

THE CONSTITUTION PROJECT



Safeguarding Liberty, Justice & the Rule of Law

U.S. Solicitor General Urges Supreme Court to Stay July 7th Execution That Would Violate U.S. Treaty Obligations

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WASHINGTON-The Constitution Project (TCP) applauds the U.S. Solicitor General's decision to file an [amicus brief](#) supporting a stay of an upcoming execution in Texas because it would violate U.S. treaty obligations. The brief, filed on Friday, July 1, 2011, regarding the case of Humberto Leal Garcia, argues strongly that "vital national interests" would be damaged if the execution currently scheduled for July 7th is allowed to proceed before Congress completes consideration of legislation that would allow for review in the case.

"The fact that the Solicitor General has taken the rare step of intervening in this case demonstrates how significant this matter is to our country's constitutional, national security, and diplomatic interests," said TCP President Virginia Sloan. "I urge the courts to stay Mr. Leal's execution and adhere to the rule of law and our international obligations."

As stated by the Solicitor General in the brief, "Ensuring that the United States complies with its international obligations regarding consular notification and access serves vital national interests. These interests include protecting Americans abroad, fostering cooperation with foreign nations, and demonstrating respect for the international rule of law." The brief goes on to request a stay of execution "[t]o permit Congress a reasonable period in which to act on the [\[Consular Notification Compliance Act\]](#)" that was recently introduced by Senate Judiciary Committee Chair Patrick Leahy. The legislation has the support of many former diplomats, retired military leaders, former prosecutors and judges.

The Consular Notification Compliance Act would ensure United States compliance with international obligations pursuant to Article 36 of the Vienna Convention on Consular Relations (VCCR) and would provide judicial review for those foreign nationals who were denied access to their consulate. For example, Mr. Leal was never told that he had a right to contact the Mexican consulate for legal assistance. Among other problems, Mr. Leal's counsel was seriously deficient, which access to the Mexican consulate could have rectified. If the pending legislation is passed, it will give Mr. Leal the opportunity to petition a federal court to determine whether the VCCR violation resulted in prejudice in his case.

In 2005, TCP's Death Penalty Committee-a bipartisan, blue-ribbon Committee that comprises supporters and opponents of the death penalty-published [Mandatory Justice: The Death Penalty Revisited](#), in which the Committee concluded that "the policies underlying the [Vienna Convention] are similar to those underlying the right to counsel guaranteed by the United States Constitution." Thus the Committee concluded that detainees would be denied fair treatment in the course of the investigation, trial and sentencing, if their consular rights are not honored.

About The Constitution Project

Established in 1997, The Constitution Project (TCP) is known for its ability to bring together unlikely allies-experts and practitioners from across the political spectrum-in order to promote and safeguard America's founding charter. TCP is working to reform the nation's broken criminal justice system and to strengthen the rule of law by undertaking scholarship, consensus policy reforms, advocacy and public education. TCP was born out of the belief that we must cast aside the labels that divide us, in order to keep our Constitution and our democracy strong.