



Changeling Aspects In affiliation with Agender (Aust.)
In affiliation with Transbridge

Townsville

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09/31045, MC10/6438

ATTORNEY-GENERAL
THE HONOURABLE ROBERT McCLELLAND MP

Dear Sir,

Thank you for your letter of the 31 May 2010. I do hope that we will at last come to use the recommendations from the Sex Files from the Australian Human Rights Commission. I understand that the articles 9-15 fall within the Australian Governments remit, but would query Recommendation 1

“Marital status should not be a relevant consideration as to whether or not a person can request a change in legal sex.”

This is surely largely dependant on the Marriage Act 1961 and the fact that you sent to me a letter, dated the 17 March 2009 stating the following,

09/3082, MC09/849, MC09/981, MC09/1292, MC09/1272

17 March 2009

Ms Kathy Anne Noble
President, Changelings Aspects
PO BOX 897
CLEVELAND QLD 4163

Dear Ms Noble

Thank you for your correspondence of 8 January 2009, 12 January 2009, 22 January 2009 and 24 January 2009 in respect of the Government's same-sex reforms and on issues concerning identity documents for transgender people born overseas and the inconsistencies between the technology used by Equal Opportunity Commissions and the Anti Discrimination Commissions.

As you are aware the Australian Government is awaiting the report on the Australian Human Rights Commission's sex and gender diversity project. As mentioned in

previous correspondence, the Commission is currently preparing its report of the project which is likely to be released shortly. The Australian Government will consider the recommendations made by the Commission.

In relation to your concerns about the inconsistent references to transgender issues in State and Territory laws (raised in your letter of 22 January 2009), I can inform you that a project on the harmonisation of anti-discrimination laws is being progressed through the Standing Committee of Attorneys-General. A Working Group of officials has been established to develop options for Ministers' consideration. It is possible that this type of issue may be examined in that context.

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.

From your correspondence I now understand that you are also asking about the policy positions taken by other Commonwealth departments and agencies, including Centrelink. I understand that those policy issues are currently under review by the relevant departments and agencies.

I also note that the National Human Rights Consultation may also provide an opportunity to share your views on human rights in Australia. The National Human Rights Consultation was launched on 10 December 2008. The Attorney-General has appointed a Committee of eminent Australians to conduct the Consultation. The members are Father Frank Brennan SJ AO, who chairs the Committee, Ms Tammy Williams, Ms Mary Kostakidis and Mr Mick Palmer AO APM.

Over the coming months, the Committee will seek the views of the Australian public on which human rights and responsibilities they consider are important, whether they are currently sufficiently protected and promoted, and whether they could be better protected and promoted.

The Committee will hold community roundtables throughout regional and remote Australia, as well as in capital cities during the first part of 2009. The Committee is also accepting written and online submissions to the Consultation. They want to ensure that a diverse range of people in Australia, particularly those who would not usually participate in a Consultation such as this, are able to share their views on human rights in a variety of locations around the country.

To help enable this, the Committee is planning to have a strong online presence throughout the Consultation. To register to participate in a community roundtable or to make a submission, you may wish to visit the Consultation website at www.humanrightsconsultation.gov.au.

The Committee will report to the Government on a range of options for protecting and promoting human rights in Australia by 31 August 2009

I trust that this information will be of assistance. Thank you for bringing your concerns to the

Government's attention.

Yours Sincerely

John Boersig . .

Assistant Secretary

Many of the recommendations are already covered after my having amendments and clarifications through DIAC and DFAT as well as Centrelink, Medicare and other departments and agencies. I have sent in those details from 2008 to your office and received a reply saying "thank you for the updates"

I wish to point out that I have been in touch with AHRC since early 2008 concerning these problems. I also attended the National Human Rights Consultation in Brisbane, so I am aware of these entities.

I would again like to offer my services on the Panel and the expertise that I have gained since 2003.

Yours Sincerely, Kathy Anne Noble.

President, Changeling Aspects

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