Texas executes Mexican national in defiance of international law

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Edgar Tamayo Arias, 46, an undocumented immigrant worker from Morelos, Mexico, imprisoned on death row for the last two decades, was killed late Wednesday night with a lethal injection in the death chamber of the state penitentiary in Huntsville, Texas, 70 miles north of Houston.

The act of state murder was carried out with flagrant contempt for international law and basic rights after the US Supreme Court rejected Tamayo's appeal. "The application for stay of execution of sentence of death presented to Justice Scalia and by him referred to the Court is denied," the court said in a terse statement Wednesday night. Scheduled to take place at 6 p.m. Central Time, the high court's cursory consideration of Tamayo's fate delayed the killing for just three and a half hours.

Tamayo was sentenced to die after being convicted of the January 1994 killing of a Houston, Texas police officer, Guy Gaddis, who had arrested him as a robbery suspect.

The execution was in direct defiance of a 10-year-old ruling by the United Nations' International Court of Justice, known as the World Court, which found the US in violation of a 1963 international treaty known as the Vienna Convention Consular Relations. The treaty requires that foreign nationals arrested in any country be informed in a timely fashion of their right to seek assistance from their country's consular officials. The court ordered the US to reconsider the convictions of 51 Mexicans, one of whom was Tamayo.

Texas had already executed two of the Mexicans: Jose Medellin in 2008 and Leal Garcia in 2011. Most other states carried out the review process and commuted death sentences to life in prison.

In 2008, then-President George W. Bush ordered Texas and other states to carry out the review, but the then-Texas solicitor general (and now US senator) Ted Cruz argued before the Supreme Court that the president had no authority to force states to abide by a World Court decision. At the time, 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." This remains the position of Texas, and the federal government has done nothing over the past five years to enforce the provisions of the treaty to which it is a signatory. Instead, it repudiated the jurisdiction of the World Court over US violations of the pact.

Tamayo's execution marked the first case since the 2004 World Court ruling in which a Mexican national denied consular rights after his arrest has been put to death with no judicial review whatsoever.

In the case of Tamayo—who spoke very little English—as in others, having the right to receive assistance from the Mexican consulate would likely have made the difference between life and death, as he would have been fully informed of his rights and provided adequate defense counsel.

Tamayo's court-appointed attorney failed to raise issues that would have likely led a jury to choose life imprisonment over the death penalty, including recently corroborated evidence that he suffered from mental retardation as a result of a severe head injury when he was 17. The US Supreme Court has ruled that the execution of mentally impaired people is a violation of the Constitution's protection against cruel and unusual punishment.

The Supreme Court's ruling was the final act in the refusal of a federal court judge and the 5th US Circuit Court of Appeals, as well officials of the state of Texas, to allow any review of Tamayo's case before carrying out his barbaric execution.

Having received petitions signed by tens of thousands, letters from around the world and appeals by human rights groups and international organizations, the Texas Board

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of Pardons and Paroles—without even bothering to meet to analyze the case and consider the evidence in Tamayo's favor—voted unanimously not to recommend clemency to Texas Governor Rick Perry.

In a statement issued after the board's decision, Tamayo's attorneys said: "It is widely known that the Texas clemency process is the weakest in the nation, in the state that executes the most. Allowing Mr. Tamayo's fate to be decided by a board that has refused to provide meaningful consideration of evidence that Mr. Tamayo has mental retardation and that his trial was fundamentally unfair as a result of the violation of his consular rights, is an affront to what clemency is supposed to be, a 'failsafe' in our justice system."

The Obama administration intervened in the case, seeking a stay of the execution on the grounds that it would compromise "vital US interests." In a letter to Governor Perry, Secretary of State John Kerry expressed no concern whatsoever over the use of the death penalty or the state's riding roughshod over Tamayo's legal rights. Affirming that he had "no sympathy" for Tamayo, Kerry argued that the execution could adversely affect "US service members, civilian personnel and dependents…stationed abroad" as well as "bilateral cooperation" with Mexico.

According to the Mexican embassy in Washington, another 12 Mexican citizens remain on death row in Texas, all of them, like Tamayo, having been denied their consular rights.

The broad public outrage in Mexico over the execution has found expression in protests, such a march through Cuernavaca, the capital of Tamayo's home state of Morelos on Tuesday. The popular *norteño* band "Los Tigres del Norte" produced a ballad (termed *corrido* in Mexico) in protest against the execution called "Inyección Letal"[http://www.youtube.com/watch?v=N3zBBF6aYPc#t=159], or "Lethal Injection." Mexico formally abolished the death penalty in 2005.

In a farewell letter, Tamayo denounced both the treatment of Mexicans on death row and the indifference—official protests notwithstanding—of the Mexican government to their fate. He insisted that the Mexican government not be allowed to "have a hand in anything" to do with his funeral, as it would merely exploit it for its own purposes.

"Please tell all of my countrymen, all of my Mexico, to forgive me for having failed them and getting locked up," he wrote." And I hope that what happened to me serves as an example for other people, and remember that prison…kills our loved ones, and we will always be the victims of our poverty and of our own color."

"If I lose, don't worry," he concluded, "I will go very happy to get back to my village."

The execution of Tamayo comes barely one week after the state of Ohio carried out the excruciating state murder of Dennis McGuire, using a new untested two-drug lethal injection that took an agonizing 25 minutes to end his life.

Texas, like Ohio, has run out of drugs previously used in lethal injections due to a boycott by European manufacturers. It has turned to pentobarbital, an anesthetic normally employed in the euthanizing of animals. When a Houston-based compounding pharmacy was revealed as the source of the drug, it demanded that the state return the drug as it had been promised its role would be kept secret. The state authorities refused.

Of the 1,363 executions carried out in the US since the Supreme Court reinstated the death penalty in 1976, Texas has been responsible for 509. Perry is personally responsible for ordering a staggering 270 executions since he took office from predecessor George W. Bush—who presided over 152 state killings before becoming president.

After killing Tamayo, Texas is already preparing for its next execution. Susan Basso, who is paralyzed from the chest down and delusional, is scheduled to be put to death by lethal injection on February 5 for a 1998 murder.

The United States is one of the only advanced capitalist countries to impose capital punishment, a barbaric method of state murder that has been abolished by two-thirds of the nations on the planet. The US ranks among the top five in the number of individuals it puts to death, along with China, Iran, Saudi Arabia and Pakistan.

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