

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 President, I ask unanimous consent that the order for the quorum call be rescinded.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

1978-79: Teaching Fellow, First-Year Legal Methods Program, Harvard Law School (Contracts and Civil Procedure)

## DEGREES

1980: Harvard Law School, J.D. cum laude Developments Editor, Harvard Law Review; Tutor, Mather House, Harvard College

1977: Magdalen College, Oxford University, Honours B.A. in Philosophy, Politics & Economics with First-Class Honours; (M.A. 1996); Marshall Scholar; Magdalen College Underhill Exhibitioner; President, Magdalen College Middle Common Room

1975: Harvard College, Harvard University A.B. in Government, Summa Cum Laude; Phi Beta Kappa; Harvard National Scholar; Charles Bonaparte Scholar (Outstanding Junior Government Major); Harvard Club of Southern Connecticut Distinguished Senior; National Merit Scholar; State of Connecticut Scholar

## HONORARY DEGREES

2009: New School for Social Research  
2008: Iona College  
2008: Jewish Theological Seminary  
2005: University of Hartford  
2005: Widener School of Law  
2002: Doctor of Laws, Skidmore College  
2001: Doctor of Laws, Connecticut College  
2000: Doctor of Laws, University of Connecticut; Doctor of Humane Letters, Dickinson College  
1999: Doctor of Laws, Suffolk Law School; Doctor of Humane Letters, Albertus Magnus College  
1998: Doctor of Laws, CUNY-Queens Law School  
1990: M.A., Yale University

## MEDALS

2008: Western New England School of Law  
2004: Presidential Medal, Central Connecticut State College  
2000: Villanova Medal, Villanova Law School  
2000: Arthur J. Goldberg Award, Jacob Fuchsberg Law Center, Touro Law School

## OTHER HONORS AND AWARDS

2008: Judith Lee Stronach Human Rights Award, given for outstanding contribution to global justice by the Center for Justice and Accountability, San Francisco 7th Annual Sengbe Pieh Award, First and Summerfield United Methodist Church  
IRIS Human Rights Award  
2007: Green Bag Award for "exemplary writing in a long article" Green Bag Almanac and Reader (2007)  
2007, 8, 9 Lawdragon 500 Leading Lawyers in America  
2007-08: Connecticut Bar Association Young Lawyers Section Diversity Award  
2007: Pacific Islander, Asian, and Native American (PANA) Distinguished Service Award  
2006: Philip Burton Award for Advocacy, Immigrant Legal Resource Center  
2006: Boston College 75th Anniversary Celebration Law School's Distinguished Service Award  
Asian American Bar Association of New York Award  
The Asian American Law Students Association (Pace Law School) Award of Distinction  
2006: Named one of the Top Connecticut Super Lawyers by Connecticut Magazine (International Law)  
2005: Louis B. Sohn Award, given by the International Law Section of the American Society of International Law for Lifetime Achievement in International Law  
2005: Equal Access to Justice Award, New Haven Legal Assistance  
2005: Allies for Justice Award  
ABA National Lesbian and Gay Law Association

100 Most Influential Asian Americans of the 1990s, A Magazine

2002: Wolfgang Friedmann Award, given by Columbia Journal of Transnational Law "to an individual who has made outstanding contributions to the field of international law"

2002: Connecticut Bar Association Distinguished Public Service Award

2002: John Quincy Adams Freedom Award, Amistad America

2001: Korean American Coalition Public Service Award

2000: Institute for Corean-American Studies Liberty Award

1999; 1994: FACE (Facts About Cuban Exiles) Excellence Award

1997: Public Sector 45" (45 leading American Public Sector Lawyers Under the Age of 45), American Lawyer Magazine

1997: Named one of nation's leading Asian-American Educators, Avenue Asia Magazine  
Asian-American Lawyer of the Year, Asian-American Bar Association of New York

1995: Trial Lawyer of the Year Award, Trial Lawyers for Public Justice (co-recipient)

1994: Cuban-American Bar Association

1994: Political Asylum Immigration Representation Project

1994: Asian-American Lawyers of Massachusetts

1994: Haiti 2004

1994: Korean-American Alliance

1993: Asian Law Caucus

1993: Asian-American Legal Defense & Education Fund, Justice in Action Award

1992: Co-recipient, American Immigration Lawyers' Association Human Rights Award

1991: Richard E. Neustadt Award, Presidency Research Section, American Political Science Association

## FELLOWSHIPS

Fellow, American Philosophical Society (2007-); Honorary Fellow, Magdalen College (2002-); Fellow, American Academy of Arts and Sciences (2000-); Guggenheim Fellow (1996-97); Twentieth Century Fund Fellow (1996-), Visiting Fellow, All Souls College, Oxford (1996-97); James Cooper Lifetime Fellow, Connecticut Bar Association (2006-)

## PUBLICATIONS

## BOOKS AND MONOGRAPHS

Transnational Litigation in United States Courts (2008) (Foundation Press)

Transnational Business Problems (4th ed. 2008) (Foundation Press), with Detlev F. Vagts & William S. Dodge

Foundations of International Law and Politics (with Oona A. Hathaway)

The International Human Rights of Persons with Intellectual Disabilities: Different but Equal (Oxford University Press 2002) (with Stanley Herr and Lawrence Gostin, eds)

Deliberative Democracy and Human Rights (with Ronald C. Slye) (Yale University Press 1999) (translated into Spanish)

International Business Transactions in United States Courts, Recueil des Cours (Martinus Nijhoff 1998) (Monograph of Lectures in Private International Law at The Hague Academy of International Law)

Transnational Legal Problems (with Henry Steiner & Detlev Vagts) (Foundation Press 4th ed. 1994) and Documentary Supplement (1994)

The National Security Constitution: Sharing Power After the Iran-Contra Affair (Yale University Press 1990) (Winner, Richard E. Neustadt Award, awarded by the Presidency Research Section, American Political Science Association, to the best book published in 1990 that contributed most to research and scholarship on the American Presidency)

Justice Harry A. Blackmun Supreme Court Oral History Project, Federal Judicial Cen-

ter/Supreme Court Historical Society (Editor 1996) (public release 2004)

## ARTICLES AND BOOK CHAPTERS

Commentary in Michael W. Doyle, Striking First: Preemption and Prevention in International Conflict 99 (2008)

Human Rights and National Security: Chapter in Mark Green, et al., eds, Change for America: Progressive Blueprint for the Next Administration (2008)

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Is there a "New" New Haven School of International Law? 32 Yale Law Journal 559 (2007)

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Tom Eagleton: True Senator, 52 SLU L. Rev. 1 (2007)

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Harry Andrew Blackmun, in Yale Biographical Dictionary of American Law (2007)

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- "A Law Unto Itself?," Yale L.J. (The Pockert Part), March 2006
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- "Can the President Be Torturer in Chief?," *Ind. L. Rev.* 81:1145 (winner 2007 Green Bag Award for "exemplary writing in a long article" *Green Bag Almanac and Reader* (2007))
- "Mark Janis and the American Tradition of International Law," *Conn. J. Int'l L.*
- "Captured by Guantanamo"
- Choosing Heroes Carefully (Tribute to John Hart Ely), 57 *Stan. L. Rev.* 723 (2005)
- "The Bright Lights of Freedom," This I Believe, NPR
- "The Value of Process," in *Why Obey International Law?*, 10 *Int'l Legal Theory* 1 (2004)
- "Standing Together," 15 *Law & Sexuality*, 15:1
- "Internalization Through Socialization," *Duke L.J.* 54: 975 (2005)
- "Commentary: A World Drowning in Guns," in *International Law and International Relations* 59-76 (Thomas Biersteker, Veronica Raffo, Peter Spiro and Chandra Sriram, eds Routledge 2006)
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- "Reflections on Refoulement and Haitian Centers Council," 35 *Harv. Int'l L.J.* 1 (1994)
- "Who Are the Archetypal 'Good' Aliens?" 88 *American Society of International Law Proc.* 450 (1994)
- "Justice Blackmun and the 'World Out There,'" 104 *Yale L.J.* 23 (1994)
- Broadening Access to International Law Resources Through New Technology," 89 *American Society of International Law Proc.*—(1995)
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- "One Step Forward, One Step Back," *Miami Herald*, May 4, 1995 A27
- Alliance for Justice, "First Monday," October 3, 1994 (video panel)
- "Terms for Assessment," Roundtable on Justice Blackmun, *ABA Journal* 52 (July 1994)
- "Justice Done," *New York Times*, Apr. 8, 1994, at A27
- "The Justice Who Grew," 1994 *J. S.Ct. Hist.* 5 (1994)
- "DIANA: A Human Rights Data Base," 16 *Human Rights Quarterly* 753 (1994) (with N. Finke, T. Fitchett, and R. Slye)
- "Bitter Fruit of the Asian Immigration Cases," 6 *Constitution* 68 (1994) (reproduced in *Cong. Record*, Jan. 6, 1995 at S569)
- "Standing Up for Principle: A Personal Journey," 5 *Korean and Korean-American Studies Bulletin* 4 (1994)
- "A Tribute to Justice Harry A. Blackmun," 108 *Harv. L. Rev.* 20 (1994)
- Remarks at Proceedings Held on the Occasion of the Induction of Jose A. Cabranes As U.S. Circuit Judge, 2d Cir. (Sept. 26, 1994)
- "The New New International Economic Order," 87 *American Society of International Law Proc.* 259 (1994)
- "Aliens and the Duty of Nonrefoulement: *Haitian Centers Council, Inc. v. McNary*," 6 *Harvard Human Rights Journal* 1 (1993) (with the Lowenstein Human Rights Clinic)
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- "The President Versus the Senate in Treaty Interpretation: What's all the Fuss About?" 15 *Yale Journal of International Law* 331 (1990)
- "Reply to Book Reviews of *The National Security Constitution: Sharing Power After the Iran Contra Affair*," 15 *Yale Journal of International Law* 382 (1990)
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- "The Iran-Contra Affair," *The Guide to American Law Yearbook 1990* (West 1990)
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"Two Cheers for Feminist Procedure," 61 University of Cincinnati Law Review 1201 (1993)

"Protecting the Office of Legal Counsel from Itself," 15 Cardozo Law Review 1601 (1993)

"The War Powers Resolution," in Cold War Patriot and Statesman: Richard M. Nixon 321 (L. Friedman and W. Levantrosser, eds.) (Greenwood Press, 1993)

"Against Specialization in The Teaching of International Law," Contemporary International Law Issues: Sharing Pan-European and American Perspectives 198 (1992)

"The Fast Track and United States Trade Policy," 18 Brooklyn J. Int'l L. 143 (1992)

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"Why the President (Almost) Always Wins in Foreign Affairs: Lessons of the Iran-Contra Affair," 97 Yale Law Journal 1255 (1988) (republished as Chapter 6 in The Constitution and the Conduct of American Foreign Policy (David Gray Adler & Larry N. George eds. 1996))

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"Civil Remedies for Uncivil Wrongs: Combatting Terrorism Through Transnational Public Law Litigation," 22 Texas Int'l.L.J. 169 (1987)

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"Looking Beyond Achievement: After 'the Model Minority,' Then What?," 3 Korean And Korean-American Studies Bulletin 15 (Fall/Winter 1987)

"Thoughts on Being a Korean-American Legal Academic," 1 Korean-American Journal 5 (May 1986)

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Book Review, H. Steiner & D. Vagts, Transnational Legal Problems and D. Vagts, Transnational Business Problems, 20 Int'l.Law 1417 (1986)

"Judge Wilkey's Contributions to International Law and the Foreign Relations Law of the United States," 1985 B.Y.U. Law Rev. 647 (1985)

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"Equality with a Human Face: Justice Blackmun and the Equal Protection of Aliens," 8 Hamline Law Rev. 51 (1985)

Note, "The Constitutionality of Municipal Advocacy in Statewide Referendum Campaigns," 93 Harv.L.Rev. 535 (1980)

Case Comment, "Discovery from Media Defendants in Public Figure Defamation Actions: *Herbert v. Lando*," 93 Harv.L.Rev. 149 (1979)

#### SELECTED CONGRESSIONAL TESTIMONY

Testimony before the Senate Judiciary Committee Subcommittee on the Constitution regarding Restoring the Rule of Law (September 16, 2008)

Testimony before the House Foreign Relations Committee regarding "The 2006 Coun-

try Reports on Human Rights Practices and the Promotion of Human Rights in U.S. Foreign Policy" (March 29, 2007)

Testimony before the Senate Committee on the Judiciary regarding "Hamdan v. Rumsfeld: Establishing a Constitutional Process" (July 11, 2006)

Testimony before the Senate Committee on the Judiciary regarding "Wartime Executive Power and the National Security Agency's Surveillance Authority" (February 28, 2006)

Testimony before the Senate Judiciary Committee regarding "The Nomination of the Honorable Alberto R. Gonzales as Attorney General of the United States" (January 7, 2005)

Testimony before the House Committee on International Relations regarding "A survey and analysis of supporting human rights and democracy: The U.S. record 2002—2003" (July 9, 2003)

"United States Ratification of the Convention on the Elimination of All Forms of Discrimination Against Women," Hearing Before the U.S. Senate Foreign Relations Committee (June 13, 2002)

"Human Rights in Turkey," Hearing before the Commission on Security and Cooperation in Europe, Washington, DC (March 9, 2000).

"Country Reports on Human Rights Conditions," Testimony before the Subcommittee on International Operations and Human Rights, U.S. House of Representatives Washington, DC, (March 8, 2000).

"The Global Problem of Trafficking in Persons: Breaking the Vicious Cycle," Hearing Before the House Committee on International Relations (Sept. 14, 1999)

"Human Rights at the End of the 20th Century," Hearing before the Commission on Security and Cooperation in Europe; Washington, DC, (March 17, 1999).

"Country Reports on Human Rights Conditions," Testimony

"Country Reports on Human Rights Conditions," Testimony before the Subcommittee on International Operations and Human Rights, U.S. House of Representatives (March 3, 1999)

"Human Rights in China," Testimony International Operations and Human Rights, U.S. House of Representatives, Washington DC (January 20, 1999)

"U.S. Policy Toward Haiti": Hearing Before the Subcommittee on Western Hemisphere and Peace Corps Affairs of the Senate Committee on Foreign Relations, 103d Cong. 2d Sess. (Mar. 8, 1994)

"The Nonrefoulement Reaffirmation Act of 1992," House Foreign Affairs Committee (June 11, 1992)

"U.S. Human Rights Policy Toward Haiti," Hearing before Legislation and National Security Subcommittee; House Government Operations Committee, 102nd Cong., 2nd Sess. 97 (April 9, 1992)

"The Constitutional Roles of Congress and the President in Waging and Deciding War," Senate Judiciary Committee (January 8, 1991)

"Executive-Congressional Relations in a Multipolar World," Hearings Before the Senate Foreign Relations Committee, 101st Cong., 2d Sess. 92 (Nov. 26, 1990)

Testimony on H.R. 3665, the Official Accountability Act, before the House Judiciary Committee, Subcommittee on Criminal Justice, (June 15, 1988)

#### AWARDS AND HONORS

100 Most Influential Asian Americans of the 1990s, A Magazine; Named to the APublic Sector 45" (45 leading American Public Sector Lawyers Under the Age of 45), American Lawyer Magazine (1997); Connecticut Bar Association Distinguished Public Service

Award (2002); John Quincy Adams Freedom Award, Amistad America (2002); Korean American Coalition Public Service Award (2001); Honorary Citizenship, Pukcheju, Republic of Korea (1999); Institute for Corean-American Studies Liberty Award (2000); FACE (Facts About Cuban Exiles) Excellence Award (1999, 1994); Named one of nation's leading Asian-American Educators, Avenue Asia Magazine (1997); Asian-American Lawyer of the Year, Asian-American Bar Association of New York; 1995 Trial Lawyer of the Year Award, Trial Lawyers for Public Justice (co-recipient); Cuban-American Bar Association (1994); Political Asylum Immigration Representation Project (1994); Asian-American Lawyers of Massachusetts (1994); Haiti 2004 (1994); Korean-American Alliance (1994); Asian Law Caucus (1993); Asian-American Legal Defense & Education Fund, Justice in Action Award (1993); Co-recipient, American Immigration Lawyers' Association 1992 Human Rights Award; Richard E. Neustadt Award, Presidency Research Section, American Political Science Association (1991)

#### SELECTED LEGAL ACTIVITIES

Secretary of State's Advisory Committee on Public International Law (1994-98)

Editor, Justice Harry A. Blackmun Supreme Court Oral History Project, Federal Judicial Center/Supreme Court Historical Society (1994-96)

Co-author, Law Professors= Letter to Senate Judiciary Committee Regarding Military Commission, December 5, 2001, available at <http://www.yale.edu/lawweb/liman/letterleahy.pdf>

Counsel for U.S. Diplomats Morton Abramowitz, et al, Amicus Curiae in *McCarver v. North Carolina*, No. 00-8727 (U.S. cert. Dismissed Sept. 25, 2001) and *Atkins v. Virginia* (No. 00-8452) (U.S. argued Feb. 20, 2002) (arguing that execution of those with mental retardation violates Eighth Amendment's cruel and unusual punishments clause)

Consultant, United Nations High Commissioner on Refugees Global Consultations on reformation of the UN Refugee Convention, Cambridge University (Summer 2001)

Arbitrator, Binational Dispute Settlement Panel Convened Under Chapter 19 of the U.S.-Canada Free Trade Agreement, No. U.S.A.-93-1904-05, In re Certain Flat-Rolled Carbon Steel Products from Canada (Nov. 4, 1994)

Co-founder (with Michael Ratner), Allard K. Lowenstein International Human Rights Clinic at Yale Law School (1991-)

Counsel for respondents, *Royal Dutch Petroleum Co. v. Ken Wiwa, et al.*, (U.S. S.Ct., No. 00-1168, cert. denied March 26, 2001)

Of counsel and oralist for plaintiffs, *Cuban-American Bar Ass'n v. Christopher*, 43 F.3d 1413 (11th Cir. 1995) (For work done on this case, received 1994 Human Rights Award from Cuban-American Bar Ass'n)

Lead counsel for plaintiffs, *Sale v. Haitian Centers Council, Inc.*, 113 S.Ct. 2549 (1993), 823 F.Supp. 1028 (E.D.N.Y. 1993), and 969 F.2d 1326 (2d Cir. 1992) (For work done on this case, recognized by Haiti 2004, Korean-American Alliance, Political Asylum Immigration Representation Project and as co-recipient, 1993 Justice in Action Award, Asian-American Legal Defense and Education Fund; Co-recipient, 1992 Human Rights Award, American Immigration Lawyers' Association; Asian Law Caucus)

Co-counsel for petitioners, In re civilian population of Chiapas, Mexico and certain Members of the Ejercito Zapatista de Liberacion Nacional (Inter-American Commission on Human Rights) (filed January 27, 1994); In re Haitian population of Bahamas

Co-counsel for plaintiffs, *Doe v. Karadzic*, 70 F. 3d 232 (1995); 176 F.R.D. 458 (S.D.N.Y.

1997) (represented from filing of complaint until 1998, when withdrew from representation to join U.S. government; after a two-week jury trial in September 2000, a jury awarded plaintiffs approximately \$ 4.5 billion in compensatory and punitive damages); *Greenpeace, Inc. (U.S.A.) v. France*, 946 F. Supp. 773 (C.D. Cal. 1996); *Paul v. Avril*, 812 F. Supp. 207 (S.D. Fla. 1993) (\$41 million judgment awarded); *Todd v. Panjaitan*, No. 92-12255WD (D. Mass. decided October 25, 1994) (\$14 million judgment awarded); *Xuncax v. Gramajo*, No. 91-11564WD (D.Mass., filed June 6, 1991); *Ortiz v. Gramajo* (D.Mass. 1992)(\$47.5 million judgment awarded); *Doe v. Karadzic*, 866 F. Supp. 734 (1994); No. 94-9035 (2d Cir. 1995); *Belance v. FRAPH*, No. 94-2619 (E.D.N.Y.) (Nickerson, J.) (For work done on *Avril* and *Gramajo* cases, named as co-recipient, 1995 Trial Lawyer of the Year Award, by the Trial Lawyers for Public Justice)

*Amicus Curiae*, U.S. Supreme Court, *Argentine Republic v. Amerasia Hess* (1990); *United States v. Alvarez-Machain*, (1992); *Nelson v. Saudi Arabia*, No. 91-522 (1993); *Jaffe v. Snow*, No. 93-241 (1993); *Trajanov v. Marcos*, 978 F.2d 493, 499-500 (9th Cir. 1992), cert. denied, 113 S. Ct. 2960 (1993); No. 93-9133 *Negewo v. Abebe-Jira*, 11th Cir. 1995; *Abebe-Jiri v. Negewo*, No. 90-2010, Slip Op. at 7 (N.D. Ga. Aug. 20, 1993)

Co-author (with ten other constitutional law scholars) of Memorandum *Amicus Curiae* of Law Professors in *Ronald v. Dellums v. George Bush* (D.D.C. 1990), reprinted in 27 *Stanford Journal International Law* 257 (1991); (with nine other constitutional law scholars) of Correspondence with Assistant Attorney General Walter Dellinger re Legality of United States Military Action in Haiti, reprinted in 89 *American Journal International Law* 127 (1995)

Co-author (with David Cole and Jules Lobel), "Interpreting the Alien Tort Statute: *Amicus Curiae* Memorandum of International Law Scholars and Practitioners in *Trajanov v. Marcos*," 12 *Hastings Int'l & Comp. L. Rev.* 1 (1988) (published *Amicus Curiae* Brief on behalf of nineteen international law scholars and practitioners in international human rights case)

Co-author, Brief *Amicus Curiae* Urging Denial of Certiorari, *Tel-Oren v. Libyan Arab Republic*, reprinted in 24 *I.L.M.* 427 (1985) (as Justice Department Attorney)

Litigation before Iran-U.S. Claims Tribunal, Case No. 55, *Amoco Iran v. Islamic Republic of Iran* (as Private Practitioner)

Co-counsel for Iranian Hostages in *Persinger v. Iran* (D.C. Cir. 1982) and *Cooke v. United States* (Cl. Ct. 1982) (as Private Practitioner)

Litigation before International Court of Justice in *Nicaragua v. United States*, 1986 *I.C.J.* 14 (as Justice Department Attorney)

#### NAMED LECTURES

Cecil Wright Lecture, University of Toronto School of Law (2002); Korematsu Lecture, New York University School of Law (2002); George Wythe Lecture, William and Mary College of Law (2002); Robert Levine Lecture, Fordham Law School (2002); Frank Strong Lecture, Ohio State University School of Law (2002); Barbara Harrell-Bond Lecture, Oxford University (2001); Edward Barrett Lecture, University of California at Davis School of Law (2001); Bruce Klatsky Lecture, Case Western Reserve University School of Law (2001); Richard Childress Lecture, St. Louis University School of Law (2001); Frankel Lecture, University of Houston Law Center (1998); Harris Lecture, University of Indiana Law School (1998); Scuola Santa Anna (Pisa, Italy) (1997); Bartlett Lecture, Yale Divinity School (1997); Waynflete Lectures, Magdalen College, Oxford University (1996); Enrichment Lecturer, George

Washington University National Law Center (1995); Scholar-in-Residence, Hofstra University (1995); Ralph Kharas Lecture, Syracuse University (1995); Mason Ladd Lecture, Florida State University (1995); 1995 Martin Luther King Lecture, Smithsonian Institution (1995); Roscoe Pound Lecture, University of Nebraska College of Law (1994); Emmanuel Emroch Lecture, University of Richmond Law School (1994); George Allen Distinguished Visiting Professor, University of Richmond Law School (1994); Roy R. Ray Lecture, Southern Methodist University School of Law (1994); William H. Leary Lecture, University of Utah Law School (1993); Convocation Lecturer, Duke Law School (1993); McGill Law School (1993); Gerber Lecture, University of Maryland (Baltimore) (1993). Commencement Addresses at Yale Law School (1987, 1989, 2000), Skidmore College (2002); University of Connecticut School of Law (2000); Dickinson College (2000); Villanova Law School (2000); Touro College of Law (2000); Albertus Magnus College (1999); NYU Law School (1999); University of Maryland (Baltimore) School of Law (1995)

#### TEACHING ACTIVITIES

Faculty Member, Oxford/George Washington University Joint Programme in International Human Rights Law, New College Oxford, 1996, 1998, 2002; American University Human Rights Academy 2001; Aspen Institute, Law and Society Program (Moderator 2001; Harry Blackmun Fellow, 1992); Aspen Institute, Seminar for Judges on International Human Rights: Its Application in National Jurisprudence, Wye Plantation (1994, 95, 98); Federal Judicial Center, "The Role of International Law in the U.S. Courts (March 1994); Faculty Member, American Law and Legal Institutions, Salzburg Seminar, Salzburg, Austria (1991); Center for National Security Studies National Security Law Institute for Professors (1991, 1992); Distinguished Visitor, The Policy Study Group, Tokyo, Japan (1990)

#### BOARDS OF EDITORS

Editorial Board, University Casebook Series, Foundation Press (1993-98, 2001-); *American Journal of International Law* (1992-); Editorial Review Board, *Human Rights Quarterly* (1994-96); Advisory Committee, *Journal of Legal Education* (1991-94); Editorial Advisory Board, *Human Rights Watch World Report* (Yale University Press)

#### PROFESSIONAL AFFILIATIONS

Executive Council, American Society of International Law (1998-present); Chair, Nominating Committee, American Society of International Law (1998); National Council, Lawyers Committee for Human Rights (1997-98); Legal Advisory Committee, Connecticut Civil Liberties Union (1997-98); The Benchers (1994-); Coordinating Committee for Immigration, American Bar Association (1993-5); Oversight Committee, University of California at Berkeley School of Law (1991); American Society of International Law Board of Review and Development (1989-91); Advisory Board, Center for National Security Studies, American Civil Liberties Union (1991-93); Member, Executive Committee of International Law Section of American Association of Law Schools (1988-90); Member, Executive Committee of Civil Procedure Section of American Association of Law Schools (1991-93); Vice-Chair, International Legal Education Committee, American Bar Association Section of International Law and Practice (1991-93); Liaison Between ABA International Law Section and AALS (1990-91); Advisory Committee, Yale Center for International and Area Studies, Center for Western European Studies, International Security Program, International Relations Program, and Allard K. Lowenstein International Human Rights Project; Fellow, Timothy Dwight College

## PRESENTATIONS AND WORKSHOPS

Faculty Workshops at more than twenty schools; scores of lectures and presentations on International Human Rights Law, U.S. Trade Policy and International Economic Law; International Litigation and Procedure; International and Foreign Affairs Law; European Community Law; Law Teaching; Immigration and Refugee Law; Asian-American Issues; and invited presentations at numerous judicial conferences and bar associations

## BOARDS

Brookings Institution Board of Directors (2004-); Connecticut Bar Foundation Board of Directors (2004-05); Harvard University Overseer (2001-); Visiting Committee, Harvard Law School (1996-2002); Visiting Committee, Harvard Kennedy School of Government (2007-); Visiting Committee, University of Toronto Faculty of Law (2004); Board of Directors, American Arbitration Association (2007-); Board of Directors, Human Rights in China (2002-5); Member of Council, American Law Institute (2006-); Counselor, American Society of International Law, Washington, DC (honorary post; 2008-); Thomas J. Dodd Research Center National Advisory Board (2001-); Board, National Democratic Institute (2001-); Board of Human Rights First (formerly Lawyers Committee for Human Rights) (2001-); Board of Human Rights in China (2001-); Board of International Campaign for Tibet (2001-); Human Rights Watch (1994-98); Hopkins School (1997-); Interights (1996-98); St. Thomas's Day School (1993-96); Connecticut Civil Liberties Union (1993-7); Initiative for Public Interest Law at Yale (Chair, 1988-90); East Rock Institute (Secretary); YLS Early Learning Center (Treasurer 1987-88)

## BARS

New York (1981); District of Columbia (1981); Connecticut (1985); U.S. Supreme Court (1985); U.S. Ct. App., Eleventh Circuit (1995); D.C. Circuit (1981); U.S. Dist. Ct., D.C. (1981); D. Conn. (1985); U.S. Claims Ct. (1983)

## REFERENCES:

Hon. Malcolm R. Wilkey (ret.), Santiago, Chile, U.S. Ct. App. DC Cir. (Ret.)

Sen. Russell Feingold Washington, D.C.

Sen. Daniel Patrick Moynihan (ret.) Washington, D.C.

Judge Guido Calabresi U.S. Ct. App., 2d Cir.

Prof. Arthur R. Miller Harvard Law School  
Larry L. Simms, Esq. Gibson, Dunn, & Crutcher, D.C.

Peter D. Trooboff, Esq. Covington, Burling, D.C.

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

Mr. BEGICH. Without objection, it is so ordered.

## ENUMERATED POWERS ACT

Mr. COBURN. Mr. President, I wish to spend a few minutes this evening to outline where we are and one possible solution to help us as a nation. We are on a course to double the debt in 4½ years. We are on a course to triple the debt over the next 10 years. Think of what that means for our children and our grandchildren. That is not Presi-

dent Obama's fault. I am probably one of the few Republicans who will say that. It is Congress's fault, because Presidents don't get to spend money we don't let them spend. We are the ones who offer the spending bills.

How did we get here? How did we get to the point where we are borrowing money that we don't have against our children's future to spend on things we don't need? It is simple. We have forgotten what the Constitution says. We have ignored the Constitution at almost every turn.

Today, myself and 17 other Senators introduced a bill which is called the Enumerated Powers Act. It goes back to article I, section 8 of the Constitution. Here is what it says. It very plainly lists the responsibilities of the Federal Government. When you think we are going to have a \$3.6 trillion budget and a \$2 trillion deficit this year—and that is real accounting; that is not Washington gimmick accounting—how did we get to where we could do that? How did we get to where we can put our children and grandchildren in such dire straits in their future? We got to it by ignoring the enumerated powers of the Constitution.

If you go to the textbooks and read the history, you will see that Madison wrote that section. If you read what he had to say about what he meant in article I, section 8 of the Constitution, he said, People are going to try to get around this. People are going to try to say it doesn't mean what it means. But, in fact, here is exactly what we mean. Anything that we don't want the Federal Government doing, we are going to specifically reserve for the States. That is where the 10th amendment came from in the Bill of Rights. Because you can't limit what the Federal Government does without saying, Here are the things that should be done, but they should be done under the authority of the people and the States.

When Ben Franklin left the Constitutional Convention in 1787, he was asked by somebody in the crowd: What did the convention produce? He said: It produced a republic. Then he said: If we can keep it.

Well, I can tell my colleagues that "if" is a great big word. We have a Medicare Program that over the next 30 years has a \$39 trillion unfunded liability. So the factors I have mentioned already don't have anything to do with that. That is \$39 trillion on top of \$11.5 trillion today and \$2 trillion more we are going to add to the debt this year. Then we have Social Security, which is unfunded. We have Medicare Part D that has an \$11 trillion unfunded liability. Then we have Medicaid, which is about \$17 trillion. So what we have basically done is abandoned what our Founders thought was prudent so we could enhance politicians. We put that big "if" up there for our kids and our grandkids.

The task of keeping a republic now falls to this Congress. It doesn't look

bright. We passed a stimulus bill, \$787 billion. By the time you count the interest rate over the next 10 years, it is \$1 trillion. We passed an omnibus bill that increased spending by each branch of the government over 9 percent. We passed an emergency supplemental that had \$24 billion in it that we didn't need, but we spent it, which will raise the baseline in future years, which will raise spending even further. The first appropriations bills coming out are a 7-percent or 8 percent increase when inflation has been a minus four-tenths of 1-percent increase.

The whole purpose behind this bill is to say when you write a bill in this Congress and any Congress that follows it, you have to know in that bill where you get the authority in the Constitution to spend this money or to authorize this program. You can still introduce a bill without it, but it creates a point of order that says a Senator can challenge that bill on the basis of what the Constitution says because you have not clearly stated in this new piece of legislation where you get the authority as a Member of the Senate to authorize it when, in fact, it is outside the authority given to us under the Constitution. The bill then sets up a debate on which the Senate will have to vote. I am not so naive as to believe I will win a whole lot of those, but I know I will win something, because the American people want to hear that debate, and that debate is something they are not hearing today.

They are not hearing our justifications why we can take freedom away and we can make a bigger, more powerful Federal Government that is going to borrow more money from their children to spend on things we don't need, money we don't have. The American people are entitled to hear the reasoning behind why we know so much better than they do, and to hear the reasoning why we can ignore the wisdom of our Founders in terms of our ability to grow the Federal Government.

The Federal Government is far too big and far too removed from people's lives today. That is why we are feeling this rumble out in the country. That is why people are worried about the deficits. That is why people are worried about their children's future, because the debt is going to triple over the next 10 years. We can't even come close. Interest payments next year are going to be close to \$500 billion. Think about that. Just the interest on the debt is starting to approach a half a trillion dollars a year—a half a trillion dollars a year. Had we been prudent and not borrowed money, that would be a half a trillion dollars we could either give back to the American people or create tremendous abilities and opportunities in terms of solving some of the problems in front of us today. Health care, for example. The reason why we can't get a health care bill out of the HELP Committee is because nobody is satisfied with the tremendous costs that