

The stereotypical environmental protection conflict pits a corporate industry's bottom line against a local community's need for unspoiled natural resources. In the protected Caño Negro wetland of northern Costa Rica the conflict is between two local communities' desires to protect their way of life. The Maleku community of Guatuso, Costa Rica have not had access to the wetlands to practice their cultural activities for twenty years – ever since the wetland was listed under the Ramsar Convention. They recently asked the administrating ministry to advise them on what rights they have to restart their cultural practice of hunting freshwater turtles. The local community of Caño Negro are vehemently opposed to the renewal of this Maleku cultural practice because these residents rely on the protection of the wetlands for tourism as well as a for-profit turtle hatchery. Thus, this is still a conflict of the financial resources of one community versus the desire of another community to traditionally access natural resources.

As part of a team of three law students (two Costa Rican and myself), I investigated and analyzed the international documents and treaties applicable to the situation above. The Costa Rican Constitution establishes any international treaty or document signed and ratified by the government as not only legally binding on the government and its ministries, but superior to nationally created laws. Because of this legal hierarchy the Maleku had a strong argument that they should be provided limited access to continue their traditional practices in the wetlands. The continuation of their activities should follow notions of sustainability, and the Maleku should be folded into active partners in management of the wetlands.

Our recommendations stemming from the legal analysis we performed for the Ministry of Environment and Energy (MINAE) may or may not be accepted and implemented in the area. We believe, at the very least, the Maleku will be incorporated into the management structure. Nevertheless, the process of investigating Maleku members, residents of Caño Negro and the MINAE rangers made the project worthwhile. To get out of the stilted air of a law classroom and into the realm where the work matters and has an direct impact on people made the project worthwhile. We were not asked to protect the bottom line of Caño Negro nor to find a way to provide unfettered access for the Maleku. Hopefully all three parties will come together to use our analysis and recommendations to create a fair and balanced resolution.