

Since writing this book, many changes have taken place in Australia and the World concerning Trans people.

I am sure that over the coming years, many more will eventuate; you just have to have faith and patience. However, to achieve these outcomes more Trans people are required to stand up and be counted in order to make sure these changes to our rights are obtained. We can no longer leave it to the few who are willing to be activists and advocates for our future well being

We have had the excellent New Zealand Human Rights Commission report “To Be Who I Am” in 2008, with much of it implemented. Also in 2008 in Australia we had consultations with the Australian Human Rights Commission which produced a report in March 2009 “Sex Files, the sex and gender diversity project” Up until today, not one of the 15 recommendations have been implemented. The federal Attorney-General’s Office keeps talking about it, but nothing eventuates. This is due to the fact that numbers 1 to 9 are to do with State and Territory legislation. Only 10 to 15 are down to the Federal government. To date, it is still on the shelf, with much promised, but nothing originating.

Recently Trans friends have asked me “Are we treated as humans?” and people in society at large, say “The way you are treated under discrimination, is inhumane” This is because of the “Inquiry into the Sex and Age Discrimination Legislation Amendment Bill 2010” There are many queries regarding this, as the Bill is still only for the binary sexes, so any discrimination that is written into State and Territory laws against Trans people will remain. The worst is staying married after surgery, as we are “FORCED” to divorce in order to amend our birth certificate, as we consider this to be discrimination of the highest order. There is no law in Australia that can make you divorce, and to even stand in Court and ask for a divorce under the current law, would be laying one open to perjury. We in many cases do not wish to divorce, as we take our vows seriously and rely on each other for love and support. I cannot for the life of me, see how this stacks up in regard to the following.

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13 January 2011

Committee Secretary  
Senate Legal and Constitutional Committee  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Australia.

Letter to the Federal Attorney-General

Dear Sir,

In response to your introduction of the "Sex Act Discrimination Legislation Amendment Bill 2010" I would raise the following points.

In regard to the first dot point, I have been informed by your Office that it is only the 'Binary sexes, male and female' that will be affected by any amended legislation.

We now have to establish if a Trans woman is fully recognised as a woman, and a Trans man is fully recognised as a man. This should be covered in your first of the "Four key amendments to the Sex Discrimination Act"

Are we in the Trans community to be accorded the same levels of cover as natal male and female? If not, why not, as we are supposedly granted that sex status after Sex Affirmation Surgery.

We would expect to be covered equally under the proposed section 2 amendments, as we are now legally recognised as male and female.

Three, at this point in time does not enter into the frame, although many Trans women do produce breast milk.

The fourth and final is the main one where we are concerned, as I have been informed that it does not apply to Trans people, only to natal male and female. If we are fully recognised in our sex now as male or female, surely this is of itself "Discriminatory"

When it comes to young Trans people, they have no legal redress and are open to all of the problems you list, and many more

We are made to jump through hoops to become our true selves, but we are still not legally fully recognised at any level of government in Australia. Therefore it would be nice for all governments to recognise us at law as now being no longer Trans, but man or woman. To this end, this major shift should be noted within the legislative amendments before the senate committee and government.

We also have many problems to face when we grow old. The above recognition would be very helpful in those areas as well.

Finally, in letters to me from your Office, you have cited over 80 pieces of legislation were altered in the "Same Sex Act 2009" My question is this, " How many pieces of legislation confront Trans people at all levels of Government, their departments and agencies in Australia?"

Yours Sincerely, Kathy Anne Noble.  
President, Changeling Aspects  
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Committee Secretary  
Senate Legal and Constitutional Committee  
PO Box 6100  
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20-01-2011

## **EFFECT OF REASSIGNMENT OF SEX**

I was asked by a Trans friend "are we considered to be human?"

We abide by the many laws imposed on the Trans community, only to find that under the "Sex Discrimination Act 1984 Review" we will gain nothing, not even the recognition of male or female after sex affirmation surgery.

This is altogether frightening, scary even, when we look at the statements made by all States and Territories in the laws they have enacted in Australia, that concern us after sex affirmation surgery. We are then considered to be "Anatomically male or female" so why are we treated this way?

All States and Territories in Australia state in their laws, in one form or another, that "A person's sex is noted under the Act, the person is of the sex stated on their birth certificate or recognition certificate. They are also, but subject to any law, a person of the sex so stated or altered"

To achieve this outcome, it is required that we have "Altered or had removed all reproductive organs" Even if we do this we are still faced with the following, which smacks of having a bet each way.

I borrow the words of Noel Pearson, but substitute "Trans Peoples," for "Indigenous Peoples", so that it now reads as, "What is still needed is positive recognition of our status as the country's Trans people, and yet sharing a common citizenship with all Australians. Are these contradictory principles? I argue they are not. We can recognise the status of Trans peoples without fracturing the principles that all Australians are equal citizens"

Noel Pearson is director of the Cape York Institute for Policy and Leadership

## **QUEENSLAND**

### **Section 24**

1. a person who has had the reassignment of the person's sex entered into a register maintained under a corresponding law is a person of the sex as reassigned
2. A person who is the subject of a recognition certificate is a person of the sex stated in the recognition certificate. (*do not recognise recognition certificates from the UK or outside of Australia, even then, they may not recognise them from within Australia*)
3. However, the person must comply with section 23 (10) for the reassignment of the person's sex to be noted under the Act
4. If the reassignment of a person's sex is noted under this Act, the person is a person of the sex as reassigned.

## **SOUTH AUSTRALIA**

### **Part 3 section 8**

- 1 A recognition certificate is conclusive evidence that the person to whom it refers
  - (a) *has undergone a reassignment procedure*
  - (b) *Is of the sex stated in the certificate*
- 2 An equivalent certificate issued under a corresponding law has the same effect as a recognition certificate under this Act (*Does this include the UK Gender Recognition certificate?*)

## **NEW SOUTH WALES BDMR Act 1995**

### **Section 321**

#### **Effect of alteration of register and interstate recognition certificates**

- 1 A person the record of whose sex is altered under this part is, for all purposes of, but subject to, any law of NSW, a person of the sex as so altered
- 2 A person to whom an interstate recognition certificate relates is, for the purposes of, but subject to, any law in NSW, a person of the sex as stated in the certificate (*On shore and off shore?*)
- 3 An interstate Recognition certificate is a certificate s prescribed by the regulation for the purpose of this section. (*Do they accept from off shore?*)

## **WESTERN AUSTRALIA**

### **Section 16**

#### **Effect of the Recognition Certificate**

- 1** A recognition certificate is conclusive evidence that the person to whom it refers
  - (a) Has undergone a reassignment procedure; and
  - (b) Is of the sex stated in the certificate
  
- 2** An equivalent certificate issued under a corresponding law has the same effect as a recognition certificate under this Act (*Off shore recognition certificates?*) (*Length of residency status in WA?*)

## **TASMANIA BDMR Act 1999**

### **Section 28G**

#### **Effect of registration of change of sex**

- 1** Where a person's change of sex is registered under this grant, the person is, for the purposes of, but subject to any law in force in this State, a person of the sex as so changed
- 2** A person's change of sex does not affect any relationship of that person arising from consanguinity or by operation of law

### **Section 28H Recognition of certificates issued outside of Tasmania**

A person in respect of whom there is a recognition certificate is taken to be, for the purposes of, but subject to, any law in force in the State, a person of the sex stated in the recognition certificate? . (*Does this include on and off shore certificates?*) (*Any length of residency in Tasmania?*)

## **NORTHERN TERRITORY**

### **Section 28H effect of registration of person's change of sex**

Where a person's change of sex is registered under this part, the person is, for the purposes of (but subject to) any law in force in the Northern Territory, a person of the sex as so changed

### **Section 28 J Recognition Certificate**

A person in respect of whom there is a recognition certificate is, for the purposes of (but subject to) any law in force in the Territory, a person of the sex stated in the recognition certificate. (*Does this apply to on and off shore certificates?*) (*any length of residency in NT?*)

## ACT BDMR Act 1997

### Section 29 s5

#### Effect of certificates issued in relation to transsexual people

- 1 A birth certificate in relation to a transsexual person is, for the purposes of any territory law, conclusive evidence of the person's sex as stated in the certificate
- 2 An interstate recognition certificate, for the purposes of any territory law, is evidence that the person mentioned in it is of the sex as stated in the certificate
- 3 In this section: "Interstate recognition certificate" means a certificate issued, under the law of a State or another Territory prescribed for this section, in relation to a person, who has undergone sex reassignment surgery. (*Does not stipulate if in Australia or off shore certificates are acceptable*)

## VICTORIA

### 30G.Effect of alteration of Register and interstate recognition certificates

- (1) If the record of a person's sex in the person's birth registration is altered under this Part the person is a person of the sex as altered.
- (2) If an interstate recognition certificate is issued to a person the person is a person of the sex stated in the certificate. (*Off shore not included again?*)
- (3) Sub-sections (1) and (2) have effect for the purposes of, but subject to, the law of Victoria

### 30H.Re-issue of interstate birth certificates

To avoid doubt, the validity in Victoria of a certificate that—

(a) is issued under a law of another State or a Territory; and

s. 6

(b) concerns the birth registration of a person—

is not affected merely because it was issued as a result of the person having undergone sex affirmation surgery.!

Even the DRAFT (prepared by Parliamentary Counsel's Office)

BDMR Amendment Bill 2005 looked at these details. Not adopted at the SCAG meeting in July 2005

### Division 4.4 Effect of certificates issued if change of sex recorded

#### 29c effect of certificates issued if change of sex recorded

- 1 A certificate issued under section 27(2) or section 29B in relation to a person is, for the purposes of any Territory law, conclusive evidence that the person's sex is as stated in the certificate. *Drafting notes*
- 2 *Other jurisdictions will need to change the reference to "Territory law" in this section*

- 3 A certificate issued in relation to a person under a corresponding provision is, for the purpose of Territory law, conclusive evidence that the person's sex is as stated in the certificate
- 4 In this section: (*corresponding provision*) means a provision of a law of a State or another Territory that substantially corresponds to section 27(2) or section 29B or is declared by regulation to substantially correspond to either section (*again no mention of off shore certificates, but equally, no specific mention of within Australia*)

Yours Sincerely, Kathy Anne Noble.  
President, Changeling Aspects  
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This appears to be the worst form of discrimination, as they purport to recognise us on one hand after surgery as anatomical males or females, but then on the other, still require us to divorce in order to amend our birth certificate. Sorry, this does not make any sense at all to me. Is it because, they are afraid of setting a precedent, for "Same Sex Marriage?"

Discrimination is an awful weapon to use against any part of society, and we certainly receive more than our share. Discrimination is worse than any debilitating disease, as it cannot be cured by drugs and care alone. Care and compassion and empathy are what are sadly lacking due to the unwillingness of Governments at all levels through out the World to attack this most insidious of pressures. Pressures that lead to a very debilitating scenario. Depression, frustration, self harm, drug and alcohol abuse and suicidality. If we are not cared for in the initial stages, then in the long term our problems will manifest by having to be cared for by the Government health departments with all that infers, when cost is taken into account

Love and Peace, Kathy.