

Committee Secretary
Senate Legal and Constitutional Affairs Committee
Parliament House, Canberra

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