



Avena and Other Mexican Nationals (Mexico v. The United States of America)

ARGUED: 24 November 2019

DECIDED: 25 November 2019

1 The Concurring Opinion is signed by Vice President Postula of the Republic of India.

2 I agree with the majority opinion on the facts of the case as presented by the United States of America and
3 the United Mexican States. I agree that the International Court of Justice has jurisdiction, however I also believe
4 that under Article 36 (1) that the International Court of Justice can hear cases regarding questions of international
5 law, which this case is.

6 I fundamentally disagree with the question the majority opinion asked, rather the question asked of the
7 Court today was Did the United States of America violate the Vienna Convention on Consular Rights (1963)?

8 Thus I have come to the following conclusion:

9 First, in regards to the question of what is a national, I believe that Mexico proves that these defendants
10 were nationals of Mexico which the United States of America did not contest. However, I agree with the United
11 States of America in that three (3) of the 54 are dual citizens, thus the Vienna Convention on Consular Rights
12 does not apply to those three. I highly recommend both parties to adopt IAHCR definition of a national in future
13 diplomatic relations which states: the political and legal bond that links a person to a given State and binds him to
14 it with ties of loyalty and fidelity, entitling him to diplomatic protection from that State.

15 Second, I believe that each section of the treaty works in conjunction with the others rather than independent
16 of each other. For this reason, I find the United States of America violated the treaty in all 51 of the remaining
17 cases due to the fact that they failed to inform both the nationals and the consulate in all the cases and lacks proper
18 documentation of such.

19 Third, without delay means the United States of America had a duty to inform the nationals and consulate
20 of their rights when it was discovered that these people were Mexican nationals. In addition, I believe the United
21 States of America has failed to prove they acted in good faith of the treaty.

22 Thus I find the United States of America in violation of the Vienna Convention on Consular Rights and
23 would recommend that those 51 remaining nationals receive a retrial with access to the consulate and remind the
24 delegates that similar to the LaGrand Case, that the United States of America needs to improve upon their following
25 of international law and adjust their domestic laws to abide by it in full.

Signed By

Justice Rebecca Postula