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**ONE DAY,  
THIS COULD BE A NUCLEAR FREE ZONE.**

Dear Julia and OLGA,

Thanks for your letter which arrived yesterday.

My own feeling is that it is important to distinguish between three different types of legal protection for lesbians and gay men:

1) Constitution 2) Bill of Rights 3) Legislation.

1) Constitution

The constitution could include some wording such as:

All South African citizens shall be entitled to full and equal citizenship, including equality under the law and legal protection against discrimination on any grounds whatsoever

2) Bill of Rights

The Bill of Rights could be worded as follows:

All South African citizens shall enjoy equal rights and equality of opportunity, irrespective of their sex, race, national or social origin, religion, language, political opinion or belief, age, sexual orientation or disability.

3) Legislation

It is probably preferable to aim for generalised and comprehensive equality legislation, rather than specific laws to protect lesbians and gay men. Broad anti-discrimination legislation gives the possibility of uniting a wide range of women and minorities around common objectives such as equality of opportunity and protection against prejudice. There are three laws worth prioritising:

(a) Anti-Discrimination Act

It is unlawful to discriminate against a person or group of persons in employment, housing, education, and access to and provision of public and private services, based on that persons or <sup>group of</sup> persons sex, race, national or social origin, religion, language, political opinion or belief, age, sexual orientation or disability.

(b) Prohibition of Incitement to Hatred Act

It is unlawful to publicly insult or incite hatred against a person or group of persons on the grounds of their sex, race, national or social origin, religion, language, political opinion or belief, age, sexual orientation or disability.

(c) Ministry for Equal Opportunities

This Ministry shall be established with powers to monitor, promote and enforce equality of opportunity for all South African citizens, regardless of their sex, race, national or social origin, religion, language, political opinion or belief, age, sexual orientation or disability. It shall be a Ministry with cabinet rank.

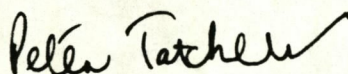


These measures would enshrine the two fundamental principles of  
1) full and equal rights in law and 2) legal protection against  
discrimination. These comprehensive principles cover everything the  
lesbian and gay movement is demanding. Once they are enshrined,  
everything else falls into place.

They are also measures which encourage unity and solidarity between  
diverse oppressed sections of the population. My feeling is that  
insistence on separate lesbian and gay legislation could be a divisive  
and marginalising strategy. This way, lesbian and gay rights is  
incorporated into progressive legislation and encourages solidarity  
between diverse segments of the population.

These, then, are my suggestions in response to your letter. I offer  
them in the understanding that OLGA and other progressive lesbian and  
gay organisations in South Africa are better placed than I to know  
what is most appropriate. You must make your own judgements.

Yours in comradeship and solidarity,



Peter Tatchell

PS: Here are some examples of laws in different European countries on  
the enclosed sheet.

PPS: My love to you Shelia, Ivan, Derrick, Niezham (I hope those spellings  
are correct), Simon and all the other comrades. You are an inspiration to  
so many of us here. The day we meet in a liberated South Africa cannot  
be long now. Stay strong and keep up the struggle!



# European Covention On Human Rights

## Article 14

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

## Dutch Constitution

According to Article 1 of the Dutch constitution: "Discrimination on the grounds of religion, belief, political opinion, race or sex, or on any grounds whatsoever, shall not be permitted." The words "or on any grounds whatsoever" have been accepted by parliament and the courts as prohibiting discrimination on the basis of sexual orientation.

## Sweden

Protection against discrimination was enacted in a 1987 law which forbids businesses to discriminate on the basis of "homosexual inclination".

It is also a criminal offence to make insulting remarks about a person's lesbianism or gayness.

In 1987, the Homosexual Cohabitees Act gave legal recognition to lesbian and gay relationships and granted homosexual couples equal rights with heterosexual cohabittees with regard to inheritance, property rights and taxation.

## Denmark

In 1987, the government passed an anti-discrimination statute which protects lesbians and gay men from discrimination in the provision of public services and access to public facilities. The same year, laws against incitement to hatred on the grounds of a person's sexuality were enacted. Article 266a reads:

Any person who, publicly or with the intention of wider dissemination, makes a statement or imparts other information by which a group of people are threatened, insulted or degraded on account of their race, colour, national or ethnic origin, religion or sexual orientation, shall be liable to a fine, or to simple detention, or to imprisonment for any term not exceeding two years.

## France

Anti-discrimination laws were introduced in 1985. These protect both lesbian and gay individuals, and organisations, from discrimination in employment and access to goods and services.

## Norway

In 1981, discrimination and incitement to hatred against lesbians and gay men was banned. Section 349a of the penal code states that it is an offence to "refuse a person or group of persons the sale of goods or the provision of facilities on the grounds of homosexual orientation or way of life." Under Section 135a, it is unlawful to "publicly threaten, insult or bear hatred towards, persecute or hold in contempt a person or group on the grounds of homosexual orientation or way of life."

## Ireland

Paradoxically, though gay sexual acts remain unlawful, in November 1989 the Irish parliament overwhelmingly agreed the Prohibition of Incitement to Hatred Act. This makes it illegal to incite hatred on account of a person's race, colour, religion, ethnic or national origin, membership of a travelling community, or sexual orientation.

## Italy

There is no explicit legal recognition of lesbian nor of partnerships. However, in an attempt to give legal rights to unmarried heterosexual couples, the Italian government also inadvertently opened the door to the *de facto* legal recognition of lesbian and gay couples when it issued new regulations for municipal registration and record offices in 1989. These defined a family as "a group of cohabiting persons tied by bonds of affection", and did not specify that the partners have to be of the opposite sex.