



**House Foreign Affairs Committee
Tom Lantos Human Rights Commission**

**Hearing on
Organized Crime, Gangs and Human Rights in Latin America**

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Good morning everyone. My name is Renata Demichelis. I am Director for Mexico in Elementa Human Rights, a non-profit organization based in Mexico and Colombia. I thank the Commission for the opportunity given to speak here today on this pressing matter. I'll address the challenges and obstacles to fulfilling victims' rights, with a special focus on the impacts of US trials of organized crime figures on truth and justice in our countries.

For more than six decades, the war on drugs has had various impacts on people's rights, specifically in Latin American countries where drugs are produced and trafficked. The illicit drug market has generated networks of macro-criminality and corruption that are sustained by different sources of violence that have led to serious human rights violations.

Massacres, torture, sexual violence, enforced displacement, recruitment and disappearances, arbitrary detentions, among other horrific crimes are consequences of the extreme violence inflicted by both state and non-state actors. These have become exponential in recent years due to the kingpin strategy that has fragmented the criminal groups, leading to more frequent and more serious disputes and expressions of violence. As the crisis deepens and impunity prevails, victims' rights to truth and justice have seemed to be fading away.

We have identified three main reasons that hinder processes of truth, justice and reparation: first, the weakness of our criminal justice systems; second, in the case of Mexico, the significant degree of collusion between state actors and organized crime, which fuels impunity and prevents the implementation of effective transitional justice processes. Third, the prioritization by the governments for prosecuting drug offenses over human rights violations and other crimes committed by state and non-state actors to maintain the illicit drug market.

On the last matter, a specific mention needs to be made regarding extradition. In the pursuit of criminal networks, extradition plays a key role in U.S. bilateral relations with Latin American countries such as Mexico and Colombia. In the case of Mexico, for example, to increase cooperation on extraditions is a main goal under the Bicentennial Framework. There is no doubt that under current conditions of impunity and weakened justice systems, extraditions might be the strongest path to hold responsible criminal actors -state and non-

state- for their actions. But what actions? US indictments are commonly focused only on drug related crimes such as trafficking, and money laundering, leaving aside horrific crimes such as the previously mentioned, committed on the way to grow their territorial control and operations. Although, we've seen accusations mention how the accused participated in violent crimes and human rights abuses, but only to frame the seriousness of drug related crimes committed.

For example, in the Chapitos' indictment, it is recognized that the defendants "have tested fentanyl on individuals who were tied down", most of whom died from sampling the product because it was so potent. Also in the indictment of Otoniel recognized that the "Clan del Golfo " carried out various acts of violence, including murders, assaults, kidnappings and assassinations. The "Clan del Golfo" utilized these acts for a variety of reasons, including, promoting and enhancing the prestige, reputation and the position of the cartel with respect to the rival organizations.

In spite of following internal processes, we've seen our countries grant extraditions almost automatically with no analysis on what it means for achieving truth and local justice demands. In Colombia, there have been multiple efforts from victims to claim their right to be taken into consideration on extradition decisions, with no positive results whatsoever.

Elementa has been monitoring US trials and pre-trials to find that on many occasions the information revealed during criminal procedures hinder the local processes of truth and justice to the victims. For example, sealed information conditions access to the truth about macro-criminality networks regarding drug trafficking. Although it is important to have some secrecy in criminal procedures to safeguard the ongoing investigations, information revealed in US trials is, in many cases, crucial for local investigations. Specifically for Mexico, the Ayotzinapa case brings light on this matter. We have seen how the information presented during the trials in Chicago of members of *Guerreros Unidos*, the cartel related to the disappearance of the 43 students in Iguala, was fundamental not only to bring some truth but actually helped to build cases in Mexico against the perpetrators.

Moreover, the Colombian case helps us portray how local institutions of transitional justice can articulate their work with US trials in favor of truth, benefiting victims who demand the opportunity to know what was mentioned during the hearings and who can contribute to the clarification of their cases. This is the case of Salvatore Mancuso, senior paramilitary leader and one of Colombia's most notorious drug traffickers, who while in prison, revealed key information within local transitional justice mechanisms that contributed to local processes on the matter.

Unfortunately, we've found these examples to be the exception and not the rule within US criminal procedures against members of organized crime. Discretion and political demands are at the center, not victims' rights.

Also, we've identified that plea agreements and benefits negotiated for testifying and providing information related to other cases, contribute to the impunity of grave human rights violations. That is the case of Dámaso López Serrano "El Mini Lic" member of the Sinaloa

Cartel, son of Dámaso López Núñez -one of El Chapo's closest allies- indicted for drug-trafficking and other related crimes. At the time, he was also accused in Mexico for the assassination of Javier Valdes, a high-profile journalist who reported on the links between government officials and organized crime. In Spite Mexico's extradition request to come back and be held responsible for his crimes, El Mini Lic was released a year ago after the judge considered he had "paid his debt to society" by offering information that even "put him in danger". As he remains a key witness against los Chapitos, Dámaso stayed in the US with government protection. No extradition to Mexico granted. Javier's family was displaced and awaits justice. One that will probably never come.

What I've briefly exposed sheds some hints that can be used to achieve justice and build the memories of the consequences brought by violence. As the truth commission in Colombia stated, "in the panorama of human rights and in a perspective of judicial independence, the dilemma of extradition should be reviewed in one specific aspect: the importance of investigating and providing the truth to the victims before other considerations."

Victims, collectives and organizations have been working to advocate for our countries to prioritize local investigation, prosecution and punishment when deciding on requests for extradition of indicted persons who can contribute to clarifying criminal phenomena, human rights violations, and large-scale corruption, in order to guarantee the satisfaction of victims' rights.

In this context, it is vital that US cooperation with Latin American Countries take into consideration victims' demands. Much can be done to promote agreements between prosecutors from US and Latin American Countries like Mexico and Colombia, so that people sentenced in the United States for drug crimes, can also be held responsible for human rights abuses committed in other countries, as well as to share sealed information with foreign government institutions that is relevant to local truth processes. We invite the US Congress to help us raise awareness on the dynamics and discretionary decisions within the US justice system that contribute to weakening ours, and hinder the path for truth and justice for hundreds of thousands of victims, with whom we stand.