

Media release

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Lawyers reject undemocratic postal opinion poll on the human rights issue of marriage equality

Australian Lawyers for Human Rights (**ALHR**) condemns the Australian Government's decision to invite voluntary postal views from some Australian voters on the human rights issue of marriage equality.

"We support the current constitutional challenge to the funding of this divisive and ridiculous proposal which will not produce a statistically meaningful outcome and is, unhappily, likely to encourage hate speech against the LGBTI community, their families and their children," said ALHR's LGBTI Committee Co-Chair, Nicholas Stewart.

"Deciding human rights issues on the basis of a voluntary postal response from some Australian voters is no way to respect those rights and ignores the fundamental principle that human rights derive from our human dignity and cannot be voted in or out of existence. Politicians are very keen to talk down a Bill of Rights on the basis that in practice they will act to protect human rights. However, we see very clearly here that neither major party is currently prepared to take action to protect the rights of LGBTI Australians to equality before the law and freedom from discrimination by legislating for marriage equality. The Bill of Rights that Andrew Wilkie has proposed is obviously needed."

"The concept of a voluntary postal collection of views on marriage equality by the Australian Bureau of Statistics is fundamentally flawed because it cannot produce either an electoral vote or a genuine statistical survey," said ALHR LGBTI Committee Co-Chair, Kathryn Cramp. "Marriage equality is about fundamental human rights that all governments should uphold; the freedom to marry, the right to equality before the law and to live free from discrimination on the basis of your sexuality. These rights should not be used as a political bargaining chips,"

"We question whether the Australian Constitution permits the Minister for Finance to fund this debacle. By virtue of s 83 of the Constitution, no money can be drawn from the Consolidated Fund unless authorised by statute or incidental to the executive power of the Commonwealth – which is clearly not the case here. It is also quite clear that what the Australian Bureau of Statistics is being asked to do is outside its role of 'providing trusted official statistics' with a view to informing 'decisions on important issues.' If the government is prepared to have regard to voluntary postal opinions on this crucial human rights matter. What precedent is this setting for the formulation of government policy in the future?" Mr Stewart said.

"Our MPs are elected to make laws in parliament, but have failed to put the issue of marriage equality to a parliamentary vote. The government has instead proposed a procedure which will not only waste hundreds of millions of tax payer dollars but is unethical, divisive and undemocratic. A postal plebiscite will not involve all voters and will not be subject to control by the Australian Electoral Commission. Prime Minister Turnbull himself argued vociferously against a postal vote when he led the campaign for an Australian republic arguing it would contravene basic democratic values, disenfranchise voters, particularly young people and Aboriginal Australians in remote communities, as well as those who struggled with English and fail to be anonymous.. As the PM unreservedly and decisively stated a plebiscite *"(i)s likely to ensure that not only will a minority of Australians vote, but also that large sections of the community will be disfranchised."*

ALHR calls on the Federal Government to put an immediate end to this parliamentary fiasco and allow a free vote for marriage equality. It also calls on all parliamentarians to support an Australian Bill of Rights.

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ALHR was established in 1993 and is a national association of Australian solicitors, barristers, academics, judicial officers and law students who practise and promote international human rights law in Australia. ALHR has active and engaged National, State and Territory committees and specialist thematic committees. Through advocacy, media engagement, education, networking, research and training, ALHR promotes, practices and protects universally accepted standards of human rights throughout Australia and overseas.