The Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

I desire to make a submission concerning the proposed HUMAN RIGHTS AND ANTI-DISCRIMINATION BILL 2012.

This whole subject is a minefield when we come to define who sets rights for us all in this broken and divided world, and can probably be as much a cause of discrimination as a remedy.

I begin by quoting briefly from Aldous Huxley's book "Ends and Means".
"I had motives.....to prove that there is no valid reason why [I] personally should not do as [I] want, or why [my] friends should not seize political power and govern in the way they find most advantageous to themselves."
We must also look back a little way in history to the Communist seizure of power in Russia or the rise of Nazi Germany to see how discrimination affected Christians in the first instance and Jews in the second. Today sections of Islam discriminate severely against their own sects and bitterly against Christians .Even further back we remember the Inquisition movement in the Catholic Church. Dissidents went to Siberia, the gas chamber or the stake.

We can also keep in mind instances of discrimination in our own country at this present age and therefore we need to proceed with caution. Our Westminster system of government sets out to provide for a party of Opposition to point out possible problems in legislation, although it must be admitted that in the deeply divided society of today each side is quick to claim the high ground and winning a debate comes first.

But some suggestions in the proposed Bill set alarm bells ringing very loudly. Before we commit to some changes we need to remember George Orwell's book 1984, because it is very clear that some suggestions would function very well in that hypothetical society where freedom of speech, and freedom of conscience did not exist, and freedom of religion was not even thought of.

To include attributes of 'sexual orientation' and 'gender identity' are a particular problem, because the Australian Constitution defines marriage in its traditional form and change can only be by referendum. Anything relating to religion or political opinion in discrimination laws are totally unacceptable. It is essential that any reference to such subjects must be removed. We have a widely diverse society in which we have lost our way in seeing categories of right and wrong but we need free discussion where people are confused. If a person seeks helpful advice from a psychologist or other counsellor and then lodges a complaint that discrimination has occurred this is a grave injustice, and this has happened in England.

To attempt to cover discrimination and sexual harassment in any area of public life is a suspicious area of reform. Would this cover discrimination against a person who is married to a person of the opposite sex in a voluntary arrangement entered into for life? There is opposition to this traditional arrangement these days, is there not ? .Where does discrimination begin and end?

Section 19 (2) (b) " conduct that offends, insults or intimidates the other person " effectively means that some issues are prohibited from breathing a word about, because there are people who have

made it their business to be offended when some issues are discussed. The Daniel Scot case in Melbourne is an example where, having read the transcript of the seminar I can say it was a reasonable and accurate presentation, but the law allowed harassment which went into a long and involved case.

When we come to exceptions, there are particular problems. If discrimination "conforms to the doctrines, tenets or beliefs of that religion" it is sometimes impossible to define clearly the doctrines, tenets or beliefs when there is diversity of belief within the organisation. There have already been problems in this area, when for example some religious organisations have refused to place children for foster care or adoption in same sex families, and genuine objections have been overridden.
And avoiding" injury to the religious sensitivities of adherents of that religion" is a one way street when it depends on what the religion actually is. There is often seen to be no defence for adherents of the Christian faith, whereas other religions can cry discrimination and be heard. But the Founder prophesied that it would be so.
So exceptions are in practical fact not worth the paper they are written on. Even if they are at first proposed, they are usually removed in the next revision of the law. It was first allowed , for example, in some overseas countries that celebrants could decline to officiate at same sex ceremonies, but the exemption has not lasted and they have lost the right to function at all. A wedding photographer has been punished by a fine for declining to photograph a same sex celebration in England, we do not want to see such things happening here.

The onus of proof area is another area which is unsatisfactory. Why should a complainant not have to prove that they have been discriminated against ? This opens the way for frivolous complaints which are really better classed as harassment.

And on racial vilification, the threshold of offence is not well defined. But how can it be easily defined ? We have multiculturalism which has brought a measure of problems but to venture into legislation where definition is difficult and minor misunderstandings can be magnified is really unwise.

So, in summary, we all discriminate in a great many ways in many areas of life. It could only be a lawyers picnic to have a raft of laws about discrimination. We all want to make our own standards of right and wrong and defend them. Let us remember that people are not changed at heart by imposing legislation, they are changed at heart by discovering love for one another as the ideal Christian virtue, proposed by the Lord Jesus Christ when he taught here on earth. He did teach that some things are right and some are wrong, but that we should still feel love and respect when we discuss divisive issues. This legislation falls short of that.

I am opposed to this draft bill and request that it should not be proceeded with. Thank you.

David Jackson