



THE YEARS OF FIERRO (LOS AÑOS DE FIERRO)



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The Years of Fierro (Los Años De Fierro) – César Fierro, the oldest Mexican prisoner on death row in the United States, has been languishing in a Texas prison for over thirty years. His sentence has been put off repeatedly as the contradictory details of his initial trial have been reviewed. The prosecuting attorney stated that he would not have proceeded with the trial had these details been revealed. César continues to await execution by lethal injection for a murder that evidence shows he did not commit. One of the most painful consequences of César's incarceration is the effect that the injustice and separation has had on his younger brother, Sergio, demonstrating how this miscarriage of justice resonates beyond one wrongfully imprisoned man. *The Years of Fierro* is a compassionate portrayal of César Fierro and the psychological hardship that he endures while awaiting his final day.

The Death Penalty in the United States

In the majority of nations around the world—about two-thirds according to Amnesty International—the death penalty is either not used, or has been abolished altogether. However, the United States continues to use utilize the death penalty for the punishment of murder or other capital offenses. It is legal in 31 states. 19 states do not allow it.¹ The majority of executions in the United States are carried out by lethal injection. Other methods used are electrocution, the gas chamber, hanging, and firing squad. It is estimated that there are close to 3,000 people awaiting execution on death row in the United States.² The majority of these inmates are men. Only about 55 are women.³ Juveniles under the age of 18 were sometimes executed prior to 2005, however that year the U.S. Supreme Court ruled that offenders who committed their crime when they were under the age of 18 cannot be executed.

While there are always some executions every year in the United States, the use of the death penalty has declined significantly in recent years. A number of states have recently abolished it. For instance, New Mexico did so in 2009, Connecticut in 2012, and Maryland in 2013. Even among those states that allow it, the number of death sentences and executions have both steadily decreased. For instance, in 1999, executions were at a high point, with 98 people executed that year. In 2016, only 5 states carried out executions, for a total of 20 deaths.⁴

Sometimes, courts discover that a person has been wrongly imprisoned on death row, and that person is released. It is estimated that approximately 150 people have been released from death rows in the United States as a result of evidence that they were wrongly convicted.⁵ In addition,

¹ Death Penalty Information Center, "Facts About the Death Penalty," updated April 28, 2017. <https://deathpenaltyinfo.org/documents/FactSheet.pdf>

² Death Penalty Information Center, "Facts About the Death Penalty," updated April 28, 2017. <https://deathpenaltyinfo.org/documents/FactSheet.pdf>

³ Death Penalty Information Center, "Facts About the Death Penalty," updated April 28, 2017. <https://deathpenaltyinfo.org/documents/FactSheet.pdf>

⁴ Death Penalty Information Center, "Facts About the Death Penalty," updated April 28, 2017. <https://deathpenaltyinfo.org/documents/FactSheet.pdf>

⁵ Death Penalty Information Center, "Innocence and the Death Penalty," April 19, 2017. <https://deathpenaltyinfo.org/documents/FactSheet.pdf>

there have been some cases where prisoners were executed before this evidence of innocence was discovered. Some of the reasons for wrongful conviction include inadequate legal representation, misinterpretation of evidence, incorrect testimony, and police misconduct.

Texas and the Death Penalty

The state of Texas carries out the greatest number of executions in the United States. It does not have the highest number of death row inmates. Instead, with about 250 inmates, Texas is the third-highest in the country, after California and Florida.⁶ Only 6 of these inmates are women.⁷ However, while Texas might not have as many people on death row as California or Florida, it executes far more people than any other state. Since 1976, a total of 542 people have been executed in Texas. Oklahoma and Virginia follow, with just over 100 executions each.⁸ The greatest number of executions in Texas occurred in 2000 when the death penalty was imposed on 40 people. Since then though, the number has declined, as has the number of executions all over the country. In 2016, only 7 people were executed in Texas.⁹

In Texas, all male death row inmates are housed in the Allan B. Polunsky Unit, a prison located in West Livingston. Women are housed at the Mountain View Unit in Gatesville. According to the Texas Department of Criminal Justice, prisoners spend an average of almost 11 years on death row before they are executed.¹⁰ The department reports that the shortest amount of time spent on death row prior to execution was 252 days, while the longest was 31 years.¹¹ Some prisoners who have not yet been executed have been on death row even longer. For instance, César Fierro has been there since 1980, awaiting an execution date.

All executions take place at the Texas State Penitentiary at Huntsville, or the Huntsville Unit. It is common for death row inmates to have their execution dates changed multiple times though, as the result of appeals and other legal actions. On the day that an inmate is executed, he or she is taken to the execution chamber at 6 p.m. on the specified day. After being strapped face-up to the execution chamber table, the inmate is given the opportunity to make a final statement. He or she is then executed by lethal injection, with death usually taking place within a few minutes.

The Death Penalty and Foreign Nationals

Executions in the United States are not limited to U.S. citizens. Some states also allow their courts to sentence foreign nationals to death. Since 1976 it is estimated that about 28 foreign nationals

⁶ Death Penalty Information Center, "Facts About the Death Penalty," updated April 28, 2017. <https://deathpenaltyinfo.org/documents/FactSheet.pdf>

⁷ Texas Department of Criminal Justice, "Gender and Racial Statistics of Death Row Offenders," updated April 17, 2017. https://www.tdcj.state.tx.us/death_row/dr_gender_racial_stats.html

⁸ Death Penalty Information Center, "Facts About the Death Penalty," updated April 28, 2017. <https://deathpenaltyinfo.org/documents/FactSheet.pdf>

⁹ Texas Department of Criminal Justice, "Executions," updated March 15, 2017. https://www.tdcj.state.tx.us/death_row/dr_executions_by_year.html

¹⁰ Texas Department of Criminal Justice, "Death Row Facts," https://www.tdcj.state.tx.us/death_row/dr_facts.html

¹¹ Texas Department of Criminal Justice, "Death Row Facts," https://www.tdcj.state.tx.us/death_row/dr_facts.html

have been executed in the United States. The majority of these executions took place in Texas, and most of them were Mexican citizens. Mexico, which has abolished the death penalty for its citizens, is strongly opposed to the execution of its citizens in the United States. The fact that it continues to happen is the source of tension and disagreement between the two countries.

One of the biggest sources of disagreement is whether Texas and other states who have sentenced foreign nationals to death have violated their right to communicate with a consular representative. In 1969, the United States, along with more than a hundred other countries including Mexico, ratified an agreement known as the Vienna Convention. Under the agreement, if a foreign national is detained or imprisoned, he or she must be immediately notified of their right to contact his or her consulate.

In 2003, Mexico charged that the United States was violating this agreement. In an attempt to change the situation, it went to the International Court of Justice on behalf of more than 50 Mexican nationals who were on death row in the United States. Mexico argued that these people had not been notified of their rights under the Vienna Convention. In 2004, the International Court of Justice made a decision in favor of Mexico. It found that in more than 50 cases, Mexican prisoners on death row in the United States had not been notified of their rights to contact their consulate, and that the United States was thus in violation of the Vienna Convention. The court ordered the United States to review the cases of these men to see if the lack of access to the consulate had affected their cases. However, the Supreme Court subsequently ruled that unless Congress enacted legislation actually requiring the states to abide by this ruling, they are not required to do so. No such legislation has ever been passed. As a result, Texas has not reviewed these cases, and since 2004 it has continued to execute foreign nationals.

At present, Mexico continues to strongly oppose the United States' practice of the death penalty. In fact, it refuses to extradite U.S. citizens who have committed a crime unless it is assured that U.S. prosecutors will not seek to impose the death penalty on those citizens.



Glossary

- **abolition:** The act of ending a particular type of practice or system. Some people are in favor of the abolition—or ending—of the death penalty in the United States.
- **appeal:** An appeal is a challenge to a previous legal decision. In an appeal, the court reviews a case that has previously been decided.
- **capital murder:** Any murder in which the perpetrator is eligible for the death penalty. Laws about which crimes are eligible for the death penalty vary by state. In Texas, capital offenses include the murder of a police officer or fireman, and the murder of a child under the age of ten.
- **Nicolás Castañón:** Castañón was an El Paso taxi driver who was killed in 1979. In 1980, Fierro was convicted for Castañón’s murder, and sentenced to death.
- **Ciudad Juarez:** The largest city in the state of Chihuahua, a state in northern Mexico. Juarez is located across the border from the city of El Paso, Texas.
- **death row:** A special part of the prison where inmates awaiting execution are housed.
- **defendant:** In a court of law, the defendant is the person accused of committing a crime.
- **El Paso:** A city in western Texas, located across the border from Ciudad Juarez in Mexico.
- **Sergio Fierro:** César Fierro’s brother. Sergio lives in Juarez, Mexico.
- **Socorro Fierro:** César Fierro’s mother. Socorro passed away in 1999.
- **forensic evidence:** Some court cases involve forensic evidence, which is evidence that has been obtained by a scientific method such as a blood test or a DNA test.
- **International Court of Justice:** Also called the World Court, this court was established in 1945. It is the main judicial branch of the United Nations, and it provides opinions and settles legal disputes between different countries.
- **Al Medrano:** An El Paso police officer who testified at César’s trial.
- **Gerardo Olague:** Olague was an acquaintance of César and his brother Sergio. He accused César of the murder of Nicolás Castañón.
- **Polunsky Unit:** The Allan B. Polunsky Unit is a prison located in West Livingston, Texas. It houses male death row prisoners in Texas. Women are housed at the Mountain View Unit in Gatesville. All executions take place at the Texas State Penitentiary at Huntsville, or the Huntsville Unit.
- **prosecutor:** In a court of law, the prosecutor is the person who accuses the defendant of committing a crime.
- **Segundo Barrio:** An historic neighborhood in El Paso, Texas.
- **stay of execution:** An order from the court to temporarily suspend the enforcement of a court ruling, including the execution of a person on death row.
- **Texas Court of Criminal Appeals:** The highest court in Texas for criminal cases.
- **Vienna Convention:** An international treaty that came into effect in 1964. It outlines the rules regarding diplomatic relations between different countries.

Timeline

- **1834:** Pennsylvania is the first state to end public executions by moving the execution process to correctional facilities.
- **1846:** Michigan is the first state to abolish the death penalty, except for the crime of treason.
- **1852:** Rhode Island abolishes the death penalty.
- **1853:** Wisconsin abolishes the death penalty.
- **1890:** William Kemmler is the first person in the United States to be executed in the electric chair. His execution takes place in the state of New York.
- **1923:** Texas orders that rather than each county being responsible for its own executions, all executions will be carried out by the state, in the city of Huntsville. These executions are to be carried out with the electric chair.
- **1924:** Texas executes its first prisoner by electric chair in Huntsville. Four other prisoners are executed that same day.
- **1964:** The last electrocution in Huntsville takes place. A total of 361 people were electrocuted there.
- **1969:** The United States ratifies the Vienna Convention. Under the agreement, if a foreign national is detained or imprisoned, he or she must be immediately notified of his or her right to contact the consulate.
- **1972:** A Supreme Court ruling—*Furman v. Georgia*—effectively suspends the death penalty in the United States. The court rules that state death penalty laws are unconstitutional.
- **1973:** The sentences of all Texas death row inmates are changed to life sentences, and death row is emptied.
- **1974:** After Texas passes a new law about the way the death penalty is used, death row begins to fill up again.
- **1976:** In *Gregg v. Georgia*, the Supreme Court reinstates the death penalty.
- **1982:** Executions resume in Texas. One person is executed that year.
- **1977:** Oklahoma is the first state to adopt the practice of lethal injection for execution. Texas also adopts lethal injection for execution.
- **1979:** César Fierro is arrested for the murder of El Paso taxi driver Nicolás Castañón. He makes a confession.
- **1980:** César is convicted for the murder of Castañón, and is sentenced to death.
- **1982:** Charles Brooks is the first person in the United States to be killed by lethal injection. His execution takes place in Texas.
- **1995:** A judge in El Paso recommends a retrial for César.
- **1996:** The Texas Court of Criminal Appeals refuses to hold a retrial for César. In Texas, a law is passed that allows friends and close relatives to witness executions.
- **2003:** Mexico argues that the United States is violating the Vienna Convention.
- **2004:** The International Court of Justice finds that the United States is in violation of the Vienna Convention.

- **2005:** The U.S. Court rules that prisoners who committed their crime when they were under the age 18 cannot be executed. Texas law is changed so that in addition to the death penalty, juries have the option of sentencing murder defendants to life in prison without parole.
- **2007:** New Jersey's governor signs legislation banning the death penalty in that state.
- **2008:** The U.S. Supreme Court rules that the states are not legally required to follow the Vienna Convention. Texas executes Mexican national José Ernesto Medellín.
- **2009:** The death penalty is repealed in New Mexico.
- **2011:** The death penalty is repealed in Illinois. Due to a shortage of one of the drugs used for lethal injection, Texas changes the combination of chemicals that it uses. Texas stops providing inmates with a special last meal. Texas executes Mexican national Humberto Leal.
- **2012:** An attempt to repeal the death penalty in California fails.
- **2013:** The death penalty is repealed in Maryland.
- **2015:** Nebraska abolishes the death penalty. In his execution by lethal injection in Arizona, Joseph Wood takes nearly 2 hours due. Critics charge that prison staff botched the execution.
- **2016:** Nebraska voters bring back the death penalty.

Additional Resources:

Websites:

Amnesty International USA. <http://www.amnestyusa.org/our-work/issues/death-penalty>

Cornell Center on the Death Penalty Worldwide. <http://www.deathpenaltyworldwide.org>

Death Penalty Information Center. <https://deathpenaltyinfo.org>

Texas Coalition to Abolish the Death Penalty. <http://tcadp.org>

Texas Defender Service. <http://texasdefender.org>

Texas Death Penalty. <http://texasdeathpenalty.blogspot.com>

Texas Execution Information Center. <http://www.txexecutions.org>

Texas Department of Criminal Justice. https://www.tdcj.state.tx.us/death_row/index.html

Books:

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