

Response of the United States of America to Recommendations of the United Nations Human Rights Council

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AMBASSADOR DONAHOE: On behalf of the United States, I thank the Chair, the Working Group of the Universal Periodic Review, especially the Troika Members -- France, Japan, and Cameroon -- and the Secretariat for their hard work. I am honored to introduce Harold Hongju Koh, Legal Adviser of the U.S. State Department, who will provide an initial response to the recommendations we received during the interactive dialogue.

LEGAL ADVISER KOH: As indicated in our written report and in our presentation last Friday, the United States is very proud of its human rights record. We always strive for a "more perfect union" to help promote a "more perfect world." To do that, the Obama Administration is developing a thoroughgoing approach with respect to human rights in our country that recognizes that progress requires the coordinated action of many federal government agencies - eleven of which appeared at our initial presentation -- as well as the collaborative efforts of state and local governments, and civil society, many of whom attended our Town Hall here at the Palais last Friday.

The recommendations received fall into three broad categories. First, many of the recommendations fit well with the Obama Administration's existing approach to human rights, and can be implemented in due course. Second, several recommendations are plainly intended as political provocations, and cannot be taken seriously. Yet a third group of recommendations invite fuller discussion within our government and with our own civil society. Because we take this process seriously, we now plan to conduct a considered, interagency examination of all 228 recommendations, and to give our formal response at the March 2011 Council session. But our initial review suggests that the recommendations fall under ten broad headings:

1. Recommendations about politics and pending judicial cases: A small set of comments do not make bona fide recommendations for the UPR. These statements, those styled as "recommendations," are actually political criticisms of U.S. policies or polemical comments about judicial cases, based on unsubstantiated or false allegations, which refer to individual matters that are either ongoing or already completed under court proceedings conducted under due process of law.

2. Recommendations regarding treaties: This largest group of recommendations urged us to either ratify or consider ratifying treaties -- or to consider withdrawing reservations and understandings to treaties that are already ratified. Under our Constitution, treaty ratification requires not just executive approval, but also the consent of our Senate, which requires a supermajority two-thirds vote. That is why the United States has often pursued a practice of "compliance before ratification," in contrast to the practice of "ratification before compliance" that some other nations may pursue. The Obama Administration is working to obtain Senate advice and consent to a number of human rights treaties, particularly the Convention on the Elimination of All Forms of Discrimination Against Women and the Convention on the Rights of Persons with Disabilities.

3. Recommendations on criminal justice: This set of recommendations focused on the role of race, trafficking, police brutality, violence against women, juvenile justice, and the death penalty. The U.S. criminal justice system rests on the protection of individual human rights and basic principles of due process and fair and equal treatment.

We will leave no stone unturned in our effort to eliminate racial profiling in law enforcement, to ensure that juveniles in our justice system are treated with respect, and to guarantee humane treatment in detention. Many recommendations concern the administration of capital punishment by those governments within our federal system that still apply it. While we respect those who make these recommendations, we note that they reflect continuing policy differences, not a genuine difference about what international human rights law requires.

4. Recommendations to combat discrimination: The United States is committed to end discrimination by ensuring equal opportunity for political participation by all qualified voters through enforcement of voting rights laws, and by vigorously enforcing laws to ensure equal access to housing, credit, employment, educational opportunities, and environmental justice. We are committed to ensuring that distinctions such as race, gender, disability, religion, age, ethnicity, or sexual orientation do not interfere with opportunities to live a fulfilling life.

5. Recommendations respecting immigration: In the last five years, we welcomed over 5.5 million new permanent residents, over 3.5 million new naturalized citizens, and nearly 425,000 refugees – who will, as President Obama recently noted, “help us write the next great chapter in our history.” With respect to immigration, the United States is committed to addressing concerns about detention, discrimination, and racial and ethnic profiling. We are committed to advancing comprehensive immigration reform as an alternative to piecemeal state and local measures.

6. Recommendations regarding national security: Most of these recommendations referred to our country’s continuing armed conflicts in Afghanistan, Iraq, and against Al Qaeda and associated forces. The Obama Administration abides by all applicable law in these armed conflicts, including laws respecting humane treatment, detention, and use of force. We defend the legality under the laws of war of using detention to remove adversaries from the conflict, but do not -- and will not -- countenance torture or inhumane treatment of detainees in our custody, wherever they are held. Allegations of past abuse of detainees by U.S. forces in Afghanistan, Iraq and Guantanamo have been investigated and appropriate corrective action taken. The Administration is committed to closing Guantanamo as expeditiously as possible, but will need the help of our allies, Congress and the courts to do so. The International Committee of the Red Cross has access to Guantanamo, and an independent review ordered by President Obama found the conditions there far surpass the standards of Common Article III of the Geneva Conventions. Military Commissions procedures have been amended by Congress to address human rights concerns, and both terrorism and electronic surveillance laws have been scrutinized to respect privacy and protect human rights. Finally, this morning I participated on behalf of the United States in the signing ceremony of the International Code of Conduct for Private Security Service Providers, which has been developed as a follow-on to the Montreux Document.

7. Recommendations respecting indigenous issues: We acknowledge the many challenges faced by Native Americans -- poverty, unemployment, health care gaps, violent crime, and discrimination -- but note the many laws and policies we have put in place to address health care reform, to improve criminal justice, and empower the tribes and their members to deal with those challenges. Tribal consultations are at an all-time high after President Obama hosted the White House Tribal Nations Conference, where he directed agencies to submit plans for and progress reports on implementation of the Executive Order on Consultation and Coordination with Indian Tribal Governments. And we are reviewing our position regarding the UN Declaration on the Rights of Indigenous Peoples, a decision made in response to calls from tribes and other indigenous groups and individuals.

8. The eighth set of recommendations concern freedom of expression and religion: The United States is committed to vigilance in the continued protection of fundamental freedoms of expression and religion for all, including laws and policies to protect Muslim, Arab, and other Americans from discrimination and to secure their freedom to practice their religion.

9. The ninth set of recommendations concern economic, social and cultural rights: We have continued to establish programs that empower our citizens to live what FDR called a “healthy peacetime life.” The recent landmark healthcare reform is the latest major example, and we are committed to continue pursuing policies that will build an economy and society that lifts us all.

10. And the tenth set of recommendations concern domestic implementation of human rights: The most common recommendation in this category highlighted an issue currently under discussion in our country: to create

a national, independent human rights institution, which follows the Paris Principles or similar guidelines. We believe the best human rights implementation combines overlapping enforcement by all branches of the federal government working together with state and local partners.

In closing, let me express our deep appreciation to our own civil society for continuing to work with us to achieve a more perfect union. Civil society has made invaluable contributions to our UPR report and presentation and will continue to be our partner as we consider these many recommendations. At a time when the United States has its first African-American President and Attorney General, a female Secretary of State, our first Hispanic Supreme Court justice, an Arab-American and two Asian-American cabinet members, we see visible progress in our national quest for equality and fair treatment. While we are humbled by the work that remains, the United States of America is proud of our record of accomplishment. We are determined to extend it, and we are committed to continuing this dialogue as we go forward.

Ladies and Gentlemen, on behalf of my country, my sincerest thanks.

[Democracy, Human Rights, Refugees: Response of the U.S. to Recommendations of the UN Human Rights Council](#)