



# FlaLaw

University of Florida Fredric G. Levin College of Law Newsletter • Special Costa Rica Program Issue • Spring 2004

## Caimans, Crocs & Communities: Rescuing an Endangered Wetland



In Summer 2003, the Costa Rican Conservation NGO Asociación Ambiental VIDA commissioned the Conservation Clinic to assist with policy issues associated with Caño Negro National Wildlife Refuge, a Wetland of International Importance under the Ramsar Convention (Ramsar, Iran, 1971). Established as a Ramsar site Jan. 27, 1991, Caño Negro is a shallow freshwater lagoon near the Nicaraguan border surrounded by seasonally inundated marshes and woods and threatened by sedimentation, fire, poaching and agricultural pressures.

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VIDA sought the clinic's assistance in developing a proposal to list Caño Negro on the Montreux Record under the Ramsar Convention Record (official list of wetlands undergoing changes in ecological condition) and thereby make it eligible for increased funding and technical assistance, something the refuge badly needs. To ensure public participation in the petition process, the clinic conducted three community workshops and received the support of the Costa Rican Ministry of the Environment. The formal petition is expected to be submitted to the Ramsar Secretariat in the spring of 2004. Danielle King, a UF graduate student, used the experience to define her master's thesis research, which will include her community's use of Caiman Crocodylus, a Caño Negro reptilian species used for its meat and hide.

— Danielle King (UF Interdisciplinary Ecology), Maria Fernanda Esquivel (UCR, Derecho), Katie Hausrath (U. Chi-Kent Law), Tom Cope (UF Law).

## 'La Fruta de Oro': Regulation of Access to Genetic Resources

The two most apparent benefits of rich genetic resources are increased production and value to agricultural and pharmaceutical industries. There is a tremendous market potential for bioprospecting, the search for useful compounds or genes in plant, animal and microbial organisms. Estimated sales in the U.S. of natural-product based pharmaceuticals are \$43 billion per year and \$53 billion per year for seeds derived from traditional crop varieties. In the past, developing countries have been unable to profit from genetic resources found within their territorial confines as developed countries have utilized these resources without compensation. Both international instruments such as the Convention on Biological Diversity (CBD) in

1992 and continued development of national guidelines regarding access to genetic resources have allowed countries to begin to assert some level of control over access to genetic resources in their territorial confines.

The 2003 access to genetic resources clinic team was comprised of members from countries spanning the Americas; including Peruvian lawyer Bonnie Sobrina Fuchs, three students from the Tulane Cuba Environmental Law Project, Costa Rican law student Daniel Aguilar Méndez and U.S. law students David Fazzino (UF), and Irene Chiu (NYU). Participants worked to develop an access to genetic resources law for use by developing countries in the region through a comparative analysis of access agreements in Costa Rica and Peru, as well as a 1999 draft of a Cuban law and the "Bonn Guidelines," a product of the Conference of Parties to the CBD. They also prepared comprehensive reports on essential

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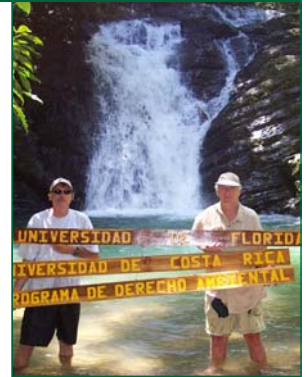
## CGR 'Rule of Law' Conference in Costa Rica June 24-26

Key U.S. and Latin

American international, governmental, legal and educational officials will convene in Costa Rica June 24-26, 2004, to continue work on plans for establishment of a Rule of Law Center for Judicial Reform in the Americas. The Fifth Annual "Legal & Policy Issues in the Americas" conference is organized by the University of Florida Levin College of Law Center for Governmental Responsibility (CGR), and participants are expected to include representatives of more than a dozen international universities, organizations, businesses, and law firms with global interests. The annual event is hosted this year by University of Costa Rica Law School, and will be held at the Marriott Hotel.

This year's conference will include workshops addressing the environment and human rights, regional integration and international trade, dispute resolution, legal education and professionalism and law enforcement and terrorism. Students enrolled in the 2004 Joint Program will be permitted to participate in all conference activities.

For conference or other information: CGR Development Director JoAnn Klein (352-392-2237 or [klein@law.ufl.edu](mailto:klein@law.ufl.edu)).



## UF Law Costa Rica Program

This special issue of *FlaLaw* is devoted to University of Florida Levin College of Law Programs in Costa Rica. The UF Law Joint Program with the University of Costa Rica emphasizes applied legal education and field-based skills training in comparative and international environmental law, including year round clinical and externship opportunities. It is unique in its regional approach to environmental law education, and includes participation by practicing environmental lawyers and law students from throughout the Americas.

For information, go to [http://conservation.law.ufl.edu/summer\\_costarical/index.htm](http://conservation.law.ufl.edu/summer_costarical/index.htm) or contact the Center for Governmental Responsibility (352-392-2237) or Program Faculty Tom Ankersen (top, left, [ankersen@law.ufl.edu](mailto:ankersen@law.ufl.edu)) or Richard Hamann (right, [hamann@law.ufl.edu](mailto:hamann@law.ufl.edu)).

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## Grant to Examine Land & Resource Tenure, Information Technology and Sustainability in Latin America and Caribbean

**Legal Skills Professor/ Center for Governmental Responsibility (CGR) Conservation Clinic Director Tom Ankersen and University of Florida Geomatics Professor Grenville Barnes have been awarded a \$100,000 research and writing grant from the John D. and Catherine T. MacArthur Foundation. Their proposal, "Inside the Polygon: The Efficacy of Community Tenure in the Western Property Paradigm," was one of 30 selected by an external review committee from an applicant pool of 379. Other U.S. academic institutions receiving awards include Boston University, Harvard Law School, Princeton University, Stanford University and University of Minnesota.**

**Ankersen and Barnes will examine the historical evolution of communal land titling and its contemporary use in securing land rights for indigenous peoples and traditional communities. Researchers will focus on development of informal tenure systems within communally titled property and communally conferred resource concessions (known as extractive reserves), and the contemporary use of geomatics-based information technologies to arrange land and resource rights "inside the polygon" of communally titled land.**

*(Genetic Resources, Continued)* issues within the access to genetic resources debates; including sometimes conflicting ideological and legal perspectives on intellectual property rights, traditional knowledge and institutional arrangements. The process was facilitated through site visits to both indigenous reserves in Costa Rica and INBIO, a bioprospecting research institution in Costa Rica. Participants presented results and recommendations at a workshop sponsored by Tulane University and the University of Costa Rica designed to solicit the input of international experts. Through dialogue at the workshop, the participants gleaned a greater understanding of relative advantages and disadvantages of certain framework agreements.

— David Fazzino (UF Law), Irene Chiu (NYU), Bonnie Sobrina Fuchs (Peru), Romy Moniet, Roxana Gómez Guada, Leidy Pédre Sierra (Tulane Cuba Project).

## Coral Countries: The Mesoamerican Reef Initiative

The Mesoamerican Reef off the coasts of Mexico, Belize, Guatemala, and Honduras is the world's second largest coral reef complex and largest in the Western Hemisphere. It is a "shared resource" under emerging international law, and recently the Belizean portion was declared a United Nations' UNESCO World Heritage Site. The four reef nations signed the "Tulum Declaration," a presidential level cooperation agreement designed to ensure the reef's survival.

However, there is concern that the entire reef may be in jeopardy. Two of the most significant factors affecting the reef are over-fishing and global climate change, which many scientists believe may be a factor in coral die-offs such as the massive 1998 coral bleaching event associated with the global weather phenomenon of El Niño. The nongovernmental organization Environmental Law Alliance Worldwide (E-LAW) asked the Conservation Clinic to examine different threats to the reef and present findings to E-LAW members, Costa Rican biologists, UF professors and students. E-LAW supported the participation of Guatemalan lawyer Jeanette De Noack, Belizean lawyer Sharon Pitts and Mexican lawyers Alejandro Reyes Huerta and Patricio Martin, all assisted by UF law student Greg Boylan and Jamaican law student Tracey Holmes. The clinic team chose to examine the feasibility of declaring the Belizean portion of the reef an "endangered site" under World Heritage Convention guidelines and to undertake a comparative analysis of fishing laws among reef countries. Consultations with a prominent University of Costa Rica reef biologist and a field trip to the Costa Rica National Aquarium in Puntarenas helped the team understand associated technical issues.

The team concluded a Belizean nongovernmental entity can petition UNESCO to list a site on its endangered list, and there is substantial scientific literature describing the link between climate change and coral bleaching. To submit a petition, documentation of these impacts specifically in Belize should be further

developed and a nongovernmental entity must be willing to prepare and submit the petition. Using the U.N. Food and Agricultural Organization's Code of Responsible Fishing Conduct as a basis, the Conservation Clinic team prepared a comparative analysis of fishing laws in the four reef countries. The team found widespread disparity in their fishing legislation, with some fishing laws dating to the middle of the last century. Enforcement also is a chronic problem. As a shared resource, the reef would benefit from harmonized fishing regulation based on contemporary science, and expanded "no-take zones," where all fishing is prohibited to provide for fisheries recruitment.

— Greg Boylan (UF Law); Tracey Holmes (Norman Manley Law School, Jamaica); Sharon Pitts (Belize); Jeanette De Noack (Guatemala); Alejandro Reyes Huerta and Patricio Martín (Mexico).

## Something Fishy Here: ISO 14001 Certification Case

Banana production ranks behind tourism as Costa Rica's second largest industry, and much of the country's Caribbean slope has been converted from primary rain forest to banana plantations. Bananas are grown as a plantation monoculture crop with heavy inputs of pesticides and fertilizers. Deforestation associated with banana production and other land uses is generally viewed as a key culprit in the demise of Costa Rica's Caribbean coral reefs. A 2002 fishkill in the Pacuare River Basin, world renowned for its whitewater rafting, set the stage for administrative litigation over the agricultural practices of the



"bananeros." Clinic/Consultorio law students Tom Ruppert (UF Law), Quilla Trimmer-Smith (UF Law), Holly Berman (U. Denver) and Gladys Martinez (UCR Derecho) worked the Costa Rica environmental litigation NGO — Justicia para la Naturaleza — on a brief submitted to an environmental administrative tribunal and helped prepare a community guide to the ISO 14001, the voluntary, private environmental management system used by the bananeros as a defense.

— Thomas Ruppert (UF Law), Quilla Trimmer-Smith (UF Law), Holly Berman (U. Denver), Gladys Martinez (UCR, Derecho).

## Abogados Sin Zapatos: The Central American Forest Communities Paralegal Project

Globalization has arrived to the deepest recesses of Central America's frontier forests. Large and small-scale forest resource exploitation and infrastructure development projects such as Mundo Maya and Plan Puebla Panama have descended upon the indigenous and campesino communities of the region. Many communities are dependent on government authorizations to retain their resource rights. Yet these remote forest communities lack basic access to legal services to

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## Costa Rica Environmental Law Clinic Opens in Spring

The Levin College of Law and University of Costa Rica (UCR) Faculty of Law have collaborated on design and development of an environmental law clinic as part of UCR's growing environmental law curriculum. The clinic, known in Latin America as a "Consultorio Juridico," begins formal operations in February 2004 under direction of Adjunct Professor (Profesora Interina) Shirley Sanchez, who also serves as Costa Rica coordinator of the UF/UCR Joint Program in Environmental Law.

The UCR Consultorio, modeled loosely after UF Law's Conservation Clinic, will differ from the traditional consultorio juridico in Costa Rica and elsewhere in Latin America. Traditional consultorios, like traditional law clinics, focus on legal services to the poor and are normally co-located within the offices of the Ministry of Justice or other government agencies that provide legal services, usually focusing on litigation. In addition, Latin American consultorios have not emphasized the pedagogical feedback loop through simulations and other legal skills training. The UCR Consultorio Juridico Ambiental (Environmental Law Clinic) is housed in the UCR law school and is freestanding, meaning it can develop its own clients as long as they are pursuing the public interest in a "healthy and ecologically balanced environment" (Article 50, Constitution of Costa Rica). The new Consultorio office includes ample workspace for students and staff, computers, a telephone, ethernet access and a conference room on the newly remodeled sixth floor of the UCR law school.

Costa Rica Program Director/UF Center for Governmental Responsibility Conservation Clinic Director Thomas Ankersen has been assisting Sanchez in development of the clinic's client base and pedagogy. Four volunteer UCR law students who participated in the 2003 UF/UCR Summer Program agreed to participate in a clinic demonstration project the following semester in order to develop the consultorio's initial portfolio. Several of these projects were carried forward from projects developed and executed by 2003 UF/UCR Summer Program Clinic students, who have remained formally and informally involved in projects during the 2003-04 UF academic year. Current projects include litigation and dispute resolution assistance in a case involving a toxic spill and fish kill, investigation into the possible theft of genetic resources for commercialization in the United States, a petition to declare an internationally listed wetland as threatened under the Ramsar Convention, and pursuit of an executive order to decree a coastal scenic highway. The Consultorio also is researching the effect of pending expropriation claims by U.S. citizens on access to U.S. foreign assistance programs such as debt for nature swaps. Students from UF and other U.S. law schools who participate in the 2004 Conservation Clinic in Costa Rica — and thereafter — will benefit by being able to join in these and other ongoing consultorio projects and its developing comparative legal skills pedagogy.

The new UCR Consultorio Juridico Ambiental will be third in a series of developments designed to make the UCR law school an international "Center of Environmental Law Excellence," a designation recently conferred on the law school by the IUCN-World Conservation Union Commission on Environmental Law at the inaugural meeting of the IUCN Academy of Environmental Law in Shanghai China. Professor Ankersen and UCR Law Dean/Environmental Law Professor Rafael Gonzalez Ballar attended the Shanghai meeting, presided over by Professor Nicolas Robinson of Pace Law School. Under Dean Gonzalez Ballar's tenure, the UCR law school also recently created an LLM (Maestría) in environmental law and established an environmental law research institute. Support for these efforts was provided by a grant from the John D. and Catherine T. MacArthur Foundation to the University of Florida Levin College of Law. □

*(Paralegal, Continued)*

ensure their contractual or tenure-based resource rights or defend environmental and community rights in the face of new development threats.

A novel approach to this problem was developed in the Ecuadorian Amazon. In Ecuador, a cadre of community paralegals (above) has been trained to serve as legal intermediaries between local communities and the institutions with whom they must increasingly interact.

In 2003, the Conservation Clinic teamed up with CEDARENA, a Costa Rican environmental law NGO that operates regionally, to consider the possibility of

establishing a community paralegal program in Central America. Paul Ghiotto (UF Law), Rubén Gonzalez (Panamá), Jeanette de Noack (Guatemala) and Tiernan Mennan (Cornell Law) examined the feasibility of a regional community paralegal program throughout Central America, and presented the concept to a forest community association in Guatemala. Using input from Ecuadorian community paralegal program founder Manolo Morales, the group developed a project proposal for a regional community paralegal program.

The proposal analyzed the role of legal assistants in

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UF Landscape Architecture Professor Tina Gurucharri (standing) and Costa Rica



Clinic Director/Program Co-Director Shirley Sanchez (seated, front left) work on a Conservation Clinic project involving the Southern Pacific Coastal Zone.



Daniel Aguillar (from left, standing), Jose Pablo Sanchez, UF Conservation Clinic Director Tom Ankersen, University of Costa Rica (UCR) Law Dean Rafael Gonzalez Ballar, CGR Director Jon Mills and (seated) Maria Fernanda Esquivel, Program Co-Director Shirley Sanchez and Gladys Martinez at the Costa Rica facility. UCR students Aguillar, Sanchez, Esquivel and Martinez work at the new UCR Environmental Clinic.



## Team Represents UF, UCR at International Environmental Moot Court

The University of Florida and University of Costa Rica recently collaborated to participate in the 2003 International Environmental Moot Court Competition at Stetson University. The competition, held Oct. 31-Nov. 1 in St. Petersburg, featured 27 teams from the U.S., Costa Rica, India, Australia and New Zealand. The University of Florida/University of Costa Rica team was comprised of Coach Thomas Ruppert (UF), Paul Ghiotto (UF), Alex Figares (UF) and Maria Fernanda Esquivel (UCR), all of whom had participated in UF's 2003 summer program in international environmental law at the University of Costa Rica.

The UF/UCR team was the only cross-cultural participant, and only team representing the civil law tradition. The joint team is another result of the active academic partnership between UF and UCR in the field of international environmental law.

For information on the Costa Rica program and other UF/UCR collaborative legal projects, visit the Conservation Clinic's Web site at: <http://conservation.law.ufl.edu/international.html>.

## Summer Study in Costa Rica

Travel abroad offers memories that last a lifetime and the chance to develop valuable contacts and experience as you broaden your horizons.

Applications are due by March 15 for the ABA-approved UF Levin College of Law Environmental Law Program at the University of Costa Rica. The 2004 program is scheduled for June 21-Aug. 2.

If you have questions about these or other international opportunities, contact the Office of Student Affairs or go online for detailed information and applications at [www.law.ufl.edu/students/abroad](http://www.law.ufl.edu/students/abroad).



*(Paralegal, Continued)*

Central American civil law systems, logistics and costs of community paralegal training programs, and relevant Central American laws regulating legal professionalism that could hinder or help paralegal training. The clinic also conducted two workshops to identify potential community paralegal pilot project stakeholders. In July, the clinic conducted a community workshop in San Benito, Guatemala for ACOFOP, the Association of Forest Communities of Petén. In August, the clinic conducted an additional workshop in Panama City for potential Panamanian stakeholders under the auspices of the Asociación para Conservación y Desarrollo (ACD).

## El Sendero Osa: Establishing a Mixed Tenure Regional Trail System on Costa Rica's Osa Peninsula

The complex of protected areas and contiguous forest on Costa Rica's Osa Peninsula represents the last remaining moist tropical forest on Central America's Pacific Coast. Biogeographically, the Osa forests demonstrate a strong affinity to the Colombian Choco on the South American continent, and represent the northernmost expression of that ecosystem.

Globally, the Osa is considered a Center of Plant Diversity, with a floral complexity rivaling that of the Amazon. At the heart of this remarkable mosaic lies Corcovado National Park, widely described as "perhaps the most biologically intense place on earth."

Ecotourism is central to Costa Rica's strategy to protect the Osa Peninsula. To further this strategy, conservation planners at CEDARENA Land Trust — a not-for-profit organization that promotes private land conservation — propose to establish a regional trail across the Osa Peninsula patterned after similar efforts in Chile (Sendero de Chile), Peru (Inca Trail) and United States (Appalachian Trail). The trail will anchor a concerted effort to create a biological corridor connecting Corcovado and Piedras Blancas National Parks.

Alex Figares (UF Law/Business) and Tiernan Mennen (Cornell Law) investigated the legal issues concerning the building of a public trail traversing both public and private lands in the ecologically sensitive Osa Peninsula. They looked into land tenure and land use regulations and traversed the Osa to ascertain viable alternatives. The project culminated in a report before CEDARENA Land Trust representatives (who sponsored the endeavor) and various stakeholders in the region. Also presenting a comparative study of issues pertaining to the trail were students Jessica Cooper (UF Law) and Jose Pablo Sanchez Vega

## E-LAW Fellows: A Cross Cultural Classroom

From its inception, the joint UF/UCR Costa Rica Program has benefited from its collaboration with the Environmental Law Alliance Worldwide (E-LAW) in administration of fellowships for young public interest lawyers and law students from throughout the Americas funded through a generous donation from the John D. and Catherine T. MacArthur Foundation, and, increasingly, other sources. E-LAW fellows are selected based on interest, language skills and willingness to work with UF Costa Rica Program students on a wide range of projects affecting their own countries and the region. The result is a rich mix of students from a variety of ethnic and national origins that creates a unique learning environment for all, including the professors. Many E-LAW fellows have gone on to pursue advanced legal studies and to pursue careers in public interest environmental law in prominent institutions within the region, including:

- **Byron Real** (Ecuador) is pursuing his PhD. in anthropology at UF, where he also completed a Master's degree in Latin American Studies.
- **Samantha Nanumm** (México) directs the biodiversity and human rights program for the Mexico City Office of CEMDA, the Mexican Environmental Law Center and Mexico's largest and oldest environmental law organization.
- **Maria Jiménez** (Costa Rica) is pursuing a Master's degree in International Development in Germany.
- **Astrid Puentes** (Colombia) completed her LL.M. at UF, externed with the San Francisco Office of Earth Justice, and was recently named Director of AIDA, the InterAmerican Alliance for the Defense of the Environment.
- **Rafael Costas** (Brazil) is President of Aprender, a Brazilian environmental law NGO that focuses on issues relating to coastal and marine issues in Santa Catarina, Brazil.

## New Externships Available

UF Law students interested in increasing their legal skills training in Latin America and the Caribbean may apply for three new externships with the UF/UCR Joint Program in Environmental Law. Applicants should have strong Spanish language skills and be self-starters willing to work in a dynamic and different legal culture and social context (externships subject to approval by administration).

- The Interamerican Human Rights Institute extern will explore the intersection between human rights and the environment under supervision of Institute Program Officer Victor Rodriguez. It is offered for 3 credits in conjunction with the Joint Program in June and July. For more information on the institute, go to [www.iidh.org](http://www.iidh.org).
- The International Campaign to Save the Osa Peninsula extern will work with a consortium comprised of The Nature Conservancy, Conservation International and Costa Rica-based CR-USA Foundation to secure the ecological future of Costa Rica's most remote and biodiverse tropical wilderness. In 2002, UF Conservation Clinic student Kevin Regan worked with government officials to petition UNESCO to declare Corcovado National Park, the jewel of the Osa Peninsula, a world heritage site. The student will be supervised by Steven A. Mack, a CR-USA Program Officer and UF Law graduate. For campaign information, go to [www.cr-usa.org](http://www.cr-usa.org).
- The Consultorio Juridico Ambiental extern will work in the newly established UCR Environmental Law Clinic under supervision of Clinic Director Shirley Sanchez on cases and law and policy projects and overall clinic's development. It is available for 5 credits spring and fall only and prospective applicants should intend to or have already participated in the Joint Program.

(Universidad de Costa Rica Derecho). The report includes the recommendation for the establishment of a National Trails Law in Costa Rica, and a proposed route recommended by the Conservation Clinic. □



For information on Conservation Clinic or Costa Rica programs, go to [http://conservation.law.ufl.edu/summer\\_costarica/index.htm](http://conservation.law.ufl.edu/summer_costarica/index.htm) or contact the Center for Governmental Responsibility (352-392-2237) or Program Director Tom Ankersen ([ankersen@law.ufl.edu](mailto:ankersen@law.ufl.edu)).

For more information on the projects described in this newsletter, go online to [http://conservation.law.ufl.edu/international\\_projects.htm](http://conservation.law.ufl.edu/international_projects.htm).