

Monday, March 19, 2007

When international extradition leads to insufficient protection of the accused.

Wild banana plants. (Image from Library of Congress's website.) On March 14, 2007, the Chiquita corporation issued a press release admitting to past payoffs to Colombian paramilitary groups. The news release includes the following: "In 2003, Chiquita voluntarily disclosed to the Department of Justice that its former banana-producing subsidiary had been forced to make payments to right- and left-wing paramilitary groups in Colombia to protect the lives of its employees. The company made this disclosure shortly after senior management became aware that these groups had been designated as foreign terrorist organizations under a U.S. statute that makes it a crime to make payments to such organizations. Since voluntarily disclosing this information, Chiquita has continued to cooperate with the DOJ's investigation." On March 17, 2007, CNN reported that Colombian President Alvaro Uribe is interested in extraditing Chiquita executives to Colombia over this matter. Such an interest does not amount to a formal extradition request, the United States government has the option to deny extradition requests, and subjects of extradition requests have the right to contest extradition. One problem about the United States government's drug wars and terrorism wars is that the government seeks so many extraditions of defendants to the United States (and even invaded Panama in 1989 in part to force Manuel Noriega to come to the United States for trial) that the United States government probably feels more inclined to grant more extraditions out of the United States than if the United States were not requesting so many extraditions into the United States. The United States government should exercise tremendous caution in extraditing people not only where the criminal charges were issued unjustly or on insufficient or shaky evidence, but also where the fairness of the prosecution, trial (e.g., such procedural protections as access to qualified government-paid counsel to the indigent, the right to remain silent, a twelve-member jury trial requiring an acquittal absent a unanimous jury finding of guilt beyond a reasonable doubt, the exclusion of unlawfully obtained evidence, and the general exclusion of hearsay evidence), sentencing, pretrial bond-setting, detention conditions, and appellate rights might fall below the protections provided in United States courts. Unfortunately, the vast majority of nations provide criminal defendants protections that are far substandard to those in the United States. Take that into consideration before travelling abroad. Chiquita's past large payoffs to paramilitary groups certainly give me cause for pause about buying Chiquita products. Chiquita, of course, is not alone in this category, and I have a huge list of products and companies that involve gross violations of human rights, the environment, the economy, workers, and the list goes on, starting with every purchase of gasoline. (Hello, Gulf War II). Every consumer's purchasing, consumption, and voting decisions affect justice on a local, national, and international level; we cannot merely point fingers at governments and corporations for causing human misery and rights violations. Nevertheless, as with all criminal defendants and suspects, I strongly support the right of Chiquita, its executives and its employees to fair treatment in the criminal justice system, and to a vigorous defense. Jon Katz.

Posted by Jon Katz in Criminal Defense at 03:15