

# The Constitution Project



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## From the President's Desk

I am sorry to see summer come to an end, but I am looking forward to an eventful fall. Of course, most people in Washington are focused solely on the approaching mid-term elections, but we at the Constitution Project have some exciting new initiatives in the works that should make things even busier around here. For example, our work on immigration has increased to the point that we recently decided to launch a new Immigration Committee. The new committee, like all of our others, will benefit from the wisdom and experience of a bipartisan group of experts who are signing up to serve as I write. I look forward to sharing more about our immigration work, as well as other upcoming projects, events, and initiatives soon. In the meantime, I hope you enjoy a peaceful Labor Day weekend.

## Upcoming Event

### Constitution Day Event on September 17th

On September 17th, **Charlie Savage**, the Pulitzer-Prize winning New York Times reporter, who was our first honoree, will present our 2010 *Constitutional Commentary Award* to **Michelle Alexander**, author of the acclaimed book, *The New Jim Crow*. In its choice of Ms. Alexander, our distinguished Selection Committee noted, "Her book contains a powerful message that deserves more

conversation and study. Alexander's provocative premise--that the War on Drugs targets black men and through the criminal justice system traps them forever in second class status--makes a disturbing read that raises numerous constitutional questions."

Following the award presentation, we will host a panel discussion entitled, "The Right to a Fair Trial: Should the Rules in Terrorism Cases Be Different from those in Other Criminal Prosecutions?"

[Tickets](#) are still available, so please RSVP to join us.

**September 17, 2010**

**9:30 am - 1:00 pm**

Georgetown University Law Center, Washington, DC

A light lunch will be served.

The panelists will include:

- **David Keene**, Chair, American Conservative Union, and Co-Chair, the Constitution Project's Liberty and Security Committee;
- **Denny LeBoeuf**, Staff Attorney, ACLU National Security Project and Director, ACLU's John Adams Project;
- **Brad Wiegmann**, Principal Deputy Assistant Attorney General, National Security Division of the Department of Justice; and
- **David Cole** (moderator), Professor, Georgetown University Law Center, and Co-Chair, the Constitution Project's Liberty and Security Committee.

### **Right to Counsel Panel Discussion on September 23rd**

On Thursday, September 23rd, from 10am to 12pm, the Florida Bar-Criminal Law Section and the Constitution Project will present a panel discussion on the right to counsel at the Hilton Orlando in Orlando, as part of the 2010 Florida Bar Midyear Meeting. The two-hour discussion will include varying viewpoints on this critical issue, including perspectives from current and former judges, prosecutors, exonerees, and public defense counsel. The program will address the indigent defense crisis in Florida, focusing on specific recommendations for reform in the Sunshine State.

Last year, the Constitution Project's National Right to Counsel Committee published its seminal report on indigent defense issues entitled [\*Justice Denied: America's Continuing Neglect of our Constitutional Right to Counsel\*](#). The Committee documented

disturbing evidence that states and localities are not providing competent counsel, despite the constitutional requirement that they do so. The report sets forth 22 consensus recommendations to achieve reform in the country's indigent defense systems, ranging from independence, workload, compensation, and litigation. Two members of the Right to Counsel Committee-Bruce Jacob, Dean Emeritus and Professor of Law at Stetson University College of Law and former Assistant Attorney General for the State of Florida, as well as Alan Crotzer, who served 24 years in Florida prisons before being exonerated based on DNA evidence in 2006-will participate in the September 23rd panel discussion. Joining them will be Justice Gerald Kogan, former chief justice of the Florida Supreme Court and co-chair of the Constitution Project's Death Penalty Committee.

## CP News

### **United States Files Human Rights Report with the United Nations**

On August 20th, the United States submitted its [report](#) to the United Nations High Commissioner for Human Rights in conjunction with the Universal Periodic Review (UPR). The UPR was established by the U.N. General Assembly in 2006 as a process through which the human rights records of the United Nations' 192 Member States could be reviewed and assessed. Each country is assessed once every four years and this is the first review for the United States. This review, conducted through the [U.N. Human Rights Council](#), is based upon human rights obligations and commitments expressed in the U.N. Charter, the Universal Declaration of Human Rights, and human rights instruments to which the State is party, etc.

To prepare for the report, the State Department collected input during an extensive program of consultations with various American organizations and individuals. The Constitution Project was invited to participate in this process. On April 28th, then-**Constitution Project Senior Counsel Laura Olson** appeared on a panel entitled "Detainee Treatment, Transfer, and Accountability," and discussed the need for accountability; specifically, the Constitution Project's call for a commission to investigate detainee treatment in the wake of 9/11 and our support for legislative reform of the state secrets privilege. The State Department has also released summaries of their Civil Society Consultations. The summary of the April 28th session can be found here:

<http://www.state.gov/documents/organization/144260.pdf> We were

pleased to see that the United States' final report includes a discussion of national security issues, including detainee treatment, surveillance, and privacy issues.

## **Constitution Project President Urges Caution When Amending Constitution**

On August 23rd, Constitution Project President Virginia Sloan was quoted in an Associated Press [story](#) about the proliferation of constitutional amendments being proposed in Congress. According to the reporter, "Sloan said that while some proposals to alter the Constitution have merit, most are little more than posturing by politicians trying to connect with voters. 'People are responding to the politics of the day, and that's not what the framers intended,' she said. 'They intended exactly the opposite - that the Constitution not be used as a political tool.'"

In 1997, the Constitution Project gathered together a distinguished group of experts to create, for the first time in our nation's history, eight guidelines for lawmakers and other to use in examining proposed constitutional amendments. The guidelines, which urge restraint, are contained in [Great and Extraordinary Occasions: Developing Guidelines for Constitutional Change](#). It was the first ever report issued by the Constitution Project and it remains as relevant today as it was then. The Constitution Project and its Constitutional Amendments Committee take no position on any proposed amendments (except for one that would make it easier to amend the Constitution); the guidelines are intended to foster informed, constructive and open debate on all proposed constitutional amendments and to ensure that those who propose amending the Constitution follow the careful and restrained process that the framers contemplated.

## **News in Brief**

- On August 24th, U.S. District Court Judge William Moore issued a 174-page order concluding that Georgia death row inmate Troy Davis had not proven his innocence of the crime for which he was convicted back in 1989. The United States Supreme Court had directed the judge to hold a factual hearing last August; the Constitution Project had organized an *amicus* brief in support of Davis that was signed by 27 former judges and prosecutors. On June 24th and 25th, Judge Moore heard new evidence of Davis' innocence, including

recantations from some of the witnesses who testified against him at his trial. The judge held that while "[t]his court concludes that executing an innocent person would violate the Eighth Amendment," the new evidence of innocence presented at the hearing did not establish that Davis was innocent, in the judge's opinion. For further reading, click [here](#).

- A [commentary piece](#) titled, "How to Overcome the Legacy of Torture" by Human Rights First (HRF) Senior Associate Daphne Eviatar, was posted on Firedoglake's [The Seminal](#) on August 27th. The piece cited [Habeas Works: Federal Courts' Proven Capacity to Handle Guantanamo Cases](#), a report released jointly by the Constitution Project and HRF. Ms. Eviatar wrote, "In a report Human Rights First released with The Constitution Project in June, 16 former federal judges explained that the courts deciding these *habeas* cases are doing the right thing: they're weighing the evidence, deciding the facts and applying the law. No new laws are needed. On the contrary, a new detention law designed to help the government win more cases in the absence of reliable evidence would only tarnish the reputation of the U.S. justice system, which in these cases is doing itself proud."
- The third edition of *Unlikely Allies* is out. The Constitution Project's Clearinghouse of New Voices for Criminal Justice Reform released the new edition of its newsletter last week. The newsletter is a vehicle for updating interested groups and individuals about the "unlikely allies" who are speaking out in favor of criminal justice reforms like the right to counsel, death penalty, revisions to our criminal sentencing laws, and other issues. If you would like to subscribe to the *Unlikely Allies* newsletter or would like more information about the Clearinghouse, please contact Constitution Project Senior Counsel Mary Schmid at [mschmid@constitutionproject.org](mailto:mschmid@constitutionproject.org).

More information is available on the [Constitution Project's website](#), including how to [subscribe to our newsletter](#) and a way for you to [show your financial support](#).

The Constitution Project's mission is to promote and defend constitutional safeguards. Since our founding in 1997, we have created coalitions of respected leaders from across the political spectrum, advancing their consensus recommendations for policy reforms. Our advocacy and public education efforts, influential *amicus curiae* briefs, and respected scholarship have helped to create public support for those reforms.

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