

World Court rules US execution of Mexican national defied international law

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The International Court of Justice in The Hague has ruled that the United States breached the court's order and violated an international treaty when a Mexican national was executed last year in Texas.

The ICJ ruling confirms the flagrant disregard for international law practiced by both federal and state governments in the US, and by the US Supreme Court. In particular, it demonstrates official American flouting of an international convention governing foreign consular relations and the death penalty.

In its unanimous ruling Monday, the ICJ, also known as the World Court, found "that the United States of America has breached the obligation incumbent upon it under the Order indicating provisional measures of 16 July 2008, in the case of Mr. Jose Ernesto Medellin Rojas."

Jose Ernesto Medellin, 33, was put to death by lethal injection in Texas on August 5, 2008. He was arrested and convicted in the 1993 gang rape and murder of two Texas teenagers, Elizabeth Pena, 16, and Jennifer Ertman, 14.

Medellin was executed less than three week's after the ICJ ordered the US to stay the imminent executions of five Mexicans on death row in Texas. In that ruling, the World Court ordered that 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]."

At issue in these cases was US violation of Article 36 of the 1963 Vienna Convention on Consular Relations (VCCR), which mandates that local authorities inform all detained foreigners "without delay" of their right to have their consulate notified of their detention. Washington ratified the VCCR in 1969, along with an

optional protocol giving the ICJ jurisdiction over the convention.

In 2004, in response to a petition filed by the Mexican government, the ICJ—the UN's judicial arm for resolving dispute among nations—ordered new hearings for Mexican death-row inmates who claimed they had been denied the right to contact their consulate in a timely manner.

According to the Death Penalty Information Center, as of October 7, 2008, of the 124 foreign nationals on death rows across the US, 56 were Mexican, including 35 in California and 13 in Texas.

It is estimated that a quarter of the more than 22 million people living in Texas, which borders Mexico, are of Mexican heritage. Mexico formally abolished the death penalty in 2005, and there is widespread hostility among the Mexican population to the execution of Mexican immigrants in the US.

Jose Ernesto Medellin's case was followed closely in Mexico. At every stage, the actions of the Bush administration, Texas state authorities and the US Supreme Court served to pave the way for his execution, in defiance of the World Court's order. With a combination of cynicism and contempt for international law, they worked hand in hand to achieve the ultimate grisly outcome on August 5.

Following the 2004 order by the World Court that new hearings be held for the 51 Mexicans on death row who claimed their consular rights had been violated, the Bush administration ordered Texas and the other states with such prisoners to comply with the order. While serving the appearance of abiding by the ICJ ruling, the practical effect of Bush's order was to delay any ruling by the US Supreme Court on the issue and stall precedent being set on consular rights.

In March 2005, the Bush administration then

withdrew from the optional protocol to the VCCR. This meant that while remaining a signer to the Convention, the US would refuse to submit to international law to enforce it. This signaled the government's intent to flout the 2004 order, which found its ultimate expression in the execution of Jose Medellin without determining whether the denial of his consular rights had impaired his defense.

Texas, which has claimed all along that the state is not bound by international law, challenged the necessity of holding hearings for the condemned prisoners. Following the ICJ's July 16, 2008 ruling, a spokesman for 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. It is easy to get caught up in discussions of international law and justice and treaties. It's very important to remember that these individuals are on death row for killing our citizens."

The Supreme Court ruled last March that only legislative action by Congress could mandate states to hold the hearings ordered by the International Court of Justice. On the night of Medellin's scheduled execution, the lethal injection was held up for four hours while the high court considered a last-minute appeal to spare his life.

The majority on the court argued that since no serious legislative proceedings were under way either in the US Congress or the Texas legislature that might affect Medellin's case, his execution should proceed.

Two days after Medellin was executed, Heliberto Chi, a Honduran national, was also put to death in Texas. The US high court also rejected his appeal on grounds that his consular rights had been violated.

And the killing machine in Texas continues to grind on. Since Medellin's execution, Texas has sent 15 more prisoners to their deaths, and 12 more are scheduled to die between now and the beginning of April, including four before the end of this month.

It is fitting that the ICJ ruling came down on Monday, the last full day of the Bush presidency. George W. Bush will be remembered not only for crimes of preemptive war, illegal detention and torture, but for his championing of capital punishment at home in violation of international law and his dismissal of an increasingly revolted world public opinion.

In his five years as Texas governor from 1995 to

2000, Bush oversaw 152 executions, the most of any modern-day governor. In addition to foreign nationals, the condemned individuals included the mentally impaired, those executed for crimes committed when they were juveniles, as well as two women.

Farewell to the "executioner in chief."



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