

URGENT ACTION

MEXICAN NATIONAL FACING EXECUTION IN TEXAS

Ruben Cárdenas Ramírez, a 47-year-old Mexican national denied his consular rights, is due to be executed in Texas on 8 November in violation of international law. Convicted in 1998 of a murder in 1997, he maintains his innocence and is seeking new DNA testing.

Ruben Cárdenas Ramírez was charged with the murder of his cousin, 16-year-old Mayra Laguna, in 1997. Eyewitnesses to her abduction – including her younger sister, who knew Ruben Cárdenas Ramírez – either failed to identify him in their statements to police or gave descriptions of the suspect that did not match his appearance. However, prosecutors obtained a conviction and death sentence, including by introducing what would now be considered unreliable DNA evidence that failed to connect him to the murder, along with statements by Ruben Cárdenas Ramírez that were given after days of interrogation and after police ignored his request for a lawyer. Many details in his statements were inconsistent with each other and with the physical evidence. For instance, although Ruben Cárdenas Ramírez told the police that he had sex with the victim prior to killing her, there was no evidence of sexual intercourse or assault. Nevertheless, he was convicted and sentenced to death in early 1998.

Ruben Cárdenas Ramírez's lawyers have filed a motion to conduct DNA testing of available evidence that they say could exonerate him. Local authorities concede that fingernail clippings of the victim are available. A DNA expert, who supports the motion, states that even "a single fingernail clipping could provide more than sufficient material for analysis."

As a Mexican national, Ruben Cárdenas Ramírez had the right to contact the Mexican consulate for assistance "without delay" after his arrest (article 36 of the Vienna Convention on Consular Relations-VCCR). He was not advised of this right. He was interrogated and eventually confessed in the absence of consular assistance and without a lawyer to advise him. In 2009, the Inter-American Commission on Human Rights concluded that Ruben Cárdenas Ramírez's death sentence should be vacated and that the remedy should be a new trial with all due process protections ensured. Earlier, in 2004, the International Court of Justice (ICJ) had ruled that the USA violated article 36 of the VCCR in the case of Ruben Cárdenas Ramírez. The ICJ ordered the USA to provide judicial "review and reconsideration" of his conviction and sentence to determine if he had been prejudiced by the VCCR violations. In 2008, the US Supreme Court ruled that although the ICJ decision "constitutes an international law obligation" on the USA, it was "not automatically binding domestic law" and the authority for implementing it rested with Congress. Congress has failed to pass any implementing legislation.

Please write immediately in English or your own language, referencing inmate #999275 in your appeals:

- Calling for the execution of Ruben Cárdenas Ramírez to be stopped and his death sentence commuted;
- Stating that the execution would violate international law and an order of the International Court of Justice;
- Expressing concern that Ruben Cárdenas Ramírez was denied his consular rights and not provided a lawyer until 11 days after his initial arrest and a week after being charged;
- Noting that the conviction was based upon highly suspect confession, DNA and eyewitness evidence;
- Pointing out the irrevocability of execution, and noting that the prisoner is seeking to have modern DNA testing of evidence from the crime, and calling for a reprieve to allow for testing that could exonerate him.

PLEASE SEND APPEALS BEFORE 8 NOVEMBER 2017 TO:

Clemency Section, Board of Pardons and Paroles
8610 Shoal Creek Blvd., Austin, Texas 78757-6814, USA
Fax: +1 512 467 0945
Email: bpp-pio@tdcj.state.tx.us
Salutation: Dear Board members

Governor Greg Abbott
Office of the Governor, P.O. Box 12428
Austin, Texas 78711-2428, USA
Email: <https://gov.texas.gov/apps/contact/opinion.aspx>
Fax: +1 512 463 1849
Salutation: Dear Governor

Also send copies to diplomatic representatives accredited to your country. HIS EXCELLENCY WOODY JOHNSON, Embassy of the United States of America, 24 Grosvenor Square W1A 6AE, tel: 020 7499 9000, *There is at present no general embassy email address*
Please check with your section office if sending appeals after the above date.

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ADDITIONAL INFORMATION

At the 1998 trial, the state relied upon evidence that by today's standards would be considered highly unreliable. The prosecution's expert testified that blood found in Ruben Cárdenas Ramírez's car was consistent with the blood of the victim, but the statistics he cited are meaningless by today's standards. He testified that a small drop of blood on the back seat and floor mat from the defendant's mother's car were a "match" to Mayra Laguna's blood, based on a "1 in 18 match probability." In an affidavit supporting the motion for new DNA testing, the expert retained by Ruben Cárdenas Ramírez's appeal lawyers states: "The techniques used to test the evidence in Mr. Cardenas's trial are now considered obsolete and insufficient in the forensic industry . . . Modern techniques and analysis can yield random match probabilities . . . in the range of 1 in over one quadrillion." The expert further stated that "[m]odern testing can be performed with very small amounts of DNA. Even material such as a single fingernail clipping could provide more than sufficient material for analysis."

Prosecutors also relied on the defendant's own statements, which he made after a lengthy interrogation and without access to a lawyer or consular assistance. The statements were inconsistent with each other, with known facts surrounding the murder, and with the physical evidence. Today, there is ample evidence that people can be coerced into false confessions without police resorting to physical brutality. Furthermore, the eyewitness testimony that was presented by the prosecution was inconsistent with statements given by those same witnesses shortly after the crime. An eyewitness who saw a man leading a girl away from the house on the night in question was unable to initially identify Ruben Cárdenas Ramírez as the suspect – and only did so at the time of trial, when Ruben Cárdenas Ramírez was sitting in the defendant's seat. The victim's younger sister, who knew Ruben Cárdenas Ramírez, did not identify the man as him, or his voice as his, and described the person who took her sister as having white and grey hair, which did not match Ruben Cárdenas Ramírez's hair at the time.

Timely access to consular assistance for individuals arrested outside of their home countries can be a critical fair trial safeguard. In the context of a US capital sentencing, a consulate can assist defence lawyers. Such assistance could have been critical to Ruben Cárdenas Ramírez during the 11-day period after his initial arrest when he was without legal representation and subjected to repeated interrogations. In an affidavit signed in 2005, an official from the Mexican Foreign Ministry said: "Had Texas authorities complied with their Article 36 obligations, a representative of the Mexican Consulate would have promptly contacted Mr Ramírez Cárdenas. In accordance with their training, consular officers would have advised him of the importance of having a lawyer present during any conversations with the police... Mexican consular officers would also have advised him in very clear terms that he should only speak to the police after first seeking the advice of a lawyer".

In 2004, the International Court of Justice determined, in *Avena and Other Mexican Nationals*, that the USA had violated the rights under Article 36 of the VCCR of Ruben Cárdenas Ramírez and 50 other Mexican nationals on death row in the USA. After the ruling, then US President George W. Bush sought to have the state courts provide the necessary "review and reconsideration" in all of the affected cases. Texas has nonetheless refused to comply with the ICJ's ruling. The administration of President Barack Obama continued the Bush administration's efforts to enforce the ICJ ruling.

In June 2015 US Supreme Court Justice Stephen Breyer issued a landmark dissenting opinion arguing that the Court should consider the constitutionality of the death penalty per se, citing among other things, arbitrariness, and the number of errors in capital cases. Since 1973, more than 150 people have been exonerated of the crimes for which they were originally sent to death row in the USA. Clearly the US capital justice system is capable of making mistakes, and does so with alarming regularity.

Amnesty International opposes the death penalty unconditionally. There have been 1,461 executions in the USA since 1976, including more than 30 foreign nationals (most of whom had been denied their consular rights after arrest). Texas has carried out 543 executions since 1976 and five of the 19 so far this year. Today, 141 countries are abolitionist in law or practice.