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‘Spectacularly Exposed and Vulnerable’ – How Irish Equality Legislation Subverted the Personal and Professional Security of Lesbian, Gay and Bisexual Teachers

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Abstract

International studies have consistently highlighted the challenges experienced by Lesbian, Gay and Bisexual (LGB) teachers from around the world as they negotiate their personal and professional identities within the context of an often-hostile work environment. In Ireland, the education system remains heavily influenced by denominational mores, particularly those of the Roman Catholic Church. Unsurprisingly, with the declaration by the Roman Catholic Church that homosexuality was ‘intrinsicly disordered’ (Catechism of the Roman Catholic Church, 2003), LGB teachers’ professional identity is often (in)formed by fear as well as perceived, or actual, harassment, bullying and overt discrimination. This study represents the first in-depth examination of the apparent contradiction between EU law (Employment Equality Directive - 2000/78/EC) and the derogation afforded organizations with denominational ethos in Irish equality legislation which explicitly *permitted* discrimination in order to protect that ethos from being ‘undermined’ (Section 37(1), Employment Equality Acts, 1998-2011). Drawing on semi-structured, in-depth interviews with twenty-three, LGB Irish primary school teachers, the research reveals the tensions which exist between the competing (and legitimate) rights of faith organizations to protect their values against those of LGB workers ‘*to working conditions which respect his or her health, safety and dignity*’ (Article 31, EU Charter of Fundamental Rights)..

Keywords: Gay Teachers, Legislation, Homophobia, Foucault, Schools

Note: Data for this study was gathered before a number of amendments to the provisions of Section 37(1), Employment Equality Acts, 1998-2011 were ratified. These amendments now prohibit workplace discrimination on the grounds of sexual orientation in organisations like schools and hospitals which have a denominational ethos, but whose employees are paid from the public purse. As such, this research represents an experiential ‘snapshot’ of the professional and personal lives of LGB teachers in Ireland, as well as an analysis of this tangible manifestation of the evolving nature of equality and social justice in contemporary Irish society

Introduction

It's hard to believe that in this day and age there is an Irish law that gives schools permission to legally discriminate against a minority... It means that gay teachers are spectacularly exposed and vulnerable in their classrooms...they're afraid...I'm afraid... At the end of the day, being gay doesn't make me a bad teacher. Does it?
(Barry)

Barry¹ is a gay man who has worked as a primary school teacher for almost twenty years. He is one of a cohort of twenty-three Lesbian, Gay and Bisexual (LGB) teachers who work, or have worked, in Irish primary (elementary) schools and whose unique experiences inform and shape this study. Contextualized within the overwhelmingly denominational system of education at primary level in Ireland, the paper highlights the impact of one specific section of Irish legislation - the Employment Equality Acts 1998-2011, Section 37(1) – had on the professional and personal lives of Irish LGB primary teachers. This research reveals an apparent paradox which existed at the heart of legislative protection for Irish workers; namely that embedded within the aforementioned act was a provision which effectively legitimized overt discrimination against a minority of employees working in organizations which, like most schools, have an explicit faith-based culture or ethos. This study represents the first in-depth examination of the relationship between the denominational structures of management/governance which operate in Irish schools and the development of negative workplace interaction for LGB teachers.

Schools: Heteronormative Hegemonies?

Butler (1990) argues that our experience and understanding of the social world is mediated/filtered through a rarely-contested filigree of heteronormativity in which gender identity is considered both stable and uncontested. For most people, she maintains, the everyday 'performance' of normative sexuality is taken-for-granted and 'obvious'. However,

¹ All names and identifying details have been removed and/or altered to protect anonymity and confidentiality.

an unqualified acceptance of such a model may serve to *other* those of a minority sexual orientation, casting them as outsiders, as being ‘not-like-us’ and, in so doing, bolstering existing loci of power and crafting oppressive discourses of appropriateness and normalcy (Davies et al., 2001; Davies, 2006). Schools, however, are critical agents in the confirmation of existing power structures (DePalma and Atkinson, 2009), where those who are positioned as ‘different’ are named, monitored, tested, classified and, ultimately, controlled and made ‘docile’ (Foucault, 1991). Reflecting Short (2008), who argues that schools are ‘*cultural agents*’ and value-laden, Neary (2012) maintains each school is a particular site of symbolic heteronormativity. As a consciously ‘heterosexualised space’ (Neary, 2012:13), a school is riven with internal power relationships and tensions, wherein most manifestations/expressions of sexuality (particularly atypical sexualities) are robustly proscribed (DePalma and Jennett, 2010; Rudo, 2010). Thus, in a school, difference is ‘...coherently marked so that one can enter discourse as an intelligibly marked other’ (Davies, 2008:126).

For LGB pupils and teachers in these schools, implicit and explicit messages challenge their sense of self and serve to undermine their feelings of safety and security within the school environment (Gastic and Johnson, 2009; Nixon and Givens, 2004; Riggs et al., 2011). As argued by Town (2002), schools reinforce a binary model of sexuality based upon heterosexual/homosexual constructs of what is considered to be ‘normal’ or ‘deviant’. These tensions are even more pertinent within the Irish school system, where the vast majority of schools operate within a denominational framework, one which overtly positions the sexual identity of LGB staff and pupils as contrary or hostile to the ethos of that institution (Gowran, 2004).

Teachers

International studies have consistently highlighted the difficulties experienced by Lesbian, Gay and Bisexual teachers from around the world as they attempt to negotiate their personal and professional identities within the context of an often-hostile work environment (Connell, 2015; Endo et al., 2010; Gust, 2007; Irwin, 2002, Piper and Sikes, 2010; Rudoe, 2010). This is not a new phenomenon. Graves (2009), for example, details the efforts on the part of the Florida school district to purge their schools of homosexual teachers between 1959 and 1964. During this period 64 teachers had their licenses to teach revoked. Local communities were encouraged to ‘name names’ and identify ‘suspected’ homosexuals. Unsurprisingly, this resulted in a life of constant surveillance, uncertainty and self-monitoring for gay teachers at this time. In more recent times, both Nixon and Givens (2004) and Connell (2015), highlight the continuing threat and fear of harassment which obliges LGB teachers to cover or ‘mask’ their sexuality. Indeed, deliberate self-censorship is an identity management technique employed by LGB teachers as they endeavour to protect themselves from instances of verbal/physical abuse/harassment from pupils or from instances of subtle ostracization/exclusion on the part of some colleagues (Wardle, 2009). Paradoxically, an unexpected outcome of these feelings of insecurity is that some LGB teachers report that they work harder and more effectively in order to safeguard their professional reputation and, in so doing, make themselves less likely to be targeted for harassment or dismissed (Jackson, 2007; Litton, 2001).

Addressing issues relating to sexuality and sexual identity in schools can be fraught, and given the formative role of teachers and teaching as well as the relationship between teachers and minors, LGB teachers are particularly vulnerable to accusations of deviancy and, indeed, sex abuse (Coen, 2007; Piper and Sikes, 2010). Nonetheless, there is agreement as to the key

role for teachers in educating young people about LGB issues (Wyatt et al., 2008; Craig et al., 2011). Pre-service education for teachers is seen as critical in informing student teachers of these issues, thus increasing awareness and affording them the necessary skills and resources to address such issues in their professional practice in a supportive and inclusive manner (Jennings, 2010; Larrabee and Morehead, 2010; Robinson and Ferfolja, 2002; Schieble, 2012). With the exception of Gowran (2004) and Neary (2012), there has been a paucity of research on the specific issues relating to LGB teachers in Ireland and none which focuses on the particular experiences of those working in denominational primary schools. This paper addresses this lacuna.

LGBT Youth

Unsurprisingly, many international studies have traditionally focussed on the experiences of LGBT students in schools and the efforts to address the specific issues which mediate their experience of schools and schooling (Hong and Garbarino, 2012; Kitchen and Bellini, 2012). Schools at second level, in particular, are sites of affirmative heteronormativity, where discourses of heterosexuality are reinforced, and where students often manifest their status or position with overt demonstrations of their normative sexuality (i.e. the jock/cheerleader paradigm). Homosexuality, on the other hand, destabilizes these, often uncontested, power systems and, unsurprisingly, relationships between gay youth and their straight peers can sometimes be fraught. A consistent thread throughout these studies is the experiences of exclusion, fear, intimidation and isolation, as well as an acknowledgement of the complexity of the issues involved (Birkett et al., 2009; Collier et al., 2013; Graziano, 2003 and Riggs et al., 2011). Echoing Tharinger (2008), Short (2008) maintains that violence against LGBT youth in schools is a concrete demonstration of the hegemonic sexuality which exists in schools. Indeed, central to the support of LGBT youth is, according to Gastic and Johnson

(2009), a whole-school based approach, with mentoring posited as being particularly effective in providing positive support in allowing LGBT youth to realise their full potential. As well as the need for increased awareness and sensitivity amongst the general student body (Poteat et al., 2013), Taylor (2008) stresses the need for curricular reinforcement to bolster in-school policies, practices and initiatives, as well as the critical role of broader community and legislative support.

Despite the evolution of relatively liberal societal attitudes in Ireland towards homosexuality in general (Eurobarometer, 2012), Norman (2003), Norman and Galvin (2004) and Norman et al., (2006) were some of the first to address issues relating to homophobic bullying of LGBT youth in Irish schools and, in particular, the silence that surrounds the topic of homophobia in the curriculum (Norman, 2008). A later study of Irish LGBT youth indicated significant correlation between sexual identity and positive mental health. Of their sample, 27% had self-harmed, 18% had attempted suicide, 80% reported being verbally abused, 40% physically threatened with 25% reporting being kicked, punched or beaten (Maycock et al., 2009). Further research by Minton et al., (2008) positioned LGBT youth as an 'at-risk' group in Irish secondary schools in terms of bullying and harassment. A consistent thread throughout these studies is an acknowledgement of a very real need for the inclusion of explicit references to homophobic bullying in school anti-bullying policies as well as the adoption of a whole-school approach to tackle the issue with a zero tolerance for homophobic slurs. Such approaches must, however, be underpinned by pre-service and in-service training for school staff in order to prepare them to deal with this sensitive issue (Minton et al, 2013).

Denominational Systems of Education in Ireland

The primary school system in Ireland is characterized by state-funded, faith-based schooling (Devine, 2012; Ferriter, 2012 and Mawhinney, 2007). While the Irish state maintains the system financially in terms of teacher salaries, school maintenance, building programmes, teacher education etc, ownership/control rests with, and is retained by, school patrons or trustees. The vast majority of these Patrons or Trustee bodies are defined by explicit denominational values and mores². The Patron of the school appoints the Chairperson of the Board of Management which, in turn, manages the overall running of the school. The Patron also appoints one other board nominee directly, as well as the school Principal (another board member). The vast majority of schools in Ireland (over 90%) are either under the patronage of Roman Catholic religious orders or owned and managed by the local Roman Catholic Diocese. With the declaration by the Roman Catholic Church that homosexuality is ‘intrinsically disordered’ (Catechism of the Roman Catholic Church, 2003), the exact status of LGB teachers who work in Irish schools is, unsurprisingly, precarious and uncertain.

Though there has been a significant move towards multi-denominational education (through its patron body Educate Together) and inter-denominational education (through the patronage of the Vocational Education Committees), control of schools remains firmly in the hands of the established churches. There are no non-denominational schools in Ireland. Critically, it is the Board of Management who is the legal employer of the teacher rather than the Department of Education and Skills. In addition, with the exception of Froebel College, all of the state-funded colleges of education, who are responsible for Initial Teacher Education at primary level, are under the patronage of their local bishop and also espouse a

² For example, the Edmund Rice Schools Trust is the trustee body for former Christian Brothers Schools. Representing 36 schools at primary level, a fundamental principle of their schools is the ‘nurturing of faith’. Its website explicitly states that ‘An Edmund Rice School: Is faithful to the life of Jesus Christ...Promotes a distinctive spirituality’ (<http://www.erst.ie/our-schools/the-erst-charter/nurturing-faith>).

denominational ethos/identity. Thus, for Irish primary teachers, securing employment in schools which do not have an overt faith-based culture is problematic in the extreme.

Section 37(1)

Echoing one of the key principles of the Education Act (1998, 15.—(2) (e)) which advocates respect for diverse values, beliefs, languages and traditions in Irish society, the Employment Equality Acts 1998-2011 are explicitly designed to protect workers against discrimination, harassment and victimisation in employment across nine distinct grounds³. The remit of the Acts include most employment related issues, including dismissal, equal pay, harassment and sexual harassment, working conditions, promotion, access to employment etc. Critically, all disputes must concern at least one of the aforementioned nine grounds. It would seem reasonable to conclude, therefore, that Irish workers are well protected against workplace discrimination or harassment on the basis of their sexual orientation.

However, the European Union's Council Directive 2000/78/EC, which was ostensibly designed to establish a general framework which ensures equal treatment in employment, states

(23) In very limited circumstances, a difference of treatment may be justified where a characteristic related to religion or belief, disability, age or sexual orientation constitutes a genuine and determining occupational requirement, when the objective is legitimate and the requirement is proportionate.

In Ireland, and mirroring this provision, the Employment Equality Acts 1998-2011 contained a derogation, known as Section 37(1), for organizations which have an explicit denominational ethos (many schools, hospitals, nursing homes, for example). Section 37(1) permitted them to take 'reasonable action' to protect that ethos from being undermined.

³ Equal Status Acts (2000-2011) detail the nine grounds which are protected under Irish equality legislation. They are: Gender, Civil Status, Family Status, Age, Race, Religion, Disability, Sexual Orientation, and Membership of the Traveller community.

37.—(1) A religious, educational or medical institution which is under the direction or control of a body established for religious purposes or whose objectives include the provision of services in an environment which promotes certain religious values shall not be taken to discriminate against a person for the purposes of this Part or Part II if—

(a) it gives more favourable treatment, on the religion ground, to an employee or a prospective employee over that person where it is reasonable to do so in order to maintain the religious ethos of the institution, or

(b) it takes action which is reasonably necessary to prevent an employee or a prospective employee from undermining the religious ethos of the institution.

Confusingly, how precisely Section 37(1) was to be applied in practice remained unclear, since both the Unfair Dismissals Acts (1977-2007) and, indeed, other tenets of the Employment Equality Acts 1998-2011 itself offered explicit protections to LGB workers against dismissal or discrimination. Nonetheless, until recent amendments were ratified which specifically prohibit discrimination on the grounds of sexual orientation in government funded denominational organizations, the continued existence of Section 37(1) remained a cause for concern for gay rights groups and trade unions. The Gay and Lesbian Equality Network (GLEN) argue that it created, what they term, a ‘chill factor’ amongst Irish LGBT teachers, impacting negatively on their willingness to ‘come out’ and be open about their sexuality within the school community.

Ironically, the Department of Education and Skills had, in response to the Civil Partnership and Certain Rights and Obligations of Cohabitants Act (2010), made specific accommodations to include the civil partners of LGB teachers in pension and leave entitlements. However, any teacher who sought to avail themselves of these (state-sanctioned) entitlements had to first publically reveal their sexual orientation and, in so doing, make themselves vulnerable to (state-sanctioned) inequitable treatment on the part of their employers. This was the central paradox at the heart of this debate, the balancing of the rights of LGB teachers to live authentic lives as open sexual beings against the rights of

religious organizations to safeguard their particular views and characteristic spirit from being undermined. Interestingly, while the trade union, the *Irish National Teachers' Organisation* (INTO), had consistently argued that it would have actively opposed any invocation of Section 37(1), it was unclear whether any overt challenge to Section 37(1) would have been successful since 'The Irish courts have always upheld the rights of organised religion in the face of challenges by individuals, sometimes in apparent disregard of the constitutional text.' (Coen, 2008, p.460)

The Performance of Power

Like blood coursing through veins and capillaries within every human body, Foucault (1991) argues that power relations permeate all aspects of human interaction, (in)forming and shaping the nature of these relationships as it evolves and shifts in response to continual, cyclical challenges and dynamics of resistance. Society (or, rather, the powerful systems and structures which circumscribe it) acts as a type of regulating gatekeeper, defining 'what is' and in so doing, limiting and controlling the dominant discourse. At the same time, the manner in which power is exercised 'casts' individuals as actors, who (mostly) perform their roles/functions in a docile and compliant manner. Performers who, for whatever reason, reject their predetermined and authorized script are classified as 'other' since their actions transgress (or challenge) the taxonomy of normative behaviours the dominant discourse endorses as appropriate or legitimate. How power is exercised shapes the (re)production of particular practices, knowledge and power relations. The power and authority of any dominant group is maintained by their restricted definition of what is true and, conversely, what is false. To question this version of truth or to resist it is to challenge, what they see as, their legitimate power and authority (Foucault, 1998: 2000: 2001). In such a way, regimes of

truth (Foucault 1991 and 2003) are constructed and, as a consequence, a truth may become the (only) truth.

For Foucault (1998), the act of defining sexuality is, in itself, an act of control. By so doing, those in power attempt to regulate, and ultimately eradicate (through punitive sanction), behaviour which they see as abnormal and, in so doing, maintain a docile and compliant society. For LGB teachers working in Irish faith-schools, dominant discourses which inform and shape our understanding of what it means to be a (good/suitable) teacher (Devine et al., 2013) were reinforced by Section 37(1), which communicated clearly that public/overt adherence to the denominational values and mores of the school's patron body were a legitimate condition of entry to, and continuance in, the teaching profession.

Method

Accessing a sample to participate in sensitive research topics can prove challenging (Fahie and Devine, 2012; Fahie, 2014). Therefore, in an effort to maximize sample size and representationality, the author published a general article on LGB teachers in the primary teachers' union magazine⁴. Entitled 'Gay teachers? Seriously!' the piece discussed issues relating to the experiences of LGB teachers in Irish primary schools. It concluded with an invitation to any interested parties to make contact with the author by email with a view to taking part in an academic study. However, perhaps reflective of the level of fear/discomfort which sometimes surrounds the topic of LGB teachers (Duke, 2007), only eight individuals replied. Therefore, in order to augment the sample size, a purposeful sampling procedure was employed (Mertens, 2010). Employing a snowballing or chain strategy (Punch, 2009), the eight original interviewees were asked to inquire if any of their friends or colleagues would

⁴ The trade union representing primary teachers in Ireland is the Irish National Teachers' Organization (INTO). Its in-house magazine, *InTouch*, is distributed to over thirty-five thousand primary teachers across Ireland.

be willing to participate in the study. Personal contacts were also employed by the author and, as a result, 23 teachers who self-identify as lesbian, gay or bisexual were interviewed. While this type of sampling methodology has been employed previously with ‘difficult to access groups’ (Donkor, 2012,; Iecovich, 2011; Salaam and Brown, 2012 for example), there are, nonetheless, obvious implications for any claims to generalizability and representationality of the data and findings (Gobo, 2004). Nonetheless, as argued by Mertens (2010), the *transferability* of the data remains unaffected by this approach.

The 11 males and 12 females all had experience of working in schools with a denominational ethos. One of the female teachers identified as bisexual and four of the sample, having previously worked in faith-based schools, were currently employed in multi-denominational schools. Semi-structured, one-on-one interviews took place, lasting between 90 minutes and 2 ½ hours. Interviewees were questioned as to their experiences and perspectives as LGB teachers of working within a denominational school system. Emergent themes from all interviews were identified following an initial analysis of the data. The software package *MAXQDA*®, a code and retrieve software programme, was then employed to assist in the organization of these themes and facilitate the timely and efficient analysis of the data.

In their own words...LGB Teachers Experiences of Schools and Schooling

The themes which emerged from the analysis of the interview transcripts focussed on a number of key areas. Consistently, the topic of Section 37(1) arose in the course of the conversations with the interviewees. The LGB teachers expressed a deep sense of frustration at the existence of this provision within Irish equality legislation. In addition they articulated their feelings of fear, exasperation and anger at what they saw as the injustice of their

conditions of employment in contrast with the protections afforded their heterosexual colleagues. The following section details their perspectives and opinions.

Effect of Section 37(1)

All of the teachers interviewed spoke passionately and, indeed, knowledgeably about the impact of Section 37(1) on their professional and personal lives. They considered the insertion of Section 37(1) into legislation which was ostensibly designed to protect workers against discrimination as paradoxical, since it meant, in practice, that ‘...the law is saying you mustn’t discriminate against gay people - unless you are a school or hospital...then it’s ok? How is that fair?’ (Alan). They were eager to point out that they were not, in fact, fearful of losing their jobs and understood that such an outcome was unlikely given the strength of the trade union and public opinion ‘The INTO has said that it would fight any attempt to get rid of a gay teacher. Anyway, I can’t imagine any schools wanting to bring that kind of publicity on itself, can you?’ (Mary). Nonetheless, the very existence of Section 37(1) was seen as a concrete manifestation of the control and influence of the mainstream churches, particularly the Roman Catholic Church, which was also viewed as actively antipathetic and overtly hostile towards gay men and women. As argued by Lisa,

(Section 37(1)) ... does allow or facilitate prejudice and gives permission and, in fact, encouragement to it. It legitimises it and says that, at some level, there is something wrong with being gay and that the law must protect society against it...protect society against me.

The interviewees also raised the practical implications for the continued existence of this section of legislation, suggesting that, in practice, the protections and considerations afforded other (heterosexual) members of the teaching profession were not available to them. Jane was particularly exercised by this point ‘...if Section 37(1) is still there, it could allow somebody at an interview... to ask questions about my sexuality. If it is taken away, they can’t. Simple as...’(Jane). As a result, several of the teachers interviewed were less likely to apply for

promotion within their school or for Principalships in other schools, as to do so would increase their professional profile and raise their level of *visibility* within the local community. As one said, 'I just keep my head down and do my job.' (Mike)

Section 37(1) also had a subtle impact on the professional practice of LGB teachers. Ironically, eight of the teachers who spoke maintained that they were, in fact, less likely to tackle issues relating to homophobia or homophobic bullying in their respective classes or within the broader school setting. To do so would, they believed, draw attention to themselves and, as with promotion above, could have potentially provoked a prurient interest in their own personal lives. As John stated 'I wouldn't talk about homosexuality. So if some kid said 'Oh, he's gay' on the yard about someone else, I wouldn't really deal with it because I wouldn't want to draw attention to myself

This was a source of considerable guilt for the teachers concerned who felt that their fear of addressing such issues was cowardly and a dereliction of their duty as teachers and members of the LGB community 'It makes me feel sick...Of all people, I should be the one who understands...I do understand, but I'm afraid what'd happen if I did get involved...I know that's a cop out too' (Jamie).

But the effect of Section 37(1) was not confined to these teachers' professional lives. It intruded into how they lived outside the school context. Perhaps reflecting the traditionally elevated role and position occupied by teachers in rural communities, several teachers spoke of the level of monitoring they experienced because of their professional status in the town. For them, being the local school teacher brought with it a level of surveillance which they believed was not directed towards other professional groups. A friend advised Calum, for example, 'You can live your life as a teacher here in (named small town) and have your 'normal' friends from Monday to Friday and go off to Dublin and be gay at the weekends'

(Calum). Another teacher described how the existence of Section 37(1) impacts upon her life making her deeply uncomfortable about being open regarding her sexuality

It affects when I go out, that I'm exhausted from thinking. I'm thinking all the time. I have to be prepared for who walks in through the door of the pub when I'm out. If I go to the cinema with my girlfriend, it's holding hands under the coat. I'm afraid somebody will see her with her arm around me or something and it makes me feel very uncomfortable walking down the street. (Elizabeth)

The Teachers' Union - A buffering agent?

The role of the teachers' union (INTO), a powerful stakeholder in Irish education, was considered vital in this debate. Interviewees considered the union to be a protective bulwark against the effects of Section 37(1) and were notably supportive of the union's efforts to promote equality and protect the rights of LGBT teachers. Over half the sample were active members of the Irish National Teachers Organisation (INTO) LGBT Teachers' Group. They considered the group to be a vital advocate in highlighting the particular issues for LGBT teachers and the impact of Section 37(1) among the wider teaching community. It was, they argued, a concrete manifestation of the union's commitment to supporting gay teachers, as well as offering a tangible assistance for such teachers who were experiencing difficulties or isolation due to their sexual orientation. An example of this was the publication and distribution of the *Guidelines for Good Practice* document which was produced by the group and sent, free of charge, to all teachers across Ireland. The overt and consistent support offered by the union was offered as a reason why members of the interview sample joined the LGBT Teachers' group 'I felt that I had to hold my head up, if I was serious about being gay, about being myself, I had to go along to the group. Become part of it' (Calum).

However, the interviewees who were not members of the INTO LGBT Teachers' group were generally less aware of the issues involved and supports available. They expressed a reluctance to become active with the group as they believed that to do so could potentially

result in the unwitting public revelation of their sexuality. Pointing to the very local nature of union politics, one interviewee articulated her concerns

I don't know an awful lot about the group. I know it exists... I'd go to the union if I had a problem, I suppose, but I can't see myself joining the group. My principal is high up in the union and I'd be...reluctant? No, I just wouldn't like the union knowing my business and him (the principal) finding out. (Julie)

An emotional journey

The emotional impact of Section 37(1) was underpinned by two emotions, fear and anger. There was an overwhelming sense among those interviewed that the continued existence of Section 37(1) was a cause for genuine fear. In essence, interviewees were fearful of the consequences that could arise should their sexual orientation be revealed at work. That lack of any statutory protection made them feel vulnerable and exposed. 'I just find it unbelievable that you can have equality legislation to protect minority groups, but then you can have an opt-out for certain members of society. It doesn't seem right.' (Danny). Fear of being 'outed', and the implications for their career trajectory was consistently expressed by interviewees.

It's simple...I know that if anyone knew that I'm gay in (the local community), I'd have no hope of ever becoming a principal. I'm only 24 and I'd like that as an option some day. I hate that I have to cover up and pretend so that I might get promoted in a few years time. (Liam)

Anger was expressed that a piece of legislation, which was ostensibly designed to protect Irish workers against discrimination and harassment across nine different grounds, could have within it an opt-out clause which served to embed discrimination and harassment. 'It's like we're in the dark ages. The law says you can keep the gays out of schools! What kind of message does that give to gay kids?' (Lesley). Again and again, interviewees argued that the fact that the clause has never been enforced in an overt manner undermined any argument that it was a necessary or effective means of protecting a religious ethos. 'Why is it (Section

37(1)) still there? It's never used, so why is it still there?' (Danny). Several of the interviewees expressed annoyance that, though they were paid by the taxpayer and worked in state institutions delivering a state-sanctioned curriculum, they were still subject to religious mores that they viewed as archaic and unjust 'I don't work for the priest. He doesn't pay my wages. I teach in a 'National' school. National!'. (Chris)

37(1) is repealed? – Now what?

There was, however, a widespread acknowledgement and understanding that the inevitable removal of Section 37(1) would not, in itself, resolve the issues noted above. 'Getting rid of 37(1) won't make it all ok overnight. I suppose attitudes are deeper than that. It'll take time ...and education' (Shauna). The interviewees acknowledged that homophobia exists and operates at an institutional level and, in the context of schools and schooling, posited that this may be due to the conservative nature of the teaching profession. They also felt that, while there has been a seismic shift in attitudes towards gay people in general within Irish society, there was still a degree of discomfort felt by a large portion of Irish people towards LGB issues. 'Most people don't care that I'm gay. But I think it's different when you're a teacher. I think some parents are afraid you'll try and make their kids gay too!' (Jaime) Nonetheless, interviewees consistently argued that only the complete repeal of Section 37(1) would serve to afford the protections and rights to LGB teachers as are afforded other teachers working in Irish schools. This was raised by all the teachers spoken to for this study. 'I think that even if 37(1) is changed/amended or they get rid of it, there still needs to be additional training regarding how to deal with sexuality within the workplace so that it is dealt with appropriately' (Danny)

Impact of Section 37(1) on professional practice

Interviewees queried if aspects of the curriculum which offered teachers the opportunity to address LGB issues in class were, in fact, being taught. Concerns were expressed that some teachers may be worried that to do so could contravene the denominational ethos of the school. Specifically, the teachers queried if LGB issues were being addressed in Social Personal and Health Education (SPHE) and Relationships and Sexuality Education (RSE) lessons in an honest, truthful and responsible manner as to do so, they maintained, could expose teachers (both gay and straight alike) to accusations of ‘undermining’ the denominational ethos of the schools. Ellen argued that a revocation of Section 37(1) would bring about positive change in the classroom.

...I think that it would also permit the SPHE, RSE programme to be broadened. And I think from the perspective of education it would allow that topic (homosexuality) and the whole idea of different families and that this is a valid lifestyle choice to be discussed in classrooms and schools. Gradually it would mean that more people could be out. Thereby offering different role models. You could put up your poster.

Interviewees maintained that a repeal of Section 37(1) would permit LGB teachers to celebrate personal milestones (civil partnerships, engagements to same sex partner, births etc.) in the same public way as their heterosexual colleagues. In addition, a repeal could facilitate increased visibility/currency for LGB issues in schools at a casual, taken-for-granted kind of way and, in so doing, provide a level of reassurance for LGB teachers, and indeed pupils, who are struggling with their own sexual identity.

‘I suppose it’s like decriminalisation of homosexuality, while it’s still there, there is still, like a shadow, I think that once its removed - like a block or as a fear - that it will change things for lesbian and gay teachers. It should make it easier for people to come ‘out’ at work hopefully or at least to be open about their sexuality’. (Barbara)

The repeal would also impact upon the lives of straight colleagues. Such is the nebulous nature of *undermining an ethos* that, taken to an extreme, any teacher could, in theory, find themselves sanctioned because of this legislation

I think it's very important that everyone should feel secure in their environment and it's not just the LGBT teachers – it's teachers who are divorced or, I don't know, who have a child outside of wedlock. I think it would be a good start because it's something basic that you should feel secure within your job, legally.
(Diane)

Discussion

Interview data strongly suggest that, for many members of the LGB community who work in education, there remain high levels of unease and fear, particularly in relation to any public manifestation of sexual identity. Echoing international research (Connell, 2015; Gastic and Johnson, 2009; Riggs, Rosenthal and Smith-Bonahue, 2011), most Irish LGB teachers were reluctant to disclose their sexuality within a school context and were particularly fearful of the reaction from parents and pupils. As well as the obvious negative repercussions of simultaneously maintaining a dissonant public and private (a)sexual identity, this fear impacted upon the teachers' professional practice. In addition, and echoing Lance et al., (2010), in order to *pass* as heterosexual, many of the teachers were reluctant to engage with any issue to do with sexuality in their respective classrooms. Nonetheless, their disinclination fostered a degree of tension between the professional obligations as good/authentic teachers (Devine et al., 2013) and their need to protect their privacy.

Section 37(1) of the Employment Equality Acts (1998-2011) maintained and bolstered a dominant discourse of heterosexism and passive homophobia which allowed for and promoted, discrimination against those who - by their very existence - challenged its authority. The existence of this piece of legislation acted as a normalizing mechanism, or disciplinary technique (Foucault 1998, 2001). It fostered a culture wherein all members of

the teaching profession, and particularly those from the LGB community, felt compelled to act in an appropriate, compliant manner, one which Foucault (2001) would describe as *docile*. Thus, a clear message was presented to teachers; that the consequence of any transgression from an externally constructed (and rather vague) code of behaviour could result in punishment or expulsion from the profession.

It could be argued that, for denominational bodies, this legislation represented an explicit exercise of regulation (Foucault 2002), which allowed them to have ultimate control over who was employed within their schools and what they teach, ensuring that there was congruence between their faith-based values/mores and those of the teachers they hire and/or promote. In so doing, denominational organizations protected and perpetuated their religious ethos which, in turn, they legitimately presented as the only discourse of sexuality appropriate for schools and schooling.

While there was universal agreement that Section 37(1) had a negative impact upon LGB teachers, data suggest that an understandable anxiety-driven existential angst exists among some members of the LGB teaching community. As a result, perhaps, and due to the potential negative personal and professional repercussions which could result from such a move, there was been no legal ‘test case’ to challenge the law with a view of overturning its provisions. This was despite continuing pressure being exercised by the very active and effective members of the INTO LGBT group to highlight such issues among the general teaching body. Nonetheless, despite the aforementioned amendments to Section 37(1), LGB teachers working in Irish schools still see themselves as more vulnerable than other workers. This may be due to the nature of the job (working with children) and the denominational structure of their workplaces (Coen, 2007; Gowran, 2004). Unsurprisingly, those teachers who now work

in multi-denominational schools, and who were not subject to the provisions of Section 37(1), expressed a considerable level of freedom in relation to any manifestation of their sexual identity. Indeed, for those who worked in denominational schools these posts were highly prized and took on almost mythical proportions. However, with only 72 such schools across Ireland, realistic opportunities for appointments to multi-denominational school remain extremely limited.

Nonetheless, it is important to acknowledge the inclusive practices operating in many schools, including those which have a denominational ethos. By no means confined to the multi-denominational school system, some schools have embraced the notion of the ‘inclusive school’ and are supportive of LGB colleagues and pupils. In addition, not all those interviewed had negative experiences of being an ‘out’ gay teacher in Ireland and some reported positive experiences of both collegial and parental support and friendship. It is hoped that these schools will, one day, represent a new norm which is reflective of the organic and every-changing values and mores of broader Irish society.

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