

2014 Human Rights Moot was our biggest competition yet

By Sarah Austin

This year, the Castan Centre's mooting competition went truly national for the first time with 16 teams from 11 universities entering, representing almost every state and territory.

The Moot gives students an opportunity to test their advocacy and legal analysis skills on a scenario arising under the Victorian Charter of Human Rights and Responsibilities Act. The Charter protects rights, primarily drawn from the *International Covenant on Civil and Political Rights*. It does this by obliging Parliament to consider human rights in developing new legislation, by requiring "public authorities" (for example, government departments and agencies such as Victoria Police) to act in ways that are compatible with the human rights in the Charter, and by requiring courts and tribunals to interpret Victorian law consistently with human rights as far as possible.

This year's moot problem saw prisoner "Mark" arguing that Corrections Victoria had breached The Charter by transferring him to a prison far away from his family, forcing him to attend a program for convicted sex-offenders before he was convicted, using solitary confinement, transferring him to court in a van that was not suitable and failing to stop his assault by another prisoner.

The first, second and semi-final rounds were hosted by Clayton Utz, who have been generous sponsors since the Moot's inception. Their lawyers jumped at the opportunity to preside as judges, some in particular who had been competitors in our past moots relishing being on the other side of the desk. We were also excited to welcome a number of VEOHRC members as judges. Drinks and nibbles after the moots provided an opportunity for students to mingle while waiting for feedback and the results.

Barristers Peter Grey SC and Nick Wood, HRLC senior lawyer Ruth Barson and retired federal court judge Peter Gray were on hand for the semi-finals where Melbourne defeated Bond University and The University of Tasmania took out Monash University by the very slimmest of margins (just one point from each judge).



Monash and University of Tasmania teams compete in the moot

For the final, the moot moved to the Court of Appeal with a distinguished bench comprising Justice Debbie Mortimer of the Federal Court, VEOHRC commissioner Kate Jenkins and Professor Zifcak Spencer, who is the Allan Myers Chair of Law at ANU. Both teams put aside their nerves and presented confidently to the bench, answering curly questions as they came thick and fast.

In the end, the team from Melbourne University comprising Jack Maxwell, Zoe Anderson and Andy Lynch were victorious over Aaron Moss, Maddy Pillans and Adrian Hilly from the University of Tasmania and took home the \$2,000 prize money.

Survey results following the moot showed that 100% of respondents felt that participating in the moot increased their knowledge of The Charter. This is especially important in light of the fact that over 90% of respondents said that The Charter was not taught at all in their degree or that it was covered but not comprehensively.

Our sincere thanks go to Clayton Utz for its support of the Moot and the Centre, VEOHRC, all our judges, the Court of Appeal staff and of course all the competitors who made this our largest and most successful moot ever.

Global gathering considers access to asylum

Access to asylum is an increasingly controversial issue, both in Australia and globally. In light of these pressures, Castan Centre Associates Dr Maria O'Sullivan and Professor Susan Kneebone held a conference, 'Access to Asylum: Current Challenges and Future Directions', at the Monash Prato Centre in May this year.

The conference examined two of the most pertinent current challenges faced by asylum seekers in gaining access to international refugee protection. First, the obstacles to *physical* access to territory and, second, access to asylum justice – that is, to a quality asylum *procedure*.

The two day conference began with a comprehensive presentation of access to justice issues faced by asylum seekers delivered by Dr David Cantor, Director of the Refugee Law Initiative at the University of London. This was followed by a range

of plenary sessions which addressed the increasing use of deflection practices by States in Europe and Australia and the outsourcing of protection via offshore processing and use of private contractors (an issue with direct and significant relevance to Australia). Other sessions examined the content of 'asylum', the importance of legal assistance in ensuring a fair refugee status procedure; and the role of UNHCR as *amicus curiae*.

The conference concluded with a panel discussion on 'burden sharing' of refugees, with international experts organized and chaired by Professor Kneebone.

The conference attracted over 75 delegates and included academics, practitioners and NGO staff from Europe, Canada, the United States, South Africa, Israel and Australia. Speakers were drawn from leading international refugee law scholars, including Dr Dallal Stevens from Monash University's

international partner Warwick University; Dr Cathryn Costello, Refugee Studies Centre and Faculty of Law, Oxford University; Dr Sean Rehaag, Osgoode Hall Law School, Canada; Professor Deborah Anker, Harvard University; and Professor Donald Galloway, University of Victoria, Canada. European NGO's were also well represented with two excellent presentations from the European Council on Refugees and Exiles (ECRE) and the Hungarian Human Rights Committee.

Selected papers from the conference will be published in a special edition of the *Immigration, Asylum and Nationality Journal* (co-edited with Professor Kneebone), and an edited volume by Maria O'Sullivan and Professor Dallal Stevens of Warwick University ('Fortresses and Fairness – States, the Law and Access to Refugee Protection'), to be published in 2015.