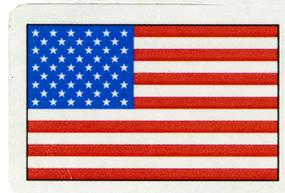


POST-DEPORTATION HUMAN RIGHTS PROJECT

ANNUAL REPORT | 2010-2011



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Cover Image: drawing by nine-year-old girl made during PDHRP workshop

English to Spanish Translation: Karina Dorantes

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about the POST-DEPORTATION HUMAN RIGHTS PROJECT

Longtime legal residents can now be deported from the United States on the basis of relatively minor criminal convictions **without any opportunity to present evidence of their family ties, employment history or rehabilitation.** Their family members must cope with the devastating loss of a spouse, parent, or child, and often with the financial loss of a breadwinner as well.

The Post-Deportation Human Rights Project offers a novel and multi-tiered approach to the problem of unlawful and harsh deportations from the United States.

Through direct representation, research, legal and policy analysis, training programs, as well as outreach to lawyers, community groups, and policy-makers, its ultimate goal is to reintroduce legal predictability, proportionality, compassion, and respect for family unity into the deportation laws and policies of the United States.

The Post-Deportation Human Rights Project is part of Boston College's Center for Human Rights & International Justice.

DEAR FRIENDS,

The Post-Deportation Human Rights Project (PDHRP) has continued to work to advance its vision over the past year. Our work this year has included: providing *pro bono* legal support and direct legal representation throughout the United States, developing ties around the world with government agencies that work with deportees as well as NGOs, leading community based participatory and action research, and collaborating with community organizations both in New England and in the Southern Quiché region of Guatemala.

There were several PDHRP participatory and action research initiatives here in the United States and in Guatemala during the past year. Staff and students worked with community leaders from the Organización Maya K'iche' and English for Action in developing participatory and community-driven *Know Your Rights* workshops for members served by the organizations in New Bedford, Massachusetts and Providence, Rhode Island. Mr. Manuel Ruiz Reyes from Organización Maya K'iche' and Boston College theology student César Boc reflect on best practices and lessons learned from these collaborations as well as the work that lies ahead (see article on page 4). Our work with the newly formed *Migration and Human Rights Project* in Zacualpa, Guatemala, expanded as the project devised new ways to work with local families whose relatives have been detained by ICE or deported from the United States. Such work has involved much consultation with the BC-based PDHRP legal staff (see article on page 9). The Zacualpa project hosted several Boston College students who facilitated educational workshops with local youth on issues related to migration and human rights. Professor Lykes collaborated with the Zacualpa staff and a team of Guatemalan trained researchers in the development of a community survey to better understand the push factors contributing to out-migration. The data also provides a more accurate picture of who leaves – and who stays – and who is forcibly returned. Community presentations of findings from the survey in one of Zacualpa's more than 30 communities have been presented to participants for discussion and further planning.

Finally, Yliana Johansen spent the spring semester of her final year at BC Law School working in Guatemala. Under the rubric of Professor Kanstroom's new International Human Rights Semester in Practice program, Ms. Johansen volunteered with a Guatemala-based law practice, Women Transforming the World, and worked in Zacualpa where she collaborated with local staff to organize a Migrants' Day in the town's main square, introduced the *Migration*

and Human Rights Project to a wider community, and answered attendees' questions.

These initiatives build on knowledge generated through previous in-depth interviews and respond to some of the uncertainties expressed by those whose family members in the United States had experienced recent economic downturns, contributing further to the precariousness of life in rural Guatemala. Narratives and drawings generated through the educational work with youth have enhanced our understanding of the benefits of remittances as well as the strains experienced by transnational families as U.S. deportation policies steer away from home and workplace raids towards intensifying control of urban communities through such problematic initiatives as the inaptly titled Secure Communities.

In February, Professor Kanstroom traveled to the Azores, where he met with local government officials working on the reintegration of individuals being deported from the United States. He also visited the field placement of law student Lisa André, who was working on these issues during her placement through the International Human Rights Semester in Practice. Building on these relationships, PDHRP's attorney Ms. Chicco will be presenting at a workshop at the International Metropolis Conference on migration in the Azores this coming September.

Ms. Jessica Chicco, who joined the PDHRP as Supervising Attorney and Fellow last summer, and Professor Kanstroom continue to review federal court decisions on an issue that is at the heart of the Project's work – an individual's ability to challenge his or her deportation case through a "motion to reopen" after deportation (see article on page 6). The legal team at PDHRP was fortunate enough to host two Fellows this year: Jennifer Barrow, a 2010 graduate of Boston College Law School, and Christy Rodriguez, a 2008 graduate of Boston College Law School. We thank them both – as well as countless students, volunteers, and community collaborators – for their work and contributions throughout the year! A list of publications from staff and students affiliated with PDHRP is available on our web site, www.bc.edu/postdeportation.

We look forward to our continuing collaborations with you and with our many other supporters.

Sincerely,

M. Brinton Lykes

Daniel Kanstroom

ORGANIZACIÓN MAYA K'ICHE' AND THE POST-DEPORTATION HUMAN RIGHTS PROJECT

by Manuel Ruiz Reyes and César Boc

The Organización Maya K'iche' (OMK) was founded in 1996 by a group of Mayan indigenous people from Guatemala in order to share their Guatemalan culture in the New Bedford area. It was established to help the immigrant community of New Bedford, Massachusetts. The organization provides legal resources for immigrants and services for the community in addition to preparing community leaders. As time went on, we began discussing not only culture, but also the needs of the community. The community grew, expanding beyond the Guatemalan community, to include the Salvadorian, Honduran, and Mexican communities—each day we saw a different problem, in the workplace, or with the police, or with immigration authorities. For this reason, OMK began crafting educational workshops for the community in order to enable its members to assert their human rights given that they faced racism, especially in the workplace, on a daily basis.

Thus, we have collaborated with several non-profit organizations. Among these, our most close association in the past three years has been with Boston College and the Post-Deportation Human Rights Project (PDHRP). This relationship has allowed us to have access to legal and professional resources, which has been important to our mission, especially since the Latin American community suffers significant problems because immigration laws are at times very unjust in nature. Through our work with Boston College and with the other immigrant organizations, English for Action (EFA) and Centro Presente, we created participatory “Know Your Rights” workshops. In our first workshop with EFA, for example, we used the pedagogy of Augusto Boal’s “Theater of the Oppressed” to involve the audience in participatory action while learning about their rights. During the 2010-2011 year we participated in three workshops, two in Providence and one in New Bedford.

One of the workshops was composed of three parts: in the first workshop, the members of the organization facilitating the workshop take on roles and present a scene in which an individual is driving without a license and is stopped by the police. Then, this same scene is acted out, but along the way the rights

of the immigrants are explained. In the third scene, members of the audience are asked to participate by taking the place of the original actors. Through this process of multiplying the scenes, and because of its active participatory component, participants were able to gain better understanding of their rights. After these dramatic presentations, the workshop participants gathered in small groups to discuss what had taken place and reflect upon their personal and familial experiences. In the final workshop of 2011, the small groups discussed and filled out worksheets to assist participants in exploring the rights of children when their parents are detained or deported and completed an “emergency plan” to guide them in case of this eventuality. These practical, hands-on experiences better equipped migrants to respond to the threats and realities of detention and deportation.

In a separate workshop with a smaller group, we were also able to carry out another methodological approach in which people had more access to lawyers. Participants in this workshop were able to ask concrete and direct questions to the experts that collaborate with the PDHRP at Boston College.

Our collaboration with PDHRP has been instrumental in helping us to form leaders within our communities. We have learned much about the law, our rights, and about how to organize ourselves in our struggle to lead a life worthy of a human being. But, above all, we have learned to seek our own solutions to our problems. For example, we have forged a relationship with the New Bedford Police and have succeeded in advancing a more compassionate policy in the police’s dealings with the Latino community.

Finally, at the same time, OMK has increased its visibility in other cities and states such as Tennessee, Los Angeles, Arizona, Rhode Island, Nebraska, Chicago, and Atlanta, forming leaders in diverse communities to assist people in reacting appropriately to situations of racism or discrimination. We understand that it is not easy to be undocumented in this country, but we also hope that with these initiatives we will be able to let the people of the United States know that immigrants have human dignity, and that they can contribute substantially to this country.

PHOTOS FEATURED:

Images from *Know Your Rights* workshops conducted in Nov. 2010 and Mar. 2011 (organized by EFA) and Feb. 2011 (organized by OMK), and drawing by a child participating in children’s workshop.



THE RIGHT TO CHALLENGE WRONGFUL DEPORTATIONS AFTER HAVING BEEN DEPORTED

by Daniel Kanstroom and Jessica Chicco

The grim mechanism of deportation has shifted much of its focus from workplace raids, but the numbers continue to be staggering. The Obama Administration maintained historic highs in 2010 with some 400,000 deportations. If we add to that the number of those compelled to leave by other coercive mechanisms such as so-called “voluntary departures” the past decade has now witnessed the forced removal of some 12 million non-citizens. The effects on their families, loved ones and communities has been devastating.

One of the saddest spectacles of this year was the inability of the Congress and the President to pass comprehensive, or even piecemeal, immigration reform. The DREAM Act, which would have provided a path to citizenship for the most innocent and acculturated undocumented youth-- those pursuing higher education or military service-- failed in Congress. Though it has broad support, its fate remains uncertain. Meanwhile, a series of harsh, mean-spirited state initiatives continue to be aggressively developed by those who bemoan the federal government’s lack of complete border control.

Unfortunately, the Board of Immigration Appeals is holding to its view that deportees may not seek to reopen their immigration cases once they are outside of the U.S. The Board simply claims to lack authority to review such cases. This “post-departure bar” means that even individuals who were deported based on legal theories that the Supreme Court has overturned cannot challenge their wrongful deportation. We estimate that thousands of long-term legal residents have been wrongly deported,

and denied the opportunity to ask courts to consider their family ties, rehabilitation, and other factors.

On the more positive side, though, there has been considerable progress over the past year in the federal courts on this issue. In the past year, four courts of appeals have invalidated the regulation, finding that the agency cannot simply refuse to revisit immigration cases simply because the individual has been deported or is no longer physically present in the United States. This brings the number of courts of appeals that have invalidated the “post-departure bar” to six. Two courts have upheld the regulation, and the issue is currently pending in at least one more court. Thus far, the Supreme Court has declined to decide the question. Given the high stakes and the developing split between Courts of Appeals, it is time for the Supreme Court to take on the issue. We are actively looking for appropriate cases.

The legal team of the Post-Deportation Human Rights Project has continued to work energetically on this and related issues. In December 2010, we published an updated version of the Practice Advisory on the post-departure legal issue, and we provide updates on cases throughout the year. In addition, the Project is actively involved, with the support of *pro bono* attorneys, in litigation before the Board of Immigration Appeals and the Fifth Circuit Court of Appeals. We have also achieved support from the American Bar Association, which passed a resolution calling for the elimination of the post-departure bar in early August.

PHOTOS FEATURED:

BC Law School graduate Lisa André during her placement in the Azores; work with the community in Zacualpa, Guatemala; and PDHRP client who returned legally to the US after deportation, with his US-citizen wife and youngest child.



SPOTLIGHT ON COLLABORATIONS

The Project has partnered with law firms to provide pro bono services to individuals seeking to return to the United States after their deportation. A team of attorneys from *Nixon Peabody LLP* took the lead in filing an appeal in the Fifth Circuit Court of Appeals, litigating the post-departure bar on motions to reopen. Another team of attorneys at *Ropes & Gray* is challenging the application of the post-departure bar at the Board of Immigration Appeals.

This spring, the Project had a unique opportunity to collaborate with Boston College Law School’s International Human Rights Semester in Practice program. Third year student Lisa André worked at the Regional Department for the Communities in the Azores, which reintegrates deportees by offering temporary housing, job placement, cultural education and other social services. The Project worked closely with Lisa in developing intake procedures and assessing deportees’ immigration cases. With the support of PDHRP, Lisa identified several individuals, most often former long-term permanent residents, who may have avenues for return to the United States and PDHRP is following up with them.

PDHRP also planned two legal trainings this year. The training in the fall, hosted by Nixon Peabody LLP, covered possible ways for deportees to return to the United States on a new immigrant visa. The training in the spring, sponsored by the Boston Bar Association, brought together experienced immigration attorneys to provide an overview of post-deportation law, including the ways to obtain immigrant and nonimmigrant visas after deportation, and the obstacles to post-departure motions to reopen.



SPOTLIGHT ON PDHRP ALUMNUS

Yliana Johansen, member of the Post-Deportation Human Rights Project and a 2011 graduate of Boston College Law School, was awarded an Equal Justice Works Fellowship sponsored by Microsoft Corp. to work at Kids In Need of Defense (KIND) in Los Angeles, California. KIND's mission is to provide pro bono legal representation to unaccompanied immigrant children in the U.S. Yliana's project at KIND will focus on immigrant minors in Los Angeles and Orange County who are applying for "special immigrant juvenile status" – a status that allows some immigrant youth to obtain permanent residency. She will be partnering with University of California Irvine (UCI) Law School's pro bono programs to engage UCI law students in working with youth who have been placed in immigration deportation proceedings in immigration, family and juvenile court. During her second and third years of law school, Yliana worked closely with the Post-Deportation Human Rights Project, collaborating with community-based organizations and leading efforts to organize local *Know Your Rights* workshops. This past spring, Yliana participated in BC Law School's Human Rights Semester in Practice and volunteered with a Guatemala-based law practice, Women Transforming the World, and worked in Zacualpa where she collaborated with local staff of the *Migration and Human Rights Project*.

Congratulations, Yliana!



INITIATIVES WITH THE MIGRATION AND HUMAN RIGHTS PROJECT; ZACUALPA, GUATEMALA

by Rachel Hershberg, Yliana Johansen and M. Brinton Lykes

Despite an increasingly difficult political context, with ongoing structural impunity and violence as well as increasingly fractured communities as Guatemala heads into national elections, the *Migration and Human Rights Project* (MHRP) continued its work with local families whose relatives have been detained in or deported from the United States, in collaboration with the Boston College-based PDHRP legal staff. In addition, MHRP coordinated multiple initiatives in collaboration with BC students and faculty.

Specifically, in June 2010, undergraduate Irza Torres, PhD students Cristina Hunter and Rachel Hershberg, and BC faculty member M. Brinton Lykes joined local staff member José Daniel Chich Gonzalez to resume collaborative initiatives with the MHRP based in the Convent of the Holy Spirit Parish in Guatemala. In March 2011, Rachel returned to Guatemala to continue her ongoing dissertation project with transnational families. She was joined by Yliana Johansen, a 2011 BC Law School graduate, who spent her final semester of law school volunteering in Guatemala as part of BC Law's new Human Rights Semester in Practice program. In addition, Megan Thomas, a long-time researcher, activist and NGO coordinator in Guatemala, joined the MHRP as a consultant. She has actively collaborated in local activities over the past year, with a particular focus on planning and implementing a census with local villagers. Below, and in the adjacent article (see *Censo El Tablón-El Cerrito-La Vega II*, p. 11) we highlight some of these initiatives developed with and for migrants and their families.

The June team continued in-depth interviews with Zacualpan transnational families towards better understanding their experiences during Guatemala's civil war and "push factors" that contributed to decisions to migrate to the United States. Rachel's dissertation research exploring family relationships within transnational mixed status families in Guatemala and the U.S. has grown out of some of this work. She initiated active engagement with families for this work during June. In addition the team and MHRP staff collaborated with teachers at the Fe y Alegria School to design creative workshops for and with youth who have at least one parent living in the U.S. The workshops were designed to create spaces in which youth "left behind" might speak about these experiences in their own voices. Middle school boys and girls represented their knowledge of and feelings about the U.S. through creative

techniques including individual drawings of family "here" and "there", Gianni Rodari's "inventing stories" technique, and the participatory theater techniques of Augusto Boal.

Yliana Johansen, whose work with the PDHRP since the Fall of 2009 has primarily focused on the participatory and community-driven *Know Your Rights* workshops (see article, p. 4; and spotlight, p. 8), arrived in Guatemala in late January and began her semester volunteering for *Mujeres Transformando El Mundo* (MTM), translated as "Women Transforming the World", an organization that seeks to develop mechanisms for social justice through activism and the litigation of cases of discrimination and violence against women. Dividing her time between MTM and the MHRP, Yliana visited Zacualpa for the first time with Rachel in March. Her arrival coincided with the addition of a new staff member, Victor Manuel Suar Ramos who joined José Daniel Chich Gonzalez as co-coordinator of the local work. Yliana and Rachel scheduled meetings with the director of the Fe y Alegria School to follow up on previous collaborative work there. In response to requests for resources to educate local youth, Yliana joined project staff to develop and carry out educational workshops. Approximately 200 teens from three schools participated in discussions about child migrants, the many risks associated with migration, and the human rights organizations that support migrants throughout the U.S., Mexico, and Guatemala. Similar workshops were coordinated with teens and adults at the Church of the Holy Spirit.

On May 1, 2011, the Project staff, Yliana and the Franciscan sisters from the local convent, organized and successfully carried out an *Exposition* to promote the MHRP services and disseminate information on its work in Zacualpa and issues facing migrants in the U.S. and Mexico. Displays included art work by local teenagers representing migrants' experiences, information on the risks of migrating through Mexico and the Arizona desert, the risks of human trafficking, a map of organizations and shelters that provide services to migrants in Mesoamerica, and other materials promoting the work of BC's Center for Human Rights and International Justice. The Expo extended the reach of MHRP to larger numbers while promoting and clarifying the types of services available to families of migrants in the U.S. The evening ended with the screening of a documentary focused on the experiences of child migrants en route to the U.S. from Central America.

PHOTOS FEATURED:

Photos from PDHRP's work with the community in Zacualpa, Guatemala, led by BC Law School graduate Yliana Johansen.



PHOTOS FEATURED:
Photos of Migration and Human Rights Project team members at work during the census and community events.

CENSUS EL TABLÓN-EL CERRITO-LA VEGA II, ZACUALPA, QUICHE: SYSTEMIZATION OF THE PROCESS

by Megan Thomas and Ana María Álvarez López

Since mid-2010, the *Migration and Human Rights Project* has been visiting a community in the municipality of Zacualpa, Quiche, also known as “El Tablón.” Both the Boston College team and the team of Zacualpa Parish have been interested in learning more about the population in order to better focus on the families who have relatives in the United States.

Therefore, we decided to conduct a census of the population and migration within the community. We included aspects of the population that spanned education, housing and access to services in order to generate useful information for the community in the area on development priorities and in its dealings with the municipal government.

The migratory aspect of the census allowed us to create a profile of migration in the community and other features such as the profile of the migrant, attempts made to reach the U.S., residence and occupation in the U.S., and the issue of debt. Furthermore, it allowed us to locate migrant households headed by women or grandparents, or who are struggling with serious debt problems, so that the project can provide more targeted support.

The first step was to develop a map of the community in order to locate all the homes that would be surveyed. The project incorporated a group of Franciscan Sisters from San Antonio in the Zacualpa Parish, and a small survey team made up of young men and women who were trained in approaching families and carrying out the survey.

The censuses revealed a total population of 915 people in 137 families, all of who spoke K’iche’ as their native language and were of K’iche’ ethnicity. Almost 66% of heads of households had no formal education at all, and the remaining 34% had only completed some degree of primary education, suggesting that many adults can barely sign their name. The majority of children in this generation tend to attend school and the girls appear to

have similar access to education as the boys. Nevertheless, very few reach the US equivalent of junior high school (18 youth) or senior high school (2 youth) level of education.

Completing the picture of poverty in the community, most of the population lives in houses consisting of only one room (23%) or two rooms (45%), while only three families have homes of 6 or more rooms. Seventy percent of the houses are made from mud and 60% have a dirt floor. Only 43% of households have running water and about 80% have no toilet available or have only a latrine. In addition, 97% of people cook with wood which is commercially obtained from sites that are becoming increasingly more distant due to the deforestation prevailing in the area.

As for migration, we found that almost 20% of the population who is over 15 years old resides in the United States, with a concentration in Providence, Rhode Island (23.7%), Massachusetts (20%) and Kentucky (8.4%). About 10% of surveyed individuals knew that their family members were in the United States but did not know where. About 71% of migrants are between the ages of 15 and 30, meaning that it is a younger population that begins its productive life through migration and seeking work that lies beyond their community and country.

The migration is relatively recent, as the majority of immigrants – 70% – have departed since 2003. Furthermore, only 5 of the 118 migrants are legally in the U.S., and approximately 15% have been arrested, in large part by immigration authorities.

This information was shared with the community through a public presentation, and a copy of the material was given to the community leaders. In addition, a bulletin board with the information was placed on the walls of the local school.



SPOTLIGHT ON PARTICIPATORY AND ACTION RESEARCH

Rachel Hershberg, member of the Post-Deportation Human Rights Project and PhD student in Applied Developmental and Educational Psychology, was awarded a \$20,000 grant by the American Association of University Women to support the completion of her dissertation research which has emerged in the context of the transnational participatory and action research of the PDHRP. Her dissertation explores the maintenance and rupture of ties in three generations of 10 New England and Guatemala-based transnational Mayan families currently threatened by detention and deportation. It is entitled “Transnational Families in the 21st Century: A Grounded Theory Analysis of Familial Relationships under Threat of Immigration and Deportation Systems”. This highly competitive national grant evaluates candidates “on the basis of scholarly excellence, the quality and originality of project design, and active commitment to helping women and girls through service in their communities, professions, or fields of research”. During the previous four years, Rachel has worked with M. Brinton Lykes, Professor of Community-Cultural Psychology and Associate Director of the CHRIJ, as a Graduate Research Assistant and has been supported by the Center’s Post-Deportation Human Rights Project. She has also completed the Certificate for Human Rights and International Justice at Boston College.

Many congratulations to Rachel!



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THANK YOU

A special thank you to **Jennifer Barrow** and **Christy Rodriguez** who served as Fellows during the 2010-2011 academic year. We wish them well in their next endeavors!

A special thanks also to the many students who worked with PDHRP this year. **Lisa André** (Boston College Law School, Class of 2011); **Anna Deal** (Boston College Law School, Class of 2013); **Karina Dorantes** (Lynch School of Education, Class of 2013); **Yliana Johansen** (Boston College Law School, Class of 2011); and **Kate Watkins** (Northeastern University School of Law, Class of 2011) worked with the legal team. **Ana Alvarez-Keese** (Lynch Graduate School of Education, Class of 2012); **Kaitlin Black** (Lynch Graduate School of Education, Class of 2012); **Cesar Boc** (School of Theology and Ministry, Class of 2013); **Rachel Hershberg** (Lynch Graduate School of Education, 4th year doctoral student); **Cristina Hunter** (Lynch Graduate School of Education, 2nd year doctoral student); and **Erin McDonald** (Lynch Graduate School of Education, 1st year doctoral student) worked with the participatory action research team.

STAFF ANNOUNCEMENTS

We are pleased to welcome the following new staff to the Post-Deportation Human Rights Project.

Larry Sandigo, Fellow

Mr. Larry Sandigo received his J.D. from Boston College Law School in 2011, and his B.A. from Baylor University in 2008. While a student attorney with the immigration clinic at Boston College, Larry interviewed asylum seekers, gave legal rights presentations at detention centers, and represented detainees in their immigration proceedings. Larry has also volunteered with Catholic Charities in Miami.

Law students **Alexandra Bonanzoli** (Northeastern University School of Law, Class of 2013) and **Simon Craven** (Boston College Law School, Class of 2012) will be joining us for the fall semester.

INSPIRED TO MAKE A TAX-DEDUCTIBLE DONATION TO THE POST-DEPORTATION HUMAN RIGHTS PROJECT?

We welcome your interest and support in every form.

Make a donation

All donations are tax-deductible and greatly appreciated. Please send checks to the address above, made payable to Boston College and with CHRIJ in the memo line.

Take on a pro bono case or serve as a legal resource

Contact us directly with your interest in

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- *Consular Processing/NIV Waivers, or*
- *Post-Conviction Relief.*

Bring a post-removal case to us for discussion

Contact us directly with the details at the numbers, email or website on the inside front cover.