It’s time to modernise Australia’s birth registration system

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www.law.monash.edu.au/castancentre
For our 2015 Annual Appeal we decided to try something a little different and ask some of our prominent supporters to show their support by donning an “I support the Castan Centre” tee shirt. Sharing the photos of these 20 supporters (19 human, 1 space exploring dog), we created a huge buzz across our social media with more than 20,000 people seeing the photos on Facebook alone.

Our first photo featured Castan Centre patron Michael Kirby and he was followed by prominent human rights supporters from both the Legal and Entertainment industries, including comedians Stephen Curry, Meshel Laurie and Tom Ballard, activists Jessie Taylor and Senthorun Raj, Australia’s favorite marsupialist cartoonist First Dog on the Moon, former Judge of the International Court of Justice, Christie Weeramantry, commentator and presenter Waleed Aly, and, leading advocate for asylum seekers Julian Burnside.

Our Annual Appeal is a vital fundraiser for the Centre and without it we would not be able to contribute to shaping policy debates in Australia and overseas.

Already this year we have:

• Spoken out against the unacceptable treatment of asylum seekers, LGBTI discrimination, prison overcrowding, the attacks on the President of the Australian Human Rights Commission and many more issues.
• Made submissions to the Victorian and South Australian parliaments urging them to legalise same-sex adoption, and to the Federal Parliament on conditions at the Nauru detention centre.
• Worked for stronger human rights laws by engaging with the federal inquiry into the protection of traditional rights and freedoms in Australia and the Victorian review of the Charter of Human Rights and Responsibilities.
• Highlighted the issues of foreign fighters, racialised policing and current humanitarian crises by hosting free public events for capacity audiences.

Our Annual Appeal is one of the most important events on the Castan Centre calendar and this year we had a lot of fun raising money for a serious cause.

It’s not too late to make a contribution to our work. Just go to law.monash.edu/castancentre/donate.

Prominent supporters of the Centre Julian Burnside, Stephen Curry, Michael Kirby, Myf Warhurst and Jessie Taylor proudly don the ‘tee.'
As the human rights landscape becomes ever more challenging, Australia's only annual human rights conference grows ever more relevant. Join over 300 supporters of human rights at Deakin Edge, Federation Square to hear from speakers covering topics of both international and domestic significance.

Fiona McCormack, CEO, Domestic Violence Victoria
The appointments of Rosie Batty and Ken Lay to a panel to advise COAG, the Victorian Government’s Royal Commission into Family Violence, a “Q and A” program dedicated to family violence, and talks of national Domestic Violence Order scheme have come at a time when the most likely cause of death or injury in Australia for women under 45 is family violence, and roughly one woman a week is killed by her former or current partner. These statistics represent just part of the family violence plague to be discussed by Fiona.

Brett Walker SC, former Independent National Security Legislation Monitor
Prime Minister Tony Abbott has previously said the balance between freedom and security may have to shift in light of increased threats from terrorism. Part of this shift is new laws on freedom fighters, metadata, surveillance, journalists and whistle-blowers who disclose classified information, as well as increased powers for ASIO. Are these necessary? Are counterterrorism laws and human rights protections fundamentally incompatible, or is it a false conflict? Brett’s former role as Independent National Security Legislation Monitor has placed him in a unique position to comment on these issues.

Helen Szoke, Chief Executive of Oxfam Australia
In 2016 the richest 1% of people in the world will have more wealth than the other 99% of people. In Australia the wealthiest 1% has more than the least wealthy 60%. Extreme inequality can have long term global economic implications and can be entrenched across generations through lack of access to education, healthcare, employment opportunities and political power. Oxfam Australia CEO Helen will consider how we can reduce inequality as well as the human implications of growing domestic and global inequality.

Martin Hodgson, Senior Advocate, Foreign Prisoner Support Service
Each year around 1,000 Australians are arrested overseas and more than 250 are in prisons overseas at any one time. High profile recent cases have include Journalist Peter Greste, who spent more than a year in an Egyptian prison, as well as Myuran Sukumaran and Andrew Chan, who were recently executed for drug convictions in Indonesia. Martin Hodgson will discuss the plight of Australians arrested and imprisoned abroad, including those on death row, and how governments, media and human rights organisations should respond, and what they have done wrong in the past.

Dennis Eggington, CEO, Aboriginal Legal Service WA
A long-standing legacy of dispossession is evidenced today by the over-representation of indigenous people in Australian court and prison systems. The enforced fracturing of our families and removal from Country has had a major and devastating effect on Indigenous people. Dennis will discuss the proposal to close remote communities in WA and the impact that future evictions from Country will have on Community members.

Tim Wilson, Australian Human Rights Commissioner
Businesses are not human beings, so they do not have human rights. But individuals own businesses and often exercise their human rights through businesses. Business is the exercise of human rights, including people’s right to physical and intellectual property, and the freedom to trade it. Businesses can also be a force for good in advancing and respecting human rights. But they can also harm and hinder them. Drawing on recent examples, Australian Human Rights Commissioner, Tim Wilson, will explore the relationship between human rights and business, and whether business rights trump human rights or if they are the same thing.

Sarah Joseph, Director, Castan Centre for Human Rights Law
Australia has received much criticism from international and local human rights community over its harsh policies towards asylum-seekers seeking to come to Australia by boat. The most common defence of these policies, from both the government and those parts of the press which favour strong “border protection”, is that these policies save lives, by deterring deadly boat journeys. After all, available figures indicate that about 1200 people tragically drowned in failed boat journeys between 2009 and 2013. The dangers of such boat journeys have also been manifested, horribly, in crossings from Libya to Europe in the Mediterranean Sea.

How sound is this argument? Does it justify the policies adopted by the Australian government, which do seem to have slowed if not stopped the boats? Centre Director Sarah Joseph will critique the “drownings argument”, and associated human rights issues.

Paula Gerber, Deputy Director, Castan Centre for Human Rights Law
Surrogacy, and in particular commercial/compensated surrogacy, is a highly emotive issue. People tend to polarise into two extreme camps: either seeing it as exploitative of women, or as a blessing for childless couples who want to begin a family. Discussions of regulation tend to focus on whether surrogacy should be banned, left to market forces or regulated by governments. Paula asks how can we instead use the Convention on the Rights of the Child to inform the regulation of surrogacy.

Thank you to our conference platinum sponsors Corrs Chambers Westgarth, Maurice Blackburn and The Saturday Paper.

The 2015 Castan Centre human rights conference will be held on Friday 24 July at Fed Square in Melbourne. Tickets are now available via our website.
Have You Got That Right? Get ready for season three

With two successful seasons under its belt, we are once again jumping back into the production stage for seasons three and four of “Have You Got That Right?”.

Our incredible writing team of Elizabeth Yick, Chris Eales, Cassie Axon, Anika Basset and Jeremie Bracka has finished writing the five episodes for season three and are about to dive into season four. These next ten videos will use a different format, but will keep that a secret until they launch later this year.

Suffice to say, that our Director Robert Hall, composer Guy Gross, animation firm Jumbla and extensive roster of actors and crew will all be back, pitching in with amazing pro bono support.

The season three episodes will be:

**What is self-determination?**
Is self-determination just declaring your own country and printing your own money? How do you “freely determine your political status and freely pursue economic, social and cultural development”? How might Government activities like the Northern Territory intervention violate a people’s right to self-determination?

**Is there a right to the Internet?**
Does denying access to the internet and the corresponding economic development opportunities also prevent people from fully enjoying their human rights? How critical is the internet to modern communication, particularly when it comes to freedom of expression?

**Is there a human right to strike?**
When do employees have a right to strike, and when can the right be limited? Can anyone just up and strike? What about emergency services? And do striking workers have a right to be paid?

**Do retrospective laws violate human rights?**
It is a fundamental rule of law that you can only be punished for a crime that was a crime at the time it was committed. But what about war crimes, genocide and crimes against humanity which occurred before those offences existed?

**Is bullying a breach of human rights?**
What is bullying? What does the Convention on the Rights of the Child have to say? Can bullying affect a child’s enjoyment of their right to education? What about workplace bullying? How does that violate human rights?

*Catch up on any of the videos you missed from season one or two at our Have You Got That Right Website*

Recent Castan Centre policy submissions

The Castan Centre regularly submits papers to state and federal parliamentary committees highlighting the adverse effects of laws on human rights, and suggests ways governments can change these laws to conform with human rights.

**Same sex adoption reform in Victoria and South Australia**
As with heterosexual couples, same-sex couples may elect to adopt children for numerous reasons including medical infertility, social infertility, and most importantly, the desire to provide a child with a loving, nurturing and wholesome environment.

The fact that in most Australian jurisdictions, including Victoria, same-sex couples can access fertility treatment is evidence that they are viewed as suitable parents. Furthermore, there is now a significant research that establishes that same-sex couples are just as good parents as heterosexual couples. Once it is accepted that same-sex couples are suitable parents, there is no logical reason to discriminate against the means of achieving parenthood.

*The Victorian submission can be read here*

**Recent Allegations relating to Conditions and Circumstances at the Regional Processing Centre in Nauru**
The “Moss report” outlined numerous allegations that are deeply concerning and suggest grave violations of the human rights of asylum seekers. These allegations included sexual assault; rape and threats of rape; indecent assault and sexual harassment; indecent exposure; and the physical assault of detainees. Allegations involving children are particularly troubling because of the vulnerability of children at the detention centre.

These allegations are likely to constitute a tort under Australian municipal law and suggest a failure in the duty of care owed by the Commonwealth government to asylum seekers detained in Nauru.

*The Castan Centre submission along with 26 other submissions can be read here*

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Read the **2015 Human Rights Report**

Since our inaugural Castan Centre Human Rights Report last April, it has felt as if the number of human rights issues facing people around the world is overwhelming.

Indigenous Australians continue to face enormous obstacles to “closing the gap” in the face of large budget cuts and entrenched bureaucratic barriers. For example, a multi-year research project by Castan Centre staff has revealed that unregistered births, which disproportionately affect Indigenous people, can increase imprisonment rates.

The assault on asylum seekers’ human rights continues unabated. In the 2015 report, two pieces look at the latest legislative and policy changes. Entrenched political opinion on this issue may make it seem futile to address refugee rights at this time. However, there will likely be consequences for the perpetration of such grave human rights abuses, as mentioned in Sarah Joseph’s introductory piece.

Prisoners’ rights is another topic that rarely draws sympathy from the general public. As prisons are so far from the public eye and prisoners so susceptible to abuse, it is a vital human rights issue nonetheless. In our report, we look at how lawyers and judges often fail to use human rights laws to protect prisoners, while in other cases novel methods are being used to hold prison authorities to account.

The nexus between human rights here and overseas has never been greater – from commercial surrogacy to LGBTI rights, land grabs and international criminal law to the death penalty, Australians are increasingly grappling with complex human rights issues.

Our report – which covers just some of the many issues facing humanity today – reminds us that there has rarely been a more important time to stand up for human rights, both here and around the world.

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**Have You Got That Right?**

Have You Got That Right? is a new, weekly internet series that explores human rights in Australia and around the world. 

Visit our website to find out more.

*The Victorian submission can be read here*
Castan Centre Deputy Director Paula Gerber leading the way in promoting LGBT rights

Launch of the Rainbow Refugee Action Coalition

In February, Paula was the keynote speaker at the launch of the Rainbow Refugee Action Coalition in Canberra, a group focusing specifically on asylum seekers who are lesbian, gay, bisexual or transgender (LGBT). Asylum seekers who are LGBT are particularly vulnerable to harm whilst in detention, as they are often rejected or persecuted by other asylum seekers from their country of origin who, because of their religion or culture are hostile to homosexuality.

Paula spoke of the difficulties that LGBT asylum seekers face in pursuing claims for refugee status on the basis that they have a well founded fear of persecution based on their sexual orientation or gender identity. Decision makers often assess asylum seeker applications based on stereotypical understandings of LGBT persons and culture, and may reject claims from applicants who did not behave in an effeminate manner or visit gay bars. Because of difficulties in convincing officials that they are gay, some asylum seekers have taken to tendering into evidence, photographs or videos of them engaging in same-sex sexual conduct. Clearly such material should not be sought or accepted by any decision maker since it violates an individual’s human dignity and right to privacy.

Teaching sexual orientation and gender identity within the law curriculum

Paula has also presented a paper on her approach to teaching law students about the law relating to sexual orientation and gender identity at the annual human rights teachers’ workshop at ANU. Current approaches are often limited to discussing high profile issues such as marriage equality or criminalisation of homosexuality. Paula advocated for a more holistic approach that includes less obvious aspects of human rights law, such as the application of the Convention on the Rights of the Child to LGBTIQ youth and children with same-sex parents, and moves legal education away from the assumptions of heterosexuality and gender normativity, that is evident in most law programs.

Following this Paula was featured in the Star Observer with an opinion piece observing that, at best, only eight of Australia’s 36 law schools offer subjects relating to LGBTI rights, sexual orientation or gender identity. Read it on page 9 of this newsletter.

LGBT rights in South East Asia

In May, Paula presented a paper on the laws impacting on LGBT people in South East Asia at the Fifth Asian Conference on Cultural Studies in Oska, Japan. Paula highlighted how 11 of the 77 countries that criminalise same-sex sexual conduct between consenting adults are located in Asia, the majority of which are Commonwealth countries. The criminalisation of same-sex sexual conduct is not the only problem facing LGBT people in this region. The absence of any anti-discrimination laws prohibiting discrimination on the grounds of sexual orientation and gender identity mean that LGBT people have no protection against discrimination in employment, housing, education and healthcare.

Paula is teaching the masters unit Sexual and Gender Minorities and Human Rights Law as a 4-day intensive in October.

“Proof of Birth” examines the causes and effects of unregistered births

In today’s world, the demands for proof of identity are growing ever greater. Whenever you try to obtain a driver’s licence, open a bank account, obtain a job, get a tax file number, travel overseas, register for social security, undertake education, or even join a sporting team, you are likely to be asked for proof of who you are, and, in many cases, how old you are. The fundamental document required in most such situations is a birth certificate.

While the majority of Australians do not have any significant difficulty in obtaining a birth certificate, that experience is not universal. Those from Aboriginal and Torres Strait Islander communities, rural and remote communities and culturally and linguistically diverse communities are all over-represented in unregistered births. Not having a birth certificate prevents people from enjoying many of the basic human rights that others take for granted.

Proof of Birth, edited by Castan Centre Deputy Directors Melissa Castan and Paula Gerber, draws together the work of a range of experts from diverse fields who present recent developments and strategies designed to overcome barriers to accessing the birth registration systems. It provides recommendations to help communities, governments and civil society work together to ensure all Australians are able to obtain a birth certificate to enable them to fully participate in Australian life.

Chapters in the book can be downloaded for free.

Upcoming Castan Centre events

Alongside the annual conference the centre regularly hosts free public events with local and international speakers.

Christof Heyns, Friday 9 October


Details of this and other future events will be on our website as they are available.
Learn a little about our in-house interns

Elizabeth Tan

Why are you interested in human rights?
I am most interested in women’s rights and issues like domestic violence, the gender pay gap, lack of women in higher management positions but also more international issues such as FGM and human trafficking. I am also interested in disability law and the accommodation of people with disabilities.

What was your best experience during the internship?
My best experience was working on the legal briefs for the, ‘Have You Got That Right?’ video series because I was able to learn a lot about interesting issues such as whether there was a right to not be evicted and whether schools had an obligation to accommodate children with disabilities.

Laura Henderson

Which particular human rights issues are you most interested in?
The rights of indigenous peoples, particularly land rights; the interface between international environmental law and human rights; and issues around gender inequality.

What was your best experience during the internship?
Being given the opportunity to meet with different people and hear their views on specific human rights issues. I loved being able to focus in on different areas when writing briefs for the ‘Have you got that right?’ series and deepen my legal understanding of these issues.

What are your plans for the future?
I graduate this year and am planning to work in the area of native title here in Australia.

Madeline Lynch

Which particular human rights issues are you most interested in?
I have a particular interest in the rights of the child. The rights of the child and the rights of the parents are often not distinct from each other and children’s rights are often overlooked in the wider context of human rights.

What are your plans for the future?
I am most interested in women’s rights and issues like domestic violence, the gender pay gap, lack of women in higher management positions but also more international issues such as FGM and human trafficking. I am also interested in disability law and the accommodation of people with disabilities.

What was your best experience during the internship?
My best experience was working on the legal briefs for the, ‘Have You Got That Right?’ video series because I was able to learn a lot about interesting issues such as whether there was a right to not be evicted and whether schools had an obligation to accommodate children with disabilities.

Alessandra Di Natale

Why did you apply for the Castan Centre internship?
I applied for the Castan Centre Internship to further my learning about human rights and to apply and develop my legal research skills. We are lucky to have such a renowned centre for human rights on campus and I was excited about the possibility about working with human rights academics and contributing to real-life projects.

What was your best experience during the internship?
I have really enjoyed working on preparing submissions in support of adoption by same-sex couples for the Victorian and South Australian inquiries. Knowing that we were able to contribute to a government inquiry and seeing the project come to fruition was a great experience.

Any advice for future applicants or interns?
Take advantage of having the Castan Centre right here on campus and apply for the internship! You’ll learn about so many different human rights issues while interning so don’t worry if you don’t have previous knowledge of a certain area; just approach everything with enthusiasm and a desire to expand your knowledge.

Sarah Sacher

Why are you interested in human rights?
It’s hard to say, because I have been interested in human rights for as long as I can remember. But it’s one thing to have opinions about injustices and human rights causes and another to actively contribute to making a difference in some capacity. I want to put my education and efforts towards achieving something positive.

Why did you apply for the Castan Centre internship?
The Castan Centre internship attracted me because it offered the opportunity to engage with a diverse range human rights issues in a number of interesting ways, such as through research, completing submissions and other written tasks. The internship programs flexibility (being able to complete it one day/week), made it feasible for me to commit to, unlike many other internship programs.

Any advice for future interns?
Just to enjoy it – if you are interested in human rights, you are in the right place.

Students who are interested in being an in-house intern or participating in one of our other student programs should go to our website for more information
Students, broaden your knowledge of Victorian human rights legislation

Students from all Australian universities are invited to compete in the 9th annual Castan Centre Human Rights Moot Competition. In 2014 sixteen teams from eleven universities entered, representing almost every Australian state and territory.

The moot problem will focus on issues which arise under the Victorian Charter of Human Rights and Responsibilities, giving students an opportunity to test their advocacy and legal analysis skills. This law enshrines civil and political rights derived from the International Covenant on Civil and Political Rights. Previous moot problems have included issues around treatment of prisoners, supervision orders for sex offenders, access to IVF, mental health, imprisonment of minors, same-sex rights and more.

The Moot will be held at Monash University Law Chambers in the Melbourne CBD from Monday 7th to Wednesday 9th of September 2015.

Students may apply by contacting the delegate listed at the moot webpage or contacting the Castan Centre directly if there is no delegate. Applications close on Wednesday 5th August 2015.

Human Rights Law Masters at Monash

The Monash Faculty of Law (home to the Castan Centre) offers the oldest masters degree in Australia dedicated to the study of human rights law.

To ensure these opportunities are open to as many people as possible, graduates from both law and non-law disciplines can study postgraduate human rights law at Monash.

New units offered for the first time in 2015 include:

**Sexual and Gender Minorities and Human Rights**, with Castan Centre Deputy Director Associate Professor Paula Gerber.

This unit will analyse contemporary issues such as same-sex marriage/relationship recognition, criminalisation of homosexuality, anti-discrimination laws, hate-based violence ‘gay propaganda’ prohibitions. Students will also critique the work of the UN in the field of human rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) people.

**Racial Ethnic and Linguistic Minorities and Human Rights**, with Castan Centre Deputy Director Melissa Castan.

Students undertaking this unit will analyse contemporary legal dimensions of the human rights of racial, ethnic and linguistic minorities; such as self-identity and recognition at international law, exclusionary laws impacting upon minorities, anti-discrimination laws, ethnic violence and other restraints on ethnic and cultural practices.

Units taught by visiting scholars include:

**Economic Social and Cultural Rights and International Law** with Professor Olivier de Schutter, former United Nations Special Rapporteur on the right to food and member of the UN Committee on Economic Social and Cultural Rights.

The unit addresses the theory, history, law and politics of economic social and cultural rights (e.g. the right to food, the right to education).

**Genocide in International Law**, taught by Professor Elies van Sliedregt, Professor of International Criminal Law, Dean of the Law School of the Vrije Universiteit Amsterdam and Director of its Centre for International Criminal Justice.

The unit investigates the legal and political meaning of “genocide”, the origins of the Genocide Convention, and legal and policy issues associated with its international criminalization.

Are you a future human rights leader?

Our global internship program provides an opportunity for high achieving students with a commitment to human rights to travel to New York, Geneva or Kuala Lumpur and spend 3-6 months with an international organisation.

The 2016 program will offer internships for Monash law students at the Center for Constitutional Rights, Human Rights First, International Women’s Rights Action Watch-Asia Pacific or International Service for Human Rights, and an additional opportunity for an indigenous student from any Monash faculty to intern at the Australian delegation to the UN Human Rights Council. We are currently investigating a 6th internship so keep your eyes out for that too.

The global internship program is a training ground for future human rights leaders and many interns go on to have significant roles within the legal industry working in government, major legal firms, the United Nations, international NGO’s and at the bar.

Funding for the internship is provided by the Castan Centre and ranges from $7,300 to $9,400 depending on the location of the internship.

Applications for the program open on Monday 6th July 2015. More information can be found on the Castan Centre website.
It’s time to modernise Australia’s birth registration system

Opinion by Paula Gerber and Melissa Castan

Having a birth certificate is a key to citizenship and many take it for granted that they can use it to prove they are Australian and a lawful citizen.

But a number of Australians – predominantly Indigenous people and those from culturally and linguistically diverse communities – miss out on the benefits of citizenship, are precluded from accessing the full range of political and economic rights, and struggle to fully participate in society, all because their birth was never registered. Or if it was, they cannot produce a birth certificate to prove it.

To register a birth in Australia, parents must fill out and sign a paper form and either mail it to the Registrar of Births, Deaths and Marriages (BDM), or take it in person to the registry office in the capital city. Or if in Victoria, to one of the regional Justice Centres. All going well, several weeks later, parents will receive their child’s birth certificate in the mail.

In this age of increasing connectivity, where few people don’t have access to a mobile phone, tablet or computer, it is appropriate to ask whether there is a better way of registering births and issuing birth certificates.

Digital birth registration

Several African countries are leading the way in managing the birth registration process online. For example, Uganda has birth registration services in hospitals which enable mothers to register the birth of their child immediately after delivery, or when they return to have immunisation or health check-ups for their children. The birth registration information is sent to a web-based application linked to a government database. After verification by a hospital administrative officer, an official birth certificate is printed at the hospital and presented to the parents. The entire process is completed in minutes, rather than weeks.

So why has Australia not yet moved to digital birth registration? Shifting to an online system is being explored, but security and fraud concerns mean a cautious approach is being adopted.

In some ways this is understandable. After all, birth certificates are the core document for acquiring proof of identity documents, including driver’s licenses and passports. The potential for fraud would be an obvious risk to national and personal security.

However, these concerns about security must be balanced with the need for universal birth registration. Although, overall, Australia has high levels of birth registration, a significant proportion of unregistered births are occurring within Indigenous communities.

Unregistered birth in Indigenous communities

Making the birth registration system more accessible and user-friendly would help to address low rates of birth registration. If an online system were available in Australian hospitals, as in Uganda, we could ensure that all babies would be registered within days of being born and, ideally, that mums go home with their baby and their child’s birth certificate in hand.

Such reforms would also assist with Australia’s compliance with the human right to birth registration as set out in Article 24 of the International Covenant on Civil and Political Rights and Article 7 of the Convention on the Rights of the Child. Indeed the UN Committee on the Rights of the Child has stated that it is:

Concerned about the difficulties faced by Aboriginal persons in relation to birth registration. In particular, the Committee is concerned that obstacles to birth registration arising from poor literacy levels, the lack of understanding of the requirements and advantages of a birth registration as well as inadequacies in the support provided by authorities have not been resolved. The Committee further notes with concern that a birth certificate is subject to administrative costs, posing an additional hindrance for persons in economically disadvantaged situations.

The Committee urges the State party to review its birth registration process in detail to ensure that all children born in Australia are registered at birth, and that no child is disadvantaged due to procedural barriers to registration, including by raising awareness among the Aboriginal population on the importance of birth registration and providing special support to facilitate birth registration for illiterate persons. It further urges the State party to issue birth certificates upon the birth of a child and for free.

Paper or plastic?

Finally, it should be noted that birth registration is not the only part of the system that needs to be modernised.

We can also learn a lot from Canada when it comes to birth certificates. Canadians realised that producing a document as important as a birth certificate on a flimsy piece of paper was not ideal. In that form it can be easily ripped (e.g. by a curious toddler), ruined (e.g. by repeated folding to fit in a person’s wallet) and is generally not in a durable form. This was evident from the large number of requests Canadian BDM registries received each year for replacement birth certificates.

Ironically, the solution that Canada came up with involves Australian technology. They now produce birth certificates on the plastic that we use to make our bank notes. If the Canadians have found the material that we use for our currency to be suitable for birth certificates, surely we should explore doing the same?

It is time for Australia’s birth registration system to be brought into the 21st Century. Embracing innovative digital technology in this sector is long overdue. Implementation of such reform would ensure that all Australians are able to access the birth registration system and obtain a birth certificate, not just those who are part of mainstream society.

This article was originally published on Right Now. Read the original article.
How to educate our future lawyers about LGBTI rights

Law schools around Australia need to move education away from assumptions of heterosexuality and gender normativity and encourage students to grapple with legal issues related to sexual orientation and gender identity. Paula Gerber explains.

There are 36 law schools within Australian universities. How many of these do you think offer subjects relating to LGBTI rights, sexual orientation or gender identity? Half? A quarter?

Alas, on the most generous count, it is only eight: Monash University, Southern Cross University, Griffith University, University of Technology, Sydney (UTS), Australian National University, Macquarie University, University of Western Australia, and University of Wollongong.

While this is a disappointingly low number, and a poor geographic spread – with no offerings in South Australia, Tasmania or the Northern Territory, and only one in Victoria – it is a big improvement on just five years ago. In 2010, only three law schools offered LGBTI-related subjects.

Is it a problem that the majority of law schools are not offering students the opportunity to study how the law impacts LGBTI people in positive and negative ways? The answer is a resounding yes.

The law has traditionally been a very heteronormative institution. To this day, the senior members of the legal profession are overwhelmingly white heterosexual men, as are the politicians who make our laws and the judges who interpret and apply them. Given this environment, it is essential that law schools, as the bodies responsible for training future generations of lawyers, equip our students with the knowledge, skills and understanding to represent a diverse range of clients and effectively respond to legal issues unique to the LGBTI community.

Offering subjects dealing with LGBTI rights and issues is also likely to have a positive effect on LGBTI students by lessening any sense of isolation they may feel.

So what do the current array of LGBTI-related subjects look like? A common thread is that the subjects tend to be interdisciplinary. That is, the law relating to sexual orientation and gender identity has to be considered in context, and thus topics covered include history of the gay rights movement and queer theory.

Only a couple of the subjects focus exclusively on LGBTI rights and issues. The majority consider sexuality and gender more broadly, including Pleasure and Danger: Sex and the Law at Macquarie and Gender, Law and Sexuality at UTS.

Monash is the latest university to offer law students the opportunity to learn more about LGBTI rights and issues. Its subject Sexual and Gender Minorities and Human Rights Law is the only one to critique sexual orientation and gender identity from a human rights perspective. Students examine a diverse range of topics, including: same-sex marriage/relationship recognition, same-sex parent families (access to fertility services including surrogacy), criminalisation of homosexuality, anti-discrimination laws, hate-based violence, “gay propaganda” prohibitions, regulation of bodies and gender, LGBTI refugees.

While the slow and steady increase in the number of law schools offering LGBTI-related subject is welcome, these are always elective units that will only be chosen by students already interested in this area. Law schools also need to engage in a “queering” of the overall curriculum. Students should be exposed to diversity throughout their studies.

For example, in property law, the hypothetical examples that lecturers use could involve land owned by Mary and Peta, rather than Mary and Peter, in criminal law students could discuss the unequal age of consent laws in Queensland (16 years for heterosexual sex and 18 years for homosexual sex) and in family law the need for law reform so that a married transgender person does not have to divorce their spouse in order to have their gender legally recognised.

Such initiatives would help to move legal education away from assumptions of heterosexuality and gender normativity and encourage students to grapple with legal issues related to sexual orientation and gender identity throughout their course.

We can’t expect the legal profession to become more accepting of diverse sexualities and genders if law schools are not educating the future lawyers about these issues. Hopefully, more and more law schools will come to recognise the need to include LGBTI rights and issues not only in elective subjects, but also in their core curriculum.

This article was originally published on The Star Observer.

Read the original article.
Racialised Policing: from Ferguson to Flemington

By Alessandra Di Natale

As the community and legislature response to police shootings in the United States continues to grow, so too does the chorus of voices investigating racial profiling and policing here in Australia. The Castan Centre’s recent public forum, Racialised policing: from Ferguson to Flemington delved into the parallels between the American and Australian experiences, and the specific issues plaguing policing on a domestic level.

Associate Professor Bronwyn Naylor, a Castan Centre Deputy Director, acted as Chair and on the impressive panel of speakers were Anthony Kelly, Executive Officer of Flemington Kensington Community Legal Centre (FKCLC), Daniel Haile-Michael and Maki Issa, lead applicants in a Federal Court race discrimination case against Victoria Police, Charandev Singh, a human rights advocate, and Dr Claire Spivakovsky, a Monash University Criminology Lecturer.

Anthony Kelly began by honing in on the similarities and differences between Australian and American experiences of racialised policing, explaining that the policing of non-white populations is ‘chillingly consistent’ in the Western world in terms of over-policing and greater use of force. Noting that FKCLC has long looked to the experiences of communities abroad, Kelly focused on evaluating Victoria Police’s ‘Equality is not the same’ action plan, now in its second year, which introduced anti-racial profiling training and a pilot of providing receipts to those stopped by police.

Unfortunately, it became clear that the implementation and monitoring of the receipt trial is severely lacking. Data collection has been hampered by technical delays, and so it is increasingly difficult to provide an accurate picture of who it is that is being stopped by the police, and how often. Despite new anti-racial profiling policies, FKCLC’s African-Australian clients are still reporting being stopped by the police multiple times.

To truly begin targeting racialised policing, Kelly advocated for independent reviews of Victoria Police and legislative change, in the form of an anti-racial profiling act that provides for a complaints process, data collection for police stops and the amendment of the Police Code.

Ten years on from their first experience of racialised policing and two years since their Federal Court race discrimination case, Daniel Haile-Michael and Maki Issa presented the preliminary findings of their Peer Advocacy Outreach Program, conducted alongside FKCLC. The Program involved Haile-Michael and Issa speaking to young males and service providers across Melbourne, both to find out more about their experiences with racialised policing, and to support them in addressing it.

Sadly, they reported that ‘not much has changed,’ and that young African-Australian men continue to be targeted by police and suffer a sense of not belonging, isolation and powerlessness as a result. Problems accessing legal assistance, lack of awareness of rights and police powers and disillusionment with the complaints process were cited as major issues for these young men. Service providers were often unsure of what racial profiling actually is, and were in need of greater legal education and knowledge of specialist services to refer their clients to. The final report is currently in progress.

Charandev Singh approached the forum with a focus on racialised punishment and sentiments of anti-blackness, providing a slightly different insight into the issue. Singh touched on colonisation and how it has shaped models of policing when it comes to people of colour. Of particular concern is the severe overrepresentation of Indigenous peoples in the prison population, with Singh noting that there has been far too much investment in incarceration rather than addressing underlying social justice issues. Indeed, Singh advocates for policies to place greater emphasis on the fact that broader questions of social justice are inextricably intertwined to policing. The Australian Indigenous community was also recognised for its ‘enduring resistance to anti-black violence.’

In order to ‘offer a framework’ to address the issue of racialised policing, Dr Claire Spivakovsky addressed both sides of the argument. On one side is the notion that the overrepresentation of certain communities in the criminal justice system is due to a system riddled with bias, and on the other is the idea that it is because members of these communities simply commit more crimes. Dr Spivakovsky pointed out that adhering strictly to one side often ‘closes off conversations’ and limits the capacity to address the issues, and it is more important to open up the dialogue in order to promote change.

Understanding and addressing racialised policing requires exploring each complex layer. At one level, people enter the justice system when they commit or are suspected of committing a crime. However, how they end up in the system is a separate issue. For example, police attention and move-on powers can be disproportionately focused on Indigenous people, even when they are doing nothing wrong. A sense of police mistrust is responsible for this bias and is a contributing factor to overrepresentation in the criminal justice system. When combined with the trend towards harsher punitive responses, it is Indigenous people who are most likely to suffer from longer and repeated incarceration.

Dr Spivakovsky calls for a targeted approach that recognises the differences between different societal groups, moves beyond the ‘binary of arguments’ and understands the interweaving layers of this racialised policing.

The panel was then available for questions from an audience eager to gain further insight and wisdom. Maki Issa’s response to a question is particularly notable for its reminder that the roots of the problem suffered by the African community are embedded in the historical discrimination of Indigenous peoples. There is a connection between these two struggles and Issa stated that ‘without Aboriginal people having the rights they deserve, the African community will suffer the same fate.’ This is a poignant reminder of the role that social justice and equality play across every field of life, including racialised policing.

A video of this event is available on our YouTube page.
On the Front Line of Humanitarian Crises: Libya, Central Africa Republic and Syria

By Lena Lettau

Peter Bouchaert, the Emergencies Director from Human Rights Watch (HRW), spoke at a recent Castan Centre talk about his front-line humanitarian crisis experiences and the work of HRW in bringing global awareness and assistance to these conflicts. Joining him was Father Bernard Kinvi, a local Catholic priest from the Central African Republic (CAR), who explained his role in protecting citizens as his country broke into civil unrest in 2012.

Peter began by speaking of the inception of the HRW’s ‘emergency team’ almost 20 years ago. This team, which Peter heads, has worked in locations ranging from Myanmar to Syria and has been particularly focussed on employing new technologies and social media in its bid to protect people and spread coverage of events. The use of satellite imagery, for example, has been pivotal in proving ethnic cleansing in Myanmar and verifying the location of footage emerging on social media from the Ukraine conflict, as well as compelling governments to act upon certain atrocities.

The focus of Peter’s speech, however, was on the situation in the lesser known humanitarian crisis in CAR. The crisis began after a series of groups within the country rebelled against the corrupt leadership and each other, which has ultimately led to the Muslim community being particularly targeted.

Father Kinvi, an active voice in peace-keeping negotiations between the factions, spoke of the pivotal role he played in protecting the lives of the vulnerable Muslim community in his town when the violence erupted. At the time he opened the doors of his Catholic mission to over 1,500 people.

Peter and his team in CAR discovered Father Kinvi and the inhabitants of his mission and documented the situation, spreading pictures of the starving and confined Muslims on Twitter and other social media sites, which led not only to a growing global awareness of the situation in CAR but also to a phone call from the UN Assistant-Secretary-General. This ultimately led, a few months later, to 12,000 UN peace-keeping troops arriving in CAR and the safe escort of the Muslim community to neighbouring Cameroon and Chad. The awareness raising work of HRW further led to medical provisions being provided through the WHO and Medicine Sans Frontiers, as well as other aid over time.

Both spoke also of the challenges facing CAR in gaining attention and assistance from the international community – drawing links between its isolation, poverty, and media mis-representation of the core issues underlying the conflict and the seriousness of the situation. They further pointed to the inadequacies of both the UN and other international bodies to respond to humanitarian crises, both in CAR and in other countries, with forces largely hamstrung and support being either insufficient or coming too late.

Today, in CAR, over 10,000 people have been killed. The Muslim community has been completely displaced with little prospect of return and the country suffers the loss of essential services those communities provided. Corruption in the political elite remains. The key to moving forward, the speakers stressed, is to focus on the long-standing resource issues within the country, which are at the heart of the corruption issues, and to bring the perpetrators of the atrocities which have been committed to justice. To these ends, the International Criminal Court has begun an investigation into the CAR crisis and Father Kinvi, along with other religious leaders, is progressing in his dialogues with different factions, a process which will hopefully lead to lasting peace.

A video of this event is available on our YouTube page.

‘Foreign Fighters’: the threats they pose and the means used to restrain them

By Lena Lettau

Professor Andrew Clapham addressed the phenomenon of ‘foreign fighters’ in a public lecture held by the Castan Centre earlier this year. The issue of ‘foreign fighters’ has come to a head in light of recent security measures being taken up by various governments to tackle the risks associated with nationals seeking to fight in foreign wars, especially those in Syria and Iraq. Most controversially this has included the cancellation and/or suspension of citizen’s passports (at least as a temporary measure until further investigations have been made). Such a policy is used as a means of preventing someone from travelling to another country where it is suspected they may engage in fighting or as a means of preventing them from re-entering a country, if they are suspected of having already fought in a foreign conflict.

Professor Clapham pointed out that a key risk associated with ‘foreign fighters’ is that they might return from a conflict zone where they experienced a degree of ‘radicalisation’ and thus become a terrorist threat in their home country. A somber example of this was the apparent effects of radicalization on the perpetrators of the Charlie Hebdo attacks in France earlier this year.

A key focus of the lecture was on the international law and policy issues that such constraints on citizenship and ‘foreign fighting’ pose. A critical issue discussed was the implication of rendering a person stateless as a result of cancelling their passport. This is the necessary outcome where a person holds only one citizenship, and would put countries such as Australia in breach of their international obligations.

Professor Clapham further discussed the power of the Australian government to prosecute Australian ‘foreign fighters’ for crimes in other countries. He explained that Australian nationals can be prosecuted for wars crimes internationally, as well as for breaches of domestic law abroad, so long as the permission of the Attorney General is given – he noted, however, that emphasis is placed on charging people simply on the grounds of having gone to fight in the first place.

The lecture also turned to broader questions in relation to ‘foreign fighting’, as it is a label that can be applied in numerous contexts. For instance, issues arise regarding the prosecution of foreigners in Guantanamo, alongside abuses by private security companies.

Andrew has a long and diverse history of human rights engagement, having worked for bodies such as the UN and Amnesty International, and now resides in Geneva where he is Professor of Public International Law at the Graduate Institute of International Development Studies.

A short Q&A video with Andrew is available on our YouTube channel.
On the 11th of March, the Castan Centre in conjunction with the Australian Human Rights Commission convened a panel to discuss launch the Rights-ED education resources and discuss human rights within an educational framework.

Paula Gerber, Deputy Director of the Castan Centre, introduced the Race Discrimination Commissioner for the Australian Human Rights Commission, Tim Soutphommasane. Tim outlined the need for inclusion of human rights into our educational system; highlighting that changes to law merely address symptoms, where education is the “fuel” to change people’s attitudes toward human rights and address the root cause of human rights abuses. Tim followed up this need by highlighting the multi-cultural nature of Australia’s society, which is decisively different from the society Australia was following World War I. 28 per cent of residents of Australia are born overseas and a further 20 per cent have at least one parent born overseas. This high level of cultural diversity demonstrates the need for future citizens to understand the significance of differing cultures as this has become a part of Australia’s culture.

Following Tim’s opening discussion on the significance of multiculturalism, Paula acting as moderator (in her words she has “always wanted to be Tony Jones”), turned her attention to the other three panellists; Kate Jenkins, commissioner of the Victorian Equal Opportunity and Human Rights Commission, Dr Libby Tudball, Director Undergraduate Programs, Faculty of Education in Monash University, Chris Thompson, Director of Priority Cohorts Branch, Department of Education and Training.

The major theme in all the questions related to the need for an inclusion of human rights into the curriculum. Kate, responding to Paula’s question relating to the impact the Victorian Charter for Human Rights has had on Victorians, emphasised the privilege that Victorians have, even though we are largely unaware of. In education, an experience of one student may be decisively different from another depending on the teacher. Kate drew from her personal experience with her child’s grade four teacher educating the class on another depending on the teacher. Kate drew from her personal experience with her child’s grade four teacher educating the class on the influence on states, courts, LBGTI advocates and civil society. Their definition of gender identity and sexual orientation is now an accepted definition that is consistently used throughout the United Nations human rights law and an accepted international definition of the two key terms relating to LGBTI rights: sexual orientation and gender identity.

The Castan Centre had the rare opportunity to have Michael speak about his work developing the Yogyakarta principles and the impact that this has had on the various actors involved, including states, courts, LBGTI advocates and civil society. Michael began his presentations by highlighting the sobering statistics of LGBTI discrimination around the world: 79 countries still criminalise same sex sexual activity, amounting to a population of 2.8 billion people, and in seven of those countries the offence is punishable by death. Even within the EU, a leader amongst the international community in defending and protecting human right, 38 per cent of LGBTI people said they will not open about their sexuality and 67 per cent said they would not hold hands or display affection to their partner in public.

Michael expressed his surprise in the enormous impact the Yogyakarta principles had on LGBTI rights, not only in moving these rights into the main human rights discourse, but also in the influence on states, courts, and advocacy. Their definition of gender identity and sexual orientation is now an accepted definition that is consistently used throughout the United Nations legal framework. Most importantly, and unexpectedly, Michael discussed the impact that the principles have had on providing a platform for advocacy: a framework for LGBTI people to claim and enforce their rights. The effect that this has had on states cannot be underestimated. There has been a growing acceptance of the principles as a part of the foreign policy of states and we have seen an increase in judicial criticisms of laws criminalising same-sex intercourse.

Michael concluded his presentation by looking to the future emphasising the importance of civil society to continuing applying pressure on governments. Michael went on to discuss the need for national human rights institutions to engage the community and bring attention to LGBTI issues. In this regard, Michael paid particular attention to Australia, New Zealand and areas in the pacific were such programs have been successful, despite failure in other parts of the world. Finally, Michael demonstrated the need to engage the business sector to bring about a deeper understanding of these rights to better promote and protect the LGBTI community.

Rapoporteur

RightsEd: Human rights in the crowded classroom

By Madeline Lynch

Let people be who they are: LGBTI rights are human rights

By Madeline Lynch

Michael O’Flaherty has played a critical role in bringing LGBTI rights into the wider international human rights arenas. Michael’s consistent and persistent reiteration that LGBTI and human rights are not separate entities, and that LGBTI rights should be treated as human rights, led to him leading the way in developing the Yogyakarta principles. The Yogyakarta principles were an initiative of the International Service for Human Rights, International Commission of Jurists and Human Rights Watch. Over a two year period 29 specialists worked together to develop principles associated with LGBTI within international legal framework. The completed product consisted of 29 principles within established human rights law and an accepted international definition of the two key terms relating to LGBTI rights: sexual orientation and gender identity.

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A video of this event is available on our YouTube channel.
From January to March 2015, I worked as the Indigenous Intern at the Australian Permanent Mission to the United Nations (UN), Geneva, Switzerland. The internship opportunity came at a fundamental time in my life. I applied for the internship during the final year of my Master of Laws (Juris Doctor) at Monash University and while I was working in the Victoria Public Service. It was a pivotal point in my professional career, as I was preparing to embark on a new career path into the legal profession.

Having read the internship description, I was immediately attracted to the position for five key reasons. First, it would allow me to represent Monash University at an international level. Second, it was an Indigenous identified position, which would allow me to engage with Indigenous issues at an international level. Third, it would allow me the opportunity to work with Department of Foreign Affairs and Trade (DFAT) staff at the Australian Permanent Mission to the UN, Geneva. Fourth, it would allow me to further develop my knowledge and experience in human rights law at an international level. Finally, it would allow me to develop new knowledge and networks that I could share with my home community. The internship made a profound impact on me professionally and personally. It provided me with the kind of challenge that I had been craving.

The Australian Mission to the UN in Geneva is one of five posts (including New York, Vienna, Rome and Nairobi) that represent Australia’s interests in the UN. Its purpose is to promote Australia’s interests in the UN through international diplomacy. The internship period falls within the Universal Periodic Review and Human Rights Council periods. The intern’s role is to support the Australian Permanent Mission to Geneva staff during this time. Typical duties include taking minutes at meetings and preparing summary reports which inform cables to Canberra. You have the opportunity to work with the Australian Permanent Mission’s Human Rights Advisors, Legal Officers, Secretary, Deputy Ambassador and Ambassador.

A typical day includes attending high level meetings at the Australian Permanent Mission and the UN Office, Geneva. Interns gain an insight into various UN Mechanisms including the Universal Periodic Review and Human Rights Council. I had the opportunity to attend various conferences and functions including the Universal Periodic Review, Human Rights Council, Committee on the Convention of the Elimination of Discrimination Against Women, the International Day of Zero Tolerance on Female Genital Mutilation, the 18th International Meeting of Mine Action National Programme Directors and UN Advisers, and the 8th Annual Summit for Human Rights. I was also privy to a number of high level meetings and negotiations.

You are fully integrated into the working life of the Australian Permanent Mission to Geneva and are a valuable staff member. The staff support you to develop new knowledge and skills and provide challenging and rewarding learning opportunities with the ability to work autonomously.

During the period of my internship, two Aboriginal DFAT staff were posted to the Geneva Office. It was amazing to work closely with these staff members and I was continually impressed by their professionalism and talent. I greatly appreciated their mentoring and support during my internship period.

Living and working in Geneva is an amazing experience. Geneva is the beating heart of human rights. Given its geographical proximity, Geneva provides a fantastic base to travel to other parts of Europe: local bus will take you to France, a short plane flight will take you to London, a short train ride will take you to Germany. I used the opportunity to travel to Belgium, France and Luxembourg on weekends. I was also fortunate to organise a visit to the European Court of Justice in Luxembourg through a supportive former law school teacher.

The Castan Centre Global Internship program provided me with a truly rewarding personal and professional opportunity. It allowed me to gain a greater appreciation and understanding of various UN mechanisms and Australia’s role as an Observer State in the Human Rights Council. It further strengthened my passion and commitment to human rights. It reinforced my desire to embark on a legal career and to undertake future study in international relations and human rights law. The internship experience has given me greater confidence in myself and has inspired me to work towards a truly international career.

I am deeply grateful for having had the opportunity to undertake this internship and I express my deepest gratitude to Monash University, the Australian Permanent Mission, and the donors who supported the internship. I strongly encourage ATSI Monash University students to apply.

Information about the 2016 Global internship program can be found on our website.
Internship at Human Rights First, New York

By Emily Fischer

From December 2014 to March 2015, I had the privilege of interning with Human Rights First’s Refugee Representation team in New York. It was an incredible three months and has definitely been the highlight of my law degree – not only did I get the chance to work intensively in an area of human rights law that I’m extremely passionate about, but I also got to explore New York and meet some amazing people from other human rights organisations.

Through its fairly unique model, Human Rights First is able to have a huge impact on the human rights of asylum seekers in New York, Washington, D.C. and Houston, Texas. By allocating asylum cases to pro bono attorneys from various law firms, a relatively small team of staff attorneys are able to ensure that a far larger number of asylum seekers receive legal representation.

One of the great things about interning at Human Rights First is getting exposure to a range of different types of work. For the most part, my work involved assisting attorneys with interviewing potential clients, and then drafting write-ups based on both the information obtained from those interviews and research about conditions in the client’s country of origin. It has been incredibly gratifying to meet asylum seekers from so many different parts of the world and to hear them personally recount their stories. The interviews we conducted were log, intense and often emotional, as many clients had fled and/or feared returning to countries where they faced persecution. It was particularly rewarding to work on their cases when they were accepted into the Refugee Representation program and allocated a team of pro bono attorneys, as legal representation significantly increases a person’s chance of obtaining asylum. After seeing the resilience that these clients displayed, and getting to know them and their stories, I feel truly privileged to have had the chance to play even a small role in helping them apply for asylum.

Being involved in the intake process also allowed me to learn about a range of different countries, as each case involves undertaking fairly detailed research about a client’s country of origin. Many of the asylum seekers I worked with were from countries that I had never researched while interning in Australia, such as the Gambia, Burkina Faso, Somalia, Bangladesh, Peru, Guatemala, Honduras and Russia. It was also interesting to learn about some of the more difficult and topical issues in US refugee law, including claims based on gang violence in Central America and domestic violence.

There have been some particularly noteworthy developments surrounding asylum claims based on domestic violence. US courts have traditionally taken a narrower approach to the interpretation of ‘membership in a particular social group’ – one of the five grounds for asylum – than Australian courts. In the US, members of a ‘particular social group’ must possess a common characteristic that they either cannot change, or should not be required to change because it is so fundamental to their individual identity or conscience. The social group must also be ‘defined with particularity’ and ‘socially distinct within the society in question’. This narrower approach has historically been particularly problematic for asylum seekers whose claims are based on domestic violence. Prior to 2014, the US Board of Immigration Appeals (BIA) had repeatedly held that women who fled their abusive partners and sought asylum in the US were not eligible for asylum, as the harm that they suffered was not on account of their ‘membership in a particular social group’ or any other conventional ground. Instead, the BIA interpreted domestic violence as abuse of a more personal nature.

However, in mid-2014, the BIA adopted a new approach. In Matter of A-R-C-G, a Guatemalan woman who fled years of severe abuse at the hands of her husband claimed asylum based on her membership in the particular social group of ‘married women in Guatemala who are unable to leave their relationship’. On appeal, the BIA accepted that membership in such a group may form the basis of a valid asylum claim, depending on the particular facts and evidence of each case. The BIA found that this social group was based on the common characteristic of gender, and that it was defined with sufficient particularity because of the qualifications ‘married’, ‘women’, and ‘unable to leave the relationship’. It was exciting to be interning at Human Rights First during the aftermath of such an important development in US asylum law, particularly given that so many of the Refugee Representation program’s clients are women who have fled horrific situations of domestic violence. The decision in Matter of A-R-C-G provides women at risk of serious injury or death with a better chance of receiving the protection that they so desperately need.

One of the exciting developments in the Refugee Representation program at the moment is its increasing amount of direct representation work. During the final weeks of my internship, I helped draft part of a legal brief for one of Human Rights First’s detained clients, and also went to a detention centre in New Jersey with a staff attorney to interview a detained man. I worked on his case and conducted some fairly extensive country conditions research, and his case was accepted into the program just before I returned to Australia.

I also had the chance to assist two attorneys with a Special Immigrant Juvenile Status (SIJS) case. Essentially, SIJS allows children who have been abused, abandoned, neglected or similarly mistreated by one or both of their parents to obtain permanent residency in the US. The client whose case I was working on was a child from South America, and his story was absolutely heartbreaking. Hopefully, with enough support, he will be able to make a new start in the US. Pathways to immigration like SUS are an encouraging policy development, as they help improve access to protection for children who may not be eligible for asylum or other forms of relief.

Working at Human Rights First has exposed me to many areas of US asylum law that could be improved, however it has also allowed me to appreciate that the US system is, at least in some ways, in far better shape than those of other developed countries. I feel incredibly fortunate to have had the chance to work with the Refugee Representation team and to have met so many dedicated and inspiring attorneys, legal assistants and volunteers. I hope that, like them, I can use my legal skills to contribute to upholding and defending the human rights of some of the world’s most vulnerable people.

Information about the 2016 Global internship program can be found on our website.
Internship at the Centre for Constitutional Rights, New York

By Katharine Brown

When you arrive in New York, it smacks you right in the face: the lights, skyscrapers, noise … it’s wonderful. Travelling across the bridge to Brooklyn, there’s a completely different vibe. It’s much less hectic and every street is an eclectic blend of different cultures, generations and tastes.

Living in Crown Heights and working in Manhattan, I felt like I had the best of both worlds. I arrived in New York at the end of November, just managing to catch the end of fall, and the transition into winter when bright leaves and snow cover the streets.

Going to the Centre for Constitutional Rights (CCR) everyday was an absolute highlight. By way of background, CCR is a non-profit organisation that uses strategic litigation and public advocacy to defend and promote human rights. It was founded by constitutional lawyers in the civil rights movement and has stayed very true to those roots. It represents progressive movements and sees its role as empowering communities via human rights law.

For a staff of just over 50, CCR has an astonishing workload. In the time I was at CCR, attorneys were working on a large number of cases spanning different areas of law and jurisdictions. Over the years, its work has had a profound impact on the trajectory of American civil rights law. CCR has often been ahead of its times, arguing points of law that go on to become precedents, and weave their way into the everyday lives of Americans. Continuing with this theme, much of the work CCR does these days is focused on international accountability, both in corporate and state spheres. For example, CCR has been instrumental in pushing the boundaries of universal jurisdiction and demanding accountability for crimes committed by American corporations abroad.

In my time at CCR I was placed with the international human rights team, mostly working on matters in US law, international criminal law and international human rights law. I did legal research and drafted letters, attended meetings, reviewed freedom of information documents and had the chance to attend a court hearing. One particular highlight was spending a week at the UN, at the general session of the Committee on NGOs. I attended on behalf of CCR for their application for consultative status. It was an incredible opportunity to see the workings of the UN in practice.

The public events hosted by CCR also stand out as highlights. Having the chance to learn about public advocacy work as well as law was a welcome surprise. The events included the premier of Waiting for Fahd, a film made by CCR, a Guantánamo advocacy event that was combined with an art show, and two ‘First Wednesdays’ – a casual monthly event where members of the community come to discuss CCR’s work with the staff.

As much as the big cases and events though, I’m equally as grateful for how wonderful the everyday was at CCR. I shared a big office (the Ella Baker room) with a number of other interns, where we started every morning with coffee and chats about the news. Being in the Ella Baker room gave us lots of opportunities to learn about each other’s work, and to reflect on issues that came up. Being right near Greenwich Village, the lunch options were amazing, and I also got to spend many lunch times amongst the shelves at the NYU bookstore.

Both personally and professionally I gained so much from the experience. Although I seldom go to church, I found Tim Winton’s Palm Sunday compelling in his recounting of ‘Is he a stone?’ Asking ‘awkward questions’ like this is part of what it means, for me, to live a world that is responsive to human beings and human rights.

If you could go back in time, what year or period would you travel to?

I quite like what I do now, but would gladly wish for longer days for more day-dreaming and lingering with my favourite people.

If you could bring one human rights issue to the attention of the Australian public what would it be?

Every day I remind myself that human rights are about living together in this chaotic, diverse world. Remembering, as a daily practise, about looking out for each other and developing a compassionate response to community must be the answer for so many of our troubles. Although I seldom go to church, I found Tim Winton’s Palm Sunday compelling in his recounting of the biblical question, “If a child asks you for bread, will you give him a stone?” Asking ‘awkward questions’ like this is part of what it means, for me, to live a world that is responsive to human beings and human rights.
Publications and Other Activities by Centre Faculty Members

MELISSA CASTAN

Book

Book Chapters


Articles

Submission

AZADEH DASTYARI

Book Chapters

Article
‘Detention of Australia’s Asylum Seekers in Nauru: Is Derivation of Liberty by Any Other Name Just as Unlawful?’ 38 (2) University of New South Wales Law Journal, 669.

Submissions
Submission to the Select Committee on the Recent Allegations Relating to Conditions and Circumstances at the Regional Processing Centre in Nauru (2015)

JULIE DEBELJAK

Article

Submission

PAULA GERBER

Book
Melissa Castan and Paula Gerber (eds) Proof of Birth (2015, Future Leaders)

Book Chapters


Media
Opinion Piece ‘No Andrew, it is not the responsibility of the LGBT community to help you hang on to your 1950s ideal of marriage’ Castan Centre Blog, 1 June 2015

Radio Interview: “Should people have the right to have their crimes forgotten?” Panorama, 23 April 2015

TV Interview: “Punishing children for not being immunised” Al Jazeera, 13 April 2015,

Opinion Piece: “There needs to be more LGBTI rights subjects across Australian law schools” 9 April, 2015

Opinion Piece: (with Melissa Castan) ‘It’s Time to Modernise Australia’s Birth Registration System’ Right Now 19 March 2015

Opinion Piece: (with Melissa Castan) ‘Homophobia is alive and well in the world of cricket’ Castan Centre Blog, 17 March 2015


Opinion Piece: (with Farinaz Zamanii Ashni) ‘Referrendum on banning the Burqa?: No thanks’ Online Opinion, 2 February 2015,

Conference Papers
‘LGBT Rights in SE Asia: 1 Step Forward, 2 steps back’ Fifth Asian Conference on Cultural Studies, Kobe, Japan.

STEPHEN GRAY

Book chapter

Conference Paper

10 April 2015, “Social Media and International Law”, invited panellist, American Society of International Law, Washington DC

Submission
Submission to the Australian Law Reform Commission on Traditional Rights and Freedoms, February 2015 (with Adam Fletcher)

Submission
Submission to the House of Representatives Standing Committee, Environment Inquiry into the Register of Environmental Organisations, May 2015 (with Melissa Castan)

Media
9 January 2015, “Charlie Hebdo: the pen must defy the sword, Islamic or not”, The Conversation

19 January 2015, “Ticking down to a possible date with executioners”, The Conversation

Other
26 February 2015, “The Death Penalty,”
Chan and Sukumaran”, Victorian Parliament Amnesty Group

DR JOANNA KYRIAKAKIS

Book Chapter

Conference Paper

Media

Other

ADAM MCBETH

Conference paper

Media
Interview with ABC News 24, regarding Australian Federal Police involvement in the execution of Andrew Chan and Myuran Sukumaran, 4 May 2015.
Opinion Piece The Bali Nine could happen again tomorrow; the rules still allow Australian police to provide information in death penalty cases, Castan Centre Blog, 4 May 2015

BRONWYN NAYLOR

Article
‘Responding to the needs of children whose parents are facing imprisonment in Victoria, Australia. The role of the adult criminal justice system?’ (Catherine Flynn, Bronwyn Naylor and Paula Fernandez Arias) (2015) xxx Australian and New Zealand Journal of Criminology

Media
‘The evidence is in: you can’t link imprisonment to crime rates’ (23 April 2015)
The Conversation

MARIA O’SULLIVAN

Article

Media
Interview: ‘Detention of asylum seekers at sea: The High Court decision’ BBC World News Service: Newshour, 29 January 2015
‘Australia can detain asylum seekers on the high seas, the High Court decides’ The Conversation, 28 January 2015

Other

TANIA PENOVIC

Articles
Harsh Treatment of asylum seekers breaches human rights, Castan Centre’s annual Human Rights Report, 2015

Conference Papers
Engaging students and the broader community in learning about human rights presented at the Better Teaching Better Learning showcase, Monash Caulfield, 16 February 2015

COLIN CAMPBELL

Article

HELI ASKOLA

Book Chapter

Article

RONLI SIFRIS

Article

Conference papers and other speaking engagements
Second International Conference on Advances on Women’s Studies (Toronto, June 2015) (Surrogacy and the Right to Autonomy)
Law and Society Association Conference (Seattle, May 2015) (Commercial Surrogacy: An Autonomy Based Perspective)
Melbourne Law School’s IILAH Seminar Series (Melbourne, April 2015) (Surrogacy and the Right to Autonomy)

Media
* ‘Involuntary Sterilisation of Marginalised Women’, Right Now, 10 April 2015
* ‘AFP will have blood on its hands if Bali pair Chan and Sukumaran are executed’, The Age, 28 January 2015
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