

17 November 2009

Mr Peter Hallahan
Secretary
Senate Standing Committee on Legal and Constitutional Affairs
PO Box 6100
Parliament House
Canberra ACT 2600

Via email: legcon.sen@aph.gov.au

Dear Mr Hallahan

Re: Inquiry into the Marriage Equality Amendment Bill 2009

You will recall that at the public hearings in Melbourne on 9 November 2009, the Chair requested that the Castan Centre for Human Rights Law make a further short submission regarding whether there are any situations where Australia refuses to legally recognise a person's status, in the same way that it refuses to recognise same-sex marriages lawfully performed overseas. From research we have been able to do in the brief time available, we have identified these examples (in addition to same-sex marriages) where Australia does not recognise something that was legal in another country:

- Slavery (where tolerated). Australia certainly would not uphold the rights of slave owners should they come into question in Australia;
- Child soldiers, it is questionable whether Australia would recognise a member of a foreign armed services who is under the age 14 as a legitimate soldier;
- The marriage of people who are under the age of 16; and
- The marriage of people who are closely related.

The common theme with all of these is that they are all recognised as situations that are inconsistent with international human rights law, so that Australia's refusal to recognise these statuses is furthering, rather than violating, international human rights norms. This is in contrast with Australia's refusal to recognise same-sex marriages legally performed overseas, which is both inconsistent with international human rights, and with Australia's commitments under the *Convention on Celebration and Recognition of the Validity of Marriages*.

I trust this additional information addresses the Committee's question. Please do not hesitate to contact me if the Committee has any further queries or requires additional information.

Yours sincerely,

Dr Paula Gerber
Deputy Director