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16 November 1992

Derrik Fine
OLGA
P O Box 7315
ROGGEBAAI
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Dear Derek

Thank you very much for the Draft Lesbian and Gay Rights Charter. You seem to have made a lot of progress. Congratulations. Reading through it there seem to be five major themes, each of which requires its own strategy. They are:

1. Decriminalisation.
2. Non-discrimination.
3. Protection from harassment and abuse.
4. The right to organise your lives so as to enjoy the same rights and be subject to the same responsibilities as heterosexuals (relationships, children, property, inheritance, etc.)
5. Cultural and religious transformation in favour of respect for diversity and the right to be as you are.

My own feeling is that the first three could be put on the agenda right now with a fair degree of success. They fit into a broad human rights framework in terms of which people are protected against direct oppression or abuse.

As far as 4 is concerned, a lot of preparatory and educational work still has to be done. Opponents of 1, 2 and 3 will use 4 to deny any form of legal protection to lesbians and gays. At the same time there should not be anything that could be regarded as a hidden agenda.

I would propose that claims under this item be openly discussed with a view to getting general acceptance by the South African public at some future date. Certainly acceptance of 1, 2 and 3 will remove obstacles to open discussion of 4.

The area where the greatest delicacy will be required is 5. You simply cannot tell believers what to believe. The supernatural and the divine have their own dimensions. Faith cannot be prescribed nor proscribed. What public law can do is to prevent conduct in the name of religion which violates legally protected rights. Thus, an incitement to homophobic violence could be dealt with as an incitement to violence and that fact that it was motivated by actual or alleged religious dogma would not grant it immunity or render it lawful. But to say that religious bodies should be prohibited from discriminating internally on the grounds of gender or sexual orientation would be wrong. The battle has to be conducted by believers themselves. Not only would any attempt to impose non-discrimination from outside fail, it would violate the rights of self-determination of confessions.

From a presentational point of view it would give a powerful weapon to opponents of lesbian and gay rights enabling them to obstruct 1, 2 and 3. It would encourage the very kind of fanaticism that a serenely based human rights project must avoid.

I would call upon supporters of gay and lesbian rights to work against homophobia within each confession to which they might belong. I do not think it should be projected as a question of public law. This is not to say that one has to simply accept the oppressive features of religion and culture. The question is how to respond to them and when the law can intervene. In a strange way the right to be different of Catholics, Muslims and Jews is the same as the right to be different of lesbians and gays.

With best wishes.

ALBIE SACHS

Organisation for Lesbian and Gay Action

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OLGA



NATIONAL LOBBYING FOR LESBIAN AND GAY RIGHTS An OLGA Proposal

This package contains copies of the following:

- A. Our OLGA letter to
requesting your organisation/service to please give us
feedback by the end of January 1993 on 3 questions:
- * what you feel about us uniting as lesbian and gay
organisations nationally to lobby around 2 issues, namely
calling for decriminalisation and non-discrimination;
 - * whether you support (or wish to add to or change) the issues
covered in OLGA's draft Lesbian and Gay Rights Charter;
 - * whether you would like to attend a 1993 Easter weekend
conference to work out a national approach to lobbying for
our rights, and to adopt a revised Charter.
- B. OLGA's Draft Lesbian and Gay Rights Charter.
- C. A Workshop Outline to encourage discussion in your
organisation/group on the Charter and on lobbying for our
rights.

2/11/92

Dear Albie

We enclose for your information + comment
OLGA's new lobbying proposal, including
a revised draft lesbian + gay Rights
Charter. This is being discussed by lesbian
+ gay organisations around the country,
have been asked to give us feedback by the
end of January 1993.

① De-crim.
② Non-discr.
③ Prot. from harass/abuse
Develop. ④ ~~add~~ Rt. to org. lives
as a to doing
same as a
must same
responsib.
as heteros.
⑤ Relig.
bull trans.

Warmest regards,

Derrick

Derrick Fine for OLGA -

PLEASE NOTE:

THE DRAFT LESBIAN AND GAY RIGHTS CHARTER IS NOT FOR PUBLICATION
OUTSIDE OF YOUR ORGANISATION WITHOUT THE PERMISSION OF OLGA.

Member of the International Lesbian and Gay Association (ILGA)

Organisation for Lesbian and Gay Action

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Cape Town
South Africa

OLGA



(A)

5 October 1992

The Secretary

Dear Members of

NATIONAL LOBBYING FOR LESBIAN AND GAY RIGHTS

We are very excited to enclose OLGA's new draft Lesbian and Gay Rights Charter for discussion in your organisation/service.

Where the Charter comes from:

The idea of developing a Lesbian and Gay Rights Charter dates back to 1990, when OLGA came up with a much shorter proposed Charter after several discussion forums were held in the Western Cape. This earlier Charter was circulated and discussed by a few organisations around the country.

Then in 1991, organisations present at the historic second Johannesburg Lesbian and Gay March decided to go back to their respective regions to consult with their members and other interested people on the kinds of issues that should be included in a future Charter.

During 1992, OLGA carried out a community survey over a period of 3 months in English, Xhosa and Afrikaans in the Western Cape. The aim of the survey was to gather afresh the concerns and types of discrimination experienced by us as lesbians and gay men.

On the basis of the survey, we have drawn up a new and much more detailed Lesbian and Gay Rights Charter. We wish to stress that it is an **OLGA draft** Charter at this stage. We are hoping that it can eventually become a truly national Charter after your and all other lesbian and gay organisations have made suggestions for changes and additions to the draft.

Our priorities at this stage:

However, we are in no rush to launch the Charter now. We say this because we feel that the Charter needs to be part of a thorough and much broader discussion with your organisation and all other lesbian and gay organisations/services nationally about lobbying for our rights.

OLGA feels that our priority at this stage should be to encourage unity among all of us, regardless of our different possible political affiliations, on common ground such as a joint call for decriminalisation and non-discrimination:

...2

Member of the International Lesbian and Gay Association (ILGA)

* By **decriminalisation**, we mean lobbying for the removal of all laws which criminalise us as lesbians and gay men (please see the Charter for more details);

* By **non-discrimination**, we mean lobbying for the acceptance of the principle of non-discrimination against us because of our sexual orientation (again please see the Charter for more details).

OLGA proposes that, if we agree that decriminalisation and non-discrimination are the 2 key issues, we should link these issues to the Charter by:

* putting most of our energy into winning public, government and political party support for these 2 issues;

* using the detailed examples and issues covered in the Charter whenever they are useful: (a) to back up our call for decriminalisation and non-discrimination, and (b) for general public education.

Working towards a National Lobbying Conference:

Up until now, we have all tended to work in particular regions and constituencies, and on particular issues, for example OLGA has focussed mainly on lobbying political parties and organisations around the call for non-discrimination.

Is it not time that we joined hands with one national voice to lobby for our rights?

To achieve such a national voice, OLGA believes that we need a national conference to discuss how we can together take forward lobbying for our rights in a coordinated way. We think this needs to be carefully planned, so as to allow plenty of time for all lesbian and gay organisations and services to thoroughly discuss the detailed contents of the draft Charter, and how we could go about lobbying for decriminalisation and non-discrimination.

OLGA would like to host such a national conference over the 1993 Easter weekend in Cape Town. We propose that all interested organisations would arrange and pay their own transport, while OLGA would take responsibility for the other arrangements.

Our request to your organisation/service

We ask you to please discuss these issues in your organisation/group over the next 4 months, and to please give us feedback by **Friday 29 January 1993** on these 3 questions:

* what you feel about us uniting as lesbian and gay organisations nationally to lobby on decriminalisation and non-discrimination;

* whether you support the issues covered in the draft Lesbian and Gay Rights Charter (please suggest additions and changes);

* whether you would like to attend a long weekend conference over Easter (April) 1993 to work out a national approach to lobbying for our rights, and to adopt a revised Charter.

OLGA would like to stress that these are our suggestions for the focus of such a national conference. We welcome your suggestions and comments on the topics for discussion or arrangements for the conference.

At the end of this letter, we have added a list of all the organisations/services we have sent this proposal to. We would like to involve as many people as possible in this process. So, please let us know if there are others who you feel should also be sent a copy.

Please write to us at our address above, or telephone Derrick Fine at 6502680 (work) if you would like more information or to discuss any of these issues.

In pink friendship and solidarity

Derrick Fine
for OLGA

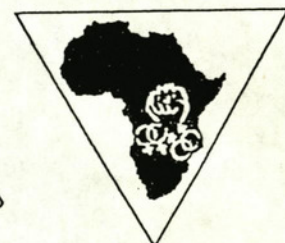
List of organisations/services sent to:

ABIGALE Cape Town
COGS Cape Town
Eastern Prov Gay Assoc
GAB Durban
 East London
 Johannesburg
 Pretoria
GCC Cape Town
 Johannesburg
 Pretoria
Gay Switchboard Joburg
GAIN Pietermaritzburg
GALA Cape Town
GASA Bloemfontein
 Kimberley
 Cape Town (6010)
GLINT Umtata
GLOS Durban
GLOW Johannesburg
NAGS Durban
SHOC Johannesburg
Sundays Women Durban
TOGS Johannesburg
 Pretoria
YACHAD Johannesburg

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Introductory Note to OLGA Draft Lesbian and Gay Rights Charter

1. Writing this draft Charter has been an exciting but difficult task for OLGA. Exciting, because we hope that this is a stepping-stone to the first national Lesbian and Gay Rights Charter in South Africa. Difficult, because it was hard to get agreement on all the issues in the Charter, and to include all the issues raised in our 1992 Charter Community Survey.

2. Please note that this is a **draft** charter. After we have received your comments and suggestions, we will revise the Charter. We hope that we will be able to reach a final Charter that satisfies all lesbian and gay organisations and services.

3. While there are many views on what words we should use to describe ourselves, we have decided to use:

- * the nouns 'homosexuality' and 'lesbianism', eg. 'Homosexuality and lesbianism shall be decriminalised';

- * the adjectives 'gay' and 'lesbian', eg. 'lesbian/gay behaviour'; and

- * generally, the words 'lesbians' and 'gay men' to say who we are.

4. When we write up the **final** Charter:

- * we will put in a Meaning of Words section, which will define words like 'sexual orientation', 'homophobia' and 'heterosexism';

- * we will put in a Motivating Document, which will give further explanations or examples where necessary, eg. explaining that all the non-discrimination provisions will also protect bisexual people because 'sexual orientation' includes people with a bisexual orientation.

5. **After** we have written a final Charter, we would like to:

- * translate the Charter into other languages such as Afrikaans, Xhosa and Sotho;

- * bring out the Charter in a simplified pamphlet form, which would also be translated into other languages.

6. We welcome your suggestions on the content of the Charter and issues such as language, translation and the need for a Motivating Document.

PLEASE NOTE: THE DRAFT CHARTER IS NOT FOR PUBLICATION OUTSIDE OF YOUR ORGANISATION WITHOUT THE PERMISSION OF OLGA.

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OLGA DRAFT LESBIAN AND GAY RIGHTS CHARTER

" As lesbians and gay men, we commit ourselves to building a non-racial, non-sexist, non-homophobic and democratic South Africa.

Together with all other South Africans, we say that we should no longer be oppressed and exploited because of our race, colour, class, gender, sexual orientation, political beliefs, language, religion, culture or physical ability.

We believe we are entitled to the following rights to give effect to the principle of non-discrimination against us as lesbians and gay men:

A. THE LAW

1. Homosexuality and lesbianism shall be decriminalised.
2. Where Acts of Parliament make lesbian/gay behaviour a crime, or discriminate against lesbians and gay men, they shall be repealed or amended.
3. Where the common law criminalises or discriminates against lesbians and gay men, it shall no longer be applied.
4. A future Bill of Rights shall include the principle of non-discrimination on the basis of sexual orientation.
5. All laws shall be reviewed to ensure that they follow the principle of non-discrimination and equality before the law, as enshrined in the Bill of Rights.
6. In changing the law relating to sexual acts, the focus shall be on whether there was actively-given consent, and not on the gender and sexual orientation of the participants.
7. The law relating to sexual acts shall deal with sexual violence and abuse regardless of the gender and sexual orientation of the participants.
8. The age of consent shall be the same for heterosexual and lesbian/gay sexual acts.
9. Positive anti-discrimination laws shall be introduced to reinforce the broad commitment to lesbian and gay rights, and all other human rights contained in the Bill of Rights.
10. The law shall be drafted and interpreted free of heterosexism so as to include rather than exclude lesbians and gay men, and lesbian and gay relationships/partnerships.

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B. PRIVACY

1. Lesbians and gay men shall enjoy the same rights to privacy as all other people.
2. This includes the right to engage in sexual conduct between consenting people, to host social events, and to write and receive correspondence without interference.

C. PUBLIC EXPRESSION, SPEECH AND ASSOCIATION

1. Lesbians and gay men shall enjoy the same rights as all other people to express affection in public, to speak freely, to produce and receive media, to hold meetings and have access to public facilities and resources.
2. Lesbians and gay men shall enjoy the same rights to personal dignity and respect as all other people.

D. RELATIONSHIPS AND REGISTERED PARTNERSHIPS

1. People of the same gender shall have the right to form relationships and to live together.
2. Two people of the same gender shall have the right to formalise their relationship as a registered partnership.
3. Registered partners shall have similar rights as in marriage, including the right to cohabitation, to share property and wealth, to inheritance, and to next-of-kin status.
4. Registered partners shall also have the right to insurance, pension, taxation, medical aid, housing and other social and economic benefits.
5. A registered partnership can be ended by deregistration, which will have a similar effect as divorce after marriage.

E. CHILDREN

1. Lesbians and gay men shall enjoy the same rights in respect of children as all other people, regardless of whether they are in a registered partnership or not.
2. This includes the right to produce children through sexual intercourse or alternative insemination, to adopt, foster and take custody of children, to raise and support children, and to be a natural/legal guardian.

F. SCHOOLS, YOUTH AND PUBLIC EDUCATION

1. Positive education about gender and sexuality, including sexual orientation and homosexuality/lesbianism, shall be included in the curricula of schools, all tertiary institutions and youth/community programmes.
2. This shall include the combatting of prejudice and the presenting of lesbian/gay relationships and lifestyles as a valid expression of sexuality.
3. It shall be unlawful to teach negative and homophobic attitudes towards homosexuality and lesbianism.

Schools, youth and public education...

4. Teachers and counsellors should be suitably trained and qualified to provide balanced and positive education on gender and sexuality.

5. Lesbian/gay organisations shall have access to schools, all tertiary institutions and youth/community centres to supplement or provide such education.

6. Students shall not be discriminated against or harassed because of being lesbian or gay, or because their parent(s)/guardian(s) are lesbian or gay.

7. There shall be procedures for complaints by students regarding such discrimination or harassment.

8. Rules regarding relationships and harassment/abuse between teachers and students shall be the same, regardless of whether the relationships/conduct are of a heterosexual or lesbian/gay nature.

9. Youth and students shall have access to counselling to give them support with discovering their sexuality and 'coming out', and when experiencing problems related to discrimination or harassment.

10. Young people shall have the right to sex education and information, even if this is opposed by their parent(s) or guardian(s).

11. Lesbian and gay youth/adults shall have the right not to be discriminated against in getting access to education and training for future employment.

G. EMPLOYMENT

1. Discrimination against lesbians and gay men in the workplace shall be unlawful with regard to recruitment, working conditions, promotion and dismissal.

2. Lesbians and gay men shall have equal access to employment and service in the armed forces, and being lesbian/gay shall not be considered to be a risk to national security.

3. It shall be unlawful for employers to harass, abuse or blackmail employees because of their sexual orientation.

4. It shall be an 'unfair labour practice' for employers to harass or discriminate against employees because of their sexual orientation.

5. Lesbian and gay employees shall have the right to be 'out of the closet' (open about their sexual orientation) in the workplace. This right shall apply equally to schoolteachers and those who work with young people.

6. Disciplinary action shall be taken against employees who harass or victimise co-workers because they are known to be lesbian or gay.

Employment...

7. Lesbian/gay registered partnerships shall be recognised for the purposes of all employment benefits, including compassionate and co-parenting leave.

8. Single lesbians/gay men shall have equal access to maternity/paternity leave benefits.

H. HOUSING

1. It shall be unlawful to discriminate against lesbian/ gay individuals or couples with regard to access to housing or accommodation because of their sexual orientation.

I. HEALTH AND WELFARE

1. It shall be unlawful for insurance companies, building societies, pension offices and other government departments, or other institutions dealing with health and welfare to discriminate against lesbians or gay men in providing their services.

2. Health and welfare workers shall be educated with regard to the particular problems experienced by lesbians and gay men owing to the homophobic nature of our society.

3. Health and welfare workers shall be trained to combat such homophobia and to present lesbian/gay lifestyles as a normal and natural variation of human sexuality.

4. Homosexuality and lesbianism shall no longer be considered to be medical or psychological conditions requiring corrective or curative treatment.

5. Mental health problems in lesbians and gay men shall not automatically be assumed to be a result of their sexual orientation.

6. Lesbians and gay men shall have the right of access to visit partners/lovers in hospitals and other places of care.

7. Lesbians and gay men shall have the same right of access as all other people to counselling, social and advice networks, and health care, including value-free access to services/medicines to prevent or treat HIV/AIDS or other sexually transmissible conditions.

J. IMMIGRATION

1. Sexual orientation shall not be a factor in decision-making regarding applications for immigration.

2. Lesbians and gay men shall have the right to share the nationality of their registered partner.

3. The government shall grant asylum status to lesbians and gay men who flee from, or fear returning to, countries where homosexuality/lesbianism is persecuted.

K. MEDIA

1. It shall be unlawful to promote homophobia and the negative stereotyping of lesbians and gay men in the media.
2. Lesbians and gay men shall have the same access as all other people to publish and speak in the press and on radio and television.
3. The same standards shall be applied with respect to censoring exploitative or violent heterosexual or lesbian/gay sexual acts.
4. Lesbians and gay men shall have the right to sue the media for promoting hate and violence against people because of their sexual orientation.

L. PRISONS

1. There shall be protection for lesbians and gay men in prison in respect of rape and other forms of victimisation and violence.
2. Lesbian/gay prisoners shall have the right of access to psychologists and social workers of their choice.
3. Lesbians and gay men shall the right of access to visit partners/lovers in prison.

M. RELIGION

1. It shall be unlawful to discriminate against lesbians and gay men in churches, mosques, temples, synagogues or other places of worship. This includes the right to worship in a place of their choice, and the right to be a member of, or a minister of religion in, a religious institution, regardless of sexual orientation.
2. Lesbian and gay issues shall be openly raised and discussed in religious institutions as a normal and natural variation of human sexuality.
3. It shall be unlawful to promote homophobia and teachings which present the notion of lesbian/gay behaviour as being sinful.

N. POLICING, THE COURTS AND ENFORCEMENT OF RIGHTS

1. The police, magistrates, prosecutors and other staff of law/human rights enforcement bodies shall undergo thorough training/retraining on issues relating to gender and sexual orientation, including education on the new protective rights and laws concerning lesbians, and gay men.
2. An affirmative action approach should be followed regarding employment in the police, administration of justice and public service to ensure that lesbians and gay men are represented in these institutions.

Policing, The Courts and Enforcement of Rights...

3. Harassment and entrapment of lesbians and gay men by the police and any other law enforcement bodies shall be unlawful.

4. It shall be the duty of the police to protect lesbians and gay men from harassment, victimisation and 'bashing'.

5. The approach to policing and the regulation of sexual acts/conduct shall focus on preventing abuse, and not on certain kinds of sexual acts or the gender and sexual orientation of the participants.

6. There shall be quick and accessible channels to report and follow up cases of abuse, harassment and victimisation on the grounds of sexual orientation. Police liaison officers shall be adequately trained to assist with such cases.

7. Lesbians and gay men shall, together with all other people, have access to Human Rights Commissions, Ombud's offices, the Constitutional Court and other relevant bodies to make complaints and seek redress where lesbian and gay rights under the Bill of Rights and new anti-discrimination laws have been violated.

8. People affected by anti-lesbian/gay violence shall be entitled to fair and impartial hearings by the courts and other relevant bodies.

9. Homophobia shall not be permissible as the basis for a legal defence on charges of violence and abuse against lesbians and gay men.

10. The same standards shall apply in sentencing in criminal cases involving heterosexual or lesbian/gay harassment, abuse or violence. "

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OLGA, SEPTEMBER 1992

PLEASE NOTE: THIS DRAFT CHARTER IS NOT FOR PUBLICATION OUTSIDE OF YOUR ORGANISATION WITHOUT THE PERMISSION OF OLGA.

Organisation for Lesbian and Gay Action

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OLGA



WORKSHOP OUTLINE ON

THE LESBIAN AND GAY CHARTER AND LOBBYING FOR OUR RIGHTS

Note:

This is a suggested 3 hour workshop outline to encourage discussion in your organisation/service on OLGA's draft Lesbian and Gay Rights Charter, and generally on how and on what issues we could win support for lesbian and gay rights. You should obviously feel free to change the outline to suit the needs of your members. It would be better if members had a chance to read the OLGA proposal and the draft Charter before the workshop/discussion.

1. Introduction:

- (a) Welcome to workshop and explaining the programme. [5 mins]
- (b) Everyone to introduce themselves and say what they would like to achieve at the workshop. [10 mins]

2. Sharing and acting out experiences:

- (a) Each person to turn to the person next to them and talk about what kinds of prejudice and discrimination they have experienced. [5 mins]
- (b) Each pair to briefly roleplay (act out) one example of prejudice/discrimination that they discussed for the big group. [15 mins]

3. Input and discussion:

- (a) Inputs (by one or two people) explaining:

- * lobbying as a way of trying to get support for lesbian and gay rights;
- * what it means to call for decriminalisation, ie. doing away with all laws that make lesbian and gay behaviour criminal;
- * what it means to call for non-discrimination, ie. being protected by the Bill of Rights and other laws, and changing laws which discriminate against us;
- * how a Charter is a way of bringing together all the issues that concern us, and that it can be used to support lobbying efforts and for general public education;
- * summarising the main issues covered in the OLGA draft Charter.

[20 mins]

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(b) Comments, questions and discussion on the inputs. [25 mins]

TEA-BREAK [15 mins]

4. Small group discussion:

Break up into groups of between 5 and 8 people to discuss these questions:

(a) Should our organisation get involved in lobbying for lesbian and gay rights?

(b) Would it be useful to focus the lobbying around the calls for decriminalisation and non-discrimination?

(c) Is it useful to have a Lesbian and Gay Charter? How can it help us to lobby support for our rights?

(d) How does everyone feel about the OLGA draft Charter? Are there suggestions for improving the OLGA draft?

(e) Would a national conference of all lesbian and gay organisations be helpful in clarifying and coordinating our lobbying efforts? [30 mins]

5. Big group discussion:

(a) Brief reportbacks from small groups. [15 mins]

(b) General discussion. [30 mins]

6. Closing the workshop:

Briefly assess whether the workshop achieved its aims - do you feel in a position to reply to the 3 questions in the OLGA proposal, or is there still a need for more discussion and maybe another workshop? [10 mins]

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OLGA, OCTOBER 1992