



On the 10th of May, the Albanian Day of Justice, Center for Legal Civic Initiatives (CLCI) in collaboration with the Law Clinic of the University of Tirana, with the support of USAID's Albanian Justice Sector Strengthening Project (JuST) organize an "imitating conversation" of the judges of the US' Supreme Court, Antonin Scalia and Stephen Breyer, regarding the use of foreign laws by this court.

This conversation, adapted in Albanian with a few abbreviations, is interpreted by students of the Law Clinic (Faculty of Law, University of Tirana).

The imitating conversation will take place near the Faculty of Law, University of Tirana, The Simulating Court Hall, on 9th of May at 10:00.

This is a conversation between two leading Supreme Court justices that we look forward to hearing. I'm sure we all concur that we should allow Scalia to be Scalia and Breyer to be Breyer, with very little Dorsen. But the justices have agreed that I should put a few questions on the table and perhaps interpolate one or more questions as we go forward. Here are some questions, and I'll turn to Justice Scalia, to respond in any way he wishes, and the conversation can begin.

When we talk about the use of foreign court decisions in U.S. constitutional cases, what body of foreign law are we talking about? Are we limiting this to foreign constitutional law? What about statutes and, where it exists, common law? What about cases involving international law, such as the interpretation of treaties, including treaties to which the U.S. is a party? When we talk about the use of foreign court decisions in U.S. law, do we mean them to be authority or persuasive, or merely rhetorical? If, for example, foreign court decisions are not understood to be precedent in U.S. constitutional cases, they nevertheless strengthen the sense that the U.S. assumes a common moral and legal framework with the rest of the world.

If this is so, is that in order to strengthen the legitimacy of a decision within the U.S., or to strengthen a decision's legitimacy in the rest of the world? Or for some other reason? Most generally, is it appropriate for our judges to use and cite to foreign materials in the course of deciding constitutional cases? If so, does the practice tend to undermine the uniqueness of the American constitutional experience? Or does it deepen the sources for constitutional decision making and thereby strengthen it?

Dorsen