20th December, 2012

To the Senate Legal and Constitutional Affairs Committee,

I wish to respond to the Exposure Draft of the Human Rights and Anti-Discrimination Bill 2012 released by the Attorney-General's Department. I will also draw on the Explanatory Notes where appropriate.

Firstly, I believe that the Bill’s stated aims of consolidating existing anti-discrimination laws and ensuring consistency are welcome. However, I have serious concerns that some aspects of the Bill will severely curtail the freedom that we may enjoy in Australia. In particular, I draw your attention to the following:

- **Section 19(1) & (2)** of the Bill define discrimination (unlawful unless covered by an exception) to include “conduct that offends, insults or intimidates the other person.” To have committed an unlawful act merely on the basis of having caused offense to a person is, in my opinion, an extreme barrier to freedom of expression. The proposed Bill would prevent me from expressing my opinion merely because I was afraid of causing offence.

- **Section 124** shifts the “burden of proof once an applicant has established a prime facie [sic.] case” (Explanatory Notes, p. 2). This will open the door to frivolous and difficult to disprove complaints. Additionally, the threat of a possible complaint or court action will serve to prevent actions that would quite likely have been completely lawful.

- **Section 33(3)** states that exception for a religious body does not apply in the case of a Commonwealth-funded aged care facility. I believe that these facilities, run in conjunction with religious bodies, should have the same rights accorded to them as other religious institutions; that is, that Section 33(3) should be removed.

- Under the Bill, many previously accorded rights are granted only as exceptions, and these exceptions are not guaranteed into the future (cf. Section 47 Review of exceptions). A law that needs to be written with over twenty pages of exceptions seems heavy handed at best.

As I stated previously, I am not against a Human Rights and Anti-Discrimination Bill 2012. The Explanatory Notes (p. 1) state that “the Bill does not intend to make significant changes to what is unlawful and what is not”. However, the fact that the bill introduces a number of new grounds for discrimination, enlarges the definition of discrimination, and reduces a number of previous rights to mere exceptions causes me grave concern. Freedom of expression and freedom of religion is something I (and most Australians, I believe) value highly, and the Bill appears to be a step in the wrong direction for both.
I urge you to consider this and thank you for your time.

Yours sincerely,

Matthew Vermeulen