

CHAPTER 8

Exiling New Yorkers

DAVID C. BROTHERTON

THIS CHAPTER IS DRAWN FROM FIELD NOTES and interview data that I have collected since 2001 regarding the social process by which Dominicans are expelled from the United States and the hidden stories behind their removal, eventual resettlement, and sometimes illegal reentry into the United States. I am currently writing a book with my colleague, Luis Barrios, on the life histories of Dominican deportees in Santo Domingo and New York City, highlighting the narratives of settlement, incorporation, expulsion, and resistance. The names of the subjects have been changed, due to a pledge of confidentiality.

“Delinquency, nothing but delinquency. Nothing good can come of this. I know he will face terrible things, I know this. My country will harm him, I know this.”

“Do you think your son will be tortured if he is returned?” asks the lawyer.

The mother just sits after the question is translated. She looks apoplectically at the audience. God knows what is going through her mind. The question is too pointed, too agonizing, to be answered.

“Do you understand the questions?” asks the judge.

Again, the mother just looks at the audience and pats her chest. She then begins to talk, as if channeling something from another universe.

“Yes, I believe something terrible will happen to him. I believe the police will hurt him. I can’t bear to think about it. I don’t want to talk about it. I don’t want to think about this evil. Can I say something? May I say something?” the mother asks the judge.

“Yes, you may,” replies the judge, looking down at his feet as if to communicate, “Here we go again.”

The mother then gets to her feet and raises her hands in the air as if praying in a Pentecostal church.

“Oh God, oh Jesus, oh Maria, I pray to you, release my son from this trial. Oh Judge, please forgive my son. Please have the power, the pity, to allow my son to go free. Allow him to come back to his mother and father, that’s all we ask. He’s a good boy. He doesn’t mean ill to anyone. What use is this to take him away from us and his children? Please, please I beg you. . . .”

The mother continues for several more minutes beseeching the judge to release her son. The family members are again sobbing uncontrollably. Even one of the guards, a bulky African American man, is beginning to break down; tears start to run slowly down his cheeks. The mother suddenly stops, turns away from the judge, looking glassy-eyed, collapses into the chair, and closes her eyes. There is now pandemonium in the courtroom, the mother has fainted, and the judge orders one of the guards to call a nurse. After about three minutes, the mother comes around and is holding her chest and breathing heavily. One of her daughters runs over and holds her head, stroking her hair gently and whispering softly that “everything’s all right,” which is about the farthest thing from the truth right now.

At this point, a nurse comes into the room with a guard, and between them they get the mother to her feet and take her outside and place her in a chair. They are joined outside by someone who has a stethoscope around

his neck, presumably a doctor. The mother does not return to the room, and we find out later that she has been taken to the hospital, where she is diagnosed with having suffered a mild heart attack. The judge, looking exhausted and exasperated, turns to the defense lawyer.

“Now what, Mr. Crichter? Now who are we going to have? Please don’t let’s go through this again. It is not helping your case. It is not helping Mr. Delgado.” But his words are misdirected. It is not the lawyer who does not have a case, or the family. In a humane society, it is the U.S. government that is on the wrong side of the ethical, rational divide, and everyone in the courtroom knows it. I would wager that even the guards would agree that this inflexible policy leading to mass social exclusion and family fragmentation, targeting mainly black and Latino communities, is senseless. There are no winners, only losers, and it is costing the U.S. taxpayer hundreds of millions of dollars in wasted resources.

“I would like to call Jessina X . . . , the niece of Robert Delgado,” answers the lawyer, somewhat chastened by the flood of undermining comments from the judge and, of course, by the inability of most of his witnesses to speak to the subject of torture, which has been so ill-defined and difficult to conceptualize.

The niece enters, led by a guard, and confidently strides to the witness box. I had spoken with her earlier, and she had told me that she had recently graduated from John Jay College of Criminal Justice. Though she was better informed than I was about the history of the case for which her uncle was sentenced, she had very little knowledge of the Dominican Republic except from time spent there on the occasional holiday. Neither did she know the finer details of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 or the 2001 USA PATRIOT Act, all of which were playing a role in her uncle’s expulsion. After she takes the oath and sits down, the questions begin once more.

“Do you understand what is facing your uncle, Roberto Delgado?” asks the defense lawyer.

“Yes, I do. I have read about cases like his on the Internet, and I have tried to do some research around the subject.”

“So you know that the only way we can halt your uncle’s deportation is through proving the probability of torture when he arrives there?”

“Yes,” says the niece, “I understand that this is his only chance.”

“So, what do you understand by *torture*?”

“Well, for me, it is the application of extreme forms of pain and punishment to someone in an attempt to get information and just to terrorize

someone. This punishment can be physical—it can come from beatings, but also from the denial of food to someone. It can also be psychological and emotional.” The niece makes an impressive statement and surprises me at how cool, calm, and collected she can be under the circumstances.

“Thank you,” says the lawyer. “So, do you think that this form of torture will be facing your uncle when he goes back to his homeland? If so, why do you think this will happen?” asks the lawyer, who is now regaining some of his composure.

“Well, let me see,” says the niece. “I can’t say for certain that this will happen to him, but I do know how Dominican society feels towards deportees, and I do know how violent and brutal the police are. I can tell you that Dominicans think of deportees as less than human. They are nothing to them and are blamed for everything that goes wrong in the country. And if they are thinking this, then you can imagine what the police are thinking. The police simply treat them like dirt. They beat them, kill them, torture them. They do whatever they like to them.”

“How do you know this?” asks the defense lawyer.

“Because when I’ve been back there for holidays, when I’ve been staying in the capital, I hear what people say about them, and I have had dealings with the police just driving around,” answers the niece.

“Now hold on here,” says the judge. “None of this means anything. This has nothing at all to do with the conditions of torture that need to apply in this case. For a start, your definition of torture is all wrong. As I’ve said before, it is about pulling fingernails, taking out teeth, attaching electrodes to testicles. . . . That’s torture. Not all this talk about being denied food and psychological punishment, that’s not what we’re talking about under this law. And as for giving testimony on the probability of torture, you’ve proceeded to talk about how bad the police are and how nasty the people can be toward deportees, but that’s irrelevant, absolutely irrelevant. You have to be specific, factual. Mr. Crichter, once again I must ask you, have you prepared your witness?”

“Yes, judge, as much as I could. I am just trying to show that . . .”

“I know what you are trying to show, Mr. Crichter, and I am trying to keep this trial focused and it is proving impossible.” The judge then turns back to Ms. X.

“Ms. X, do you understand what I am saying?”

“Yes, judge. I understand what you are saying, but do you understand what I am saying? I think I understand what torture is, and maybe it doesn’t satisfy the needs of this court, and maybe I have it all wrong, but I

don't think so. It is this court that has it all wrong. If you want to know what torture is, this is torture. What you are doing to my uncle is torture. Look at it here! Look at what the laws are doing! It is tearing up our family. It is tearing my uncle away from his children, his mother, his father, and his loved ones. What justice is there in this? I have done my research. I have studied criminal justice, and I don't see any here today. There is torture, yes, and it is here. This is torture, but there is no justice."

"Thank you, Ms. X," says the judge. "I understand your feelings. You may step down. Who do we have next, Mr. Crichter?"

"I would like to call the son of Roberto Delgado, Roberto Junior."

Led by a guard, the new witness enters somewhat hesitantly with his head bowed. He is a handsome boy with long, thick black hair. He stares at his father, who looks back at him with great intensity and tears in his eyes. The judge is kindly toward him and gently asks him to take a seat after he is sworn in. The judge turns to the lawyers.

"Mr. Crichter, I am allowing this witness, but only for very few, specific, and direct questions. Do you understand? I want no repeats of what has gone on before."

"Yes, judge," says the lawyer, "I understand."

"Mr. Delgado, do you understand what might happen to your father?"

"Yes," says the boy, "he's going to be deported."

"And do you understand what is meant by torture?"

The boy looks at the lawyer and slowly looks down at his feet. After a while, he shakes his head. The judge says, "You have to say something, Roberto. You cannot just nod for the court." The boy returns the judge's gaze.

"No," says the boy, "I don't understand."

The lawyer now looks down at his own feet and shakes his head.

"Okay," says the lawyer. "Okay, that's enough. You may step down, Roberto. Please step down."

The boy looks up and turns to the judge. The judge says gently, "It's okay, just take a seat."

The boy goes to the middle of the room and sits behind his father. He cups his head in his hands and begins to sob, silently, his shoulders and upper body moving up and down rhythmically, but there is no sound. As I look around, I see his little brother staring at him with tears running down his cheeks and his eyes swollen and red. It is heartbreaking for me, as I think of my own children and how they would be reacting if I were to be taken from them. The process is simply insane, insane.

“Now, we have had all the witnesses. Is that right, Mr. Crichter?” says the judge.

“Yes, that’s correct, judge,” the lawyer answers.

“I have allowed this court all the time it takes to come to some kind of judgment. Up till now I see nothing that alters the opinion of the court that Mr. Delgado will be deported. He will be returned to his homeland after completing his sentence, which I believe has five months more to run. Now, Mr. Delgado, before I fill out the forms confirming your deportation, do you have anything more to say?”

“Yes, judge, I do.”

Mr. Delgado stands up and looks around the room. He has tears in his eyes, and his face is swollen from the strain and the crying.

“I want to tell you and my family that I am no thief. I’ve never taken anything from anyone in my life, not even a pair of nail clippers. What happened to me was wrong. It was a miscarriage of justice. I agreed to a plea for something I didn’t do. I thought I was gonna get a short sentence and then be released. I thought if I didn’t do that I was gonna get fifteen years. That’s what they threatened me with. No one told me I was gonna get this. Okay, I have a temper and I can get violent. It happens when I drink, and I’d been drinking when all this happened. I don’t remember much about it, except the guy gets the better of me and I go home. That’s about it. But I didn’t steal nothing from nobody. All I wanted to be was a baseball player, that’s all. I got a scholarship to some university, but it didn’t work out. I didn’t get picked up, and so I got depressed. I get very depressed and I start to drink. I know I need treatment for this, but I don’t need jail and I don’t need to be torn away from everything I love. This is my life here. I’ve been here since I was a kid. This is all I know. Here’s my family right here. I don’t have no family where you wanna send me. What am I gonna do there? Where am I gonna live? How am I gonna see my children again? Where’s the justice in all of this?”

“Why, Mr. Delgado, didn’t you become a citizen like your sisters? Why?” asks the judge.

“Because I can’t read or write, judge. I knew if I took the test I wouldn’t be able to write down all those names of the states. I wouldn’t be able to write down the answers to all those questions that they were gonna ask me, that’s why. I got a scholarship to a college when I was a kid—some-where in Oklahoma—to play baseball, but they never taught me to read or write. It’s as simple as that.”

The words that come out of Mr. Delgado’s mouth are astounding in this theater of humiliation. I was thinking how much courage it took for him to

make this statement. The bitter truth of his situation reveals itself in the suffering he experienced long ago, not just in the last few years. The marginality of his race and class, the cynical mass packaging of the American Dream, the shattered hopes of his parents' generation, the children left fatherless, resentful, and traumatized; these are all the truths embedded in his final plea. Only this time, there was no bargaining. The decision was nonnegotiable. Mr. Delgado did not even bother to ask for an appeal. At this moment he was a broken man. The unassailable logic of the immigration laws won the day. They had gotten their man. He was ejected, seemingly with due process in the American way, through the court system. Of course, objectively, the odds were massively against him from the beginning, but the appearance was maintained, and as the judge had remarked, this trial played itself out.

As we exit the prison, I turn to the translator who had performed so magnificently throughout, never wavering in her concentration.

"Do you do a lot of these hearings?" I ask her.

"Yes, all the time. I've been doing them for years," she answers.

"It was quite a day, wasn't it?" I follow up, rather inanely. "I bet these kinds of scenes are quite unusual aren't they? I mean, the intensity of it."

She looks at me, a bit puzzled, and then, in a quiet, matter-of-fact manner, she replies:

"No, they are quite common. I work under these conditions very frequently. It is a very emotional job. I try to keep calm and professional, to be of maximum service."

On the drive back to New York City, my colleague excitedly and vividly recounts the day's extraordinary events. After a while, he focuses on a single, seemingly undeniable conclusion: "What kills me about this country is its self-representation, how it continually tells the world that it's the freest, the most democratic place on earth and yet its practice is totally the reverse. What's the difference between what this country is doing and what the Soviet Union was doing? Tell me, what's the difference?"