

# Rights for LGBTQI Australians: A Guide to the Marriage Equality Plebiscite



Edmund Rice Centre  
Awareness. Advocacy. Action.

On 8 August 2017, Prime Minister Malcolm Turnbull announced the Federal Government would hold a voluntary postal plebiscite of Australians on the electoral roll to survey public opinion on whether the Marriage Act should be amended to allow LGBTQI people the right to marry.

The survey will be conducted by the Australian Bureau of Statistics (ABS) from 12 September 2017 until 7 November 2017. Survey responses must be received by the ABS before 6pm on 7 November and people are strongly advised to return their survey by 27 October. The result will be announced on 15 November.

**The survey asks only one question: "Should the law be changed to allow same-sex couples to marry?"** It is not about freedom of speech, freedom of religion, gender identity, 'Safe Schools' or political correctness.

**For the Edmund Rice Centre, an organisation inspired by Catholic Social Teaching and the Charism of Blessed Edmund Rice, the issue of marriage equality is about human rights and anti-discrimination.** Rights for all people, including those who identify as LGBTQI, are guaranteed in various United Nations human rights conventions.

Article 26 of the International Covenant on Civil and Political Rights states: "All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

**One of the underpinning foundational principles of Australian society and democracy is the separation of Church and State.** This is the fundamental point that must not be forgotten in the current debate. Faith-based teachings about marriage and people's rights to hold beliefs based on these teachings should be respected. However, when it comes to civil laws, **we believe there is no place for discrimination.** Discrimination against LGBTQI people can only serve to cause them and their families' pain and suffering.

There is nothing wrong with a mature, respectful and informed discussion about this issue. However, we are disappointed that a vocal group of political and community leaders are using false, straw man and in many instances, offensive arguments to campaign against change.

**"There is no place for discrimination against LGBTQI people, which can only serve to cause them and their families' pain and suffering."**

## Freedom of Speech is not threatened

The claim made by some opponents of marriage equality that a 'yes' vote will result in the "loss of freedom of speech" is not correct. Instances of intimidation and the targeting of advocates (regardless of which side of the debate they come from) are unacceptable. Everyone in this debate has a responsibility to campaign respectfully, and to not use arguments that are offensive, untrue or deliberately provocative.

Unfortunately, we have already witnessed campaigners for a 'no' vote claim that marriage equality will lead to bestiality, polygamy, incest and hurt children. There is no basis for these arguments; they are untrue, offensive, hateful and have no place in this debate.

## Freedom of Religion is not threatened

The claim that "freedom of religion" will be threatened by marriage equality is also not correct. Section 116 of the Australian Constitution protects religious freedom, stating: "The Commonwealth shall not make any law for...prohibiting the free exercise of any religion."

Similar issues have been debated and discussed before – and resolved. For instance, the Catholic Church maintains its teaching against divorce (and prohibits divorced Catholics remarrying in a Church), even though divorce is legal in Australia.

In recent years, politicians from both major parties have drafted bills for marriage equality which include religious freedom protections. Most recently, Liberal Senator Dean Smith wrote a draft bill that included legal protections for religious ministers and civil celebrants if they choose not to marry same-sex couples. **Put simply, religious freedom is not threatened by marriage equality.**

Instead of campaigning against marriage equality, those who are concerned about threats to religious freedom should speak out against the rise of Islamophobia in Australia, such as the "Ban the Burqa" campaign. They should also be encouraged to campaign for an

Act or Charter of Human Rights to protect the rights of all Australians, including the right to religious freedom. Australia is one of few Western countries without a Human Rights Act and Charter. Unfortunately, past attempts to change this have been vocally resisted by people who are now some of the loudest opponents of marriage equality.

Whilst guaranteed in the Constitution, in the absence of a Bill/Charter of Rights, freedom of religion has been only legislated for as an exception to anti-discrimination law. Australian law should reflect Article 10 the Universal Declaration of Human Rights: "Everyone has the right to freedom of thought, conscience and religion." **However, this issue is separate to marriage equality.**

## Marriage Equality is not a threat to children

The plebiscite is not a survey about same-sex parenting, which already exists in Australia. According to the Federal Government's Australian Institution of Family Studies, about 11% of Australian gay men and 33% of lesbians have children.

The Australian Medical Association and the Australian Psychological have both pointed out there is no evidence that children of same-sex parents had different outcomes than those with heterosexual parents.

Associate Professor Damien Riggs from Flinders University has said: "**There are no noticeable differences between children of heterosexual parents and children of homosexual parents, other than discrimination. What we need to do is combat discrimination, so then there are no differences at all.**"

Some opponents of marriage equality argue that children need a mother and father. This argument is offensive, not only to all same-sex families in which children are brought up in a loving and caring environment but to single parent families as well.

**“To penalise someone because of their sexual orientation is like what used to happen to us; to be penalised for something which we could do nothing about—our ethnicity, our race”**

**Desmond Tutu**

### **The Marriage Equality debate is not about 'Safe Schools'**

If marriage equality becomes legal, it will have no impact on the 'Safe Schools' program.

Regardless of whether marriage equality becomes legal in Australia, we believe it is essential that schools develop and implement policies to embrace all students, staff and family members, irrespective of their sexual orientation.

Homophobic and transphobic bullying is all too common. As a result, schools across Australia, including Catholic schools in the Edmund Rice tradition (under the administration and governance of Edmund Rice Education Australia), have developed frameworks for providing safe and inclusive learning environments for all students, in particular for same-sex attracted and gender diverse young people.

The offensive and false arguments used by opponents of marriage equality will potentially make homophobic and transphobic bullying worse, reinforcing the importance of inclusive education programs.

### **Conclusion**

In 2006, the International Commission of Jurists and the International Service for Human Rights announced the Yogyakarta Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity. The Principles state: “Sexual orientation and gender identity are integral to every person’s dignity and humanity and must not be the basis for discrimination or abuse.”

Marriage equality is not a threat to freedom of religion or freedom of speech. It is simply a question of whether same-sex couples can enjoy the same rights as opposite sex couples. **Love is love. It is as simple as that.**

### **Further Reading**

**Australian Bureau of Statistics - Process for Australian Marriage Law Postal Survey**  
[www.abs.gov.au/websitedbs/D3310114.nsf/home/AMLPS++Process](http://www.abs.gov.au/websitedbs/D3310114.nsf/home/AMLPS++Process)

**Australian Human Rights Commission - Marriage Equality**  
[www.humanrights.gov.au/lesbian-gay-bisexual-trans-and-intersex-equality-0](http://www.humanrights.gov.au/lesbian-gay-bisexual-trans-and-intersex-equality-0)

**Edmund Rice Education Australia - Safe and Inclusive Learning Communities**  
[www.erea.edu.au/about-us/safe-and-inclusive-learning-communities](http://www.erea.edu.au/about-us/safe-and-inclusive-learning-communities)

**United Nations Resolutions - Sexual Orientation and Gender Identity**  
[www.ohchr.org/EN/Issues/Discrimination/Pages/LGBTUNResolutions.aspx](http://www.ohchr.org/EN/Issues/Discrimination/Pages/LGBTUNResolutions.aspx)

**Contact the Edmund Rice Centre**  
15 Henley Road (LPO Box 2219)  
Homebush West NSW 2140  
Phone: (02) 8762 4200  
Email: [erc@erc.org.au](mailto:erc@erc.org.au)  
Web: [www.erc.org.au](http://www.erc.org.au)



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