

Thursday, 7 September 2017

## Vote ‘yes’ for marriage equality, ‘yes’ for human rights

Following the decision of the High Court clearing the way for the postal survey, the Law Council of Australia has today strongly advocated a ‘yes’ vote.

“The Law Council has long held that our marriage laws should not discriminate on the grounds of gender or sexual orientation,” said Ms Fiona McLeod SC, President of the Law Council of Australia.

“Freedom from discrimination is a fundamental human right.

“Discrimination on arbitrary grounds, including sexual orientation is contrary to Australia’s international human rights obligations.

“Article 26 of the *International Covenant on Civil and Political Rights* (ICCPR) provides that: ‘all persons are equal before the law and are entitled without any discrimination to the equal protection of the law.’

“Article 26 is a ‘stand-alone’ right which forbids discrimination in any law and in any field regulated by public authorities.

“The UN Human Rights Committee has found that discrimination on the basis of sexual orientation is prohibited. While the decisions to date do not oblige Australia to legislate for marriage equality, there are no legal impediments for Australia to do so,” Ms McLeod said.

Ms McLeod also pointed to the international norms set out in the Yogyakarta Principles, which make clear that sexual orientation and gender identity are integral to each person’s dignity and humanity and must not be the basis for discrimination or abuse.

“There is no sound basis on which a person’s gender or sexual orientation should continue to affect their rights and responsibilities under Australian marriage law,” Ms McLeod said.

“Extending the right to marry to same-sex couples will not impact upon another fundamental right, freedom of religion. Ministers of religion are already permitted to conduct religious marriage ceremonies in accordance with the tenets and doctrines of their religion under s47 of the Marriage Act.

“This will not change as a result of extending equality to same-sex couples.

“Given that the Government has decided to conduct a postal survey, and that there are now no legal impediments to this occurring, we urge a respectful and sensitive debate focused on the issue and the ultimate return of a ‘yes’ vote,” Ms McLeod said.

The Law Council announced its original support for marriage equality shortly after the Marriage Act was amended in 2004. It will continue to advocate for marriage equality until it is achieved.

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