

## Preliminary Round Moot Problem 2008

Heli and Liisa, both 15-years-old girls, were year 10 students attending Omeo High School, the government school for the Omeo region in south east Victoria. Heli and Liisa are twins who grew up in Finland and moved to Australia a year and a half ago. While they learned to speak English when they were young, they prefer to communicate with each other in Finnish. They do this in particular when they are in uncomfortable or unfamiliar situations as it reminds them of being at home in Finland. Thus, while in school, the girls speak to each other almost entirely in Finnish.

When they first started school, the sisters enjoyed their subjects and liked their teachers. Over time, however, the two started questioning the teaching methods utilised as they were very different to the education they had become accustomed to in Finland, and the girls feared that they were not learning everything they should. Their concerns grew to the extent that at one point Heli openly questioned her teacher, Mr Madden's teaching style in the middle of a class. Mr Madden (who is also the principle of the school) told Heli that she should not be questioning his authority and teaching methods. Liisa quickly commented to her sister, in Finnish, that she believed Mr Madden's teaching style was suitable to teaching a mule and not students. Mr Madden promptly told Liisa that she should not be talking with her sister in 'that silly language' during class as it was disruptive to the other students. He forbade them from speaking in Finnish while they were in school and warned that they would be expelled if they did so. Additionally, he refused to call on either girl during the rest of the class.

Heli and Liisa's problems with Mr Madden continued and his annoyance with their discussions conducted in Finnish escalated. Heli and Liisa decided to start up a student action group called 'Rise Up' which called for students to rise up against their teachers in protest of their inadequate teaching style. The girls hoped the group would raise awareness of alternative ways of teaching in the hopes that Mr Madden and other teachers at Omeo would improve their teaching methods, and the girls would get a better education than they felt they were getting. Heli and Liisa fashioned patches with the group's logo which contained the words "rise up against teacher oppression", (written in Finnish), underneath a book with a noose around it. The sisters affixed the

patches to their book bags and jumpers. Heli and Liisa recruited four of their friends to join their club, and they also affixed the patches to their book bags and jumpers. All members of the group also learned how to say the phrase “rise up against teacher oppression” in Finnish.

Rise Up members wore their patches to school and all were present in Mr Madden’s class when they decided to stage a sit-in protest to further their cause during his class. The six students sat in six chairs in the last row of the room and refused to move out of their seats at the end of class. Mr Madden asked them to leave the room so his next class could begin but the girls would not move. While his next class did not need to occupy the back row of seats, because the class had fewer students, he felt their sitting in the back of the room would be a distraction to his class. Heli explained that they were staging a sit-in to protest Mr Madden’s ‘archaic teaching practices’. Mr Madden became furious with what he called her insubordination and told her that he would forcibly remove her if she did not leave by herself.

A number of other students in his previous class hung around to watch what was happening. Mr Madden ordered the group to leave again at which point Rise Up members began to chant the group’s slogan ‘rise up against teacher oppression’ in Finnish. One student asked Heli what it meant in English, at which point she said in English “rise up against teacher oppression’. This only fuelled the chanting causing other students who had been standing around watching what was happening to start chanting as well.

When Mr Madden saw the patches the students were wearing on their jumpers and backpacks, it infuriated him and he told them to remove them, which they refused to do. Liisa told Heli in Finnish that they should not have to remove the patches from their bags as they were only expressing their thoughts on the inadequacy of teaching at their school and that she should not remove it. As more and more students started chanting, Mr Madden grabbed Heli’s backpack and ripped the patch off it and then proceeded to pull Liisa’s patch from her jumper, ripping the jumper in the process. Liisa then swore in Finnish at Mr Madden and then called him the worst teacher she had ever had, stating that he smelt and looked like a mule. After this, the chanting started to die down and Mr Madden yelled to Heli and Liisa that they were both

expelled for refusing to listen to what he said, insulting him, holding an unauthorised sit-in protest and continuing to speak in Finnish with each other after he had warned them it was not allowed in the school. Additionally he banned Rise Up from the school and declared that any student who was still a member of the group, or who wore the group patch or attended group meetings would also be expelled.

Heli and Liisa have sued the school for battery and for violation of their rights under the *Victorian Charter of Human Rights and Responsibilities Act 2006* (VIC). They claim their cultural rights have been violated on account of their inability to speak Finnish while in school. Additionally, they argue that the school violated their right to free speech and freedom of association when Mr Madden stopped the sit-in, prevented the girls from making disparaging comments about their teacher and banned their student group and its logo.

The lower court held that there were no breaches of Charter rights and Heli and Liisa are appealing that decision.