I wish to make a submission to the committee about the proposed Human Rights and Anti-Discrimination Bill and I hope you will consider my views in making your recommendations.

I wish to start by saying that I support the amalgamation of various related laws into a single Bill and the stated intention to make the complaint process more streamlined and easier to access. I consider these objectives to be positive.

However, having said that, I have the following concerns about some parts of the Draft legislation;

Firstly, I consider it a very grave matter to reverse the onus of proof from the complainant to the defendant. A case has not been made as to why this unprecedented provision should be applied in cases of discrimination, when it is not applied to other types of complaints. It is unthinkable to me that any presumption of guilt should be made in cases of alleged discrimination, or indeed in any other type of allegation. In my view, it will be a very dangerous precedent likely to be extended to other areas of the law and should be avoided in a free society.

I addition, I am concerned about the provisions in relation to vilification. I bring to your attention a well publicised case of racial vilification brought against a high profile journalist. These provisions seem to me to be subject to possible misuse by public individuals seeking to suppress legitimate debate about their public conduct and related motivations. Only those public persons who can claim to be members of a group subject to anti-discrimination law can use the legislation to stifle debate about their actions. Everyone else has to use defamation law if they consider such comments to be incorrect or damaging. I consider that any public person should expect their conduct and motivations in conducting their public life may be the subject of comment and debate, and that journalists and other public commentators should not be gagged because of the fear of anti-discrimination legislation being used to silence such public scrutiny and debate for certain individuals.

Further, I am very concerned that “giving offence” is now being proposed as a crime. This is a very individual and not well defined phrase. People may be offended by others personal and religious beliefs which include beliefs about sex outside of marriage, same sex relationships, surrogacy, invitro fertilisation, abortion, and even contraception. Differing views are the stuff of life in a democratic society where preferably such beliefs can be held without impinging on other people exercising their rights to hold differing views and living their lives within the law of the land without experiencing the kind of discrimination this legislation is be seeking to make illegal. What provisions will be made to ensure these beliefs can be promulgated and discussed in public, in debates, in the media, in the pulpit, in religious education institutions, in public documents, and even in interviews and any other public place where such discussion may occur without persons in the affected groups using this legislation to stifle debate and suppress others views on the basis that they are offended by opposing viewpoints?