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Carlos Navarro

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## Debate over Capital Punishment Resurfaces After Texas Executes Mexican National

by Carlos Navarro

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Texas executed Mexican citizen Rubén Cárdenas Ramírez in early November, again exposing the differences between Mexico and some US states over the death penalty. Cárdenas Ramírez, the 10th Mexican national to be executed in the US since 1993, was convicted of kidnapping, raping, and killing his 16-year-old cousin in Edinburg, Texas, in 1997.

In a last-ditch effort to halt the execution, Cárdenas' lawyers brought the case to the US Supreme Court, but the justices declined to hear it, paving the way for Texas authorities to carry out the execution.

Cárdenas, who was put to death via a lethal injection, is the third Mexican national to be executed in the last six years, all three in Texas. Authorities in that state executed Humberto Leal García in 2011 ([SourceMex, July 13, 2011](#)) and Édgar Tamayo Arias in 2014 ([SourceMex, Jan. 29, 2014](#)).

According to the Death Penalty Information Center (DPIC), 10 Mexican nationals have been executed since 1993, nine in Texas and one in Virginia. There are 54 Mexicans on death row, according to the DPIC.

In seeking a stay of the execution, Cárdenas' lawyers, with support from the Mexican government, argued that the Mexican national had been denied consular assistance from his government, in contravention of international law. Mexican authorities used the same argument in trying to prevent the executions of Leal García in 2011 and of Tamayo Arias in 2014.

### *A violation of international law*

Carlos Sada, Mexico's deputy foreign relations secretary for North America, told reporters that Texas prosecutors did not follow due process in Cárdenas' case. "From the start, there has been a failure, and from our perspective, this is an illegal act," Sada said the day before Cárdenas' execution.

"It's a significant treaty violation," said Gregory Kuykendall, director of the Mexican Capital Legal Assistance Program (MCLAP), a US-based initiative created by Mexico to fight death penalty cases.

According to the MCLAP, US authorities frequently fail to inform Mexican citizens of their rights at the time of their arrest. "This has routinely happened, multiple times," said Kuykendall.

Cárdenas' attorney, Maurie Levin, agreed with Sada's comments, emphasizing that her client was not informed of his right to consultations with a legal professional and/or with Mexican consular authorities at the time of his arrest. In court filings, authorities continued interrogations without telling Cárdenas about his consular notification rights.

Cárdenas' legal team had also urged that new DNA tests be conducted, on the grounds that the initial testing was now obsolete, which left doubts about his guilt. Authorities turned down this request.

“His conviction was based on junk science, coerced and unreliable confessions, and a tainted courtroom identification by a purported eyewitness—all hallmarks of wrongful convictions,” Levin told the San Antonio Express-News. “To permit his execution to proceed when there is potentially exculpatory DNA testing available violates the most basic notions of fairness and justice.”

Mexico’s foreign ministry, the Secretaría de Relaciones Exteriores (SRE), issued a “strong protest” to the US failure to comply with the international court’s ruling that mandated it to review and reconsider Cárdenas’ case.

“The government of Mexico opposes the death penalty, as it considers it one of the most basic human rights violations as well as a cruel and inhuman punishment that erodes the dignity of the people,” said the SRE.

“This is not an issue of culpability or innocence but about respect for human rights and due process,” said Carlos González Gutiérrez, Mexico’s consul general in Austin, Texas.

President Enrique Peña Nieto also issued a strongly worded statement.

“I express my firm condemnation of the execution ... which violates a ruling by the International Court of Justice,” he said in a Twitter message shortly after Cárdenas was executed.

The Mexican president was referring to a 2004 ruling by the International Court of Justice (ICJ) in The Hague, also known as the World Court, which said the US had violated international law by failing to inform 51 Mexicans on death row of their right to consular assistance ([SourceMex, April 14, 2004](#)). According to the ICJ ruling, the cases of Mexican inmates on death row should be reviewed.

The matter came before the US Supreme Court, which in 2008 ruled that the ICJ was unenforceable without an act of Congress ([SourceMex, May 14, 2008](#), and [Jan. 21, 2009](#)).

The Mexican government then brought Cárdenas’ case to the UN Security Council, but the body was powerless to stop the execution.

Another multilateral agency, the Inter-American Commission on Human Rights (IACHR), had earlier issued a recommendation urging Texas authorities to vacate the death sentence, but the request fell on deaf ears.

Sandra Babcock, a Cornell Law School professor who specializes in international issues surrounding the death penalty, suggested that Mexico had a strong case.

“This is the first case where there has been a really substantial miscarriage of justice in that Cardenas really could be innocent,” Babcock told the Houston Chronicle.

“Although there is a confession, that confession is inconsistent with the physical evidence, the statements are inconsistent with each other, and he himself is of low intelligence,” added Babcock. “And then on top of that, you have a lack of physical evidence.”

Still, US prosecutors believe the law was on their side. René Guerra, the former district attorney for Hidalgo County, Texas, who prosecuted Cárdenas, told reporters that he believes that Cárdenas deserved “the death penalty” and that he “never would have authorized a case that was not there or was a flimsy investigation.”

### *'Too little, too late'*

Despite the strong words from SRE and Peña Nieto, critics accused the Mexican government of adopting a laissez-faire attitude toward the Cárdenas case and other similar cases until it was too late.

"The SRE has been too passive," Omar Silva Aguilar, an immigrant-rights attorney in the US, said in a video interview with the online news site Aristegui Noticias. "Authorities have failed to raise the questions of diplomacy and consular protection before the state of Texas and the US government, which is harsh, racist, and anti-immigrant."

"The SRE did not offer any kind of representation," he added. "Court-appointed attorneys were the ones who took on Rubén's case."

Cárdenas declined to verbalize a final statement, but a handwritten statement that was released after his execution expressed his gratitude to his family, to his lawyers, and to the Mexican consulate. He also stated that he "would not and cannot apologize for someone else's crime," according to the weekly news magazine Proceso. Cárdenas added in the note that he would be "back for justice ... You can count on that!"

Cárdenas received support from other fronts. On Oct. 10, which is the World Day against the Death Penalty, Mexico's semi-independent human rights commission (Comisión Nacional de los Derechos Humanos, CNDH) reiterated its earlier request that Texas Gov. Greg Abbott commute Cárdenas' sentence. And the Mexican Senate unanimously passed a resolution urging the Abbott administration to commute his death sentence and to review whether the proper legal procedures has been followed after his arrest.

Abbott, who served as state attorney general before his election as governor, did not respond to either request.

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