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TERRORIST LUIS POSADA CARRILES and the Double Standard in the U.S. War on Terror

Luis Posada Carriles is one of Latin America's most notorious criminals, a terrorist protected by the U.S. and allowed to live freely within its borders. Recruited by the CIA in 1962, Posada has since carried out deadly bombings and other crimes against humanity.

The Deadliest Terrorist Attack before 9/11

In 1976, the Cuban-born Venezuelan citizen blew up an airliner, killing all 73 passengers aboard, including 24 teenage members of Cuba's champion fencing team and 11 Guyanese medical students. Until 9/11, this was the deadliest attack on an airplane ever to occur in the Western Hemisphere. Posada was arrested in Venezuela and charged with masterminding the attack. However, he escaped from prison in 1985 and resumed coordinating terrorist acts throughout the region. In 1997, Posada was linked to several bombings in Havana hotels that left an Italian tourist dead and several injured. In 2000, he was arrested in Panama for attempting to kill Cuban President Fidel Castro using C-4 explosives in a school auditorium. Each time, Posada evaded those seeking to bring him to justice.

Extradition Requests Ignored

In March 2005, Posada entered the U.S. illegally. He was allowed to languish in a luxurious Miami apartment, emboldened by the fact that the Department of Homeland Security (DHS) had not detained him. In May of 2005, Venezuela formally requested his extradition from the U.S. so that he could be tried for 73 counts of murder in the 1976 bombing. The U.S. has yet to honor the extradition request or even respond to it. Only after bragging to the Miami press that the DHS was not looking for him, Posada was detained by DHS officials who neglected even to handcuff him as they took him away.

The Immigration, Customs and Enforcement Agency (ICE) quickly stated that it would not deport Posada to Cuba or "a country acting on behalf of Cuba". By doing so, ICE set a precedent that indicated the U.S. government's lenient stance on Posada even before his immigration case had begun. Despite Venezuela's repeated requests that the U.S. detain Posada for extradition purposes, the Department of Justice (DOJ) has yet to act. On June 15, 2005, Venezuela filed a formal extradition request with the State Department, providing voluminous documentary evidence of Posada's crimes. The State Department referred the case to the DOJ, which failed to bring it to court as required by law.

Protected by the U.S.

By flaunting extradition treaties, the U.S. has chosen to treat Posada Carriles' case as a minor immigration offense, charging him only with illegal entry into the country. Posada brought a single witness to testify in that case, his long time lawyer and associate Joaquín Chaffardet, who was never cross-examined nor questioned about his own links to Posada and terrorist activities. Instead, Chaffardet was allowed to testify as an objective expert on Venezuela's human rights record. The DHS submitted no evidence against Posada, indicating to the defense and to the Judge that the U.S.

government would prefer he be granted Convention Against Torture relief. However, no evidence exists to support claims that he would be tortured in Venezuela.

22 months have passed since Venezuela's first extradition request, and the U.S. has failed to present Posada's case to a federal court, despite treaty obligations that require it to do so. Though a U.S. ICE officer admits that Posada has a "long history of criminal activity and violence in which innocent civilians were killed,"¹ the Justice Department has not charged him with the 1976 attack. This is despite the binding obligations of a 1971 international convention to which the U.S. is a party. Nor has Posada been classified as a terrorist, which the Patriot Act allows. Indeed, the 79-year-old terrorist has never been charged by U.S. justice officials with participating in a violent act.²

Posada Freed by U.S. Courts

On May 9, 2007, immigration charges brought against Posada were overturned by Texas District Judge Kathleen Cardone, leaving a man branded by the U.S. DOJ as "a dangerous criminal and an admitted mastermind of terrorist plots" free to roam a country he entered illegally and from which another court has ordered him to be deported. There is no explanation for having a high profile case that deals with a known-terrorist be ruled as an immigration matter, when it clearly should be overseen by the highest levels of government. "In addition to engaging in fraud, deceit and trickery, this Court finds the Government's tactics in this case are so grossly shocking and so outrageous as to violate the universal sense of justice. As a result, this Court is left with no choice but to dismiss the indictment," Judge Cardone wrote in her scathing opinion.³

As international condemnation mounts against the U.S.' failure to prosecute an admitted terrorist, congressional leaders have demanded to know why U.S. Attorney General Alberto Gonzales never declared Posada a security threat nor jailed him under the Patriot Act. Congressman William Delahunt (D-MA) stated in a letter to Gonzales that "Mr. Posada's release from prison calls into question our commitment to combating terrorism and raises concerns about a double standard in our treatment of terrorists."⁴ Delahunt is launching an investigation into Posada's relationship with the U.S. government as well as the failure of the Bush administration to designate Posada a terrorist. A former prosecutor himself, Rep. Delahunt called Judge Cardone's critique of the government's handling of the case unprecedented. Interestingly, Cardone threw out transcripts containing incriminating evidence against Posada on the grounds that an interpreter hired by the U.S. government was unreliable.

A Double Standard in the War on Terror

By refusing to extradite or prosecute Posada, the U.S. demonstrates contradictions in its war on terror. While claiming to lead a global offensive against terrorism using measures such as foreign intervention and the restriction of civil liberties at home, the U.S. also continues to recruit, tolerate, and protect terrorists within its own borders. A consistent hesitance to bring Posada to justice – and, more broadly, to allow political loyalties to define who is a terrorist, regardless of criminal records – confirms this fact.

Venezuela's Ambassador to the White House, Bernardo Alvarez, recently confirmed the same: "While relations between Venezuela and the U.S. have been strained, nothing should prevent the U.S. government from either extraditing Posada to Venezuela or prosecuting him for the 1976 bombing. Posada's violent attack could not be justified then; much less should it be overlooked now. Should Posada be allowed to escape justice for his vicious crimes, it will send a powerful message to the international community that some terrorism is acceptable. It isn't."⁵

¹ "The Terrorist We Tolerate", Rosa Brooks, *Los Angeles Times*, May 11, 2007.

² "National Security Archive: Documents Link Luis Posada Carriles to 1976 Cubana Airlines Bombing," AP, May 3, 2007.

³ "Pressure grows to prosecute Cuban exile," Carol Williams, *Los Angeles Times*, May 10, 2007.

⁴ "Venezuela Vows to Press Posada Carriles Extradition," Theresa Bradley and Guillermo Parra-Bernal, *Bloomberg*, May 9, 2007.

⁵ "Terrorism is Never Acceptable," Bernardo Alvarez, *The Politico*, May 8, 2007.