

2024.04.30

### **3.7 Deputy T.A. Coles of the Minister for Justice and Home Affairs regarding convictions for homosexuality (OQ.85/2024)**

Will the Minister advise whether any conviction regarding an act of homosexuality has ever been quashed or overturned?

#### **Deputy M.R. Le Hegarat of St. Helier North (The Minister for Justice and Home Affairs):**

I thank the Deputy for the question, which has not been straightforward to answer. Article 1 of the Sexual Offences (Jersey) Law 1990 was registered on 28th September 1990 and enacted the decriminalisation of homosexual acts in private. The law does not give a person convicted of an offence of homosexuality prior to 1990 the right of appeal to have that conviction quashed. Following the enactment of the 1990 law, it is therefore unclear whether such an appeal is possible. If there was such an appeal it is more likely that it would have to take place in the Royal Court or the Court of Appeal. Appeals for the Magistrates Court convictions are dealt with in the Royal Court; appeals from the Royal Court convictions are dealt with in the Court of Appeal. Officers in the Judicial Greffe have reviewed judgments of the Royal Court and Court of Appeal which post-date 1990 and have not been able to find evidence of any such appeal having taken place.

#### **3.7.1 Deputy T.A. Coles:**

In 2017 the U.K. introduced the Turing Law, named after Alan Turing, the computer pioneer, and was expanded again in 2023 by the Home Office. Would the Minister commit to investigating whether such a law could be passed over here to allow easy and simple overturns and quashing of these convictions?

#### **Deputy M.R. Le Hegarat:**

Simple answer to that question; yes, I am more than happy to have a look and I am fully aware of this legislation.

#### **3.7.2 Deputy M. Tadier:**

While the answer might have been partly given, the first answer really referred to appeals being necessary for individuals to get convictions overturned. Does the Minister really acknowledge that this misses the point; it should not be up to an individual to appeal a conviction which we now, I think, would all find morally objectionable, especially if that person may no longer be alive to do the appeal, that there should be an automatic system where all of these convictions are quashed on a wholesale basis?

#### **Deputy M.R. Le Hegarat:**

I do not disagree with the principle of what the Deputy is saying. I think the only concern I might have is that there is different legislation, as in different terminology and words used. As an example, prior to the decriminalisation in 1990, the law provides that the criminal offence used was to be charged as sodomy. I can see what the Deputy is asking but my only concern is that because the data may not be up to what it should be, I am just concerned that we may miss some opportunity because there will be different terminologies and different words used and a search has been made. What I can verify as well is that the States of Jersey Police do not have any of the data either, so I think it might be a piece of work that will need to be done to see what we can do, if that makes sense, working with this and see if there is anything we can do to move this forward.

#### **3.7.3 Deputy M. Tadier:**

I think the answer is helpful, first of all. In practical terms for individuals who are still around, it may be a simple case of making sure that those who have got a criminal record and for whom that criminal record is relevant and perhaps searchable and declarable, they need a way to make sure that it is no

longer on their criminal record as a first step. Would the Minister agree that might be an area to look at?

**Deputy M.R. Le Hegarat:**

Yes, I do. To me it does make sense and I think it would be the right thing to do.

**3.7.4 Deputy L.M.C. Doublet:**

Does the Minister agree with me that if there are any pardons or if any sentences are going to be quashed that this should be accompanied by a full and unreserved apology to the victims of this institutionalised discrimination? Indeed, would she offer an apology today as a gesture on behalf of Government for the historic harms that have been caused?

**Deputy M.R. Le Hegarat:**

I can make an apology on my own behalf but I think it would be inappropriate for me to make an apology on the behalf of anybody else. From my perspective, I think it is right and proper that an apology should be made for criminalising people in these sorts of circumstances. So, I, from my own perspective, would be quite happy to do that but I think it would be wrong and inappropriate for me to make a generic apology on behalf of anybody else.

**3.7.5 Deputy L.M.C. Doublet:**

Would the Minister agree to engage with members of the L.G.B.T.Q.+ (Lesbian, Gay, Bisexual, Transgender and Queer plus) community, both within the Assembly and in the community, to help resolve this matter?

**Deputy M.R. Le Hegarat:**

Yes, of course.

**3.7.6 Deputy T.A. Coles:**

Will the Minister agree to keep this Assembly informed as to the progress to have this legislation review?

**Deputy M.R. Le Hegarat:**

Yes.