

# Castan Centre engages in same sex rights debate

Two recent parliamentary inquiries provide hope that the tide is turning in favour of better human rights protection for same-sex couples in Australia. Deputy Director Dr Paula Gerber and Law Faculty Centre Member Dr Adiva Sifris made comprehensive submissions to both inquiries regarding the human rights impact of proposed changes to the relevant laws.

In its submission to the New South Wales parliamentary inquiry into adoption by same-sex couples, the Castan Centre argued that homosexual couples should be granted the same rights to adopt children as heterosexual couples. As the law stands in New South Wales, a non-biological parent in a same-sex couple is not eligible to adopt his or her partner's biological child while a similar partner in a heterosexual relationship may do so. Also, homosexual couples are not allowed to adopt a child who is not related to them. The Centre argued that the current legislation breaches a number of Australia's obligations under

the UN Convention on the Rights of the Child, particularly the requirement that laws protect the best interests of the child, as well as anti-discrimination provisions in various international human rights treaties. It impressed upon the committee that the *Adoption Act* should be amended so that same-sex couples are eligible to adopt and subject to the same eligibility criteria as heterosexual couples.

A federal parliamentary inquiry into proposed amendments to the *Marriage Act* allowed Drs Gerber and Sifris to argue in favour of a law that would allow couples of any sex to enter into marriage. They noted that the current marriage laws, limiting marriage to heterosexual couples, constitute a breach of a number of recognised human rights, including freedom from discrimination, the right to privacy and the rights of children and families. Drs Gerber and Sifris also pointed out that the social landscape in Australia and the world is changing rapidly in relation

to same-sex marriage and gay rights in general, and it is about time that Australia moved away from the 'separate but equal' regime currently in place, and amend the law to grant equality to all people. Dr Gerber noted that "many countries around the world have reformed their laws to ensure that all people are treated the same, regardless of their sexual orientation. Australia needs to embrace this movement for change, rather than be left behind."

The two inquiries signal that our governments may finally be ready to start seriously examining these areas of entrenched discrimination. Any reform in this area would most likely be welcomed by the Australian public; a recent survey indicating that 60% of people supported same-sex marriage.

**Copies of both submissions can be found on the Centre's website:**  
[www.law.monash.edu.au/castancentre/publications/submissions.html](http://www.law.monash.edu.au/castancentre/publications/submissions.html)

## Celebrating our 10th anniversary in 2010

When Justice Michael Kirby launched the Castan Centre in October 2000, he stated that the centre's areas of focus should include Indigenous rights and the push for a bill of rights in particular. Nine years on, the centre is actively involved in the current campaign for a bill of rights in Australia, which may come into being as early as next year, and has just agreed to extend its role in the Aurora Project, which builds capacity among the nations' Native Title Representative Bodies, for a further three years.

The centre was the brainchild of Sarah Joseph and Julie Debeljak, who were then

junior human rights academics working in the Monash Law Faculty. The untimely passing of Ron Castan AM QC came in October 1999 as the effort to get the centre started was building momentum. To Sarah, Julie and others in the faculty, Ron's role as lead counsel on *Mabo*, his tireless work on a variety of Indigenous causes and his broader work to further human rights in Australia made him an authentic human rights hero. To them, it made sense that the centre be named after Ron.

Since its foundation, the centre has developed expertise in the areas of research and teaching, public education,

student programs, parliamentary engagement and capacity building. We believe that the centre has made great advances over the past 9 years and look forward to celebrating our 10<sup>th</sup> year in 2010. There will be a number of events over the course of the year, culminating in the 10<sup>th</sup> anniversary dinner in late 2010. Details of the dinner will be released shortly, and we will include a retrospective series in next year's newsletters.

**2009 marks the 10<sup>th</sup> anniversary of Ron Castan's death. A memoir by Glenda McNaught, barristers' clerk is on page 6 of this newsletter.**

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