

Hague Rules vs. U.S. In Death Penalty Case

by Marianna Wertz

In a first-of-its-kind ruling, the International Court of Justice (ICJ) at The Hague ruled on June 27, that the United States violated international law and breached its obligations to Germany, by allowing the execution, in March 1999, of Arizona death row inmates Karl and Walter LaGrand. This is the first such case publicly fought out between the United States and an ally—in the past, such disputes would have been settled behind closed doors.

The ruling confirms a movement in Europe, on moral grounds, against the use of capital punishment in the United States. As French Prime Minister Lionel Jospin told the June 21 Strasbourg First Global Conference Against the Death Penalty, the nations of Europe believe that “the fight for the universal abolition of the death penalty is essential for our civilization, which should not respond to crime with barbarism.”

The ICJ ruling came on the heels of broad European denunciations of the American capital punishment system, during President George W. Bush’s June European tour. European nations also played a significant role in the May 7 expulsion of the United States from the UN Human Rights Commission, in part because of the U.S. death penalty policy.

The LaGrand case specifically revolved around the provisions of the 1963 Vienna Convention on Consular Relations, which the United States signed and ratified in 1969. The Vienna Convention stipulates that participating nations must inform foreign nationals without delay, following their arrest, of their right to contact their nation’s consular officials. When the two German-born LaGrand brothers were arrested in 1982 in Arizona, for their involvement in a bank robbery and murder, they were not informed of this right. In fact, the German consulate was only made aware of the case in 1992, by the LaGrands themselves, who had learned of their rights from fellow prisoners. By that stage, the U.S. doctrine of “procedural default” precluded the LaGrands from challenging their convictions and sentences in court. Karl LaGrand was executed on Feb. 24, 1999.

According to the ICJ’s press release, on March 2, 1999, the day before the scheduled date of execution of Walter LaGrand, Germany brought the case to the ICJ. The next day, the ICJ issued an order with the effect of an interim injunction, stating that the United States should take all measures at its disposal to ensure that Walter LaGrand was not executed, pending a final decision of the court. That order was ignored:

The U.S. Solicitor General argued to the U.S. Supreme Court, that the ICJ order was “not binding”—a very ironic position, given U.S. armbreaking of Yugoslavia and other nations to submit to The Hague. Walter LaGrand was executed.

In his ruling, presiding ICJ judge Gilbert Guillaume called the right to consular advice “a genuine right of man.” But the ruling affects what is known as the “Thornburgh Doctrine,” called “administrative fascism” by Lyndon LaRouche. In December 1989, George Bush’s Attorney General, Richard Thornburgh, claimed the right to abduct and arrest Panamanian President Manuel Noriega, and to conduct searches and seizures on the territory of other nations without their approval, claims subsequently upheld by the U.S. Supreme Court. While the circumstances of the LaGrand case are not the same, the ICJ ruling calls into question America’s self-proclaimed “right” to ignore international law in all spheres.

Putin Opposes Death Penalty

On July 9, Russian President Vladimir Putin joined European voices on this issue, in a powerful statement to an international judicial conference in Moscow. Russia was compelled to give up capital punishment when it signed the European Convention on Human Rights, but there is still widespread support for the practice in Russia, particularly because of the high level of terrorism there. Unlike Bush, however, who played on Americans’ outrage at the terrorist Oklahoma bombing to justify the resumption of the Federal death penalty in the Timothy McVeigh case, Putin did just the opposite, as reported on ORT-TV, Channel One.

“We know that Russia has joined the 6th protocol of the European Convention on Human Rights,” Putin said. “At the same time, according to public polls, the majority of our citizens are in favor of the death penalty. I have to confess that I understand them. Russia is in a state of transition. Old values are ruined, while new values are assumed with great difficulty on the level of the population. In addition, Russia has been invaded by international terrorism, and a lot of our people perished. When you hear of some terrible cases, you want not just to expose the villain, but—I feel brave enough to tell this audience—sometimes I also feel I’d like to strangle this or that particular person with my own hands.

“However, I realize that these arguments are dictated not by reason but by emotions. As a person with a basic juridical education, received at St. Petersburg University, I know—as any lawyer knows—that strict punishment does not automatically exterminate crime. This would be too simple an approach. As a matter of fact, in some European countries, centuries ago, pocket theft was punished with death, but pickpockets were most successful in the execution squares.

“If we accept the thesis that we suffer most of all from the evil inside us,” Putin concluded, “then we have to conclude that making punishment more severe looks like a revenge from the state. Meanwhile, the state can’t appropriate God’s unique right of granting a life.”