

2011

Universal Justice
Fordham University
School of Law

Andrew Cabasso
Sirrah Harris
Anne Kelsey
David Levy
Colin Missett
Kali Peterson
Omar Tuffaha
Joanna Zdanys

[Dominican Republic 2011 Field Report]

During the Spring of 2011, Fordham University School of Law student group, Universal Justice, sent a team of students to help a Haitian community in the Dominican Republic try to obtain land rights and access to identification. The group met with several NGOs, lawyers and politicians to try to obtain these rights for the community.

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1. Introduction

1.1. Universal Justice

Universal Justice (“UJ”) is a student-led organization at Fordham University School of Law (“Fordham”). Since its inception in the early 1990s, UJ has provided Fordham students with opportunities to design, implement, and participate in international experiential learning trips across the globe. Over the past four years, sixty-five Fordham students have participated in UJ trips; ten trip participants have received summer fellowships through the Leitner Center for International Law and Justice to spend ten weeks interning with UJ partner organizations; and one member of UJ has received a Fulbright scholarship to work in Nicaragua. During the 2010-2011 academic year, UJ led a trip to Nicaragua over winter break and trips to Jamaica and the Dominican Republic (“DR”) over spring break.

Beyond coordinating trips, UJ has made substantial contributions to the communities with which it has partnered. In recent years, UJ has established a solar-powered computer program in a rural village in Miraflores, Nicaragua; constructed a website on behalf of an association of chronically ill sugarcane workers;¹ written and directed a play for a group of young female victims of sexual abuse; sold jewelry to support Nicoya Mission, an organization working to provide economic alternatives to families living in Managua’s municipal trash dump; and distributed tee shirts produced by a women-owned sewing cooperative in Nicaragua to students at its annual public service day.

Though UJ receives significant financial support from Fordham’s Deans and Fordham’s Student Bar Association, UJ is responsible for raising most of the funds necessary for its trips. UJ’s fundraising campaign this academic year included five bar nights, two bake sales, a speed dating event, a coffee sale through which UJ’s members sold over 100 pounds of 100% Fair Trade and organic certified Nicaraguan coffee, and organizing and running Fordham’s Public Interest Resource Center Mardi Gras Ball with other groups.

Dominican Republic Trip

In March 2011, Universal Justice sponsored its second Dominican Republic field study, sending students to the DR to research land rights and immigrant rights issues. The eight trip participants included Andrew Cabasso (2012), Colin Missett (2012), David

¹ <http://asochivida.org/>

Levy (2012), Sirrah Harris (2011), Anne Kelsey (2012), Omar Tuffaha (2012), Joanna Zdanys (2013), and Kali Peterson (2013). It was the second official trip for Cabasso, Missett, and Levy, who had visited in March 2010 for UJ's first sponsored field study in the DR.

1.2. Background of UJ and the Previous Year's Project

In the fall of 2009, Cabasso approached the rest of the organization with the idea of creating a project focused on microfinance and social entrepreneurship in the Dominican Republic. Cabasso had spent the previous summer working with a DR-based microfinance institution, Esperanza International. While Cabasso and the rest of UJ had initially hoped that Esperanza and UJ could work together, their schedules conflicted. Fortunately, UJ found Sister Island Project ("SIP"), a non-governmental organization ("NGO") based in Cruz Verde that facilitates volunteer trips to the Dominican Republic. In March of 2010, UJ members Cabasso, Levy, Scott Wagner, Colin Missett, and Katy Mayall traveled to Cruz Verde to research human rights issues in the region. During the trip, UJ visited the villages of Cruz Verde and Mata Los Indios and the cities of Monte Plata and Santo Domingo. They spoke with residents, law students, NGOs, and politicians to learn more about the legal issues impacting the Cruz Verde and Mata Los Indios communities. It became clear to the trip participants that some of the biggest issues facing the residents of Mata Los Indios concerned citizenship: although many residents were born in the Dominican Republic, the Dominican government refused to grant them birth certificates because of their Haitian heritage. Some residents complained that they were considered Haitian rather than Dominican even though they had never visited Haiti and had no family in that country. Additionally, many of the residents of Cruz Verde and Mata Los Indios lived on land for which they could not procure title. While the surrounding community had many open acres of uncultivated land, the residents feared that if they began to cultivate it, the government could force them to leave at any time, undermining their investments of time, hard work, and money.

1.3. Background of region and community

1.3.1. Cruz Verde

Cruz Verde is a small community in the Monte Plata province, about an hour's drive from Santo Domingo. There are approximately eighty families living in Cruz Verde. As in the rest of the country, electricity there is spotty: it switches on and off at random times throughout the day and night, usually lasting for a few hours before shutting down for another few hours. Many homes lack electricity entirely. Similarly, many Cruz Verde families do not have running water in their homes, and instead get water from two nearby wells. One of the community wells is powered by electricity and is therefore only functional intermittently. The water is unfit for consumption, so the residents must rely on bottled drinking water.

Cruz Verde faces numerous obstacles to development. Beyond the public infrastructure problems described above, many locals do not possess title to the land upon which they live, jobs in the region are scarce, and there is no semblance of a banking institution in the town. Most of the villagers are either self-employed locally, farming land and raising livestock, or else they work in Santo Domingo. Those who work in Santo Domingo generally live in the city during the week with relatives or friends and then return to Cruz Verde for the weekend. Residing in Santo Domingo allows them to reduce their traveling expenses from commuting between the two places: it costs \$3 USD to travel to Santo Domingo and \$5-6 to travel back. Since Cruz Verde lacks public transportation, several locals with motorcycles have started transportation micro-enterprises, ferrying locals on the backs of their motorcycles to the provincial capital of Monte Plata where they can then access *guaguas* (buses) to Santo Domingo.

1.3.2. Mata Los Indios

Near Cruz Verde is the community of Mata Los Indios, which is comprised mostly of Haitian immigrants. The community is comprised of roughly eighty-four families totaling close to 300 people, 80 percent of whom are of Haitian descent. Many of the residents once derived their income by working in the nearby sugarcane fields. However, this changed when the sugarcane refinery closed down in the 1990s. Now the vast majority of the residents is unemployed and has had difficulty finding any other work.

The contrasting poverty levels between Cruz Verde and Mata Los Indios are stark. While Cruz Verde largely lacks running water and has spotty electricity, these resources are virtually non-existent in Mata Los Indios. The houses in Mata Los Indios are either wooden shacks or the damaged concrete remains of the former sugarcane community housing.

In the center of Mata Los Indios is a multi-classroom school, built by an NGO in 2006. From its conversations with the locals, UJ gathered that the NGO decided to build the school because of the heavy rains that isolated Mata Los Indios from the main road during the wet season, leaving local children without a means to get to school in another town. When UJ visited Mata Los Indios in the spring of 2010, the school had remained untouched. After the NGO built the school, Mata Los Indios never received a teacher, so the desks, chairs, school supplies and chalkboards all remained in boxes in the classrooms. The trip participants were surprised to see that after four years, the residents of Mata Los Indios had not sold the school supplies, but kept them in the classroom, hoping that one day they would have a teacher for their children. After UJ's visit, a community organizer and the Sister Island Project staff helped find a teacher for the Mata Los Indios school. Today, the school that had been locked for four years is finally in use.

1.4. Property Rights Overview

The issue of property rights in villages like Mata Los Indios can be difficult to disentangle. Over the course of the 2011 trip, the UJ group received conflicting understandings of several key issues, including the process of obtaining title and the rights that accompany various official land documents. However, after several days of interviews we were able to come away with a relatively clear picture of the legal framework for land title in the Dominican Republic as a whole and in Mata Los Indios in particular.

1.4.1. Post-Trujillo: Dealing with the Dictator's Misappropriations

The current state of land rights in the Dominican Republic is linked inextricably with the country's recent history. During more than thirty years of rule, the dictator Rafael Trujillo amassed vast personal wealth. From his ascension to power in 1930 to his assassination in 1961, he had seized 60 percent of the nation's arable land. After he was assassinated, the government had the task of dealing with Trujillo's personal wealth. The government expropriated Trujillo's privatized land and two key institutional bodies formed at this time to deal with the newly state-owned land.

1.4.2. CEA & IAD

The first body is the State Sugar Council (CEA: Consejo Estatal de Azúcar). This state-owned firm was created to manage the 1.4 million *tareas*² of sugarcane that had been held by Trujillo.³ The second body is the Instituto Agrario Dominicano (IAD), which was created in 1962 by the post-Trujillo Council of State to centralize agrarian reform and land policy. The IAD had a mandate to redistribute the ruler's former holdings to peasants.⁴ The IAD was charged with the initial selection of agrarian reform beneficiaries and the assignment of provisional property rights.⁵ At some future date, IAD was to effectuate the definitive transfer of land rights to reform beneficiaries.⁶

The goal of the IAD land reform programs, according to the IAD website, was to streamline the system of land tenure and land use through distribution to landless peasants in areas owned by the IAD, with adherence to the law. By distributing the land, the programs are meant to create new sources of employment in rural areas, promote increased agricultural production, and improve the living conditions of rural Dominicans by increasing income levels of the population benefited from the distribution of land.

1.4.3. Land Reform Act: Provisional and Definitive Titles

The IAD has undertaken various land redistribution efforts to transfer government owned land to private ownership. This process involves offering provisional title for a certain period of time to those in the designated areas. The plots' beneficial owners are assigned a document by the IAD that allows them to utilize the land. After the designated period, the IAD is meant to effectuate the definitive transfer of land rights to reform beneficiaries.⁷

According to our interviews, there was a land reform act that was enacted in 2004. The ostensible purpose of this act was to transfer state-owned land to private ownership. Thus, in Mata Los Indios—a former sugar field owned by CEA—residents were given provisional title to parcels of one hundred, fifty, twenty-five, and twelve point five *tareas*. The understanding of those we interviewed in Mata Los Indios was that the

² A *tarea* is equivalent to approximately 0.155 acres. <http://www.convertcenter.com/tarea>

³ J. David Stanfield, *Agrarian Reform in the Dominican Republic*, in *Searching for Agrarian Reform in Latin America* 305, 307 (Gilbert W. Merkx, ed., 1989).

⁴ Richard A. Haggerty, ed. *Dominican Republic: A Country Study*. Washington: GPO for the Library of Congress, 1989

⁵ J. David Stanfield, *Agrarian Reform in the Dominican Republic*, in *Searching for Agrarian Reform in Latin America* 305, 307 (Gilbert W. Merkx, ed., 1989).

⁶ *Id.*

⁷ J. David Stanfield, *Agrarian Reform in the Dominican Republic*, in *Searching for Agrarian Reform in Latin America* 305, 307 (Gilbert W. Merkx, ed., 1989).

provisional title was meant to last seven years, at which time the village residents could pay to obtain definitive title. However, it was the residents' understanding that even if they did not pay, the land could not be taken from them as long as they kept working it. In our interviews, we were told that most people did not obtain definitive title because of the expense.

However, as we later learned, gaining definitive title was not as easy as paying a fee. The political reality is much more complicated. The land transfer process is very political. As a law school professor told us at the law school in Santo Domingo, after the most recent agrarian reform, the new president did not make provisional titles definitive, as the old president had intended. The policy of the current president essentially is to keep the people in limbo: they are not kicked off the land, but they also are not offered definitive title. According to the professor, there is no way people will get definitive title under this president. Thus, while the community members in Mata Los Indios seemed to think that their position on the land was secure, the political reality indicated otherwise. As attorney Moraima Pinera told us, provisional title is nothing more than a piece of paper.

When pressed on the matter of why provisional title had not been transferred, the head of the IAD told us that the IAD is still waiting for the transfer of land from CEA to IAD. Only then can IAD begin to transfer the definite title to the people. He told us that it is pointless to start the process before the transfer goes through. When and if that happens, officials will visit communities to begin the process.

1.4.4. Deslindes

In multiple interviews, including at IAD, we were told of a new law that makes land transfer easier. Law 108-05 is a property registry law that made a significant change to Dominican property law in that it requires a "deslinde" for all real estate transactions.

A deslinde ("segregation" in English) is the legal procedure by which a portion of land within a parcel is segregated from all the other portions within the same parcel. In other words, the deslinde procedure converts a provisional title, which guarantees the property right of ownership for a portion of land within a bigger parcel, into a definite title, which guarantees the ownership of an individual parcel. The result of the procedure is that the segregated portion will become its own parcel with its individual cadastral designation, guaranteed by a definite title. The majority of jurisdictions around the world only recognize and register segregated portions of land and do not allow any transactions of portions of land that are not segregated. The purpose of the new Property Registry Law is to reach exactly the same level of sophistication and

security as these modern jurisdictions have had for a long time: no recorded property rights without a deslinde.

However, though Law 108-05 may modernize the process of turning provisional title into definitive title, this fact is unhelpful in the present political climate. Until the political decision is made to transfer the land from the CEA to the IAD, the people of Mata Los Indios will remain in limbo.

1.5. Goals and methods of this trip

For the 2011 trip, UJ set the goal to work on land rights and immigrant rights issues in Cruz Verde and Mata Los Indios. Several of the Cruz Verde and Mata Los Indios residents we spoke to in 2010 said that they did not own the title to their land and wished that they could purchase it or that the government would grant them title so they could farm or otherwise develop the land. As there was much unused land and a shortage of jobs in the region, UJ thought that obtaining title for the land would help stimulate the local economy.

As UJ started preparing for the March trip, a professor from Northeastern University contacted UJ after reading the 2010 trip report. Northeastern wanted to send a delegation of 40 students to Cruz Verde to work on obtaining microfinance and build sustainable development projects in the region.

2. Community Discussions

2.1. Cruz Verde Community Leaders

Because the 2011 trip to the Dominican Republic marked UJ's second trip to Cruz Verde, the group already had some familiarity with the community. But because it had been a whole year since the group's last formal meetings with community members, it was important for the trip participants to get a sense of what—if anything—had changed since March of 2010 and also to gather more specific information about land issues in the community. A meeting with Cruz Verde community leaders on the first day full day of our trip served these goals. Besides the village President, Julio, and the Secretary, Jennifer, about a dozen of other villagers joined us. These villagers made a living in a

variety of ways, including farming, raising and slaughtering livestock, selling milk and produce, and teaching.

The most prevalent concern voiced at the meeting was a lack of work. Across Cruz Verde, most families have at least one member who works to support the rest. Yet even those who do have jobs struggle to support their families because the job opportunities that exist yield very little income. The greater concern of the adults in the community is that their children will not be able to find work following school. More and more, youth in the community finish high school with no job prospects. Even those who are lucky enough to receive a scholarship to go to college are not guaranteed a job.

Among the job opportunities discussed, there seemed to be two basic options: to have a business or farm in Cruz Verde or to find work in Santo Domingo. Although no one at the meeting worked in Santo Domingo, everyone agreed that working in the capital provided a good living where one could earn around four hundred pesos per day. Nevertheless, even that salary could not support a typical family in Cruz Verde, which costs about six hundred pesos per day. The people at the meeting who lived off the land in Cruz Verde had fluctuating incomes depending on the market for the products they produced or harvested.

It seems as though there may be opportunities to bolster sugar production on a local level. The community members expressed interest in increasing production of *melao*, a molasses-like sweetener only produced in this region of the Dominican Republic. Everyone agreed that producing *melao* would be a good idea, but the market as of now is limited to only certain regions in the DR.⁸ It is unclear whether there would be a market elsewhere for this product. However, a small family-owned sugar refinery is located less than a mile from Cruz Verde and the owner is always in need for more sugar cane.⁹

After discussing the employment prospects of the residents of Cruz Verde, the discussion turned to land rights. Unlike some of the other surrounding communities, all of the land in and around Cruz Verde is owned privately. While only about thirty percent of people in Cruz Verde have title to their land, the percentage of title-holders seemed to be much higher than that of Mata Los Indios and other surrounding communities. The people at the meeting emphasized that having title was important to gain access to loans, but even with title the interest rate on a loan from a bank can be upward of 100 percent per year. Overall, the need for title did not seem to be as

⁸Foreigners from Germany and Columbia have apparently come to the DR to try to make *melao* but it has not yet been successfully produced in mass.

⁹About 2000 pounds of cane produces about 22 bottles of *melao*.

pressing in Cruz Verde because the people did not fear being kicked off their land and it might only have a marginal impact on their ability to gain access to loans.

Finally, it should be noted that everyone at the meeting emphasized how lucky Cruz Verde was to have the support of SIP. SIP gives two hundred pesos of the money it charges trip participants to a host family for each day that a visitor stays with them. The rest of the money is reinvested into the community to rebuild houses, give scholarship opportunities to students, and to provide for other needed community resources. Without this support, Cruz Verde would be much worse off.

2.2. Meeting with Fundación Cruz Verde

Fundación Cruz Verde is a community and environmental development nonprofit group. It is situated on land protected by the Dominican government, and includes several buildings and a camp area that were funded by the German government. Members of the community constructed it in 1999. It has been six years since the organization has received any funding, with the exception of funds employing a force of twenty people who work on reforestation and environmental upkeep. For five years, Fundación Cruz Verde ran a recycling program, but this program collapsed when funding ran out. There also used to be an affiliated teaching program for skills including construction, electricity, plumbing, and teacher training. Now the space is mainly used for recreational activities, most notably for the weddings of American citizens.

The UJ group spoke with the volunteer caretaker of Fundación Cruz Verde. He said that the government of the Dominican Republic values environmental protection, especially in the wake of the Haitian earthquake. He was of the opinion that much of the devastation that Haiti suffered was exacerbated by the fact that Haiti previously had been deforested to a wide degree, which made the ground less stable. He then described the current problems with agriculture in the community: the irrigation systems are not well developed; there is not enough running water; and there are also no water rights laws. He sees these problems as acute because the crops in the area are so dependent on the rain and the climate, which affects the degree to which crop yields can be stabilized.

The caretaker also discussed the local economy and the ways he thought that agriculture might best be utilized to improve the economic welfare of local residents. He acknowledged that the economy was worse since the sugarcane refinery closed. He offered the idea that growing vegetables might prove to be a better idea because the process for growing, harvesting, and selling them is more streamlined, whereas sugarcane must be processed, which requires machinery that most cannot afford. He pointed out, however, that although there is certainly a market for vegetables, many people do not have the means of actually transporting them to sell to others. He suggested that people could grow crops in collective groups and mentioned that Fundación Cruz Verde could provide training and help promote community organization.

While all of these alternatives began to seem promising to the UJ group, the discussion once again turned to the land. The caretaker emphasized that it is impossible to start an agricultural business without loans as startup capital, and one cannot procure loans without title to the land.

2.3. Mata Los Indios

One of the focal points of this trip was to understand the circumstances affecting the residents of Mata Los Indios and to assess their needs, particularly regarding land title and access. The UJ group met with a large group from the community to discuss their ongoing concerns. The meeting was led by the President of the community, Tomas Fernandez. He was joined by Juana Vera-Perez, the community's secretary; Rafael Antonio Vera Reyes, the community's Vice President; Yolanda Esteban, the community's treasurer; as well as several other active community members.

The conversation quickly turned to a discussion of land ownership and title, which was at times confusing and required a great deal of clarification. Some of the community members present at the meeting owned parcels of land of varying sizes, while others did not own any. Fernandez, for example, described a large parcel of land of one hundred *tareas* to which his father held title, somewhat far from the center of the community. Fernandez owned eight cows and three pigs, which he raised both for milk and for meat.

The majority of the other community members who spoke described a very different situation. One community member mentioned that he had twenty-five *tareas* of land on which he grew yucca and corn. This person did not possess title to the land, nor did he pay to use it—rather, the land belonged to another man in Santo Domingo. It was unclear whether or not the community member was using the land with this person's permission.

Another community member mentioned that he had used a parcel of two *tareas* for twenty years but did not have title of any sort. A third member of the community described how he received provisional title to a plot of land in 2004, but was still waiting for the definitive title.

Amid this discussion, the community members presented conflicting accounts of how to acquire land and title to that land, particularly regarding the cost. It was generally agreed, however, that it was important to be politically connected in order to get land. The community members noted that most of the surrounding land already had an owner and all the government-owned land was taken up. The group left the community

meeting at Mata Los Indios recognizing that there was little consensus among the community members about how they could acquire title to their land, and that one potential challenge that should be addressed was helping the community members to understand how land is transferred and how they can attempt to have some security on the land on which they live.

Before the meeting closed, the community members described a number of other problems that they faced in their daily lives. They described how caring for the elderly was a concern, as there were many elderly members of the community who did not have any family and thus had no one to take care of them. They also echoed the concerns of the residents of Cruz Verde: there was a staggering lack of work, which translated into a particularly dismal situation for the youth of the community, whose parents lacked the resources to care for them and who had very few opportunities ahead of them. The community members also indicated that overpopulation was becoming a problem and that there were not enough resources to go around.

2.4. Altagracia

2.4.1. Meeting with Women's Group

Altagracia is a small community that borders Mata Los Indios. While there, the group met with a women's initiative that provides small loans to women in eight communities: Altagracia, Mercedes, Chucho Salas, La Marchena, Colcana, Cruz Verde, El Teleado, and Mata Los Indios. The group met with five members of the initiative.

The women's initiative is funded by an NGO, Instituto del Acción Comunitaria. The women described how they collect dues from their members and loan the funds to various community action projects. To qualify for a loan, an applicant must own five *tareas* of land. In the past year, projects that received funding included a *colmado* (a local general store that also often functions as a place where residents gather socially), a beauty salon, seed purchase, and livestock purchase. However, the women specified that using the loans to purchase land was not allowed.

A prerequisite to acquiring a loan through the women's group is participation in these community meetings. The loans are also available to men, but they are required to participate equally in the community meetings. Each of the women that the UJ group met with had received a loan in the past. The amount of money dispersed varied, but it usually averaged to two thousand five hundred pesos. Each loan has a set period of

time for repayment, and the interest rate on these loans is usually about two percent. The program is structured so that when a loan is repaid, that money is immediately loaned to another person in the community. Because others depend on these funds, there is a general level of pressure from the community as a whole upon individual loan recipients to pay back what they owe. Furthermore, leaders from the women's group check in with loan recipients monthly. Consequently, there are only two loan recipients in Altagracia who have not paid back their loans.

Like other groups that the UJ group met with, the women's group in Altagracia expressed concern about what the future held for the children of the community—particularly those in their teen years. At the time of the UJ visit, the women's group was considering a loan proposal for a *guagua* (a bus) to transport teens to Santo Domingo to find other opportunities there, but there was not enough money available for this project. They articulated that the economic situation in their community was markedly worse since the sugar cane refinery closed. On the issue of land title, the women expressed that other community members often start the process to gain title to their land but do not always follow through, particularly because it is expensive and also there is confusion and disenchantment towards the process. One of the major conclusions from this meeting was that title to land was extraordinarily important, particularly because without it, opportunities such as these small loans are unavailable to the people who need them most.

2.5. Monte Plata

2.5.1. Moraima Pinera, Attorney

On the morning of March 15, the trip participants traveled to Monte Plata and met with Ms. Moraima Pinera, a civil litigation lawyer who has experience with land transactions. Pinera described the land transfer process between individuals and between the government and individuals as she understood the current law to be.

Pinera told the group that there is a new process for transferring land that makes it easier to obtain the original title to a piece of property. The person seeking to obtain title must have an identification card that he or she must take to the Land Registrar. The Land Registrar will inform the person if he or she owes any taxes on the property, and if so those taxes must be paid before the title can be given. Once the person pays the taxes the Registrar will give the person a photocopy of the title in his name.

There is no ownership by adverse possession between individuals in the Dominican Republic. If an owner with title discovers that another party is occupying his land he may go to the Land Tribunal and have a proceeding to remove the occupier from the land. Pinera added that sometimes owners will offer to sell their land rather than have the occupier evicted.

The process for obtaining title to land formerly owned by the government is more complicated, but it is possible for a person to acquire a provisional title through adverse possession. Pinera told the group that the current law was that the government does not evict people from land if they have lived on the land continuously for a period of ten to twenty years. The land occupier does not need to obtain provisional title in order to be entitled to this protection.

The occupier of government land must obtain a provisional title before he may apply for definitive title. He may buy the provisional title for a statutorily set price.¹⁰ The provisional title conveys limited ownership rights to the holder. It may not be legally transferred, although it often is,¹¹ and does not give the security of total ownership that the definitive title conveys.¹²

In order to get definitive title the provisional titleholder must pay the taxes owed on the land and have the *carta* for the parcel found at the Registry changed to definitive title. There is no cost in having the title changed; the only cost other than the taxes comes in locating the *carta* in the Registry. It is necessary to have a lawyer look up the *cartas* in the Registry records, and doing so would be prohibitively expensive.¹³ It is possible to get the definitive title without hiring a lawyer to search for the *cartas* if there is a large enough group of people seeking to transfer their titles from provisional to definitive. They can then request that a project director come to the area and bring the definitive titles to them. The residents would need to complete complicated forms before they could receive the definitive title, but fortunately that would not necessitate the assistance of an attorney.

¹⁰ Currently this price is two percent of the value of the land, but it is set to increase under the new law.

¹¹ Many of the people the group spoke with in Cruz Verde, Mata Los Indios and Altagracia expressed the need to have definitive title to their land in order to sell it for a fair price and also to be able to obtain loans on the land.

¹² Although under the current government the holder of a provisional title or an adverse possessor is protected from government intrusion, the laws could change with a change in government and leave them unprotected and without rights.

¹³ Pinera suggested that the community could hire a lawyer as a group and have the lawyer search for all their *cartas* as a group in order to save money.

2.5.2. CONAMUCA

While in Monte Plata, the group also met with CONAMUCA, a federation of twenty-two associations that works to defend the rights of farmers. CONAMUCA receives funding from an NGO called IDA to grant loans to farmers and small businesses. The loans range from twenty thousand pesos for individuals, to eighty thousand pesos for farmers, to two hundred thousand pesos for businesses, all at five percent monthly interest with one year to repay. They are granted to people in groups so that if one member of the group does not make a payment, the other members are responsible for the missed payment. Through this system, CONAMUCA maintains a rate of repayment of approximately eighty percent.

CONAMUCA also provides free assistance to people in land rights cases. They have small amount of money to pay public interest attorneys to handle these cases. The services provided by CONAMUCA are well known to the people in the region, and they see many cases involving the grant of government land.

Most of the land in the region where CONAMUCA operates is government-owned, and sometimes the government, through the Agrarian Institute, would give out provisional title to lots of land. If the institute grants provisional title to a citizen, that citizen does not have to pay anything to receive the provisional title provided that he or she has an ID card. Without an ID card, a person who has lived on the land for a long time can get a Document of Possession but not a provisional title. The representatives from CONAMUCA also identified the risk of changes in government to provisional titleholders, because a new government may decide to give the land away that was previously granted under a provisional title.

The representatives from CONAMUCA shared their thoughts as to the best ways to assist the citizens in Mata Los Indios with obtaining title to their lands. They thought that, given the socioeconomic and political status of the people in Mata Los Indios, it was important to maximize whatever power they had because the government would not go out of its way to help them. The first step they identified was to organize community members and to create a census with the name, ID cards and phone numbers of each person seeking title. CONAMUCA offered to help send someone to Mata Los Indios to look at a map and assess the boundaries of the properties. Then, as a group, the community could present the information to the Agrarian Institute who would send a technician from the to examine the land division speculations and give title. This last step would cost about fifty pesos for the technician's travel expenses and fee.

2.5.3. Instituto Agrario

The group was able to meet with an official in the regional office of the Agrarian Institute for the areas of Monte Plata and San Pedro who discussed the goals of the Institute and land distribution in Mata Los Indios. The Institute's stated goal is to give land to poor farmers rather than to buy or sell land. In 2004, one thousand five hundred lots of land in Mata Los Indios were given out, but many of those lots were given to people who were not residents of Mata Los Indios. At that time people were granted provisional title, which stipulated that it was good for five years¹⁴ and provided that the holder must work on the land during that time.

There is no cost to obtain definitive title other than paying for a surveyor, but the Institute is not able to grant definitive title because the land in Mata Los Indios still belongs to CEA, the government sugar council. The Institute is waiting for CEA to transfer the land to them and then they say they will transfer definitive title to the people holding provisional titles.

There is a new law, Law 108, that improves the process of transferring provisional title to definitive title, but the Institute cannot begin the process until CEA transfers the land. The Institute Official stated that once the transfer occurs, officials from the Institute will visit the community and begin the process themselves.

If residents of Mata Los Indios do not have provisional title, they will have to wait until the next time the Institute distributes land through an Agrarian Reform Act to receive provisional title. Individuals may approach CEA and buy lots of land directly under the condition that the land they seek to buy has not already been parceled out by the Institute. A person with a provisional title has the ability to defend his right to possess the land against someone trying to buy it, but a person without provisional title does not.

2.6. Santo Domingo

2.6.1. MOSCTHA

¹⁴It is not clear how long the provisional titles are good, as the Institute official also stated that that they were good for life so long as they were not sold and the land was not abandoned. A provisional titleholder may bequeath his provisional title so long as the transfer is notarized, but the law prohibits selling the title.

MOSCTHA is an organization that works in Haiti and with Haitians in the Dominican Republic. Its focus is on targeting social problems affecting Haitians early in their formation so that they do not become widespread. MOSCTHA's work has been considered "subversive" by the Dominican government.

In Haiti, MOSCTHA's work focuses on documentation. There is widespread misinformation about documentation, and people do not realize the value of obtaining their identifying documents. For example, people are unable to vote because they do not realize their documents are not in order. This is due in part to Haiti's reliance on an informal economic system. The organization works to educate people about the system for documentation.

The representatives from MOSCTHA stressed that undocumented Haitians in the Dominican Republic are the worst off in the country. These Haitians cannot purchase or legally use land, and they do not have access to healthcare or education. The organization says that there is not enough money in Haitian communities to begin to drive development. In the past, they have received donations of livestock animals, but because they lack knowledge of animal husbandry or access to veterinary services, these animals have quickly died. The organization has money available for loans for women, but many women choose to send the money to family back in Haiti rather than using it for business or community development.

The major legal challenge in these communities is citizenship. Until 2010, Dominican-born Haitians were not eligible for citizenship. A 1979 judgment of the International Court of Human Rights found this denial of citizenship to be a violation of human rights, but even though the Dominican Republic accepted this determination, it was not implemented due to a lack of political will and citizenship continued to be denied to Haitians born in the Dominican Republic. The new 2010 Constitution grants citizenship status to Haitians born in the Dominican Republic, but it only applies to those born after its implementation. This means that many Dominican-born Haitian children and even adults grow up without citizenship to any country at all. Plus, even after citizenship is obtained, the government can revoke it at any time for any reason, which makes travel difficult for those visiting Haiti and creates the worrisome possibility that they will not be able to return to the Dominican Republic. Even the lawyer that the UJ group spoke with, a Dominican citizen of Haitian ancestry, had difficulty with the authorities when he went to renew his Dominican passport.

The first step in the process to becoming a legal immigrant is documentation. This requires a valid passport and visa, both of which are extremely rare commodities for Haitians. The visa must be approved in Haiti as well as at the Haitian embassy in the

Dominican Republic. Obtaining all of the necessary documentation is now in many cases nearly impossible because the Haitian system collapsed after the earthquake: many documents were lost completely. In addition to the bureaucratic difficulties, obtaining a residency permit is staggeringly expensive. A sponsor, notarization, legally approved translation, and medical documentation must all be obtained at a cost of up to \$50 USD per document, a price that few can afford.

Only after a residency permit is obtained may an immigrant apply for a national identification card, or *cedula*. If the immigrant successfully obtains a *cedula*, he or she may then apply for provisional title to land. After this, applicants must wait for the Agrarian Institute must begin the process of parceling and distributing land. It is necessary to work within the law, but the process is long and there can be unforeseeable political interferences: representatives of MOSCTHA recall at least one instance of the government giving others title to land to which Haitians had provisional title. There is a suspicion that though the Agrarian Institute Director works with good intentions, the government is fundamentally opposed to Haitian land ownership because it inhibits the ability of the government to distribute land at will.

Based on these conditions, MOSCTHA thinks that an important first step for Haitians seeking land title is to find out exactly what their documentation status is. Only then can they determine how to move forward.

2.6.2. Santo Domingo Law School

At the Santo Domingo Law School, the UJ group met with a property law professor and his class. The Dominican Republic has a French-based legal system, differing from the rest of the Caribbean countries and the United States. Most of the material covered was sourced from a property law textbook called *Normativa de la Jurisdiccion Inmobilia*.

Historically there were only three entities that owned land in the DR: CEA (the state sugar council), the IAD, and another government ministry that is now defunct. Now, most sugarcane lands are privately owned. There are regional courts to deal with property including matters of title, as well as Registries of Title in each zone that assign provisional title. In Santo Domingo, the Registry of Measurement has records on all title-holders along with a description of their property boundaries. This Registry is considered to be the final word in title issues.

After the Agrarian Reform, the new president did not make provisional titles definitive, as the old president had wanted. The new government's policy was not to remove provisional title-holders from the land, but also not to grant them definitive title. Since

that time, new laws have been established governing the registry of land and other property. The professor thinks that under the current government, provisional title-holders have very little chance of obtaining definitive title. However, he also thinks that this problem may be subject to change with the 2012 elections, when the new president and his party could decide to grant definitive title instantaneously if they wanted to.

2.6.3. Servicio Social de Iglesias Dominicanas, Inc.

Servicio Social de Iglesias Dominicanas, Inc. (“SSID”) is a non-denominational Christian organization that works in Haiti as well as in *bateyes*, communities of Haitians living in the Dominican Republic. In Haiti, the organization’s work impacts around twenty thousand individuals. In the Dominican Republic, SSID has a presence in a total of 76 communities, with a point person in each. Their process starts with a community diagnostic analysis by the organization, followed by the development of a project idea, which is then presented to the community for approval. Projects are continuing and long-term. The projects are widely focused and range from making sure educational resources flow directly to communities in line with legal mandates, to vocational and agricultural training, to medium-sized loans.¹⁵ SSID also coordinates with other organizations on projects.

Some of SSID’s clients are undocumented Haitian immigrants. They had started a citizenship project for these people, but it failed. The 2010 changes to the constitution, while seemingly positive, have in practice generated much confusion and have led to many bureaucratic complications, such as children being claimed by both countries to the exclusion of the other. The organization sees hope in the international response to the disaster in Haiti—they hope the international attention on Haitians will encourage the Dominican Republic to change its citizenship policies.

SSID works directly with legal problems, including land rights. SSID has been involved in legal cases defending Haitians from those trying to take their land. Unfortunately, this has not always been successful. Apparently, the government will sometimes donate land to nonprofit organizations to distribute as they see fit, but this method does not provide people with legal title or with any guarantee of permanency.

¹⁵ Generally these loans range from three thousand to thirty thousand pesos and can be used for such purposes as agricultural projects and purchasing animals. There are currently about fifteen loans being granted. The SSID provides a six-month grace period with an interest rate of one point five percent and a payback schedule of eighteen to twenty-four months. They enforce repayment with community pressure and the promise of more loans. An estimated ninety percent of loans are repaid.

One community, Savanna Grande, has succeeded in gaining definitive title for its citizens by going to the Instituto as a community and having the Instituto directly grant them title. This was the result of a political decision, and Savanna Grande's situation was made easier by most community members having citizenship or legal residency papers and by not needing Sella to transfer title to the Instituto first. The Director of SSID says that the government wants people to buy land, and that is why they resist giving title to residents who have no money.

Working with other nonprofit groups, SSID has started a legal education program focusing on Haitian communities. The program does not focus on land law at all, because the organization feels that the task would be pointless if residents of Haitian heritage do not have citizenship. SSID representatives claim that they have tried to exert pressure on the government, but without success. They exhibit a general lack of faith in the government.

As for next steps, the organization suggests aggregating data from multiple communities to present a stronger case to the government. They further suggest that UJ, as a foreign aid group, has the power to impact the media and raise awareness. SSID pledges to raise the issue to their board and see if they can work with community leaders to begin organizing communities into a movement. SSID's Director notes that unstable land title is a widespread problem, and one the organization, with all of its political connections, would be interested in helping tackle.

2.6.4. Charles Noel Mariotty Tapia, Senator of Monte Plata Province

The UJ group's last meeting was with Charles Noel Mariotty Tapia, the Senator of Monte Plata Province. When the topic of immigrant Haitians arose, the Senator expressed anger that the Dominican Republic should have to solve what he views as Haiti's problems and explained that undocumented people may not be in the best situation in the Dominican Republic, but they are hardly better off in any other country. He said that the political system is not supposed to represent Haitians, even Dominican-born Haitians, because they are still Haitian by blood. He denied that discrimination is in any way involved with any decisions relating to Haitians.

Provisional land title is only legal if the holder is a citizen or a legal immigrant. According to the Senator, many illegal provisional titles exist because of corruption. He said that mafia and land traffickers have given out fake titles to land. He says that anyone in Mata Los Indios who holds title acquired it illegally. The Senator's explanation for why definitive title cannot be granted to communities like Mata Los

Indios is that it is impossible for such people to have title to Dominican land simply because they are not Dominican.

Senator Tapia admitted that the land rights system is flawed, noting that there are many squatters and many unclear land ownership situations. He supported establishing a clear process by which Dominican citizens can get definitive title to their land. The Senator pointed to a recent effort in Monte Plata to establish such a process, but conceded that it is limited geographically and lacks funding. He suggested that in the meantime a community-based cooperative should be formed to raise money and streamline the current legal process as much as they are able, for instance by engaging topographers under contracts with whole communities. He points to the *Cooperativa Esmerelda* in Monte Plata, for which the *Centro Agronegocios* exists to help with growth and commercialization. This project is inter-American and funded internationally. It works with people who have title and those who seek to obtain it. As a political solution does not appear to be forthcoming, the Senator seemed to suggest working with this organization to help those who can be helped under the current system.

3. Recommendations and Next Steps

The next steps section is intended to be a guide for future UJ trips, as well as for other groups that SIP hosts who are interested in legal and development work in Cruz Verde and Mata Los Indios. The following suggestions are a reflection of the information that UJ gathered during its March 2011 trip. For a variety of reasons, the information that was obtained, while corroborated by many sources, was also contradicted by others. Thus, it represents what UJ was able to conclude given such factors as time constraints and language and cultural barriers.

3.1. Property Rights

Advocating for land rights on behalf of people of Haitian descent via political and legal channels appears to be futile. As explained above, there seems to be very little political will at the government level to bring into effect law addressing the needs of Haitian immigrants. Those citizens who do have a *cedula* card, and thus legal status, should in theory be able to possess property title, however, even this process has been consumed by politics. As explained before, much of the land where the *bateyes* existed belongs to the CEA. This land must be transferred to the *Instituto* before new title can

be granted. The responsibility of transferring this land is left to the government, and because CEA officials claim they are in the “process” of transferring land, this effectively moots any discourse with the government vis-à-vis transferring land directly to the Haitians who presently live there.

For this reason, barring a major change in the current political landscape, we do not recommend allocating resources to a land rights initiative. It should be noted, however, that there have been political initiatives in the past, such as the agrarian land reform, that have made an effort to transfer title to Haitians. As such, if a new government proposal emerged detailing land reform, then perhaps it would be prudent at that point to support a land rights project.

3.2. NGOS

At present, it is likely that the most promising avenue for the people of Mata Los Indios, and perhaps Cruz Verde as well, is to circumvent law and politics, and instead concentrate on those that have a vested interest in helping marginalized people in the DR. NGOs, through development support, will likely be most helpful in this area. The essential needs of these people—education and health care, cultivating land, and assistance for small business enterprise—fall predominantly on the shoulders of non-profits and support from foreign governments. Consequently, it is essential that UJ act as a conduit between these people and the NGOs whom UJ has made met with over the last two years.

It will be essential to coordinate with the community leaders in Mata Los Indios who can articulate the specific needs of the villagers and develop a plan through prioritizing these needs. Once it is clear exactly what these needs are, specific NGOs that concentrate on those areas should be contacted in order to begin dialogue directly between the community leaders and the NGOs.

3.3. Microfinance

A microfinance initiative seems to be promising. With the support of Esperanza and Northeastern University, there is a real chance that this project can move forward. Once the logistics of the project are in place, the most important question that needs to be addressed is: how can we make the project sustainable. Microfinance has already failed before in this area, and so it is imperative loans are spent pragmatically in order to ensure high repayment rates.

As many of the villagers in Mata Los Indios have experience in farming, agriculture might be a promising microfinance project. Other small businesses that might be profitable are hair salons, aesthetician services, livestock farming, and *colmados*. Those who are granted loans should be connected with NGOs for logistical support and training with regard to good business practice, as well as any business-specific knowledge that NGOs could offer. UJ will likely be able to help with any legal needs surrounding microfinance loans and assist in connecting the villagers to NGOs.

3.4. Citizenship Rights

Citizenship rights are an essential element to helping those people who do not have access to government-subsidized health care and education. People without citizenship or other legal status generally can only avail themselves of public elementary school education at most, and no health care services whatsoever. Legal support to help children of Dominican-Haitian descent obtain a *cedula* is essential because this would entitle them to the right to government education and health care. As such, a project to assess the role UJ and other groups could play in this endeavor is likely worthwhile. If this project is pursued, UJ should meet with both lawyers and NGOs that have experience in this area in order to assess how realistic this project is likely to be and how UJ and other groups could assist.

3.5. Grassroots Advocacy

It is imperative the citizens of Mata Los Indios and Cruz Verde know and advocate for their rights. Mobilization is an essential piece to the development puzzle, and those who have been disenfranchised must learn to take ownership of their lives where possible. A fine balance must be struck though, because it could be risky drawing attention to people who could be considered by DR officials as illegally in the country.

The community in Mata Los Indios should be encouraged to petition their leaders to advocate on their behalf. The school built five years ago in Mata is only now being utilized, and this was achieved through political pressure: it can work. The villagers should prioritize their needs, and then meet with political leaders to determine what can be most realistically accomplished. UJ and other groups could then continue to pressure local contacts and leaders to follow up on their promises.