

“DEPORTEES: THE HUMAN FACE OF A SOCIAL REALITY”

A BRIEF ON THE ENDURING REALITY OF DOMINICAN DEPORTEES

August 2011

The Observatory of Caribbean Migrants
Santo Domingo, Dominican Republic

Marianella Belliard and Bridget Wooding

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The Observatory of Caribbean Migrants (OBMICA) is an initiative of FLACSO, The Latin American Faculty of Social Sciences, Dominican Republic and CIES-UNIBE, Center for Social Economic Research, UNIBE University. OBMICA's main objective is to contribute to the creation of more just migration policies and their appropriate implementation in the region and beyond.

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Executive Summary:

The 1996 United States Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) has had an impact far beyond its original aim to tackle illegal immigration. In fact, the provisions of the new law have had a major effect on legal, permanent residents in the United States of America (U.S.). The expansion of the list of crimes or misdemeanors that now lead to the deportation of lawful permanent residents has resulted in massive deportations to regions such as Latin America and the Caribbean, which has experienced the forced return migration of their citizens. The Dominican Republic is one of the countries disproportionately affected. Since the early 1960s, the U.S. has been host for Dominican immigrants, notably through the traditional gateway of New York City. This Dominican migration to the U.S. of over half a century has resulted in a large population of Dominican immigrants and their second and third generation descendants. Thus it is not surprising that Dominican society is now experiencing a critical mass of deportees.

In the U.S., however, the 1996 law is not without opposition. Many have questioned the its constitutionality, particularly its two fundamental provisions: 1) the law denies immigrants awaiting a deportation discretionary hearing the possibility to have the circumstances of their deportation case heard in court, and 2) the retroactive application of the law, which treats criminal offenses committed

prior to the enactment of the law in 1996 as deportable crimes under today's new classification.

For deportees, returning to their country of origin is a challenge. The forced return to their native country often feels more like an arbitrary displacement to them, particularly for those who have lived in the U.S. most of their lives.

For the majority of Dominican deportees, reinsertion into society is not an easy task. Since migration is a form of rite-of-passage for social mobility, and since deportation is directly associated with criminal behavior (however rightly or wrongly), the rejection they feel is multifold. As immigrants pursuing a better life, they are seen as a disappointment for failing to "make" it; and, as deportees, they are considered as shameful for their criminal behavior.

Even if Dominican deportees have never committed a crime on Dominican soil, and even if the offense for which they have been deported is not considered a crime in their native country, Dominican deportees are registered as criminals upon their arrival. This criminal registry or "*ficha*" further complicates their reinsertion into the job market, since most companies require written proof of "good conduct."

The large number of Dominican deportees is beginning to make its mark on society. The socio-economic impact of deportations is being felt in different spheres. Currently, there are voices

of concern raised and efforts are being made to sensitize public opinion about the challenges facing this population. Government institutions, non-government organizations, local and diaspora-based groups are focusing on the impact deportations are having on transnational relations.

Although there are growing voices of concern of what deportations do to families both in the U.S. and in the receiving countries of deportees as regards the rupture of families, deportations are here to stay. The “reuniting and keeping families together” sentiment of the U.S. Immigration and Nationality Act of 1965 is no longer at the core principle of immigration policies and laws.

Lastly, this *Migration Policy Brief* recommends areas for further trans-national research in order to inform relevant public policies, enabling these latter to better engage with the issues from a rights-based perspective as well as promoting social cohesion.

Introduction:

This brief complements the video-clip “Deportados: Las Caras de *Una Realidad*,” as part of the effort to advance the debate on migrants’ rights, forced migration and its socio-economic impact in transnational societies. The Observatory of Caribbean Migrants (OBMICA) considers the debate on the presence and impact of Dominican repatriates an important one that needs to be positioned on the migration agenda.

Wide-ranging research was conducted for the production of the above-mentioned video. This document presents the salient findings with the objective of giving a preliminary review on the issue of deportation, deportees, as regards Dominican deportees from the United States of America (U.S.). It also exemplifies OBMICA’s commitment to sensitizing society to the vulnerability of some marginalized groups of migrants in Dominican society, which includes Dominican deportees,

who currently constitute a significant and growing segment of the population.

In 2007 FLACSO together with academic and social organizations in the U.S. hosted a conference in which deportation from the U.S. at the regional level was a topic, highlighting the reality across the insular Caribbean. More recently, in 2010, OBMICA hosted a dialogue with Yolanda Martin, a Ph.D. candidate at CUNY, New York, whose work focuses on the effects of drug addiction and Dominican deportees. Joining Ms. Martin in this presentation there were two deportees who shared their experiences and their struggle for reintegration in Dominican society, given the stigma they faced as deportees for drug-related crimes. Although they have been able to rehabilitate, they also pointed out the difficulties they faced on the road to recovery. Excerpts of this lecture and their testimony can be found in OBMICA’s webpageⁱⁱ.

As illustrated by the testimony of those returnees, reinsertion into society is not easy. There are no fully-fledged social programs designed to help deportees, and only a handful of government initiatives. Although these latter are designed to tackle the “problem” of deportations, the point of departure is from a penal or law enforcement perspective.

It is estimated that the number of deportees presently living in the Dominican Republic surpasses 30,000, as estimated from data available in the homepage of the Department of Homeland Security. As for the Dominican authorities, they are just beginning to compile relevant data but this is not yet available.

Primary and secondary sources for this brief consisted in interviews and meetings with Dominican government authorities, deportees from different neighborhoods, as well as members of civil society and organizations from New York City to discuss the impact of deportations on Dominican society, deportees and their families, as well as the process—from detention in the U.S. to registration upon arriving in Dominican soil. Other subjects

discussed include: crime statistics, government-sponsored programs of reinsertion and awareness and sensitizing campaigns to change the negative perception of deportees; efforts, measures and responsibility of both governments, programs to educate the immigrant population in the U.S. Above all, the interviews with deportees and legal residents proved to be invaluable, as their stories as immigrants pursuing a dream shed light on the impact of deportation in a society where migration is for many the only form of social mobility.

The information gathered through interviews, meetings and conversations, internet research, newspaper articles, and government documents provides the basis for this document. The conclusions and recommendations are based on the findings, and are pointers for key stakeholders, such as government officials, as well as members of civil society working on issues related to vulnerable and stigmatized migrants.

Background and Context

Deportations from the United States have been on the increase since the late 1990s. Through the implementation of its new immigration laws that country has been returning a significant number of non-citizens to their respective countries of origin, and the regions most affected have been Latin America and the Caribbean. The growing numbers of deportees has become a concern for those societies, where chartered flights of deportees arrive monthly and even bi-weekly. The Dominican Republic, which has for half a century exported emigrants to that northern nation, is one of the leading countries receiving deportees from the U.S.

Migration to the United States began prior to the 1960s, when many sought political exile from the tyrannical Trujillo regime; but the increase of Dominican migration to the United States began in the aftermath, following the overthrow of Trujillo in 1961. The rise to power of the socialist Juan Bosch in 1963 (ousted by a US-backed coup just seven

months later) was unsettling for the United States given what had transpired in Cuba. This political environment influenced U.S. friendly migration decisions for Dominicans seeking entry to the United States. Furthermore, the *U.S. Immigration and Nationality Act of 1965*, based on the family-reunification principle, helped many Dominicans living in the U.S. bring family members to the U.S., particularly to New York City.

In the 1980s, many Latin American and Caribbean societies, including the Dominican Republic, experienced stagnant economies and devalued currency. In contrast, the U.S. saw its economy surge, which made it an even more attractive destination for those who sought political and economic stability, and of course, social mobility. Indeed, for dissidents in socially stratified societies Latin American and Caribbean societies, migration has become the rite of passage to having access to opportunities. The disproportion between rich and poor is visible in Dominican society.

Thus a combination of many factors—political, social, economic, and the strong U.S. cultural influence gave rise to the exodus towards the north in pursuit of the so-called “American dream”. The “dream” means coming home with an upgraded social status by exhibiting and sharing material goods with friends and family. During the 1980s, social and economic pressures led to an upsurge of illegal and risky flimsy boat (yola) trips to the neighboring Caribbean island of Puerto Rico, a U.S. Commonwealth, from where the emigrants would then move on to the mainland of the U.S.

As the immigrant population grew, so did the concerns of many conservative politicians and community leaders in the U.S., who have made the issue of immigration fundamental to the politics of that nation. Immigrants, particularly non-English speakers, were gradually seen as a threat to the essence of that nation—its cultural, racial and linguistic values. The anti-immigrant sentiment led to radical changes in U.S. immigration laws, which would not only target “illegal aliens,” but the

new laws would soon have a significant effect on non-citizen immigrants with legal status or lawful permanent residents.

1996: Sweeping Reforms

In 1996, the then President Bill Clinton signed the “Illegal Immigration Reform and Immigrant Responsibility Act (IRCA).” The spirit of this law was to protect United States borders. In practice, this law has been applied broadly and cases are beginning to surface that indicate arbitrarinessⁱⁱⁱ.

Before these legislative reforms, offenses that led to deportation were those of violent or serious nature. An essential aspect of the new laws was the inclusion of non-violent offenses, which previously did not constitute grounds for deportation of lawful permanent residents. To have an idea of the broad scope of the new immigration laws in its definition of “deportable” offenses, what follows is the list of the non-violent aggravated felonies that were incorporated into the new deportation laws^{iv}.

Under the 1996 legislation, the following non-violent crimes may constitute aggravated felonies:

- Non-violent theft offenses
- Non-violent drug offenses
- Forgery
- Receipt of stolen property
- Perjury
- Fraud or deceit, where the loss to the victim exceeds \$10,000
- Tax evasión, where the loss to the government exceeds \$10,000

Source: INA § 101(a)(43), 89 U.S.C. § 1101(a)(43).

In addition to a greater number of offenses that now make a Lawful Permanent Resident deportable, there are two major drawbacks in these reforms:

- 1) The elimination of the discretionary hearing^v; and
- 2) The law can be, and indeed it is, applied retroactively.

The law’s *ex post facto* character and its compulsory denial of a hearing—two fundamental provisions of the law—can render its unmitigated enforcement problematic .

As a result of the 1996 Immigration Laws, non-citizens with permanent resident status, who committed an offense prior to 1996 can still be deported even if the offense was not considered an aggravated felony at the moment it was perpetrated. In fact, a large number of deportation cases involve non-violent offenses^{vi}.

The following are two emblematic cases of Dominican-born legal residents, who faced deportation for non-violent offenses committed before 1996. The case of Jesús Collado-Muñoz in particular has become exemplary as a reminder that when it comes to immigration cases, individual circumstances are unique and a rigid law as it exists today is, at best, unconstitutional and, at worst, inhumane. Here are the facts of the two cases:

JESUS COLLADO-MUÑOZ

**Born in the Dominican Republic.
Lived in the US for more than twenty-five years.
Legal Permanent Resident
Married and raised his family in the US. Owns his own restaurant.
Faced deportation in 1997 because of a misdemeanor conviction in 1975, which under the 1996 immigration law became an “aggravated felony,” and since the law can be retroactively applied, Jesús faced deportation.
His case made news, and consequently, he was granted a pardon and stayed in the U.S**

MARIO BENITEZ

**Born in the Dominican Republic.
Pleaded guilty to selling a controlled substance in 1988, and served three years in prison.
Currently is the Assistant Director of Finance for CUNY Graduate School.
In December of 2010, the then NY State Governor Patterson pardoned him, after supporters lobbied on Mr. Benitez’ behalf.**

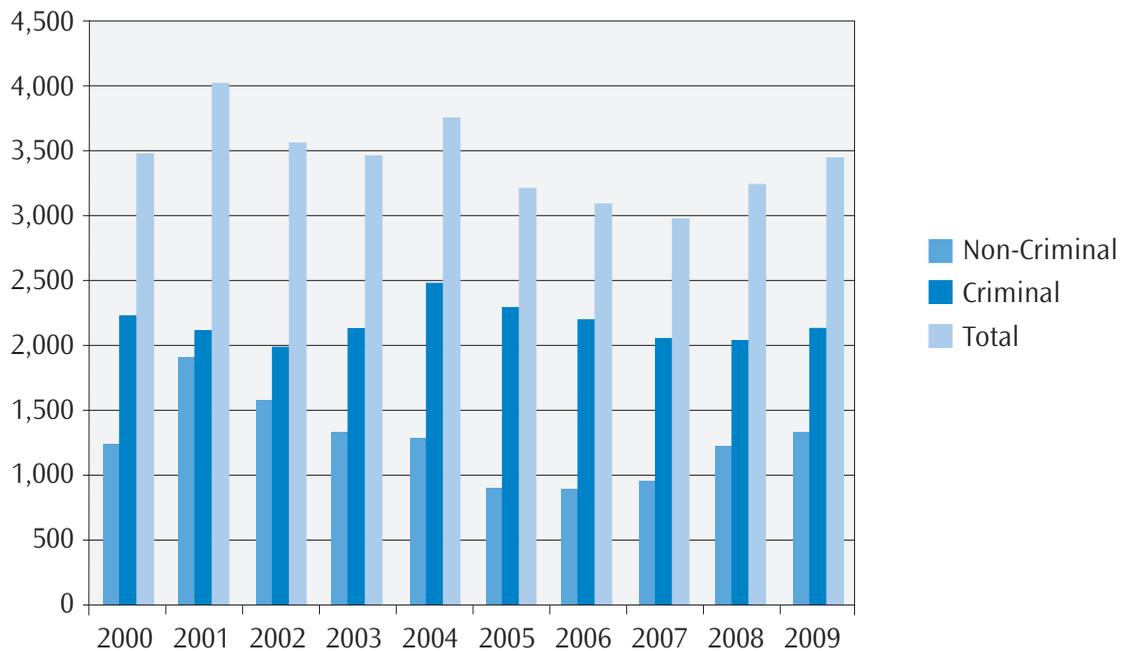
Publicity and media coverage prevented these individuals from being deported. But it would be fair to assume that these two cases would not have even entailed such a discussion prior to the 1996

Immigration Reforms. Their circumstances were exceptional enough to warrant a court hearing as it was customary, and although their stay was not guaranteed, at least it was an opportunity for legal permanent residents to bring their case to a judge under the waiver of deportation § 212(c), which some immigrant rights groups are advocating should be reinstated^{vii}.

The growing number of cases involving non-violent offenses has prompted some governments to take measures to represent their nationals facing deportation in cases that do not involve hard-hitting crimes such as murder, rape, or dangerous drugs crimes (manufacturing, distribution, sale and possession of illegal drugs).

In an effort to preclude the possible miscarriage of justice in some clear-cut cases of Dominican nationals facing deportation, the Dominican Consul in New York has followed suit, hiring the same law firm used by Mexican officials. This preventive measure taken by the Dominican Consul is an attempt to curb the number of Dominicans being expelled from the United States, which has shown an unrelenting increase. According to the Department of Homeland Security, in 2009, the Dominican Republic ranked fifth in leading countries of nationality of Aliens removed^{viii}.

The table below shows the number of Dominicans deported between 2001 and 2010 according to the figures published by the U.S. Department of Homeland Security in its Web page^{ix}. It illustrates the steady progression of US deportations of Dominican citizens.



Source: Department of Homeland Security, U.S. Government

It is worth mentioning that the overarching category “criminal” encompasses a wide-range of crimes, ranging from receiving probation for the possession of a small quantity of illegal substance thirty years ago to hard-line crimes committed today. In order to better understand the unmitigated application of this law as it is being implemented, a thorough classification and break down of the types of crimes as well as the date those were committed is needed.

One Offense – Multiple Punishments

The current process of deportation raises questions of double punishment, deportation being the ultimate punishment imposed on non-citizen immigrants for committing an offense. While most authorities handling their cases are fully aware that deportation awaits non-US citizen immigrants after going through the penal process, often lawful permanent residents (and sometimes even their legal representatives) are not cognizant of the details

of the new immigration laws. Many immigrants who break the law are unaware of the fact that their legal status does not preclude them from being deported regardless of the degree of their offenses (which can range from running a traffic light, driving without a license to hard-core crimes such as murder, robbery, rape).

After serving time in prison for their crimes, non-citizen immigrants are then handed over to immigration authorities to begin their deportation process. This may be construed as a form of double punishment. In cases involving non-violent, minor offenses such as shoplifting or driving without a U.S. driving license, deportation becomes a disproportionate sentence, raising the question that the person’s migratory status is the “real” crime for which s/he is being punished.

Dominican officials are beginning to express their apprehension about the process. The former Minister of the Interior and Police Ministry, Mr. Franklyn Almeida, stated that:

“Overall, a process of tracking and follow-up has not been created, and those individuals are being condemned twice by separating them from their family and habitus after they have served their sentences.”

Mr. Almeida’s comments refer particularly to the double punishment imposed by the U.S. government for deporting non-citizen immigrants after serving their sentence in prison^x. However, the fact remains that deportees are after all Dominican nationals, and what they face when they arrive in their country of origin is a system that socially excludes them.

The End of a Dream: The Beginning of a Nightmare

Deportation marks the end of a dream and the beginning of a nightmare. The deportation process can be a long one in some cases. Many immigrants awaiting deportation go through a lengthy process from the moment they are arrested until they are flown back to their country of origin.

When Dominican deportees arrive *home*, the reception is not a pleasant one. Upon arriving, they must go through a registration process, which can take up to 14 hours. This process sets the tone for what awaits them in their native country. In Dominican society, the negative public perception of deportees is widespread and may be fueled by a stigmatized representation across the board that goes from the government to popular culture^{ix}. For those concerned, the perception of abusive behavior on the part of government officials may represent the third punishment they endure.

Social Perception and Concept

In many societies, the word “deportee” refers to a person who was “expelled from the United States after having committed a crime^{xii}. In Dominican society, “deportado” has come to mean “drug dealer,” regardless of the reason(s) for which the person has been deported. This semantic association is in part based on the reality that many Dominican deportees get returned for drug-related crimes.

Generally, deportees feel *and* are seen as “failures.” For most Dominicans, migration is not an easy step to take. However, given the limited opportunities for decent jobs and education, the lack access to basic services, for many, leaving the country is the only way to transcend their social status. It is not important how one gets to the promised land—either by plane or even a *yola*, what matters to most is that one arrives to American soil, so that once there, one can enjoy the unlimited opportunities that nation affords immigrants to fulfill the dream. Getting a visa, or even better yet, getting a green card or lawful permanent resident status in the U. S. or Europe is an opportunity that should not be taken lightly, much less for granted. That is why the forceful return of repatriates is normally perceived as a well-deserved and *right* form of punishment for irresponsibly wasting an opportunity that many can only dream of. Communities and even relatives find it hard to forgive deportees.

“Crime increases because of Deportees”— Dismantling The Myth

The social rejection faced by deportees is based on the fact that they were after all criminals or committed an administrative infraction with regard to migration law.

The bulk of U.S. deportations of Dominican citizens are drug-related. The number of Dominicans who are deported on grounds of irregular migration status is proportionally small, as the majority of Dominicans residing in the United States are legal permanent residents^{xiii}.

However, the association between deportee and crime does not end with their expulsion from the United States. Many societies receiving significant numbers of deportees continue to uphold them as criminals, and authorities and society at large correlate crime waves with the apparent onslaught of deportees. Although deportations have coincided with a rise in crime in many societies, in many cases, statistics of deportees in prison are minimum, which contradicts the inexorable correlation between deportee and crime, so socially accepted.

In the case of the Dominican Republic, there is a co-incidence between the crime hike and the arrival of deportees. However, one could argue that rather than focusing on the people deported and their past criminal behavior, the correlation that needs to be studied is one between public safety and the socio-economic effect *deportations* have in families.

Many of the immigrants deported provided (and in some cases were the sole provider) for their relatives back in the Dominican Republic. Further research and statistics on the relationship between individuals involved in criminal activities and deportees are needed.

Statistics show that the majority of Dominican deportees do not relapse into criminal activities. According to the First Census of Dominican prisons, the number of inmates in Dominican prisons who are deportees is extremely low^{xiv}. Still, the common social perception of deportees is that they are responsible for the rise of crime.

“In many occasions it has been presented as a reality that the people deported have contributed substantially to the increase of crime in our country; however, ... we can highlight that of those surveyed, only 4.0% said they were deported for having committed offenses in another country. And even if we were to add the 6.0% that did not respond, the percentage of inmates who were deported would still be minimal.”

Source: *First Census of Dominican Prisons* (2006)

For Dominican deportees, their homecoming is marked by a punitive approach from the start. Soon after they return, they are first processed by the Immigration Department, and then by processed by the Police Department. Up until recently, deportees for criminal offenses were processed inside the *Palacio de la Policía* (Chief Police Station). Due to the increasing number of returnees, a department has been relocated to the Villa Consuelo neighborhood, where they are registered and are required to report weekly for the first six (6) months after their arrival.

This process of registration leads us to an important point—the permanent record with Dominican law enforcement or as it is known “*la ficha*” for all deportees who have committed a criminal offense in the U.S., even if he or she has never committed a crime on Dominican soil. Except for the small number of Dominican immigrants who face deportation for their irregular immigration status, the majority of Dominican deportees will have a *ficha* in their record, which in turn, complicates their re-insertion into society.

“No es ficha. Es control.”
“It’s Not a Record. It’s Control.”

In an interview with María Sued, the former director of the Program for Returnees of the Ministry of Interior and Police, she states that the criminal registry of deportees is not in essence a “criminal record,” but rather a form of “control.” This seems to be the prevalent interpretation and explanation among government officials who work with deportees. However, regardless of the accuracy of their reasoning, for Dominican deportees who genuinely seek reinsertion into society, the *ficha*

or “control” makes it very difficult, particularly for those who seek employment.

This is perhaps the most controversial and problematic issue Dominican deportees face. It is also a delicate issue when it comes to the rights of deportees. On the one hand, there is a fact—many (indeed, a large majority) are deported for committing crimes. On the other hand, they have committed their crimes in a different country, under different set of circumstances, far removed from the socio-economic environment they face in Dominican society^{xv}.

Former Version of the “Good Conduct” Letter:

“We hereby certify that in the Criminal Investigation System (SIC for its initials in Spanish) of this Attorney General’s Office, there is no information registered of legal cases [X], [ID #], before or after his/her deportation [...] for which we issue this Certification of NO CRIMINAL RECORDS.

ARTICLE 44 OF THE CONSTITUTION

Regarding the Right to Privacy, guarantees respect and forbids interference in private life, family life, place of residence and with the correspondence of individuals.

New Version of the “Good Conduct” Letter

“We hereby certify that in the Criminal Investigation System (SIC for its initials in Spanish) of this Attorney General’s Office, there is no information registered of legal cases [X], [ID #], for which we issue this Certification of NO CRIMINAL RECORDS.

When it comes to employment, the *ficha* has a direct effect on the person's prospect of being hired. Most businesses in the Dominican Republic require a background check from job applicants, which comes in a form of a letter of good conduct issued by the *Procuraduría de la Nación* (Attorney General's Office). For Dominican returnees who have not committed any crime in the DR, the letter of conduct would say so, but also indicate the person's condition as a deportee. Given the stigma and social perception of deportees, their law-abiding behavior in Dominican society is not enough to prove "good conduct". Thus one unlawful act in the U. S. that led to deportation weighs considerably more than years of good behavior in Dominican society.

That is why, according to Mr. Salvador Pérez, Director of the "Help for Deportees Program"^{xvi} the good conduct letter has been changed, and the controversial clause has been removed. The following are excerpts from two prototype letters of good conduct^{xvii}.

The Economic Effect

The economic effect of deportations is being felt at both ends—in the U.S. and in the DR. For a long time, remittances have been a significant constant of the Dominican nation's GDP (Gross Domestic Product). As the number of deportations soars, the income for many Dominican families plunges. And although the decline of remittances may not have a great impact on society as a whole; it nonetheless may have a huge consequence in poor households. For many Dominican families, money sent from abroad has been the only steady income. A study conducted by Andrea Gallina and Bridget Wooding, stated that a reduction of that source of income (even as little as \$US20) can have a devastating effect for poor families^{xviii}. The authors write that:

"In this sense, the reduction of remittances, even if it should not have a major impact on poverty in general (20% of poor households receive only 14% of the total remittances), its effect is still devastating for the survival of poor households in the country, since remittances constitute two-thirds of its income. This means that a reduction of \$US20 monthly for poor households that receive remittances would imply falling under the poverty line."

A Final Evaluation and Recommendations for Public Policies and Programs

On March 12, 2011, a newspaper article in *Hoy* noted that recent repatriations were taking place to Santo Domingo from many territories including Puerto Rico, Panama, Venezuela, Curaçao and Aruba; with other returnees expected back shortly from Greece and Cyprus as part of the wider panorama of involuntary return to the DR of Dominicans^{xix}. However, while these latter are counted by the dozen, the deportations from the U.S. are on a bigger scale and have persisted over time.

Deportations of Dominican citizens from the U. S. will continue. Although U.S. advocates of immigrants' rights continue to raise their voices against the rigid laws, deportations have not ceased and are unlikely to do so in the near future.

Local governments receiving significant numbers of deportees cannot continue to ignore the issue. In the Dominican Republic, the presence of deportees is having an effect in society in many realms—social, economic, and public safety.

The following are some recommendations as a result of the research conducted for the video-clip and this document.

Recommendation No. 1: THE DRAWING UP OF SOCIAL PROGRAMS.

Government entities that work with deportees need to draw up social programs in order to facilitate deportees' social reinsertion. The criminal approach has proven to be insufficient for the reinsertion into society of these Dominican nationals. These programs need to work more closely with their relatives and with community leaders in those neighborhoods where deportees reside..

Recommendation No. 2: MORE DIALOGUE, COLLABORATION AND INTERACTION WITH ORGANIZATIONS ABROAD.

Dominican organizations—both government and non-government—need to work more closely with organizations abroad, particularly those in New York City, who work with the families of deportees that remain in the U.S..

Recommendation No. 3: ESTABLISHMENT OF EDUCATIONAL, VOCATIONAL TRAINING PROGRAMS.

Institutions such as the Instituto Nacional de Formación Técnico Profesional—INFOTEP (National Technical Professional Training Institute) need to design educational, vocational training especially for deportees, many of whom are bilingual and could use their language skills, and contribute to different business sectors in Dominican society. .

Recommendation No. 4: MORE RELIABLE DATA AND STATISTICS.

There is urgent need for the collection of reliable data and statistics to better understand the profile of this population. Information such as gender, age, educational level, social status, place of origin in the Dominican Republic would be essential for a database to be used to draw up social and specific educational programs.

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We would also like to thank Dominican deportees who so generously shared their testimonies and personal experiences.

In New York City, we would like to thank the “The Northern Manhattan Coalition for Immigrants Rights (NMCIR)”.

Notes:

ⁱ This video-clip was produced and made by the Observatory of Caribbean Migrants (OBMICA) as part of an awareness-raising campaign of vulnerable groups launched by the World Bank. The video was first presented in a pre-screening on December 17, 2010 at the offices of the International Organization of Migration as part of the celebrations for the International Day of Immigrants. It is available on YouTube: <http://www.youtube.com/user/BancoMundialRD?blend=2&ob=5#p/a/u/0/PHBHxIs2ID8>; and on OBMICA's webpage, www.obmica.org

ⁱⁱ www.obmica.org

ⁱⁱⁱ A case in point is what is happening in Gwinnett County, a commuter destination northeast of Atlanta, where the Sheriff has enrolled the detention center in a program with Immigration and Custom Enforcement (ICE). The aim of this agreement is to remove “criminal aliens who pose a threat to public safety or a danger to the community.” However, people are being arrested and processed to be deported for even traffic violations such as driving

without a license, as it was the case for Felipa Leonor Valencia, a Mexican woman who while driving without a license was hit by another car. After living in Georgia for 17 years Valencia now faces deportation because of driving without a valid license is a violation in the state of Georgia. See article published in the New York Times. N.Y. Times, December 10, 2010.

^{iv} “In the Child’s Best Interest? The consequences of losing a lawful immigrant parent to deportation.” March 2010. This report analyzes data from the U.S. Department of Homeland Security, interviews with affected families and comparisons of U.S. and international human rights standards. The study was a joint project of the Immigration Law Clinic at the UC Davis School of Law and the International Human Rights Law Clinic, and the Chief Justice Earl Warren Institute on Race, Ethnicity and Diversity at the UC Berkeley School of Law. It is available on the Web at <http://www.law.ucdavis.edu/news/images/childsbestinterest.pdf>. Accessed November, 2010.

^v Before these reforms, a person facing deportation could have his or her case heard by a judge by applying for a waiver of deportation, known as “212(c) relief”. Although the hearing was discretionary, it was standard practice to warrant it so that a judge could weigh the offense causing deportation against the time the person had been living in the U.S. and contributions to US society

^{vi} These provisions of the law have already being challenged in US courts. The United States Supreme Court heard the cases of two immigrants, a Haitian and a Dominican, who faced deportations for having committed minor drug offenses prior to 1996. The Court refrained from looking at whether the retroactive application of the law by the Department of Justice (DOJ) was unconstitutional under the ex post facto clause (Art 1, § 9, C.3), and affirmed the Court of Appeal’s decision. However, the Court ruled that while Congress intended many of the law provisions to be applied retroactively, such was not the case for the provision that repealed

the waiver [212 (C)], and that petitioners could pursue their claim for a waiver. *Calcano-Martinez v. INS* and *INS v. St. Cyr* (00-1011) 533 U.S. 348 (2001). It is important to note, however, that Mr. Cyr had already been deported, which made the Court’s decision practically irrelevant for his case.

^{vii} In a study, The Northern Manhattan Coalition for Immigrants Rights (NMCIR) advocates and recommends reinstating Section 212(c) of the Immigration and Naturalization Act, “which allowed for discretionary relief from removal for immigrants with criminal convictions.” *“Deportado, Dominicano, y Humano: The Realities of Dominican Deportations and Related Policy Recommendations.”* 2010.

^{viii} Source: U.S. Department of Homeland Security, Enforce Alien Removal Module (EARM), reported as of February 2010; and Enforcement Case Tracking System (ENFORCE), reported as of December 2009.

^{ix} <http://www.dhs.gov/index.shtm>

^x From Mr. Almeida’s presentation at the “2nd Conference of Ministers Responsible for Public Safety in the America.” November 4, 2009.

^{xi} The negative representation of deportees is widespread in Dominican society, which reinforces the already collective resentment for this group. A cartoon published in the newspaper *Hoy* on May 7, 2010 illustrates society’s sentiment for deportees. <http://www.hoy.com.do/eloy-en-el-hoy-ver?id=2764>

^{xii} For instance, Haitian deportees are defined in similar way as indicated by the National Consultation Panel on the Issue of Deportees in the report *“Proposals for a National Commitment Policy of the Issue of Deportees.”* Centre Oecuménique des Droits Humains (CEDH). October, 2008.

^{xiii} NMCIR, *“Deportado, Dominicano, y Humano: The Realities of Dominican Deportations and Related Policy Recommendations.”* 2010.

^{xiv} “Informe de Resultados Primer Censo Nacional Penitenciario.” [*Results of the First National Penitentiary Census Report*]. Santo Domingo, Dominican Republic. August 2006.

^{xv} During the research phase for the video-clip, a Dominican deportee expressed that although he sold drugs in NYC, he would not do it in Santo Domingo for “cheles” (pennies). He noted that while being a small-time drug dealer in a corner in Washington Heights in New York City, he could still fulfill his immigrant dream of buying a house in the DR and send money back here, selling drugs in the “barrios” of Santo Domingo would only bring him “troubles.”

^{xvi} This program is a government initiative out of the Attorney General’s Office. It is the result of a proposal made by the director, Mr. Salvador Pérez and it is still in its planning stage.

^{xvii} Thanks to Mr. Pérez for providing copies of prototype letters of good conduct.

^{xviii} Gallina, Andrea and Bridget Wooding. “Economía y Migraciones en Tiempos de Crisis: Migration Policy Brief No. 1.” Observatorio Migrantes del Caribe. Santo Domingo, Dominican Republic. November 2009.

^{xix} <http://www.hoy.com.do/el-pais/2011/3/12/366463/Las-repatriaciones-hacia-el-pais-se-han-intensificado>. Visited on March 12, 2011.

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