

July 17, 2008

The Honorable Harry Reid
Majority Leader
U.S. Senate
528 Senate Hart
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
U.S. Senate
361A Senate Russell
Washington, DC 20510

The Honorable Joseph Biden
Chairman, Committee on Foreign
Relations
U.S. Senate
438 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Richard Lugar
Ranking Member, Committee on
Foreign Relations
U.S. Senate
450 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Patrick Leahy
Chairman, Committee on Judiciary
U.S. Senate
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Arlen Specter
Ranking Member, Committee on
Judiciary
U.S. Senate
152 Dirksen Senate Office Building
Washington, DC 20510

Dear Senators:

In light of the Supreme Court's recent decision in *Medellin v. Texas*, we urge congressional action to ensure that the United States lives up to its binding international legal obligations under the Vienna Convention on Consular Affairs and the United Nations Charter. As current and past Presidents of the American Society of International Law, writing in our personal capacities, we are concerned about the possible U.S. breach of these obligations and the impact such breach could have on our own nationals abroad and on our reputation as a trusted counterparty in international legal relations.

In the *Medellin* case, the Supreme Court unanimously agreed with the Bush administration that the United States is obliged to comply with the International Court of Justice (ICJ) judgment in the *Case Concerning Avena and Other Mexican Nationals* holding that the United States must provide "review and reconsideration" of the criminal convictions of 51 Mexican nationals in the United States who were denied their Vienna Convention rights of access to their own national consular officials when apprehended.

President Bush had issued a Memorandum to the Attorney General directing that state courts give effect to the *Avena* judgment. The Supreme Court concluded, however,

that both it and the President were powerless to order such “review and reconsideration” and that, absent voluntary action by state executives or legislatures, compliance with this international obligation requires congressional action.

With the execution of the first of the Mexican nationals scheduled to take place in Texas on August 5, 2008, the United States is poised irreparably to violate the Vienna Convention and a judgment of the ICJ. Such violations of international law would set a dangerous precedent, undermining the reciprocal Vienna Convention rights that American citizens are entitled to enjoy while traveling, living, or working abroad.

Such violations would also damage the reputation of the United States as a nation that respects its international legal obligations and holds others to the same high standard. Our ability to conclude agreements binding on other countries facilitates nearly every aspect of our international relations, including critically important issues relating to cooperation in counter-terrorism efforts, trade, nuclear non-proliferation, environmental protection, and international investment. Our interests in these areas dictate that we adhere to our obligations, including those under the Vienna Convention and U.N. Charter.

Both the President and the Supreme Court have concluded that the United States is obliged to comply with the ICJ *Avena* judgment. The President has recognized the importance of such compliance to U.S. international relations. Now it falls to Congress to legislate compliance. If you fail to do so, Americans who are detained abroad may well lose the critical protection of ensured access to United States consular officers. We urge that you act, and act quickly.

We thank you for your attention to this important matter.

Sincerely,



Lucy Reed, ASIL President
520 Madison Avenue, 34th Floor
New York, NY 10022

and

ASIL Past Presidents:
José Alvarez
Charles N. Brower
James H. Carter
Thomas Franck

Louis Henkin
Arthur W. Rovine
Anne-Marie Slaughter
Peter D. Trooboff
Edith Brown Weiss

July 17, 2008

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
235 Cannon House Office Building
Washington, DC 20515

The Honorable John Boehner
Minority Leader
U.S. House of Representatives
1011 Longworth House Office Building
Washington, DC 20515

The Honorable Howard Berman
Chairman, Committee on Foreign Affairs
U.S. House of Representatives
2221 Rayburn House Office Building
Washington, DC 20515

The Honorable Ileana Ros-Lehtinen
Ranking Member, Committee on
Foreign Affairs
U.S. House of Representatives
2160 Rayburn House Office Building
Washington, DC 20515

The Honorable John Conyers
Chairman, Committee on the Judiciary
U.S. House of Representatives
2426 Rayburn House Office Building
Washington, DC 20515

The Honorable Lamar Smith
Ranking Member, Committee on
the Judiciary
U.S. House of Representatives
2409 Rayburn House Office Building
Washington, DC 20515

Dear Members of Congress:

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