

THE LEGAL ADVISER  
DEPARTMENT OF STATE  
WASHINGTON

April 19, 2011

Dear Tribal Leader:

As part of the Administration's ongoing engagement with federally-recognized tribes, we are reaching out to you for information that will be helpful in reports the United States is submitting to the United Nations concerning United States implementation of the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and the Convention on the Elimination of All Forms of Racial Discrimination (CERD).

Specifically, I am writing to ask for: (1) any information you may have on tribal laws and/or programs that seek to prevent or address discrimination based on race or ethnicity or discrimination against women; and (2) any tribal laws or programs you have that seek to prevent or address torture or cruel, inhuman or degrading treatment or punishment. We have requested similar information from the Bureau of Indian Affairs, the Bureau of Indian Education and other federal departments and agencies with regard to services provided by the federal government to tribes. But we are aware that your tribe may have information relevant to this request with regard to services provided by the tribe itself.

Examples of the types of information that would be helpful are attached. We would appreciate your forwarding this request to your tribal attorney or other appropriate tribal offices for response, and if you have information to submit, we would appreciate your responding by May 15, 2011. Should you have any questions or wish to discuss the matter further, please feel free to contact Nina Schou of my office ([SchouNE@state.gov](mailto:SchouNE@state.gov)) for either report; Mary Beth West ([west.marybeth@gmail.com](mailto:west.marybeth@gmail.com)) concerning the CERD report; or Sally Cummins concerning the CAT report ([sallycummins@earthlink.net](mailto:sallycummins@earthlink.net)). Please direct your responses to Nina Schou.

We greatly appreciate your assistance on this important matter as your input will result in improved and more comprehensive reports.

Sincerely yours,



Harold Hongju Koh

cc: Special Representative for Global Intergovernmental Affairs Reta Jo Lewis

## **Types of Information Requested for Report on the International Convention on the Elimination of All Forms of Racial Discrimination (CERD)**

1. Does the tribe have a human rights agency or commission that addresses issues of discrimination?
2. Does the tribe have laws addressing discrimination in employment, housing, hate crimes, access to public services or the political system?
3. How is discrimination dealt with – through cases brought in court or an adjudicatory body, or through mediation or other programs that seek to work with the community to address issues before they become problems?
4. Does the tribe do any training for police, teachers, health workers or others concerning preventing and responding to discrimination?
5. Does the tribe coordinate with others on human rights issues – for example networking with other tribal governments, networking with state officials or others concerning discrimination against tribal members in the area, or networking with national Indian organizations?
6. Examples of discrimination cases or issues related to discrimination that have arisen in the last several years.

**Example:** If the tribe has a law prohibiting discrimination in tribal employment or in access to tribal services, we would be interested in knowing this, along with information on whether any cases have been brought in tribal court. In addition, if tribal officials work with state officials or others in the region to address discrimination against tribal members in the surrounding areas, that would also be helpful for purposes of the report.

## **Questions for Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment<sup>1</sup> (CAT)**

The UN Committee Against Torture has asked the United States to respond to 55 specific questions rather than preparing a report like the one being prepared for CERD. We would like your assistance in responding to some of those questions:

1. Does your tribal government have a law specifically prohibiting torture by officials? If not, do you have other laws that would apply if an official tortured a detainee or subjected a detainee to ill-treatment? Would your courts exclude evidence established to have been made as a result of torture or ill-treatment?
2. The Committee is very interested in prevention of police brutality and violence in detention centers, including sexual violence. Please provide information on training of law enforcement and prison personnel concerning humane treatment of suspects and prisoners. Do law

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<sup>1</sup> For simplicity we have used the term "ill-treatment" to mean "cruel, inhuman or degrading treatment or punishment" in the questions that follow.

enforcement or prison personnel use electroshock devices such as tasers, and if so, in what circumstances would they be used?

3. Do you have procedures to monitor and report incidents involving mistreatment of prisoners? Please include information on investigation and prosecution of allegations of mistreatment and the ability of victims to seek redress.

4. As to children, are detained children kept in detention facilities separate from adults? Is corporal punishment allowed in your schools?