RESEARCH SERIES: USE AND ABUSE OF EXTRADITION IN THE WAR ON DRUGS*

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The Supreme Court: Doing Justice by Restoring Justice

Abstract

On the 17th of February this year the Supreme Court denied the request for the extradition of Edwar Cobos Téllez, alias "Diego Vecino". The former paramilitary leader of the Montes de María Bloc had been active in Sucre and Bolívar Departments and he is considered to have instigated or been involved in infamous massacres such as those perpetrated in Macayepo, Chengue, El Salado, and Mampuján, and Las Brisas, among others.

The request was declined for the same legal reasons that the high court cited in refusing to allow the extradition of Luís Edgar Medina Flórez, alias "Commander Chaparro", a demobilized fighter from the AUC Tayrona Resistance Bloc.

These two rulings reflect a drastic change in the court's jurisprudence on extradition, given that no fewer than 28 former paramilitary leaders had been extradited to the United States on drug trafficking charges. This policy brief looks at the motives for this change in jurisprudence, and the possible implications for both for the fight against drug trafficking, as well as for the Justice and Peace Law.

FIP makes recommendations to the Colombian and U.S. Governments with the aim of substantially improving two-way judicial cooperation. So far, the extradition of paramilitary leaders has better served the interests of those who are fighting drug trafficking, at the expense of the investigations being conducted by the Colombian justice system to establish the truth, reparation, and justice for acts of paramilitary barbarism. If the latter situation does not change, the United States will see the use of extradition drastically cut back as a tool for combating drug trafficking.

The Facts

On the 19th of August 2009 the Colombian Supreme Court of Justice ruled against approving the extradition of paramilitary and drug trafficker Luís Edgar Medina Flórez, alias "Commander Chaparro," a demobilized fighter from the AUC Tayrona Resistance Bloc. This man, as well as being wanted in the United States for drug trafficking, faces charges in Colombia under the Justice and Peace Law (Law 975 of 2005).[1] Perhaps because he was a low-ranking member of the paramilitary, this decision had no major impact on public opinion, but the arguments that the Colombian high court used on that occasion served as the precedent for refusing the extradition of Edwar Cobos Téllez, alias "Diego Vecino."[2]

The latter was the head of the Montes de María Bloc that operated in Sucre and Bolívar Departments, and he is considered to have instigated or been involved in infamous massacres such as those perpetrated in Macayepo, Chengue, El Salado, and Mampuján, and Las Brisas, among others. In fact, according to records from the Colombian authorities, more than 6,000 people claim to be the victims of criminal activities by the paramilitary bloc he commanded.[3] Justice and Peace prosecutors list 342 direct victims in his case, and have brought (partial) charges concerning "663 determinate and indeterminate victims for having displaced the entire population, seven victims of hostage taking, and 11 instances of homicide and torture of protected persons."[4]

On a related note, the Supreme Court recently sentenced Sucre Senator Álvaro García, to 40 years in prison for sponsoring and organizing what was known as the Macayepo massacre, perpetrated by the Montes de María Bloc on the 16th of October 2000. In this massacre around 12 peasants ("campesinos") were slashed with machetes and clubbed to death and the incident, along with other violent actions, caused the displacement of around 4,000 people in Sucre and Bolívar Departments.[5] Of all the paramilitaries' barbaric deeds, the terrified "campesinos" have never forgotten the soccer games that paramilitaries played with the heads of their murdered victims.

The abovementioned two decisions to decline extraditions represent a change of position by the Colombian Supreme Court,

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which in the past had authorized the conditional extradition of 28 demobilized paramilitaries from the Colombian United Self-Defense Groups (AUC).[6]

U.S. Ambassador to Colombia William Brownfield reacted to the rejection of the extradition of "Diego Vecino" by declaring that he accepted the Supreme Court's decision and that his Government would "learn from that ruling" to see "if in the future we could ensure that our extradition requests are approved by the Supreme Court, because in the end I think that all extraditions represent both countries' national interests."[7] The Colombian Government, in turn, did not make any statement concerning the ruling, but it would surely have noted carefully the critical direct messages sent in those rulings.

Precedents and Context

The Changing Supreme Court of Justice: From Administrative Decisions to Justice

FIP wrote in an earlier publication, "with more than 900 extraditions during President Uribe's two administrations, it's clear that extradition is no longer an extraordinary measure, but rather a routine judicial procedure, which has even caused friction between the branches of power." FIP also clarified, "This friction is not soley due to the increasing number of extraditions. It has deeper roots. In 2002, the Uribe administration began a peace process with the United Self-Defense Forces of Colombia (AUC)... As part of the peace process, these paramilitary groups agreed to give testimony about their wartime activities. Within this process the Colombian Supreme Court began an investigation into the connections between prominent politicians and the right-wing militias, which resulted in the detention or incarceration of over 50 politicians, including President Uribe's cousin and close political confidant Mario Uribe."[8]

This tension between the Supreme Court and the Government gave rise to the statement, "the Supreme Court has decided to be more committed to upholding the guarantees of due process, and more rigorous in assessing extradition requests."[9] In other words, the court has been exhibiting its intention to shake up the routine nature that extraditions acquired under the successive governments of Álvaro Uribe Vélez.[10]

In fact, it was often said in the past that the Supreme Court was merely rubberstamping extradition requests, in a purely notorial exercise. The administrative proceedings consisted of a review to assess the formal correctness of the documents that substantiated the extradition requests. This review, of course, is important because it is necessary to prevent mistakes such as mistaken identity of the person requested, charges in connection with offenses that are not considered crimes under Colombian law, charges concerning incidents that took place exclusively within Colombia, and double jeopardy.

The truth is that the way this mechanism was being applied, there was a risk of undermining of the necessary protection of rights and interests that were as or more important than the U.S. interest in fighting drug trafficking and judicial cooperation. At particular risk were Colombia's commitments to international human rights treaties, especially those upholding the victims' of paramilitary groups rights to truth, justice and reparation. These rights were reinforced in domestic legislation with the passage of the Justice and Peace Law (Law 975 of 2005), that regulated the paramilitaries' demobilization.

To lessen the court's notary role of the past, it should be mentioned that the task of acting as guarantor of due process is not the exclusive domain of the court, seeing as the Colombian Government must also be involved in this task. However, as FIP has previously written, in the past the Colombian Government has used its discretionary power to approve or reject extraditions in a way that has been overly obsequious to U.S. interests --or politically opportunistic-- based on the needs of the moment in domestic politics.[11]

The shift in the Colombian Supreme Court's rulings, according to FIP, reflects the Colombian court's commitment to a broader conception of justice. But this change will have limited impact unless it receives adequate support from both the Colombian Government and the U.S. Government. As such, we shall pause to analyze the main reasons why the Supreme Court made this change, and the message it is sending in its decisions not to extradite "Commander Chaparro" and "Diego Vecino."

The Legislation for Handling Extradition Requests

In refusing to authorize the above mentioned extraditions, the court argues that in ruling on requests for extradition it is not enough to consider merely whether the documentation substantiating the extradition request is in order. The decision should also take into account: a) the fundamental rights of the citizens whose extradition is being requested, b) safeguards for constitutional provisions and the law, and c) what is known as the constitutional bloc, which incorporates international treaties into domestic law, giving these constitutional weight. This not only refers to respecting the international treaties that address judicial cooperation against impunity, but especially those that protect human rights. The latter are those that set forth the rights and guarantees for the victims of crimes against humanity.

Seeing as these are individuals who are being trailed under the Justice and Peace Law, as the law governing the paramilitary AUC groups' demobilization, the philosophy and objectives of this law should be considered in the decision on whether or not to allow extradition. On this subject the court reminds that the purpose of the law is to strike a balance between the imperatives of peace and those of justice, and that if in the process some justice is sacrificed, it is because this shall be compensated with truth (for the victims and for society) and reparation for the damage that was done.

In this sense, the main message that the court is sending is strong criticism for the government's handling of the peace pro-

cess with the paramilitary groups. The court has stated that the extradition of the former paramilitary commanders "defeated" the purpose of "sowing peace among Colombians" and concludes by saying that this is the "most reliable proof of the government strategy's (Law 975 / 2005) failure to counter violence and the illegal armed groups."

Immediately following, to compensate for this extreme view and to justify the scope of its ruling, the court states that it is the "unwavering duty of judges" to uphold the domestic order of "truth, justice, and reparation" while the demobilized fighters "are complying with obligation to confess their crimes, charges are being brought, and the corresponding sentences are handed down."

This is contradictory for the high court to admit, because if the Justice and Peace Law were operating under the conditions that the court describes, it would not be possible to state resoundingly that the strategy for peace has failed. But if it has failed due to the extraditions that the court, and not just the Government, approved in the past, then it is partly responsible, even if these were only approved conditionally.

The truth is that the court has been assessing the peace process as a political liability, in a move appears to be in preparation for a trial on responsibilities more than for changing the jurisprudence. At the same time, it reflects the friction that still exists between the court and the Government, and reveals radical elements that are not good for its image, when what it should be projecting is an image of fair and impartial judgment in making sensitive decisions. But apart from this slight stridency, the court has adopted its position because of a number of other solid and sensible reasons, that should give pause to the governments involved.

The Uselessness of Conditional Extraditions To Protect Victims' Rights

As is known, the Supreme Court approved the extraditions of former paramilitary leaders in 2008, including that of José Ever Veloza, alias HH, in 2009,[12] but under the condition that the Government made sure to take measures consistent with the state's commitments on human rights and international standards." The court meant that the Government should make the necessary arrangements so that Justice and Peace proceedings would not be affected by extradition, which would have meant formalizing in a written agreement or based on a diplomatic document, the U.S. Government and U.S. justice system's commitment to cooperate in the investigation of crimes against humanity being conducted in Colombia.

In the ruling that denied the extradition of alias "Commander Chaparro," the court expressed its displeasure with the Government because "experience has shown that these warnings or conditions have not been effective at all." Although the Government delayed for four months the process of handing over José Ever Veloza, alias HH, to the United States, so that he could continue providing testimony to Justice and Peace prosecutors,[13] it did not do the same with the extradition of "Macaco," the leader of one of most violent AUC blocs.[14] Furthermore, in the court's opinion, the Government failed to take steps to "effectively" uphold victims' rights. By acting this way, it perpetrated an "omission" that the court cited as grounds for "changing" its jurisprudence.

All of the above reflects the fact that the Colombian Government believes that it is the judicial branch, specifically the Justice and Peace prosecutors, who must take charge of getting the U.S. justice system to allow them to pursue proceedings with the extradited paramilitaries. In fact FIP has interviewed prosecutors and judges who are involved in the Justice and Peace proceedings and, in general, they agree that it is the Prosecutor General's Office that must convince the U.S. prosecutors and judges about the importance of the trials being pursued in Colombia. This negotiation should take place ahead of time to ensure that opportunities to continue with the depositions and testimony will be provided.[15] Until that elusive goal has been achieved, Colombian investigators will continue to come up against relative indifference at both the Foreign Ministry and the Interior and Justice Ministry of Colombia. They therefore have to make extra efforts to schedule the public hearings and secure adequate support for the legal proceedings. In the end, the executive branch does not appear to have shouldered the matter of investigating the extradited former paramilitaries, although it is state policy that the head of international relations, the president of the republic, should consider this as his own duty. It is because of these precedents that the Supreme Court argues that in refusing extraditions it is preventing Colombia's courts from finding justice obstructed.

Taking Control of the Peace Process and the Integrity of the Colombian Justice System

In a past Policy Brief on the subject, FIP suggested that "adherence to the rule of law and the diligent enforcement of constitutional and legal provisions in extradition cases... might be the best way to meet the obligations of judicial cooperation in the fight against drug trafficking, while *preserving autonomy* to make strategic decisions on peace policy."[16]

Grounds for this idea may be found in the court's texts, that state "it is not acceptable that a peace process such as the one promoted by the National Government aimed at paramilitary demobilization, shall be subservient to foreign governments and their good will to allow the reconstruction of the truth that Colombian society demands."

In addition, the Supreme Court has noted that many Colombian judicial authorities have seen their investigations affected by not being able to take, on dates set up well in advance, essential testimony from the extradited men, with the result that, as the statutes of limitations expire, people who are accused of serious crimes against humanity must be released.

The University of California, Berkeley, based on research on this subject, reports that only five of the nearly 30 paramilitaries extradited and in prison in the United States have continued to be involved in Justice and Peace proceedings.[17] That and other facts relating to these extraditions, have led this academic center

to state that the extradition of paramilitaries to the United States has had an adverse impact on four aspects: 1) the extradited leaders have ceased to participate in Justice and Peace proceedings; 2) opportunities for compensating the victims have been severely curtailed, 3) the likelihood is diminished that the former paramilitary commanders will cooperate in the investigations of corruption being conducted by the Colombian justice system, namely concerning "para-politics," and other investigations that seek to determine whether public officials, individuals, and other sectors colluded in paramilitary activities, 4) finally, the university says that as the result of all these negative effects, the Supreme Court of Colombia has blocked the extradition of paramilitary leaders involved in drug trafficking activities.

In FIP's view, the above described problem may be explained by the fact that the two governments involved, Colombia and the United States, have not understood or have not accepted that the strategy being applied on extradition leads to the paradox of "exercising justice at the expense of justice." It meets the interests of the U.S. justice system at the expense of the Colombian justice system, and upholds the fight against drug trafficking, while disregarding or circumventing responsibility for serious crimes against humanity.

By implementing this policy, the U.S. Government is undermining the effects of the significant investment made through Plan Colombia to strengthen the Colombian justice system to have significant and sustainable impact.[18] Moreover, although extradition has the effect in the short term of removing the most high profile drug lords from the field, history has demonstrated that they are replaced quickly if the conditions that make the business possible are not altered. The dismantling of the networks of paramilitaries and drug traffickers is a necessary step in altering the conditions that are conducive to this illegal business, and only an effective Colombian justice system can achieve that.

As for the Colombian Government, the extradition of paramilitaries has called into question the real motives for this action, and has increased pessimism concerning the outcome of the peace process with the paramilitaries. A good example of suspicion about the extradition of paramilitaries may be seen in the following report from the newspaper *El Espectador*: "It was never really clear whether the extraditions of the 18 paramilitary leaders who were still committing crimes while in Colombian prisons, were done for reasons of pragmatism and legal collaboration. Or whether, as has been intuited, the truths to which they were privy were uncomfortable and implicated groups close to the Government."[19] As well, many public opinion sectors believe that the extradition of paramilitaries dealt a "coup de grace" to the proceedings for truth, justice, and reparation for the victims of the paramilitaries.[20]

Putting Ethics into Law and De-politicizing Justice

An important position expressed in the Supreme Court's recent statements is that "drug trafficking is a second-tier crime" when compared to the crimes against humanity committed by the paramilitaries.[21] In other words, that the seriousness of the alleged offenses abroad, "*pale* in comparison to the crimes of genocide, murder of protected persons, disappearances and forced displacement, torture, and other acts committed during the last decades by members of the demobilized paramilitary groups."[22]

These simple statements make ethical redress, in the sense that the high precedence that the crime of drug trafficking receives in the courts and government policy, not only in Colombia but in other countries, is due more to the fact that it is a priority for the U.S. Government, rather than because of its intrinsic potential for harm.[23] To substantiate this view of the facts, the court notes that the international community does not consider the fight against drugs as taking precedence over defending human rights, in that there are no international courts to try that crime, whereas there are courts to try crimes against humanity. Additionally, echoing the Inter-American Court of Human Rights, the Supreme Court of Colombia maintains that extradition is a "procedural institution" that cannot be used to facilitate impunity for human rights violations. Finally, it says that if Colombia wants to avoid intervention by the International Criminal Court (ICC) in the future, it should avoid engaging in the use of extraditions as a "mode of impunity."

Making this ethical redress also leads to a de-politicization of justice. Indeed, there could be no greater example of politicization than that of serving the demand for justice by the powerful while ignoring the demand for justice by the weak. In this case the weak are the paramilitaries victims, and Colombian society itself. With the extradition of the paramilitaries, the former find their right to truth, access to justice, and reparation at risk. Colombian society, meanwhile, sees the undermining of its right to "clarify macro processes of criminality that massively and systematically affect the human rights of the people, (which also) are constitutional rights."[24]

Legal Impact of the Supreme Court's Rulings

Priority for Justice and Peace

The impact of the Supreme Court's recent decisions on future extraditions may be summarized as follows: there shall be no more extraditions of persons involved in Justice and Peace proceedings, unless the U.S. and Colombian governments demonstrate with facts that judicial cooperation for Justice and Peace is timely and effective. Or, taking another approach, that the persons whose extradition is requested shall not be eligible for the benefits of Law 975 of 2005. In FIP's opinion, this situation is not the result of the Supreme Court's opposition to extradition, but rather the product of the apparent inaction by the governments of Colombia and the United States to prevent the mechanism from being used as a means of impunity for the crimes the paramilitaries have committed in Colombia.

Using Extradition To Pressure for the Truth

A few days after learning that "Diego Vecino's" extradition had been refused, the newspaper *El Tiempo* wrote that the court's position meant that some former paramilitaries involved in Justice and Peace were "at least temporarily safe" from extradition.[25] It cited the specific cases of Daniel Rendón Herrera, alias "Don Mario"[26] and his brother, Freddy Rendón Herrera, alias "El Alemán."[27] It also referred to "Juancho Dique"[28] and "Julián Bolívar."[29] All men whose extraditions have been requested by the United States and who, according to the National Police Director General Oscar Naranjo, continue running their drug trafficking businesses and managing new gangs from within prison.[30]

El Tiempo's interpretation is correct, in that in its rulings on both "Commander Chaparro" and that of "Diego Vecino," the court includes a final proviso that if these men wanted for extradition do not contribute to the process of clarifying crimes against humanity or if they are disqualified from Justice and Peace benefits, "the extradition request may be made again." This proviso by the court in its ruling on extradition may become the factor that enables extradition to once again be used as a "threat" for the beneficiaries of the Justice and Peace Law when they do not exhibit a spirit of cooperation. The Prosecutor General's Office and the government should devise a strategy to ensure that those who mock the objectives of Law 975 of 2005, and who are wanted for extradition, are disqualified from receiving the benefits of the Justice and Peace Law.

It would also appear to be necessary for Colombian authorities to make an effort to improve the system for the imprisonment of former paramilitary leaders, because it is not acceptable that they should be extradited on the grounds that they are still committing crimes while in prison. That is a problem that cannot be solved by sending them to the United States, as this implicitly suggests that Colombian institutions are unable to control criminals, and therefore these should be sent to U.S. prisons.

Political Impact of the Supreme Court's Rulings

Restoring Credibility to the Peace Process with the Paramilitaries

If the Colombian Government hopes to restore credibility to the peace process with the paramilitary groups, it must get serious about the task of formally agreeing the precise terms of the U.S. Government and justice system's cooperation with the Justice and Peace investigations. This shall apply to the former paramilitaries who were extradited prior to the conditions imposed by the Supreme Court.

Review of U.S. Policy on Judicial Cooperation

Before the extradition of "Diego Vecino" was turned down, UC Berkeley had made a recommendation to the U.S. Government, similar to what is being advised here for the Colombian Government, suggesting that "a procedure be created for effective and efficient judicial cooperation" with Colombia. Additionally, it suggested that "the extradited paramilitary leaders should be motivated to disclose the details of all of their crimes and the identities of their accomplices in the military, the government, and domestic or foreign companies." To achieve this, the university suggested that the U.S. Government could reduce their sentences for cooperation, or grant protection visas for relatives of the extradited men. The importance of the UC Berkeley recommendations is that these are the opinions of legal experts who are familiar with the opportunities that the U.S. justice system offers.

In any case, as far as FIP is concerned, the proposals to the two governments do not include negotiating a new extradition treaty between Colombia and the United States, because the friction between the branches of public power in the country make this possibility unadvisable.[31] But we do believe that it would be possible to negotiate a special agreement for judicial cooperation, to overcome the main obstacles that have been encountered, in order to successfully pursue Justice and Peace proceedings with the extradited paramilitary commanders.

Impact on Anti-Drug Policy

Much has been said about extradition as a fundamental tool in the Colombian and U.S. governments' fight against drug trafficking. In this vein, UC Berkeley considers that the U.S. Government's current policy of extraditing former paramilitaries has the effect of "undermining U.S. anti-drug efforts by pushing the Supreme Court to block future extraditions of demobilized paramilitaries to the United States."[32]

The lesson that Ambassador Brownfield proposes extracting from a reading of the latest rulings by the Supreme Court, must begin by acknowledging that the problems are not with the extradition requests themselves, nor can these be corrected through the better use of the legal techniques for substantiation. In fact all of the requests were formally correct, according to the Colombian high court. The solution lies in designing a comprehensive policy that does not sacrifice justice for crimes against humanity for the sake of prosecuting drug trafficking. Otherwise, the fight against drug trafficking itself will suffer.

Human Impact of the Supreme Court's Rulings

The *El Tiempo* editorial on the 19th of February 2010 stated "what has taken place is good news for the victims of 'Diego Vecino,' --who is accused of murder, torture, sexual violence, and forced prostitution-- which have gained valuable time in their reparation process." We share this view, in the sense that the Supreme Court, through its rulings on extradition, is trying to uphold the interests of the victims of serious human rights violations committed

by paramilitary groups. Although this refusal of extradition does not mean that the considerable stumbling blocks encountered in the Justice and Peace process will automatically be overcome, this will enable the victims and their organizations to have better control over the court cases that may lead to the truth and reparation to which they are entitled.

Recommendations

In the first Policy Brief in our series on "The Uses and Abuses of Extradition in the War on Drugs" we made some recommendations to the U.S. and Colombian governments that we shall reiterate in this document, with some subtle changes:[33]

To the U.S. Government

As we said in our first Policy Brief, we recommended that this Government "freeze extraditions... (because) experience... has proven that the most effective way this can occur (Justice and Peace) is to keep the accused in Colombia until they have satisfactorily met the requirements for truth and reparations set out in the Justice and Peace Law..." Obviously, the United States did not embrace this recommendation, and nowadays the "freeze" has been implemented by the Colombian Supreme Court. The only way to "unfreeze" the process would be by signing a binding diplomatic document that precisely regulates judicial cooperation by U.S. authorities with the Prosecutor General's Office and the Justice and Peace judges, or by acknowledging that extraditions may only be resumed when the Justice and Peace processes have finished or for those who have been declared ineligible for the legal benefits of demobilization.

- We also recommended offering "real incentives": While we understand that there are strict guidelines that judges must follow, we also know that prosecutors may recommend "sentence reductions" for "substantial cooperation." Prosecutors must ensure that part of this cooperation shall entail involvement in deposition hearings and reparation for the victims. As well, paramilitaries should be penalized if they do not collaborate in the peace process in Colombia, as we expect will be the case with Diego Murillo. These recommendations should come from the U.S. Department of State so that they shall apply to all cases involving the already extradited paramilitary leaders." It is clear that this recommendation is still valid and that it is in accordance with the proposals by UC Berkeley on the subject.[34]
- Another recommendation consists of securing "public support for the process: We urge the Department of Justice to take the lead on this matter by issuing a public statement in support of the Colombian peace process. We understand that judges and prosecutors have a certain amount of autonomy in matters of sentencing, but we think the Department of State must make clear that the process of truth, justice, and reparation is a priority, regardless of where the paramilitaries may be." We reiterate this recommendation because it is still relevant.

To the Colombian Government

- Suspend extraditions and reconsider the crimes to give no more importance to drug trafficking than to crimes against humanity. The Colombian Government did not implement this recommendation but the Supreme Court shouldered that task, as evidenced by recent rulings on extradition.
- Reconsider the legislation: The Colombian Government sent mixed messages in the implementation of the Justice and Peace Law, giving priority to the victims but allowing extraditions at the same time. We understand that mechanisms for legal cooperation must exist, but we argue that these issues should be considered more thoroughly, especially in terms of reparation and crimes against humanity. This should be taken into account in future legislation for peace processes to come, and to enact reforms that facilitate the process of peace and reconciliation in particular.

Time will tell whether this recommendation is taken into account, when another peace process begins. The truth is that "thorough consideration" was what the Supreme Court contributed, and this is a breakthrough that should be applauded, and above all adopted by the two governments involved.

To the Colombian and U.S. Governments

Act quickly to sign a specific binding agreement that clarifies the mechanisms for judicial cooperation between the United States and Colombia in the Justice and Peace proceedings that involve Colombian paramilitaries who have been extradited to the United States.

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1 Act No. 260 Penal Appeals Chamber, Supreme Court of Justice. 19 August 2009.

2 Act No. 048 Penal Appeals Chamber, Supreme Court of Justice. 17 February 2010.

3 "Perfil de 'Diego Vecino', Edwar Cobo Téllez." Available online at: http://www.verdadabierta.com/victimarios/los-jefes/684-perfil-edwar-cobo-tellez-alias-diego-vecino

4 Extradition file No. 32568, Act No. 48 Penal Appeals Chamber, Supreme Court of Justice. 17 February 2010.

5 Ruling by the Supreme Court of Justice Penal Chamber. 23 February 2010.

6 Extradition: An obstacle in the quest for justice? Policy Brief No. 1, 20 April 2009. Fundación Ideas para la Paz. Available online at: http://www.ideaspaz.org/secciones/publicaciones/policy_brief/Policy_Brief_English.pdf

7 "EE.UU. revisará negativa a la extradición de 'Diego Vecino'". Available online at: http://www.caracol.com.co/nota.aspx?id=955286

8 Recalibrating Extradition: Colombia's Supreme Court takes a step in the right direction. Policy Brief No. 3, 20 August 2009. Fundación Ideas para la Paz. Available online at: http://www.ideaspaz.org/secciones/publicaciones/policy_brief/policy_brief_3_ingles.pdf

[9] Extradition and the FARC: Adding Fuel to the Fire? Policy Brief No. 2, 10 July 2009. Fundación Ideas para la Paz. Available online at: http://www.ideaspaz.org/secciones/publicaciones/policy_brief/serie_policy_brief_ingles.pdf

[10] Policy Brief No. 1, 20 April 2009, Ibid.

[11] Flawed Motives Make for Unnecessary Extraditions. Policy Brief No. 4, 10 December 2009, Fundación Ideas para la Paz. Available online at: http://www.ideaspaz.org/secciones/publicaciones/policy_brief/Policy_Brief_4_en.pdf

[12] During the period 1995-1996 this paramilitary was the leader of the Bananeros Bloc that operated in the Urabá region, under the control of Vicente and Carlos Castaño. Subsequently he was in charge of the Calima Bloc that operated in Valle del Cauca and Cauca Departments. He is considered to be one of the "most enthusiastic" commanders in his collaboration with the Justice and Peace process. "Perfil de 'H.H', José Éver Veloza." Available online at: http://www.verdadabierta.com/victimarios/los-jefes/658-perfil-jose-ever-veloza-alias-hh

[13] Resolution No. 295 of the Interior and Justice Ministry, dated 21 August 2008

[14] "El Bloque Central Bolívar fue uno de los que tuvo mayor cobertura en el país." Available online at: http://www.verdadabierta.com/editores/multimedias/estructuras/estructuras_intro.html

[15] All asked that their identities be kept confidential.

[16] Policy Brief No. 2, 10 July 2009, Ibid.

[17] *Truth Behind Bars: Colombian Paramilitary Leaders in U.S. Custody*. International Human Rights Law Clinic University of California, Berkeley, School of Law, February 2010.

[18] *Truth Behind Bars*, Ibid.

[19] "La extradición y los procesos de Justicia y Paz," *El Espectador* editorial, 19 February 2010.

[20] See: Pizarro, Eduardo and Valencia, León. *Ley de Justicia y Paz*. Cara & Sello Collection. Grupo Editorial Norma and Semana. p. 257. Bogotá, 2010.

[21] Act No. 260 Penal Appeals Chamber, Supreme Court of Justice. 19 August 2009. Magistrate presenter Yesid Ramírez.

[22] Act No. 260, Ibid.

[23] Here we should clarify that we are referring merely to the acts of producing, processing, and transporting narcotics and not the violence associated with the activity, of which the paramilitaries are a good example. In other words, they may be drug traffickers without perpetrating heinous crimes. In fact the U.S. justice system separates these two facets of conduct by the extradited suspects, and focuses on charging them only in connection with drug trafficking. Furthermore, it is worth reminding that some analysts maintain that some of the harm caused by drug trafficking is more the unintentional result of the policies designed to fight drug trafficking than the product of the activities related to the trade and use of illegal narcotics.

[24] Act No. 260, Ibid.

[25] "Otros 4 capos de AUC se salvarían de Extradición por Justicia y Paz." *El Tiempo*, 19 February 2010, Nación section, p. 1-3.

[26] "Sobre 'Don Mario.'" Available online at: http://verdadabierta.com/victimarios/2101-don-mario-daniel-rendon-herrera

[27] "Sobre 'El Alemán.'" Available online at: http://verdadabierta.com/victimarios/los-jefes/716-perfil-freddy-rendon-herrera-alias-el-aleman

[28] "Sobre Juancho Dique." Available online at: http://verdadabierta.com/victimarios/los-jefes/695-perfil-uber-enrique-banquez-martinez-alias-juancho-dique

[29] "Sobre 'Julián Bolívar.'" Available online at: http://verdadabierta.com/victimarios/los-jefes/666-perfil-rodrigo-perez-alzate-alias-julian-bolivar

[30] "Otros 4 capos de AUC se salvarían de Extradición por Justicia y Paz," *El Tiempo*, Ibid.

[31] Policy Brief No. 1, 20 April 2009, Ibid.

[32] *Truth Behind Bars*, Ibid.

[33] Policy Brief No. 1, 20 April 2009, Ibid.

[34] *Truth Behind Bars*, Ibid.

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