

## From the desk of Virginia Sloan

### Quick Links

[Newsletter Archive](#)

[Make a Donation](#)

Dear Friend,

### You're Invited!

#### Celebrate Constitution Day with the Constitution Project

Please join the Constitution Project and Georgetown University as we celebrate Constitution Day on September 17, 2008. Constitution Day was established by federal law in 2004 to recognize the signing of the United States Constitution in 1787. You are invited to the 2008 celebration of Constitution Day, hosted at the Georgetown University campus, where former **Assistant Attorney General Viet Dinh**, **Judge Brett Kavanaugh** of the United States Court of Appeals for the D.C. Circuit, **Judge Patricia Wald** (ret.) of the United States Court of Appeals for the D.C. Circuit, and former **Solicitor General Seth Waxman** will discuss the role of America's courts in our system of checks and balances.

In addition to the panel, the Constitution Project's 2008 Award for Constitutional Commentary, given annually to the author of an outstanding written work that has improved the quality of public discourse through insightful, articulate analysis of a constitutional question, will be presented to this year's winner, Linda Greenhouse. Ms. Greenhouse covered the United States Supreme Court for *The New York Times*, where she earned the Pulitzer Prize for Journalism in 1998, from 1978 to 2008.

There is no charge for attendance. Please [RSVP](#) at your earliest convenience, as seating is limited.

**DATE:** Wednesday, September 17, 2008

**TIME:** 3:00 pm - 5:00 pm

**LOCATION:** Gonda Theater  
Georgetown University  
37th St & O St, NW  
Washington, DC

## In the Courts

### Salim Hamdan Convicted, Acquitted at Guantanamo

On August 6, 2008, a military panel issued a split decision in the United States' first war crimes prosecution since the close of World War II. The panel in Guantanamo Bay acquitted Salim Hamdan, the chauffeur of Al Qaeda leader Osama bin Laden, of the major charges of conspiracy to commit a variety of acts, including the attacks on the U.S. on September 11 and the U.S.S. Cole, and convicted him of material support. The material support conviction was primarily on the grounds that he was bin Laden's driver. On August 8, the military panel rejected the prosecutor's call for a sentence of 30 years to life and sentenced Hamdan to 5 ½ years in prison. Hamdan received credit for the 5 years he has already been held, bringing him to the end of his criminal sentence in about 5 months. Hamdan's fate at the conclusion of his criminal sentence is unclear because the Bush administration has suggested that it believes that it can hold so-called enemy combatants indefinitely, or at least until a still-undefined end to the war on terror.

Supporters of the military commission system have suggested that the relatively short sentence demonstrated that the system worked. However, others agreed with Jennifer Daskal, a lawyer for Human Rights Watch, who concluded that "[t]his was a case of a fair-minded panel of military officers operating in a fundamentally unfair system. The fact that the military officers performed their duties conscientiously does not make fair a system which allows the use of coerced evidence, is designed to cover up abuse and disregards basic due-process protections." Lt. Col. Stephen Abraham (ret.), and a member of the Constitution Project's Liberty and Security Committee, was the first officer who served with the Office for the Administrative Review of the Detention of Enemy Combatants. He concluded about the *Hamdan* prosecution, "[I]et not another person attempt to compare this proceeding, borne and carried for so many years far from the light of day, to anything we understand to comport with our obligations respecting fundamental human liberties."

The next hearing - that of Canadian [Omar Khadr](#), who was 15 at the time of his initial detention - is set for October 8th.

### Medellín and Chi Executed

On August 5, the State of Texas executed José Medellín, who was convicted of rape and murder in 1993. The execution was in defiance of pleas from the Bush administration and the Foreign Ministry of Mexico. Texas also ignored an order from the International Court of Justice to review Medellín's case - and those of fifty other Mexicans on death rows around the country - because they had not been informed of their right to consular assistance prior to trial. The Vienna Convention on Consular Relations of 1963, to which both the United States and Mexico are signatories, requires that all foreign individuals accused of crimes have such access. Just two days after the execution of Medellín, Texas executed Herberito Chi, an Honduran immigrant convicted of murder and robbery, but similarly denied his right to consular assistance.

The Constitution Project's Death Penalty Committee, which includes both supporters and opponents of capital punishment, recommends a wide variety of reforms to lessen the risk of wrongful convictions and executions. One recommendation in the Committee's report, [Mandatory Justice: The Death Penalty Revisited](#), is that Foreign nationals who were not afforded rights to consular notification and access under the Vienna Convention should not be eligible for the death penalty.

## With a Little Help From Our Friends

### Aaron Howard Released

On August 5, the efforts of the Mid-Atlantic Innocence Project (MAIP), directed by Shawn Armbrust, a member of our Right to Counsel Committee, and the law firm Venable LLP finally paid off: Aaron Howard, convicted in 1990 of murder, was released from prison after his lawyers uncovered evidence that disproved the eyewitness testimony used to convict him. The prosecutor in the case withdrew himself from the case after determining that he could not defend the verdict of the original jury. Congratulations to Shawn and MAIP, and Venable attorneys Seth Rosenthal and Moxi Upadhyaya, who were instrumental in righting this horrendous wrong. (I am a proud member of MAIP's Board of Directors.)

## Verbatim

"Given these stakes, and given that petitioner has been under a death sentence for 14 years, waiting a short time to guarantee that the views of the Executive have been given respectful consideration is only prudent. Balancing the honor of the Nation against the modest burden of a short delay to ensure that the breach is unavoidable convinces me that the application for a stay should be granted." ~ [Justice Stevens](#), in his dissent in the refusal to stay the execution of José Medellín.

Sincerely,



Virginia E. Sloan