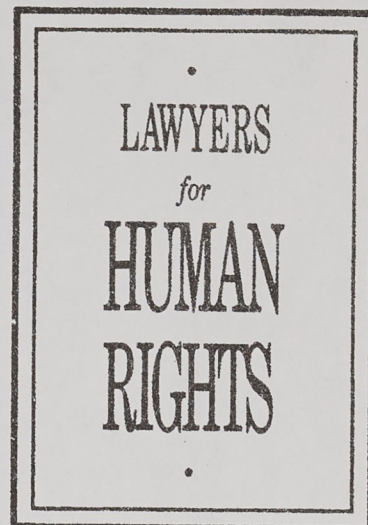


NATIONAL DIRECTORATE

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Chartes



Our ref:
 Your ref:
 Date:

November 4, 1992

Dear Albie,

It was a great pleasure to meet you at the Pretoria U. Conference.

Your 16 September comments on our draft Civil Rights bill were appreciated. I've tried to incorporate some language into the draft to cover the gaps you noted (see highlighted sections). At this juncture, I have no simple answer on how to deal with situations like the DHL office in the Jan Smuts Airport or "benign discrimination."

I agree with you that a Civil Rights Commission will be necessary. I would also suggest something along the lines of the US Community Relations unit which was set up in the Justice Department to help communities and individuals conform their behavior to the '64 Rights Act. There were 15 of us doing community conciliation in '67. Today, almost 30 years later, there are close to 300 conciliators still working at it.

I don't see the value of holding up the enactment, even less the drafting, of laws such as a civil rights act until after a new constitution and bill of rights are enacted. Too often, there is a long delay between the enactment of the Constitution/Bill of Rights and the enactment of enabling laws. Canada, I recall, had to delay the implementation of its Rights Charter for three years. The "laws delay" in the South African context would be disastrous -- people have waited too long for justice and their patience and tolerance is wearing thin.

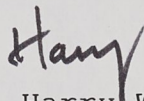
My position presumes a lean constitution that clearly states the moral framework and the intentions of government. The specifics would appear more appropriate for the enabling laws.

In any case, and as you said, now is the time to be "working on legislation to deal with the practical enjoyment of basic human rights."

In terms of enforcement, would it not make sense for an interim government to set up a new government unit staffed by human rights professionals (lawyers and community conciliators) which would be a forerunner of a civil rights division in a future justice department? I don't see the current justice personnel putting much heart into the enforcement of civil and human rights. I also agree that the Attorney General should be able to institute an action independently or intervene in a pending case. I would also suggest providing the court the option to refer a case to conciliation in an effort to seek voluntary compliance before embarking on a lengthy, expensive trial.

In closing, I'm reminded of a former law professor at U of Chicago, Karl Llewellyn, who argued that great legal writing is a sensitive blend of the Old Testament, Shakespeare and Hemingway. Had he lived long enough to read "Protecting Human Rights in a New South Africa," he'd be overjoyed.

Sincerely yours,

A handwritten signature in cursive script that reads "Harry".

Harry Wilkinson