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World Court Criticizes U.S. For Execution Of Mexican National In 2008, But Decision Carries Little Weight

by LADB Staff

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The Mexican government received mixed news from the International Court of Justice (ICJ) in a ruling handed down in mid-January. The ICJ, also known as the World Court, ruled that the US had breached its obligations under international law last year when it ignored an order not to execute a Mexican national on death row in Texas. In the same session, the ICJ rejected a new bid from the Mexican government to pressure the US to review the cases of 42 other Mexican nationals who are also facing execution in the US. In what amounted to a slap on the hand, the ICJ chastised the US government for failing to intervene in the execution of Jose Ernesto Medellin in Texas in August 2008. Medellin was convicted of the rape and murder of a teenager in 1993. "The court...finds that the United States of America has breached the obligation incumbent upon it," said the ICJ.

The court, based in The Hague, Netherlands, referred to a 2004 decision in which it ruled that the cases of 51 Mexican nationals on death row had to be reviewed because they were denied legal assistance from their government at the time of their arrest. This, said the ICJ, was a violation of Article 36 of the Vienna Convention on Consular Relations (SourceMex, April 14, 2004). "The United States continues to be under an obligation to fully implement [the 2004 ruling]," said the court. Attorneys for Medellin had asked for a new trial on the grounds that his rights had been violated because the state of Texas had failed to comply with the Vienna Convention.

The case prompted the intervention of former US President George W. Bush's Justice Department, which ordered that new trials be held for Medellin and other Mexicans on death row. Texas filed an appeal with the Supreme Court, which ruled that neither the ICJ nor the federal government had the authority to order Texas to reopen the Medellin case (SourceMex, May 14, 2008). In a separate decision, the ICJ declined to accede to Mexico's demand that it force the US to provide guarantees that it will not apply capital punishment to the remaining Mexican nationals on death row.

In a handful of the original 51 cases, death sentences have already been commuted and changed to life imprisonment (SourceMex, March 16, 2005). Mexican, US governments put positive spin on ruling The ICJ's rulings elicited positive comments from both the US and Mexican governments. John Ballinger, legal adviser for the US State Department, said the US already accepts the original 2004 ruling as a binding legal obligation. "We remain absolutely committed to providing consular notification inside the United States, and we expect that our nationals around the world will be provided consular notification," he said.

Ballinger expressed disappointment that the World Court had ruled that the Medellin execution was a violation of international law. "Mr. Medellin had numerous reviews of his case....It is worth noting that his absence of consular notification was in fact specifically reviewed by a number of state and federal courts," said the State Department lawyer. Joel Hernandez Garcia, legal adviser to the Secretaria de Relaciones Exteriores (SRE), said Mexico was pleased with the court's decision

to reaffirm a US obligation to review pending cases in question. "There are 42 Mexican nationals who...still need to get review and reconsideration.

We now have the ICJ ruling for us to keep on insisting on the US international obligations," said Hernandez Garcia. Despite Washington's best intentions, Ballinger said, the federal government would have no power to force a review of the pending cases, given the Supreme Court's ruling in 2008. Still, Mexican officials expressed hope that a change in administration in Washington would bring a new US attitude toward international law. "I am hopeful that our neighboring country will take its international obligations more seriously," said deputy foreign relations secretary Juan Manuel Gomez Robledo, in reference to incoming US President Barack Obama's administration.

Robledo said Mexican authorities would also lobby the US Congress to enact legislation to obligate state courts to comply with the ICJ ruling. Human-rights advocates shared the cautious optimism of Mexican officials. "This is an opportunity for the Obama administration to show the world that it will respect the rule of law, even when it's politically unpopular at home," David Fathi, US program director at Human Rights Watch (HRW) told Reuters.

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