

Society of American Law Teachers (SALT) Urges Confirmation of Dean Harold Hongju Koh as Legal Adviser for U.S. Department of State

April 20, 2009--The Society of American Law Teachers (SALT) supports the nomination and urges the speedy confirmation of Dean Harold Hongju Koh as Legal Adviser for the U.S. Department of State. If confirmed, Dean Koh, a distinguished academic with an impressive record of public service, would bring his brilliance, expertise, and sound judgment to a position of undeniable importance in this increasingly complex diplomatic world.

Dean Koh's academic background—graduate of Harvard College and Oxford University; law degree from Harvard; M.A. from Oxford; clerkship for Supreme Court Justice Harry Blackmun—belies any possible claim that he does not have the educational background for this position. His professional experience—associate at Covington & Burling; attorney advisor in the Department of Justice Office of Legal Counsel (1983-85); professor at Yale Law School since 1985; Assistant Secretary of State, Democracy, Human Rights and Labor (1998-2001); and Dean of Yale Law School (2004-09)—further belies any possible claim that he does not have the professional and administrative background for this position. His extensive academic scholarship in the area of public and private international law establishes him as one of the pre-eminent scholars in the United States in these areas of law. Dean Koh is one of this country's most prominent public intellectuals. It is difficult to imagine an individual more qualified for the position of Legal Adviser.

The opposition to Dean Koh's nomination, such as it is, amounts to tendentious postings in the blogosphere and the odd newspaper story that criticizes Dean Koh's supposed willingness to reference, if not outright defer, to foreign law when interpreting principles of United States constitutional law. These criticisms represent a significant distortion of Dean Koh's views and should not be taken seriously. The United States exists in an increasingly interconnected world, and jurists can and should look to a variety of sources to inform their view of legal principles. But examining how courts in other countries or international adjudicatory bodies interpret similar principles of law is a far cry from concluding that such foreign law is determinative of U.S. law. What Dean Koh has urged, and what SALT strongly supports, is a commitment to the Rule of Law and to respect for binding international treaties and covenants.

President Barack Obama and Secretary of State Hillary Rodham Clinton need the best minds available to advise them in these turbulent times. Dean Koh brings the cast of mind and the depth of understanding that are precisely what is called for. We urge his confirmation in the strongest possible terms.

Since 1972, the Society of American Law Teachers (SALT) has been an independent organization of law teachers, deans, law librarians, and legal education administrators working to make the profession more inclusive, to enhance the quality of legal education, and to extend the power of legal representation to under-served individuals and communities. www.saltlaw.org

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