wasting time, the people's time. I made my case. I will come here tomorrow and try again. We are happy to work with the Senator from South Carolina.

I say to my friend from South Carolina, I understand he is well meaning. I understand that. The Senator is not a sinister person or trying to do something that is evil or bad. But I just think sometimes we would be better off, as indicated in the letter I received from you, just going to the bill and following the regular order. That is what I want to do.

Mr. DEMINT. If the Senator will yield for clarification, regular order would be motion to proceed, debate, cloture. What we are trying to do is shortcut the regular order with unanimous consent, which I am very willing to grant, with some assurances that we will have some amendments.

I think, just for clarification, if we went through the regular order—I think the request is to bypass regular order. I am more than willing to agree to that if we can get some assurances we will have amendments.

Mr. REID. The Senator has every assurance you will have amendments. I repeat, there are certain things I cannot agree to and some may want to file a second-degree amendment to an

amendment that you offer. But I will be happy to have my staff work with you through the evening and see what we can come up with.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. CORKER. Mr. President, I thank the leader for reading the letter I sent to him some time ago. I thank him for actually trying to bring forth an appropriations bill. I hope we can figure out some resolve. I think it is very important to our country that we actually go through an appropriations process that is thoughtful. I thank you for doing that today.

Mr. REID. Will my friend yield for just a brief comment? I want to go to the bill. I want to follow regular order. That is what I was asked to do. I am happy to have my staff work through the night to see if we can agree on a finite list of amendments. I hope we can do that.

Senator NELSON is the man to do that. He is a wonderful person, as I have already said. I am just disappointed it is such a struggle to get things done.

Mr. CORKER. Mr. President, if I could talk back to the respected leader, I thank him for bringing it forward. I do think it is important we work through eight bills before the recess begins, and I hope over the next couple of hours he and the distinguished Senator from South Carolina can reach some resolve that is an accommodation and we can move through this.

I thank the Senator very much for his patience.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BEGICH.) Without objection, it is so ordered.

#### KOH NOMINATION

Mr. SPECTER. Mr. President, I have sought recognition to speak on behalf of Dean Harold Koh, dean of the Yale Law School, for confirmation to the position of Legal Adviser to the Department of State. I know Dean Koh personally. I have known him for more than a decade while he has taught at Yale and been the dean of the Yale Law School. He spoke at a class reunion. I was in the Yale Law School class of 1956 and hosted a reunion here in the Capitol on June 6, 2008. He was greeted by a number of prominent Members of the Senate at that time. I make these comments about my personal association with him in the interest of full disclosure, but the thrust of my recommendation is based upon his extraordinary record.

Harold Koh graduated from Harvard College, also Harvard Law School. He graduated Harvard College *summa cum*

laude in 1975. He was Marshall Scholar at Oxford University, where he got a master's degree in 1977. He graduated *cum laude* from the Harvard Law School in 1980, where he was developments editor of the Harvard Law Review. He then clerked for Judge Richard Wilkey in the Court of Appeals for the District of Columbia, then for Supreme Court Justice Harry Blackmun. He then worked as a lawyer with the distinguished Washington firm Covington & Burling and then as Attorney-Adviser in the Department of Justice's Office of Legal Counsel. He then served in the Clinton administration as Assistant Secretary of State, was unanimously confirmed by the Senate, and served there from 1998 to 2001 when he returned to the Yale Law School, becoming its dean some 5 years ago.

He comes from a very distinguished family. His father was the first Korean lawyer to study in the United States. He attended Harvard Law in 1949. He was then counsel for—the father, that is—for the first Korean democratic government. When a military coup occurred, he left that position. He was the first Korean to teach at the Yale Law School in 1969.

Dean Koh has an extraordinary record. His curriculum vitae fills 8 pages of very small print. He has a long list of honorary degrees. He received a number of medals. His list of honors and awards goes on virtually indefinitely; his publications, books, and monographs occupy six and a half pages; his selected legal activities, another half a page; lectures that he performed, many; teaching activities, voluminous; boards of editors, professional affiliations, presentations, workshops, boards, bars, member of the bars with which he is associated.

I ask unanimous consent to have this full text printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. It is going to be extensive, but it is worth it. I have been a Member of this body for some time. I have never seen anyone with this kind of a resume. And I am going to ask Senator BYRD the next time I see him if he knows of anybody who has a resume which is this extensive and this impressive.

When you characterize the best and the brightest, Harold Koh would be at the top of the list. It would be hard to find anybody with a better record than Dean Harold Koh. His experience in international law is extensive, as in human rights. He would be an ideal Legal Adviser to the Department of State with his background and his experience. He has judgment, and he has balance. From my personal knowledge, I have total confidence that he will apply his legal knowledge and his background in a wise and sagacious way. He testified before the Judiciary Committee when I chaired the committee and in every way is exemplary.

It is a little surprising to me that it is necessary to have a cloture vote, to have 60 votes to take up the nomination of Dean Koh. But considering the politics of Washington and considering the politics of the Senate, perhaps we should not be surprised at anything. But having a very high surprise threshold, I say that I am surprised Dean Koh would require 60 votes to reach a confirmation vote. I urge anybody who has any doubts about the caliber of this man to get out their glasses, or you may need a magnifying glass to read all of his accomplishments. But certainly it would be a travesty if a man such as this was not confirmed.

In an era where we are trying so hard to bring quality people into government and so many people shun government because of the hoops and hurdles someone has to go through—Dean Koh would be exhibit A of the hoops and hurdles—it would be very discouraging for anybody else applying for a position which requires Senate confirmation. As strongly as I can, I urge his confirmation.

#### EXHIBIT 1

##### YALE LAW SCHOOL EMPLOYMENT

- 2004: Dean of Yale Law School
- 1993: Gerard C. and Bernice Latrobe Smith Professor of International Law, Yale Law School (Procedure, International Human Rights, International Business Transactions, Constitution and Foreign Affairs, International Trade, International Organizations, International Law and Political Science)
- 1998–2001: Assistant Secretary of State for Democracy, Human Rights and Labor United States Department of State; Commissioner, Commission for Security and Cooperation in Europe; U.S. Delegate or Head of Delegation to United Nations General Assembly (Third Committee), the United Nations Human Rights Commission, the Organization of American States, the Council of Europe, the Organization for Security and Cooperation in Europe, the U.N. Committee Against Torture, Inaugural Community of Democracies Meeting (Warsaw 2000); U.N. Conference on New and Restored Democracies (Cotonou, Benin 2000)
- 1993–1998: Director, Orville H. Schell Jr., Center for International Human Rights, Yale Law School
- 1996–97: Visiting Fellow, All Souls College, Oxford University and Waynflete Lecturer, Magdalen College, Oxford University
- 1993: Visiting Professor, Hague Academy of International Law
- 1990–93: Professor, Yale Law School
- 1990, 2002: Visiting Professor of International Law, Faculty of Law, University of Toronto (intensive courses in international business and human rights law)
- 1985–90: Associate Professor, Yale Law School
- 1983–85: Attorney-Adviser, Office of Legal Counsel, United States Department of Justice
- 1982–85: Adjunct Assistant Professorial Lecturer in Law, George Washington University National Law Center
- 1982–83: Associate, Covington & Burling, Washington, DC
- 1981–82: Law Clerk to Hon. Harry A. Blackmun, Associate Justice, United States Supreme Court
- 1980–81: Law Clerk to Hon. Malcolm Richard Wilkey, Circuit Judge, United States Court of Appeals, D.C. Circuit