

THREE NARRATIVES OF *MEDELLÍN V. TEXAS*

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I. INTRODUCTION

Every once in a while, a Supreme Court case comes along that holds a mirror up to the changing face of the American polity. *Medellín v. Texas*¹ (*Medellín II*) is such a case, reflecting divisive national debates over immigration, the death penalty, victims' rights, the scope of executive power, U.S. adherence to international human rights standards, the salience of international law to national security, and the appropriate role of judicial review of political decisions. Which of those issues stands out among the reflected images depends on who is peering into the mirror.

For international law scholars, the significance of *Medellín II* lies in its reflection of America's relationship with the world, and in particular America's current ambivalence toward international law and the international regulation of human rights.² *Medellín II* is one in the line of criminal cases in which foreign nationals challenged the failure of law enforcement officials to meet the consular notification requirements of the Vienna Convention on Consular Relations (VCCR),³ cases that arose because the United States retains the death penalty in the face of international legal abolition.⁴ Thus, United States participation in the VCCR—a multinational treaty that codified traditional sovereign prerogatives to protect and provide services to nation-

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1. *Medellín v. Texas*, 128 S. Ct. 1346 (2008). Because this is the second time *Medellín* has reached the Supreme Court (see *infra* note 10, discussing *Medellín v. Dretke* (*Medellín I*)), I refer to it as *Medellín II*.

2. See John F. Murphy, *Medellín v. Texas: Implications of the Supreme Court's Decision for the United States and the Rule of Law in International Affairs*, 31 SUFFOLK TRANSNAT'L. L. REV. 247, 247-48 (2008).

3. Vienna Convention on Consular Relations, Apr. 24, 1963, 21 U.S.T. 77, 596 U.N.T.S. 261 [hereinafter VCCR].

4. See Margaret E. McGuinness, *Medellín, Norm Portals and the Horizontal Integration of International Human Rights*, 82 NOTRE DAME L. REV. 755, 761 (2006) [hereinafter *Medellín*]. See generally William Schabas, *The ICJ Ruling Against the United States: Is it Really About the Death Penalty?* 27 YALE J. INT'L L. 445 (2002).