

APRIL 10, 2006

## Trouble in Paradise: The CARES Program and the Maltese Crisis

by 3Ls Adam Solow and James Kaplan

The controversy over the immigration bill being considered in the United States Congress has revealed the deep divisions in our country over immigration issues. But the United States is not the only country in the world where immigration is a hot button issue. Over the past few years, immigration has been one of the most controversial issues facing countries throughout the European Union.

In early March, four Villanova law students participating in the Clinic for Asylum, Refugee, and Emigrant Services (CARES) traveled to the tiny country of Malta. Immigration is an even more controversial topic in Malta than it is here in the U.S.

### WHERE IS MALTA?

Malta is a small island in the Mediterranean. It is a little under 58 miles south of Sicily and about 179 miles north of the African coast. Its roughly 400,000 inhabitants live on a landmass about the size of Washington D.C. It is the most densely populated nation in the European Union.

### AN IMMIGRATION EXPLOSION

Malta passed its first legislation dealing with political asylum in 2000. The Refugees Act of 2000 was part of Malta's preparations for joining the European Union; all countries in the European Union are required to have refugee laws and a system for adjudicating asylum claims. Soon after this law took effect, Malta saw an influx of thousands of immigrants appearing on its shores. In 2002, over 1700 immigrants landed on Malta's shores; in previous years this number had been as low as 171. Last year the number of immigrants was over 1800 and it is expected to be higher this year.

The majority of these immigrants

hale from countries in the desperately poor and war-torn Horn of Africa, although smaller numbers have also arrived from West Africa, Libya, Algeria, Palestine, and even Iraq. Many are fleeing persecution, civil strife, and armed conflict in their home countries, while others are simply searching for better economic opportunities in the European Union. All of them arrive after extremely perilous and difficult journeys. Many of the persons attempting the journey perish in the Sahara Desert or at sea. In the United States, a similar situation occurred in the early 1990's, where thousands of Haitians fled their country on small rafts following political upheavals in their country.

### THE IMPACT

Unlike in the United States, which has dealt with the problems associated with immigration for decades, the mass influx of immigrants to Malta was a shock to its social, political and legal systems. There is currently much tension between native and immigrant populations. The Maltese public generally does not distinguish between economic migrants and true refugees fleeing religious, ethnic or political persecution. The Maltese tend to view all these arrivals as economic migrants simply looking for work in the European Union. This has generated a great deal of hostility towards these immigrants, making it difficult for the Maltese government to develop a fair system for adjudicating political asylum claims.

Unlike in the United States, virtually every undocumented immigrant who arrives in Malta is given an asylum hearing at the Maltese Refugee Commission. During this process, a member of the Office of the Refugee Com-

missioner interviews the immigrants to determine whether or not they deserve political asylum or a lower form of protection. If the Commission determines the asylum seeker does not deserve protection, the asylum seeker may appeal to the Refugee Appeals Board. In all practicality, however, these appeals rarely result in a positive outcome for the asylum seeker (only 2 in 500 appeals have been granted). There is no further appeal to the Maltese courts.

### VLS STEPS IN

Professor Michele Pistone was awarded a Fulbright scholarship to share with the Maltese her skills and background in training lawyers to represent asylum seekers. She is currently teaching at the University of Malta. Among her goals is to develop clinical education at the University of Malta, where law students have the opportunity to handle real life cases before they enter the professional world. She also hopes to develop a new generation of Maltese lawyers skilled and experienced in asylum law. The fact is that the country simply doesn't have enough lawyers who understand the refugee system to represent all the asylum seekers who come to Malta. Only one full time lawyer works on these cases, along with a handful of volunteers. And few of them have any legal training in refugee law, interviewing skills, cross-cultural lawyering or experience documenting complicated asylum cases.

The CARES students, Sara Havas, Michael Tooshi, Adam Solow, and James Kaplan, traveled to Malta to assist Prof. Pistone and to represent clients before the Maltese Refugee Commission. The students were able

*Continued on page 7*

# THE GAVEL GAZETTE

APRIL 10, 2006

*Maltese Crisis, continued from page 6*

to apply the skills they learned in the Villanova CARES program to a real world situation. The students conducted client interviews, prepared clients for their judicial proceeding and represented their clients before the Commission. The students also tracked down documents and facts relevant to their client's case, and prepared a legal brief in support of their client's refugee claim. In addition, the students had the opportunity to meet with the United States Ambassador to Malta to discuss the refugee crisis there and learn about our country's diplomatic response to this issue.

## A VALUABLE EXPERIENCE

The experience in Malta was rich in both educational and cultural experiences. It provided a highly intensive comparative law experience along with further skills training. The CARES students are now using those skills as they represent clients applying for asylum here in the United States. The CARES students also saw how the worldwide refugee crisis affects every country; from a small, rocky island in the Mediterranean Sea to the richest, most powerful country on Earth.

## HOW YOU CAN PARTICIPATE

The refugee and asylum system is one of the international community's responses to this humanitarian and political crisis. In order for the asylum system to function, however, it is important to train skilled lawyers who understand the system. Since 2000, CARES has taught these skills to a new generation of lawyers. We strongly encourage anybody interested in the CARES program to contact Pat Brown or Professor Marisa Cianciarulo. In addition, there is an opportunity for Villanova students to go to Malta this summer to continue on work that CARES students initiated this spring.

**“Unless education marches on both feet – theory and practice – it risks going astray.”**

**The Education of Henry Adams (1918)**

Villanova Clinical Programs  
Open House Week  
Meet Faculty & Students in  
Clinical Programs  
April 18 - 27, 2006

- Visit Table in Cafeteria  
April 19, 20 & 21  
12-2 pm
- Pizza Q & A with Clinic  
Faculty, Staff & Students  
Tuesday, April 18  
12-1 pm in the Stairtower
- Bagels & Coffee with Clinic  
Faculty, Staff & Students  
Wednesday, April 19  
9:30-10:15 am  
in the Stairtower
- Ice Cream Social with Clinic  
Faculty, Staff & Students  
Monday, April 24  
2:30-3:45 pm  
in the Stairtower

*Real Clients – Real Law – Real Life*



## Writing Competitions

Information on these and all previously announced competitions may be picked up from the Receptionist's Office, Room 106.

**American Planning Association Smith-Babcock-Williams Student Writing Competition.** Prizes of \$2500, \$1000 and \$250 will be awarded. The first place entry will be considered for publication in *The Urban Lawyer*; the law journal of the American Bar Association's Section of State & Local Government Law. Entries are due June 5, 2006.

**American Judges Association/American Judges Foundation Essay Competition.** Papers must address "the rule of law in times of conflict." Prizes of \$3000, \$1500 and \$1000 will be awarded. Entries must be postmarked by June 1, 2006. <http://aja.ncsc.dni.us>

**American Inns of Court Warren E. Burger Prize.** Essays must address an issue of legal excellence, civility, ethics and professionalism. The author of the winning submission will receive a cash prize of \$5000. The winning essay will be published in the *South Carolina Law Review*. Entries are due by June 15, 2006. [www.innsofcourt.org](http://www.innsofcourt.org)

**The Tannenwald Writing Competition.** Sponsored by the Theodore Tannenwald, Jr. Foundation for Excellence in Tax Scholarship and the American College of Tax Counsel. First prize is \$3500, second prize is \$2500 and third prize is \$1500. Papers may address any topic in the field of taxation. Submissions are due by June 30, 2006. [www.americantaxpolicyinstitute.org](http://www.americantaxpolicyinstitute.org) or [www.abanet.org/lsd/competitions/](http://www.abanet.org/lsd/competitions/)