



Changeling Aspects

In affiliation with Transbridge Townsville

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Dear Julian

Thank you for taking the time to talk with me in Parramatta. You asked me to send some details of how Trans people are affected when Young, staying married after surgery and discrimination. I hope that the attached does go some way to helping you understand our plight.

YOUNGSTERS

Trans youngsters are expected to attend school in their preferred gender, which is part of their assessment whilst transitioning. Because of this without the backing of some form of legal support as an interim measure, they then face mental and physical abuse and discrimination. Currently, there is nothing in force to give them any form of cover to alleviate their problems.

Much is talked about suicide, but little if anything is done to combat this.

STAYING MARRIED AFTER SURGERY

This is a highly contentious area. We have the Federal Government stating
"Letter from the Federal A-G dated 19-01-2009

While the reforms do not expressly address the sex or gender diversity of specific individuals, they ensure that same-sex de facto couples and their families are recognised and have the same entitlements as opposite-sex de facto couples. A transgender individual who remains married after surgery will not be deemed to be no longer married as a result of the reforms. The effect of the reforms is that such an individual will receive the same treatment regardless of whether they are considered to be a member of a same-sex or opposite-sex couple. (My highlighting)

Letter from the Federal A-G dated 17-03-2009

In relation to your letter of 24 January 2009, I would like to clarify the Government's position. I can confirm that the Commonwealth Same-Sex discrimination law reforms will have no effect on the *Marriage Act 1961*. The Marriage Act provides that a marriage must be between a man and a woman. This is consistent with current Government policy and there are no plans to change the Marriage Act to allow for a marriage to be solemnized between same-sex couples.

Gender re-assignment surgery has never, of itself, changed the status of a marriage which was valid at the time of solemnization. It has always been the case that a validly solemnized marriage would continue, irrespective of whether one of the parties subsequently underwent gender re-assignment surgery. The same-sex reforms due to come into force on 1 July 2009 do not change that position.

The legal recognition of the sex of transgender persons is primarily a matter for the States and Territories, as they are responsible for maintaining their respective Registers of Births, Deaths and marriages. All States and Territories have legislation which enables post-operative transgender persons to obtain either a recognition certificate or an amended birth certificate recording their preferred sex in certain circumstances, unless the person is a married person. Again, the same-sex reforms have no impact on this.

The Government's same-sex reforms amend 84 Commonwealth laws to remove discrimination against same-sex couples and their children. They extend to same-sex de facto couples the same entitlements and obligations that apply to opposite-sex de facto couples.

I have friends who have been married for 40 years and one couple recently enjoyed their 50th anniversary. The drawback is that under current State and Territory laws they cannot amend their Birth Certificate, but to them, their marriage is of greater importance. We are currently fighting this disgusting situation, which is considered unconstitutional in Austria and Germany. The farcical situation exists, whereby you Bridget can amend your passport after sex affirmation surgery, although remaining married. Quote as follows

The Australian Passport Office are willing to amend a passport on a "Case by Case Basis" if remaining married after Sex Affirmation Surgery, as follows

Exceptions - Full validity passport to be issued in new gender

Married Applicants

pre-existing Applicants who claim that they are unable to obtain an amended cardinal document because they are married should provide the following documentation (note, this only applies to RBDM documents as DIAC will amend its records for married persons):

- A statement from the relevant RBDM/Gender Reassignment Board that they have met all requirements for their reassigned gender to be recognised, except that they are married or medical evidence as set down in the relevant state or territory Registry of Births, Deaths and Marriages;
- 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.

However, the States and Territories require (Force) us to divorce in order to amend our birth certificate. Surely there should be an obligation on the States and Territories to follow Canberra's wording as above. The fact that the Marriage Act 1961 is a Federal Law and that there is only one way to divorce in Australia, 'Irreconcilable breakdown'. For my people to state this in Court would

be to perjure themselves. Why are the states and Territories able to override a Federal Law? This practice is considered unconstitutional in both Austria and Germany

DISCRIMINATION

This is practiced in many formats which find ways around the law. This can also lead to vilification in many forms.

For people who are transitioning and in the 'Real Life Experience (RLE) stage, they are expected to live 24/7 in their preferred gender. Often they are denied this at work and are therefore outside of the guidelines for assessment whilst transitioning on their way to surgery. Considering they have changed their name as well, how can they be forced to work with male identity, when they are clearly female?

Again, verbal and mental abuse rear their ugly heads with the possible outcome of leaving their job because of the pressures that can and do lead to self harm, mental illness and suicidality.

SUMMATION

We need uniform laws that are enacted at Federal level and implemented by States and Territories as agents, as per the Marriage Act 1961. Currently we have to deal with differing laws spread across nine governments and this leads to utter confusion. We are told that Trans people are complex, when in essence it is the complexities forced on us when dealing with the various governments, departments and agencies.

This again leads to Trans people suffering frustration, depression, self harm and suicidality. Many only change their name and amend their driver's licence as to go through the exhausting requirements of amending 40+ documents is too much. Many documents cannot be changed until after surgery fully. Medicare, private health, Centrelink and the ATO will amend records of a change of name, but not sex until after surgery

Many who cannot undergo surgery for one of three reasons?

- Do not wish to have surgery
- Lack of money
- Health reasons

Are therefore condemned to not being able to amend their documents fully and are subjected to a life without being fully legally recognised in their preferred gender.

Yours Sincerely, Kathy Anne Noble.
President, Changeling Aspects
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