Entry type: Person
Entry ID: AWE5634

Wallbank, Rachael

(1956 -)

Born	19560101, Sydney New South Wales Australia
Occupation	Human Rights Advocate, Lawyer, Solicitor

Summary

Rachael Wallbank is an Accredited Specialist (Family Law – LSNSW) and principal of the legal practice Wallbanks Legal.

Wallbank represented and appeared on behalf of ‘Kevin’ and ‘Jennifer’ at trial in Re Kevin: Validity of Marriage of Transsexual (2001) 28 Fam LR 158 and on appeal in The Attorney-General for the Commonwealth & “Kevin and Jennifer” & Human Rights and Equal Opportunity Commission [2003] FamCA 94 whereby Australians who experience diversity or difference in sexual formation, including Transsexualism, gained the right to legally marry in their affirmed sex.

Wallbank also acted and appeared for the Applicant Parents in *Re Bernadette [2010] FamCA 94*; the first case in Australia to authorise Phase 1 Treatment to suspend puberty for an adolescent living with the condition of Transsexualism (as an interim order in 2005) and the first case to challenge the Australian legal regime initiated by *Re Alex (2004) FLC 93-175* which requires court authorisation of Phase 1 and 2 Treatments as a precondition to treatment.

Wallbank is a member of the Legal Issues Committee of the World Professional Association for Transgender Health (WPATH) and a founding member of the Australian and New Zealand Professional Association for Transgender Health (ANZPATH).

Wallbank has written academically, undertakes lectures and presentations on the subject of the legal and human rights of people who experience diversity or difference in sexual formation and gender expression, especially with regard to Australia, and appears in the media as a public advocate and legal expert on the subject.

Details

The following additional information was provided by Rachael Wallbank and is reproduced with permission in its entirety.

Born on 4 March 1956, as Richard Wallbank, Rachael attended St Patrick’s College Strathfield in Sydney and the University of New South Wales. Rachael was admitted to practise as a solicitor on 4 July 1980. Rachael has three adult children.

After having worked as a junior solicitor and later rising to Associate at Messrs Fred A. and John F. Newnham of Sydney, Rachael established her own legal practice, Wallbanks Legal, on 1 July 1985. Wallbanks Legal is a specialist practice concerned with Family, Wills & Estates and Succession Law.

As is typical for those who experience the condition of Transsexualism, Rachael was aware of her female self in childhood. In the circumstances of the times, however, and although she was referred to doctors by her parents for being found dressing in her sister’s clothes and telling them “I’m really a girl” at about 7 years of age, the condition remained an untreated shame to be consciously ignored by all concerned. Rachael’s adolescence and young adulthood were extremely confusing, painful and shame-filled.

Rachael publicly affirmed her female sex on 4 July 1994, undertook sex affirmation procedures including genital surgery and had her Legal Sex reassigned to female in New South Wales pursuant to that State’s births, deaths and marriages laws on 17 July 1997.

Rachael is grateful that her life and legal career have presented her with the opportunity to achieve significant legal and human rights reform and to advance the understanding of Transsexualism as a naturally occurring form of diversity in human sexual formation and a form of intersexual disorder of sexual development with a clearly therapeutic medical treatment protocol and not a mental disorder or a psychological phenomenon.

Re Kevin has been relied upon in several landmark international decisions; including I v The United Kingdom and Christine Goodwin v The United Kingdom, decided by the European Court of Human Rights. These decisions, which quote Justice Chisholm's decision in Re Kevin at length and with approval, finally determined that there had been violations of articles 8, 12, 13 and 14 of the Convention for the Protection of Human Rights and Fundamental Freedoms in respect of the legal status of people who had experienced Transsexualism in the United Kingdom and, in particular, such people's treatment in the spheres of employment, social security, pensions and marriage. As a result of these decisions the government of the United Kingdom introduced the Gender Recognition Act 2004.

Re Kevin was also relied upon in the landmark decision of the Sixth Judicial Circuit, Pasco County, Florida, in the United States of America in The Marriage of Kantaras. At page 673 of that decision Justice O'Brien said: '…it is essential that Kevin not be given a mere "citation" but studied for what it represents in the law. It is one of the most important cases on Transsexualism to come on the scene of foreign jurisprudence.'

Rachael continues to advocate for the abandonment of the requirement imposed by the Family Court of Australia requiring court authorisation of time critical therapeutic hormonal treatment for Australian adolescents who experience Transsexualism; with all the unnecessary suffering from non-treatment and self harm that inevitably results. Rachael deeply appreciates the fact that her children and her former wife were all obliged to share in the social and personal suffering associated with her Difference and her public affirmation of her innate female self and that, without the love and support of many people, and especially her children, this entry would not exist.

Rachael's favourite saying is that of Helen Keller who said "Life is either a daring adventure or nothing." Enjoying her 21st birthday as an affirmed female in 2015, Rachael is grateful to be recognised amongst the wonderful Australian women lawyers in this exhibition and to finally be one of those lucky people who no longer care if the family parrot falls into the hands of the town gossip.

Significant presentations by Rachael Wallbank:

A Critique of Re Jamie and the Role of the Family Court in Determining the Access to Medical Treatment of Young Australians Living With Transsexualism for the 30th QLD Family Law Residential 2015.
The inaugural (2013) Isabelle Lake Memorial Lecture for the Equal Opportunity Commission Western Australia and The University of Western Australia
'Medico/Legal Issues in the Treatment of Young People With Transsexualism", XVIII World Congress of the World Association of Sexual Health (WAS) – 1st World Congress For Sexual Health (April 2007) Darling Harbour, Sydney, Australia.
'Human Rights and Diversity in Sexual Formation and Expression', XXIII ILGA World Conference (March 2006) Geneva, Switzerland.
'Children with Transsexualism – From Difference to Disorder', The Fourth World Congress on Family Law and Children's Rights (2005), Cape Town, South Africa.
'The Different Roads to Reform' presented at the 6th International Congress on Sex and Gender Diversity (2004) The School of Law, Manchester Metropolitan University, UK.
'Difference on Trial' presentation and paper, 11th National Biennial Conference of the Family Law Section of the Law Council of Australia 2004, Conference Handbook (2004) TEN, GPO Box 61A Melbourne, VIC, 3000, Australia'

Published resources

Book Section
Australia, Wallbank, Rachael, 2015

Journal Article
Re Kevin in Perspective, Wallbank, Rachael, 2004,
http://www.austlii.edu.au/au/journals/DeakinLawRw/2004/22.html

Newsletter
Re Alex - Through a Looking Glass, Wallbank, Rachael, 2004

Book
Speaking Secrets: Sex and sexuality as public property, Joseph, Sue, 2013

Site Exhibition
Australian Women Lawyers as Active Citizens, Trailblazing Women Lawyers Project Team, 2016,
http://www.womenaustralia.info/lawyers

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