

THE CONSTITUTION PROJECT



Safeguarding Liberty, Justice & the Rule of Law

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TCP Condemns Execution of Mexican Citizen in Texas

WASHINGTON, D.C. -- The Constitution Project condemned the execution of a Mexican citizen, Edgar Tamayo, by the state of Texas earlier today despite the failure of any U.S. court to consider his claim that he was not given access to the Mexican consulate during his trial, a violation of an international treaty called the Vienna Convention on Consular Relations.

"The insistence of states, such as Texas, to continue to execute foreign nationals who have been denied their right to access their nations' consulates not only undermines our system of justice, but it threatens the safety of American citizens who are arrested abroad, including members of our armed forces," said Virginia Sloan, president of The Constitution Project (TCP), a bipartisan legal watchdog group.

"In this case, the harm is particularly egregious, because when the Mexican Embassy was notified, it requested a psychiatric examination that revealed that Tamayo suffered significant psychiatric problems -- problems that, had they been known, might have prevented him from being sentenced to death," she added.

Tamayo is the third Mexican national to be executed in the United States without an opportunity to have a federal court review his Vienna Convention claim, despite the 2004 decision from the International Court of Justice that the United States must provide review in the cases of certain Mexican nationals sentenced to death who were denied consular access. Tamayo, 46, was sentenced to death for killing a Houston police officer in 1994.

In 2008, the U.S. Supreme Court unanimously affirmed the existence of the U.S. obligation to provide consular notification and access, including a review of all existing death sentences imposed on foreign nationals. However, the Court held that the federal judiciary could not remedy these violations without implementing legislation from Congress, which has not yet acted. This ruling left many foreign nationals without an opportunity to seek redress for their claims that they were denied access to their consulate prior to being sentenced to death.

"In light of the continued execution of foreign nationals without review of their consular access claims, it is more critical than ever that Congress create a remedy for these individuals to prevent further violations of our country's binding legal obligations and the erosion of our credibility on the international stage," Sloan said.

Senate Judiciary Committee Chair Patrick Leahy (D-VT) introduced legislation in 2011 that would have given federal judges the jurisdiction to review cases where foreign nationals on death row seek to demonstrate that violations of their consular rights prevented them from receiving fair trials or sentences. However, Congress failed to enact it.

In its 2005 report [Mandatory Justice: The Death Penalty Revisited](#), TCP's bipartisan Death Penalty Committee -- comprising both supporters and opponents of the death penalty -- found that "the policies underlying the [Vienna Convention] are similar to those underlying the right to counsel guaranteed by the United States Constitution." As a result, the committee concluded that consular access prior to trial, particularly in capital cases, is critical to the fair treatment of a foreign national in the course of a criminal investigation, trial and sentencing.

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[About The Constitution Project](#)

Created out of the belief that we must cast aside the labels that divide us in order to keep our democracy strong, The Constitution Project (TCP) brings together policy experts and legal practitioners from across the political spectrum to foster consensus-based solutions to the most difficult constitutional challenges of our time. TCP seeks to reform the nation's broken criminal justice system and to strengthen the rule of law through scholarship, advocacy, policy reform and public education initiatives. Established in 1997, TCP is based in Washington, D.C.