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Law versus the Trans Community.

We are legislated out of existence. We are expected to know about laws that “require us” to amend 40+ pieces of documentation. The cost in time, effort and money in order to amend this mound of documents, is horrendous. Add to this, the very real threat of on going frustration, leading to depression and suicidality. Not a pretty picture, by any stretch of the imagination.

These documents fall into three categories as listed below

- Pre-op Change of name, Driver’s license, Medicare, Centrelink, ATO
- Post-op Birth certificate, Passport, Health Insurance Commission (HIC)
- Pre and Post-op Medicare, Centrelink, ATO

Add to this the anomalies that exist within every department and agency as to there requirements, and perhaps you begin to see this extraordinary situation that we are faced with. On top of this, is of course the fact that the States and Territories create their own requirements which in many cases can and do over ride Commonwealth laws.

Therefore, is it any wonder that many of us settle for a change of name and a driver’s licence to substantiate their sex/gender. For most find the whole “law thingy” totally confusing.

The mantra that exists requires, no, that should read, demands us to be “over 18, single (read divorced) and to have undergone sex affirmation surgery. If you think this is all, then please think again after reading this list of anomalies that exacerbate the whole legal frustration scene for Trans people.

- Staying married after surgery Case by Case Basis
- Sex Affirmation Surgery Can be considered on a case by case basis, if surgery is not undergone
- Unable to complete surgery, as it would be life threatening. Case by case basis
- Cannot have surgery due to cost. Not covered, or is it on case by case basis?
- Do not wish to have surgery, cannot be recognised in their preferred sex/gender
- Double mastectomy versus an orchidectomy. First is mentioned, but not the second
- Please define what is meant by *reproductive organs*
- Orchidectomy is the removal of the male reproductive organs, testes
- Double mastectomy is not the removal of any female reproductive organs



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- Born off shore. DIAC will amend residency and citizenship (no mention of sex) on either basis of having had surgery, or not.
- Citizenship after amendment by DIAC, can be used to amend a passport. This could mean non surgery.
- From DIAC *“Note: the surgeon’s statement would contain information such as confirmation that the person has undergone a full gender reassignment procedure. The psychiatrist’s statement would provide confirmation that the person is living as their chosen gender of identity, has undergone hormone treatment and shows no intention of reverting to their original gender”*
- Passport in preferred sex, with appropriate photo and name is preferable to a DOI. A DOI can cause problems when going off shore; where as a passport in preferred sex does not cause problems with going to say Thailand for surgery. I am aware that a passport (LVP) of sorts is issued, but it comes down to appropriate name and photo with the wrong sex in the box and where the passport is scanned.
- We are in the same category as criminals and deportees, which certainly is not the case
- I helped in the listings for your designated web pages for Trans people. However, as I pointed out, it does give the wrong impression as per the attached
- **Full validity Passports issued in new gender:**
- Evidence of living in the character of the other gender such as driver’s licence, Medicare card, Centrelink card, rates notices (or other PIDS documents); Original Birth Certificate;
- RBDM name change certificate;
- Marriage certificate;
- Statutory declaration stating that marriage has not been annulled
- **Applicants who have not completed gender reassignment:**
- Medical practitioner’s statement, where relevant, providing reasons for the applicant’s inability to undergo gender reassignment;
- Evidence of living in the character of the other gender such as driver’s licence, Medicare card, Centrelink card, rates notices (or other PIDS documents);
- Original Birth Certificate;
- Name change certificate;
- Passport Office Manager’s recommendation.
- This means that to many reading these pages, that non surgery is acceptable
- Many cases are finalised by either case by case basis, or precedent, but the laws are not amended. Messy!

The impact on Trans people trying to get their heads around these “requirements” in order to be fully recognised in their preferred sex/gender is beyond belief. Most are from a non legal background, so understanding these “requirements” means they have to either go without, or take recourse to the legal system to discover how to achieve their rights.

Frustration that can and does lead to depression, lack of well being, and in many cases, suicidality. I don’t think this was the intent when formulating these laws.

Was this thought through, or was it intentionally planned without any discussion with the Trans community? If so, was it done in order to frustrate by making the laws so ambiguous, that we would not even attempt to amend our documentation.



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The Trans community is the most highly regulated area of society. The above is just for one department (DFAT Passport). There are so many others, and I would point out that as you can see from above, it is clearly not just one area of concern to be considered. This is so with all government departments and agencies.

There are now many Countries that allow non surgery as part of their legislation in order to be able to amend documentation. This is now considered as a form of sterilisation that is not to be countenanced. I would point out that we do have various forms of this here in Australia (DIAC) We also suffer discrimination at many levels, which is caused by bad legislation, which is then compounded by a myriad of anomalies and ambiguity.

I point out very strongly, that none of this affects the GLB communities and can be much worse for the Intersex people. I cannot and do not speak on their behalf

We desperately need a “one size fits all approach” This would take the form of the Commonwealth only legislating, so that we have consistency of word and law through out Australia. Hopefully this would remove the anomalies and ambiguities that currently exist. It would also lead to the removal of discrimination as well. Above all, the acceptance that Trans people are just every day human beings would be very acceptable. They have suffered a quirk of nature which is recognised through out the World.

Transsexualism is now understood to be innate and somatic rather than a lifestyle choice. Deprived of appropriate treatment, Trans people are likely to function less well and suffer ongoing health problems resulting in a greater strain on the National health System

Parliamentary Forum on Transsexualism (2005); Guidelines for Health Organisations Commissioning Treatment Services for Individuals Experiencing Gender Dysphoria and Transsexualism; London, Parliamentary Forum on Transsexualism.

GID if left untreated, can result in clinically significant psychological distress, dysfunction, debilitating depression and for some people without access to appropriate medical care and treatment, suicidality and death...delaying treatment for GID can cause and/or aggravate additional serious and expensive health problems, such as stress-related physical illnesses, depression and substance abuse problems, which further endanger patients' health and strain the health care system

American Medical Association House of Delegates Resolution 122 (2008)

The personal accounts of Transsexual people and their clinicians further demonstrates that surgical considerations often represent quite literally, a matter of life or death

Kotula D. (2002) *In The Phallus Palace*, W.E. Parker (consulting editor) Alyson Publications, Los Angeles

Delays in the 'system', whether clinical or financial, cause a great deal of stress, while the inability to access timely treatment may also be a cause of suicidal feelings. As well as suicide, a number of other risks are identified:



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Stress leads to a number of Trans people to self-harm and even to attempt suicide. These feelings may occur at any time, but they are often associated with the realisation that it is impossible to continue life in the pre-transition role. For some, the choice is stark: either the gender issue is addressed, or there is no future...Through frustration or anxiety, or both, some Trans people self harm by cutting their arms and legs and occasionally, their offending sex characteristics, such as breasts (Trans men) or the penis and scrotum (Trans women) Alcohol and other substance misuse may also be a factor, especially where there is family breakdown and social isolation.

GIRES et al. (2008) Guidance for GPs, other clinicians and health professionals on the care of gender variant people; document issued by the Department of Health (UK)

I have added these pieces from the UK and from America in order to give relevance to what I have written. We are always considered to be a minority group, but we are expanding exponentially as time goes on. If the problem with DES (diethylstilboestrol) really raises it head on work being done into the effects on second and third generation DES sons and daughters, then there will have to be a drastic rethink as the numbers of Trans people really do increase hugely.

It is time that the Trans community was consulted on these matters that affect us alone. Please do consult us, as at present, we feel that we are not even considered when laws governing our future well being are being discussed and in many cases placed into legislation without any input from us.

Yours Sincerely

Kathy Anne Noble

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