



equal not other | égal, pas autre

December 16, 2019

VIA EMAIL: Bardish.Chagger@parl.gc.ca

The Honourable Bardish Chagger

Minister of Diversity and Inclusion and Youth
House of Commons
Ottawa, Ontario
K1A 0A6

Dear Minister Chagger:

Re: Ministerial Mandate Letter

Egale Canada would like to extend our sincere congratulations on your appointment as Minister of Diversity and Inclusion and Youth. We believe this Ministry has tremendous potential to positively impact the LGBTQI2S community in Canada. We have developed a **National Action Plan** for LGBTQI2S equality and inclusivity in Canada, which we are eager to share with you and members of your Ministry.

Egale Canada is the only national LGBTQI2S organization in Canada. We work to improve the lives of LGBTQI2S persons and to enhance the global response to LGBTQI2S issues by informing public policy, inspiring cultural change, and promoting human rights and inclusion through research, education, and community engagement.

We were happy to learn that you consider yourself "part of the *Charter of Rights and Freedoms* generation"¹, having participated in policy conferences on marriage equality in your youth. We want to thank you for supporting our community and for advocating on behalf of the human dignity and equality of LGBTQI2S persons in Canada.

We are encouraged by this Government's commitment to work with the LGBTQI2S community. As I am sure you are aware, in November 2017, the Prime Minister formally apologized for nearly four decades of "systemic oppression, criminalization, and violence"² against the LGBTQI2S community in Canada. During this apology, we were

¹ The Honourable Bardish Chagger, *Cabinet: Minister of Diversity and Inclusion and Youth*, online: <<https://pm.gc.ca/en/cabinet/honourable-bardish-chagger>>.

² Prime Minister Justin Trudeau, "Remarks by Prime Minister Trudeau to apologize to LGBTQ2 Canadians", 28 November 2017, online: Government of Canada <<https://pm.gc.ca/en/news/speeches/2017/11/28/remarks-prime-minister-justin-trudeau-apologize-lgbtq2-canadians>>.



equal not other | égal, pas autre

relieved to hear that the Prime Minister understands that “there is still much work to do”³ to eradicate LGBTQI2S discrimination in Canada.

We applaud the Prime Minister’s decision to disclose *mandate letters* to the public. We agree that by doing so, this Government has taken steps to ensure “the most open and accessible government possible.”⁴ We have read your *mandate letter* and are encouraged by the following priorities that have been identified by the Prime Minister:

- i. Continue the work of the LGBTQ2 Secretariat in promoting LGBTQ2 equality, protecting LGBTQ2 rights and addressing discrimination against LGBTQ2 communities.
- ii. Provide additional investments to LGBTQ2 organizations to hire staff, expand services and reach more people. This includes hotlines and other support services for LGBTQ2 communities, including those that provide sexual health information.
- iii. Work with the Minister of Health, and in partnership with Canadian Blood Services and Héma-Québec, to build on existing progress to implement a behaviour-based model of donation that eliminates the blood ban for men who have sex with other men.
- iv. Consult civil society representatives of LGBTQ2 communities to lay the groundwork for an LGBTQ2 action plan that would guide the work of the federal government on issues important to LGBTQ2 Canadians.
- v. Support the work of the Minister of Public Safety and Emergency Preparedness and the Minister of Justice and Attorney General of Canada to ensure that all Canadian communities feel safe by combatting online hate and harassment and combatting ideologically-motivated violent extremism and terrorist organizations.
- vi. Support the Minister of Justice and Attorney General of Canada to amend the *Criminal Code* to ban the practice of conversion therapy and to take other steps required with the provinces and territories to end conversion therapy in Canada.⁵

³ *Ibid.*

⁴ Prime Minister Justin Trudeau, “Prime Minister releases new ministerial mandate letters”, 28 August 2018, online: Government of Canada <<https://pm.gc.ca/en/news/news-releases/2018/08/28/prime-minister-releases-new-ministerial-mandate-letters>>.

⁵ Prime Minister Justin Trudeau, “Minister of Diversity and Inclusion and Youth Mandate Letter”, 13 December 2019, online: Government of Canada <<https://pm.gc.ca/en/mandate-letters/minister-diversity-and-inclusion-and-youth-mandate-letter>>.



equal not other | égal, pas autre

We believe that human rights protection requires constant and diligent supervision, and we feel responsible to ensure that the Government of Canada does not waver from the commitments made in November 2017, nor those stated in your *mandate letter*.

We note that the post of LGBTQ2 Secretariat will form part of your Ministry. This position has played an important role in advancing LGBTQI2S equality in Canada. We would like to know how you plan on monitoring the progress of the Secretariat, and how you intend on ensuring that this position remains a robust mechanism to hold the Government of Canada accountable on LGBTQI2S equality and inclusivity issues. As the Minister of Diversity and Inclusion and Youth, we trust that you will actively monitor the progress of the LGBTQI2S Secretariat, and we expect that you will develop a framework to ensure the regular consultation and engagement with the LGBTQI2S community on the outstanding human rights issues that impact our community.

We understand that the Government of Canada will be taking steps to ban the practice of conversion therapy in Canada. Conversion therapy is an abhorrent practice, and its ban is long overdue. We trust that you will speak openly and candidly about the negative impact of conversion therapy in Canada – a practice that the former Minister of Health, and current Minister of Justice and Attorney General of Canada, have both described as a “cruel exercise that can lead to life-long trauma”.⁶ We stress that the dynamics of Canadian federalism must not be a barrier to human rights protection for LGBTQI2S persons.

Further, we caution that there remains much to do aside from banning the practice of conversion therapy to ensure that the human rights of LGBTQI2S persons are protected. While we applaud the prospective ban of conversion therapy, we are mindful of the many issues – in healthcare and long-term care, justice, sports and recreation, employment, and transport, to name a few – that remain unaddressed by this Government. Egale Canada has written to eleven Ministries in this new Government in response to their mandate letters – the fact that we have done so, speaks to the widespread and pervasive inequalities that continue to impede the standard of living for LGBTQI2S persons in Canada.

For example, noticeably absent from your mandate letter is any discussion of the rights of intersex persons. Everyone in Canada – including intersex persons – have a right to bodily integrity, human dignity and equality before the law. We implore of you to work

⁶ Letter to The Honourable Doug Schweitzer, M.L.A., Minister of Justice and Solicitor General, Government of Alberta, from The Honourable David Lametti, The Honourable Ginette Petitpas Taylor and Randy Boissonnault, 21 June 2019 online: SCRIBD <<https://www.scribd.com/document/416329772/Letter-to-Alberta-Justice-Minister-Doug-Schweitzer>>.



equal not other | égal, pas autre

with the Minister of Justice and Attorney General of Canada to repeal section 268(3)(a) of the *Criminal Code*, which states:

surgical procedure[s]...performed, by a person duly qualified by provincial law to practice medicine, for the benefit of the physical health of the person or for the purpose of that person having normal reproductive functions or normal sexual appearance or function [emphasis added] ...⁷

The effect of the above provision is to allow medical practitioners to undertake nonconsensual, cosmetic surgeries on intersex infants and children for the purpose of preserving a “normal sexual appearance” based on cis-normative assumptions about medically “normal” bodies. These are unnecessary medical procedures that have long-term physical and mental health consequences for children, and are not in the best interests of the child.

The *Canadian Bar Association* has advocated on behalf of amending s. 268(3)(a) of the *Criminal Code*:

A growing number of health professionals, medical associations and countries are taking the position that medically unnecessary genital normalizing surgeries on intersex infants and children should be prohibited until the child is able to participate in the decision. Canada should be a leader and protect the rights of intersex children by amending section 268 of the Criminal Code to prohibit these surgeries until the child is able to meaningfully participate in the decision [emphasis added].

[...]

Yet normalizing surgery to make children born with ambiguous genitalia look more typically male or female has been standard practice for decades. The aim has been to spare children from teasing, rejection and stigmatization and to reduce parental concern of social rejection. However well-intentioned, it is increasingly clear that these surgeries may be more harmful than beneficial. There are significant risks of physical harm as early genital normalizing surgeries can interfere with nerves, reduce

⁷ *Criminal Code*, RSC 1985, c C-46, s 268(3)(a).



equal not other | égal, pas autre

genital sensation and sexual function, leave scar tissue and create other lifelong health issues.⁸

Egale Canada has developed an expertise on LGBTQI2S issues. Since our inception in 1986, we have intervened in 13 applications before the Supreme Court of Canada and more than 25 equality-seeking legal proceedings in lower courts across the provinces and territories.

We believe strongly in equality and inclusivity for all Canadians, and would kindly request to be consulted on the LGBTQI2S issues that fall within your mandate as Minister of Diversity and Inclusion and Youth. **Please take this letter as a formal request for a meeting with you, and members of your Ministry, to discuss Egale Canada's National Action Plan for a more LGBTQI2S inclusive Canada.**

We hope to work closely with you, and your Ministry, on the issues that matter deeply to us all.

Yours very truly,

A handwritten signature in black ink that reads 'Helen Kennedy'.

Helen Kennedy
Executive Director
Egale Canada

⁸ Salimah Walji-Shivji and Dorianne Mullin on behalf of the Canadian Bar Association, "Letter to The Honourable Bill Casey, M.P., re. LGBTQI2S Health in Canada", *Canadian Bar Association*, 01 May 2019, online: CBA <<http://www.cba.org/CMSPages/GetFile.aspx?guid=da2fdb2a-11ec-4420-9121-842e93db093d>>.