

World Court orders US to stay execution of Mexicans in Texas

Kate Randall
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The International Court of Justice has ordered the United States to stay the imminent executions of five Mexican nationals on death row in Texas. In a 7-5 ruling on Wednesday, the World Court said the US should “take all measures necessary to ensure [they] are not executed pending judgment ... unless and until these five Mexican nationals receive review and reconsideration [of their sentences].”

It is highly unlikely, however, that the court’s ruling will have any effect on the functioning of the state-sanctioned killing machine in Texas. Jose Ernesto Medellin is scheduled to be put to death on August 5. In keeping with US contempt for international law, Texas Governor Rick Perry commented, “the world court has no standing in Texas and Texas is not bound by a ruling or edict from a foreign court.”

Wednesday’s ICJ ruling is the latest in a series of legal decisions on the issue of executing foreign nationals in the US. At various junctures, the Bush administration, Texas authorities and the US Supreme Court have all demonstrated both their flouting of international law and their support for capital punishment, a barbaric practice condemned by the vast majority of the industrialized world.

As of February 29, 2008, there were 122 foreign nationals on death rows across the US, including 53 from Mexico. Article 36 of the 1963 Vienna Convention on Consular Relations (VCCR) mandates that local authorities must inform all detained foreigners “without delay” of their right to have their consulate notified of their detention. The US ratified the VCCR in 1969 along with an optional protocol giving the ICJ jurisdiction over the convention.

In 2004, the International Criminal Court—the United Nation’s judicial arm for resolving disputes among nations—ordered new hearings for 51 Mexicans on

death row in the US who claimed they had been denied their consular rights. Following this ruling, the Bush administration issued an order for Texas authorities to comply, although the effect of the order was to put off a ruling by the US Supreme Court in the case and stall any precedent being set on the issue of consular rights.

In March 2005 the Bush administration took the extraordinary measure of withdrawing from the optional protocol to the VCCR. In a two-paragraph letter to then UN Secretary General Kofi Annan, Secretary of State Condoleezza Rice stated that while remaining a signer to the Convention, the US would henceforth refuse to submit to international law to enforce it.

In an extraordinary ruling in March of this year, the US Supreme Court then ruled 6-3 that Texas state courts do not have to comply with a decision by the ICJ, and that the US president does not have the authority to order them to do so.

The July 16 ruling by the World Court came in response to a petition filed last month by the Mexican government. The petition by Mexico, which does not have the death penalty, sought a halt to the five executions to allow for a review of the condemned men’s cases to determine whether their trial defenses were impaired by denying them access to the Mexican Consulate after their arrests.

The Mexican government reasoned before the court, “Texas has made clear that unless restrained, it will go forward with the execution without providing Mr. Medellin the mandated review and reconsideration,” which will “irreparably” breach the US government’s obligations to the court’s 2004 order. “The paramount interest in human life is at stake,” Mexico argued.

The Bush administration responded with muted contempt to the World Court order. Chief State

Department advocate John B. Bellinger argued that the court lacked jurisdiction because the Bush administration agreed with Mexico and had issued the 2004 ruling ordering Texas to comply with the ICJ.

Bellinger added, however, that the court “does not have technical legal effect in the United States that would ... have a direct impact either on the United States or on Texas itself.” He insisted, however, that federal authorities were still discussing the case “constructively” with Texas and that “Texas does take this all very seriously.”

For their part, Texas authorities demonstrated their serious approach to the matter. Texas Attorney General Greg Abbot issued as statement saying: “Texas is bound not by the World Court, but by the US Supreme Court, which reviewed this matter and determined that the convicted murderer’s execution shall proceed.”

The statement added, “Today’s development in a foreign tribunal comes just months after this nation’s highest court plainly rejected both Medellin’s legal claims—and the World Court’s earlier attempts to bind our justice system.”

Jose Medellin, 33, was sentenced to death for the 1993 rape and murder of Jennifer Ertman, 14, and Elizabeth Peña, 16. Medellin was convicted along with five others in connection with the gang rape and murders. Derrick O’Brien was executed in July 2006 and Peter Anthony Cantu is on death row. Three others are serving prison sentences. Medellin was the only foreign national convicted in the crime.

The four other Mexicans named in the World Court case have notice periods of between and one and three months for their execution dates to be set. Texas authorities are anxious to push through the executions of these condemned men and others in the wake of a US Supreme Court ruling in mid-April that upheld the constitutionality of the three-drug lethal injection protocol, the execution method used by the vast majority of the 36 US states that practice capital punishment. Executions had been on hold across the US for seven months prior to the ruling.

Karl Eugene Chamberlain died by lethal injection in the execution chamber in Huntsville, Texas on June 11, putting an end to a nine-month pause in executions in the state. Texas has 14 executions scheduled between now and the end of October, including Jose Medellin.

Since the Supreme Court reinstated the death penalty

in 1976, Texas has sent 407 condemned individuals to their deaths, more than any other US state. According to the Death Penalty Information Center, those executed have included seven foreign nationals, as well as women, the mentally impaired, and those convicted for crimes committed as juveniles.

During his five years as Texas governor before assuming the presidency, George W. Bush presided over 152 of these executions. As much of the world looks on in horror at the US practice of the capital punishment and its contempt for international law, he will oversee dozens more in Texas and other states in his final months as president.



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