

UC Merced

UC Merced Previously Published Works

Title

Triple Jeopardy for Dominican Deportees

Permalink

<https://escholarship.org/uc/item/0pd343t7>

Journal

NACLA Report on the Americas, 50(2)

ISSN

1071-4839

Authors

Golash-Boza, Tanya
Navarro, Yajaira Ceciliano

Publication Date

2018-04-03

DOI

10.1080/10714839.2018.1479485

Peer reviewed

Tanya Golash-Boza
Yajaira Ceciliano Navarro

Triple Jeopardy for Dominican Deportees

Lede: Unlike U.S. citizens, deported immigrants often face multiple layers of punishment for committing a single crime. But Dominican nationals face another hurdle post-deportation: discrimination from the government and in their home communities.

United States criminal law protects citizens from double jeopardy. That is, once you have been tried for a crime and found guilty or innocent, you cannot be tried again on the same charges under the same factual conditions. But this does not apply to immigration: if you are not a U.S. citizen and are convicted of a crime, you must then go to immigration court where an immigration judge will determine if your conviction renders you deportable. This is because under U.S. law, deportation is technically not punishment, but an administrative procedure, so a non-citizen can be punished for a crime through the criminal justice system and then face the additional consequence of deportation.

Non-citizens deported from the United States fall under two categories: criminal or non-criminal deportees. The Obama administration made a purposeful shift in deportation policy toward deporting people with criminal records—“felons, not families,” the president was fond of saying. The share of people deported on criminal grounds increased from 30 to nearly 50 percent between 2008 and 2011. This policy ignored the fact that many felons have families, too, and that many have lived for years in the United States. Deporting more people on criminal grounds has the side effect of deporting increasing numbers of people who have strong ties to the United States.

Dominican nationals who are deported from the United States on criminal grounds go on to face even more punishments. First, they are punished for the crime they commit. Then, they are deported from the country where their loved ones live and where they made their lives. They are then criminalized in the Dominican Republic and blocked from labor market opportunities due to their status as “criminal deportees.” These multiple punishments are often the consequence of a single decision that will forever change a deportee’s life.

What makes the Dominican Republic unique is both the high proportion of deportees with criminal records and how the Dominican government and Dominican society responds to criminal deportees. No other country has as extensive a system of criminalization and surveillance of deportees like the Dominican Republic. Other countries that receive large numbers of

deportees, such as Guatemala, do have procedures in place for receiving deportees, mostly to check and see if a deported person has a warrant for arrest in Guatemala.

Deportation to the D.R. in Context

The Dominican Republic has one of the highest rates of deportation from the United States due to criminal convictions. According to data from the Office of Immigration Statistics, in 2016, 75% of Dominicans were deported on criminal grounds, compared to an average of 40% for all deportees. As researcher Nina Siulc reports in her dissertation, Dominicans are also the most likely to be deported on drug possession and distribution charges. Overall, about a quarter of all criminal deportees are deported on drug charges, as compared to [80%](#) of Dominican deportees.

Beyond criminal deportees, Dominican legal permanent residents are five times more likely to be deported than legal permanent residents from other countries, as co-author Tanya Golash-Boza found in her book *Deported*. Though legal permanent residents have attained legal status in the United States and are granted the right to stay in this country indefinitely, a criminal conviction renders them vulnerable to deportation. Dominicans are more likely than immigrants from other countries to be deported as legal permanent residents—though as of 2005, they made less than 4% of the 13 million legal permanent residents in the United States, they comprised a fifth of all legal permanent resident deportees.

The majority of deportees from the United States are from Mexico, where hundreds of thousands of deportees are sent each year, followed by Guatemala, El Salvador, and Honduras, where annual deportations run in the tens of thousands [see table below]. But a disproportionately high number are deported to the Dominican Republic. In 2016, for example, 1,949 people were deported to the Dominican Republic, earning it the sixth highest spot on the list of over 150 countries to which the United States sent deportees. The number of deportees sent back to the Dominican Republic in the last few years has decreased, alongside a general decline in deportations from the United States more broadly. Between 2002 and 2017, [44,683](#) people were deported to the Dominican Republic.

Persons Removed from the United States in 2016, by country of origin Data from: Office of Immigration Statistics				
Country of Origin	Removals	Removals on criminal grounds	Removals on non-criminal grounds	Percent criminal
Total	340,056	135,570	204,486	40%

Mexico	245,306	102,349	142,957	42%
Guatemala	33,729	10,545	23,184	31%
Honduras	21,891	8,535	13,356	39%
El Salvador	20,127	6,681	13,446	33%
Colombia	2,052	746	1,306	36%
Dominican Republic	1,949	1,461	488	75%

Although deportations have received a great deal of attention in the media since the election of President Trump in 2016, deportations—officially called “removals”—actually peaked in 2013, with 433,034 deportations from the United States.

Deportations to the Dominican Republic began to increase in significant numbers in 1996 after the passage of the Antiterrorism and Effective Death Penalty Act (AEDPA) and the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA). These laws meant that any non-citizen, including green-card holders, with any criminal conviction, no matter how minor, could face mandatory deportation with no possibility for appeal and no opportunity to ever return to the United States legally.

Crime and Punishment(s)

That’s what happened to Joselo, who was deported to the Dominican Republic in 2000 at age 51. Joselo lived in the U.S. for 36 years, where he raised a family and served in the U.S. military. “My family in the United States is waiting for me,” he said. “I will do whatever I can to go back to them.” Joselo was deported after serving two years for a crack cocaine conviction. Although he dreams of returning, the only way for Joselo to be able to return would be if he could prove he is a U.S. citizen—the only immigration status that renders a person undeportable.

Joselo came to New York City, where his father lived as a U.S. citizen, in 1965 at the age of 15, allowing him to enter the United States as a legal permanent resident. This was the same year that thousands of Dominicans fled the Dominican Republic after U.S. troops arrived and invaded the island to ensure that the recently-deposed leftist President Juan Bosch would not return to power, causing widespread instability. Upon arrival, Joselo was issued a green card with no expiration date, which gave him access to the same rights as a U.S. citizen, except for the right to vote. But Joselo had a difficult reunion with his abusive father and joined the U.S. Army in 1969 at age 18. He spent two years on active duty, and two more years on reserve, where he served stateside in South Carolina and New Mexico, working as a cook on army bases in the midst of the Vietnam War.

When Joselo returned to New York, he found work in a plastic factory in Brooklyn, married a Puerto Rican woman, and had four children. But the factory shut down permanently in 1988, amid a string of closures due to global competition for manufactured goods and outsourcing. Once unemployed, Joselo struggled with post-traumatic stress disorder and depression, and used illegal drugs to cope. In 1989, he was charged with a \$10 sale of crack cocaine. As it was his first conviction, Joselo was not sentenced to prison.

When he was released, Joselo turned to the U.S. Department of Veteran's Affairs (VA) for help, who provide disability payments to veterans who incurred or aggravated a disability during active military service. After an assessment of his mental health, the VA determined that Joselo was eligible, and have given him \$983 a month ever since.

Yet Joselo continued to face difficulties finding a steady job, and in 1998 was once again charged for the same low-level crack cocaine sale charge. This time, he was sentenced to two and a half years in prison. When he finished his sentence, Joselo, a legal permanent resident, was deported to the Dominican Republic. He says he only realized the tenuous nature of his legal status when he learned he would be deported. "I thought that since I had been in the U.S. Army that I was a citizen...They told me that military service makes you a citizen automatically." In addition, being a veteran does not offer further protection for immigrants than any other non-citizen in the country—the U.S. does not keep records on the number of veterans who have been deported.

Had Joselo received accurate information about his immigration status, he could have gone through the naturalization process at some point—a complex process that involves filling out an application, taking a test on the U.S. Constitution as well as an English test, swearing an oath, and paying several hundred dollars. Today, the filing fee for an N-400, an Application for Naturalization, is \$725, plus lawyer fees that some applicants accrue.

When Joselo arrived as a deportee in the Dominican Republic in 2000, he had no family there to receive him. His wife traveled to Santo Domingo to help him find a hotel. But she could not stay long. He thus soon found himself alone. Joselo is unusual among deportees we spoke to—our study included interviews with 60 Dominican deportees between 2010 and 2016—because he continues to receive steady payments from the United States. This money allows Joselo to get by and means he does not need a job.

For most deportees who try and remake their lives in the Dominican Republic, securing employment is a major obstacle. Despite the fact that many deportees have a broad set of marketable skills, notably their fluency

in English, very few deportees can find jobs in the formal labor market in the Dominican Republic. In our study of 60, not one of the deportees we talked to had found stable employment. Five of the deportees we interviewed had found precarious jobs, which were inconsistent and low-paid. Forty-five of them were self-employed, mostly in the informal sector, engaged in activities such as street vending, handyman work, or tour guides. One of the self-employed deportees had started a small call center with financial help from relatives in the United States. The other ten deportees hadn't found jobs at all. It's important to note the labor market in the D.R. is difficult in general, with few labor opportunities and 60% working in the informal sector. But deportees are even further limited by additional bureaucratic barriers.

The Carta de Buena Conducta

To procure any kind of formal employment in the Dominican Republic, deportees with prior convictions must go through an arduous process to receive a government letter that affirms their "good conduct"—which also states that they have been deported. Even though deportees with prior convictions in the Dominican Republic from the U.S. have already served their time, upon return to the island they are taken immediately to the police station, where they must report monthly, as if on parole. Police officers also make field visits to deportees' houses, where they interview deportees, their family members, and their neighbors. After six months of parole visits and assuming a clean bill of conduct, the police issue criminal deportees a *carta de buena conducta* (letter of good conduct), which they must present to potential employers. This letter is similar to a criminal background check in the United States, and commonly used in hiring processes in several Latin American countries. The distinction is that only in the Dominican Republic does the letter state that a person has been deported.

People who have been deported on criminal grounds can obtain one of these cartas, but unlike other deportees or other job-seekers in the D.R., theirs will state: "This person has no criminal record in the Dominican Republic, either before or after having been deported." This may seem paradoxical, because it is affirming that they have no criminal convictions in the Dominican Republic. But the message is really in what's left out: employers know that having that statement means they have past convictions in the United States, and are thus unwilling to hire them. This process creates additional barriers for deportees from finding formal employment.

Criminalization and Stigmatization

Beyond such government processes, the media exacerbates the image of deportees as threatening criminals. A [typical news article](#), published on August 2, 2017 in the news daily *Al Momento*, stated that "The United States deported 75 Dominicans who served their sentences in that country for drug

trafficking, murders, fraud, assaults, forgery and other crimes; this is the largest group of criollos that the U.S. authorities have repatriated so far this year.” Most articles about deportees highlight criminal records in a similar fashion, even though most Dominicans are deported due to nonviolent crimes like drug possession or sale. The online newspaper [Caoba Digital](#) article published a piece in January 2018 that recommended deportees be taken to a deportee center where they would be “checked (*depurado*), registered and handed over to their families if they do not have pending matters with the Dominican justice.” The word *depurado*, which literally translates to “purified,” implies that the deportees are infecting the country, with repercussions for the prospects of deportee reintegration in the Dominican Republic.

Edgar, another Dominican deportee, illustrates the effects of such stigmas. When Edgar was deported from the United States, he somehow slipped through the cracks, and due to a procedural error, his criminal deportation did not show up on his record in the D.R. He thus was able to get a clean *carta de buena conducta*. With this *carta*, he had little difficulty finding work, due to his fluency in English and skills he had acquired in the United States. Edgar worked in a call center taking calls in English and later in a hotel that catered to foreigners. However, after 15 years living and working in the Dominican Republic, the government database was updated and the following words began showing up on his background check: “Edgar has not been convicted of a crime in the Dominican Republic, neither before nor after his deportation.” This word—deportation—suddenly became an issue.

Edgar’s new status first came to his attention when he attempted to register a handgun, something he’d done before with no issues. His newly updated status barred him from buying a gun. And, when he left his job in the hotel, he found himself totally blocked from the formal labor market. With a deportation on his record, no one would hire Edgar. He thus found himself facing a new kind of punishment that effectively banned him from working in the formal labor market.

Edgar had been convicted of selling drugs in the United States twenty years before. Despite the age of the conviction, lack of criminal convictions in the Dominican Republic, and strong employment history in the Dominican Republic, he was discriminated against due to his record as a criminal deportee and became virtually unemployable. Edgar explained: “Here, Dominicans view deportees as the biggest criminal in the world. For example, a Dominican who has killed someone, or who has robbed a bank, or has raped, but who has not migrated, their record will eventually be clean. But a deportation stays on your record forever.” This differs from other types of crimes, which can often be expunged or expire from peoples’ records. Some deportees, however, have gone so far as to bribe immigration officers in the D.R. to have their deportation removed from their *carta*, as David

Brotherton and Luis Barrios report in their book, *Banished*. This practice helped one of their sources, Luis, to secure employment in the public sector.

Employers don't want to risk hiring people who were deported from the United States for a criminal conviction, because they worry it's a liability. Media reports exacerbate this concern by pointing to deportees' criminality. However, the argument that deportations have increased the crime rate in the Dominican Republic is unfounded. A 2006 [penitentiary census](#) in the Dominican Republic revealed that only 4 percent of prisoners in the Dominican Republic had been deported. A similar percentage of prisoners had been police officers or served in the military.

Despite the lack of evidence of deportees' criminality in the D.R., many Dominicans believe that deportees have caused a rise in crime. This unfounded belief carries pernicious consequences. Many deportees are considered permanent suspects to the police. For example, Carlos, another criminal deportee in his late 60s, explained that whenever a crime is reported in his neighborhood, the police come to his house to harass him first. He has never been convicted of a crime in the D.R.

Carlos lived in the United States for 30 years from age 19 to 49. Like Joselo, he worked in a factory in the 1980s. When that factory closed down and he was laid off, Carlos began to work in the hospitality industry. Frustrated with his low wages, Carlos turned to selling drugs. He was caught, convicted, imprisoned, and deported. Carlos left his wife and children behind in New York. His permanent separation from his family feels like a cruel punishment. In addition, despite his English skills and experience in the hospitality industry, Carlos has not been able to secure employment in this sector.

Dominicans who are deported from the United States have served their time in U.S. prisons. They face prison time, plus the additional punishment of deportation, compounded by familial separation and stigmatization. Those identified as deportees face considerable obstacles to employment and police harassment, despite low crime rates in the Dominican Republic. Although they have served their sentences in the U.S., their punishment continues for the rest of their lives.

*Tanya Golash-Boza is a Professor of Sociology at the University of California, Merced. She has published several books on race and immigration including: *Deported: Immigrant Policing, Disposable Labor and Global Capitalism* (NYU Press, 2016), *Forced out Fenced In: Immigration Tales from the Field* (Oxford University Press, 2018), and *Immigration Nation: Raids, Detentions, and Deportations in Post 9/11 America* (Routledge, 2015).*

Yajaira Ceciliano Navarro has a master's degree in Labor Psychology from the University of Costa Rica and is currently a Ph.D. student in Sociology at the University of California, Merced. She worked at the Latin American Faculty of Social Sciences (FLACSO) in Costa Rica from 2003 to 2015, and has published several articles on gender, youth, and deportation.