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LGB Teachers and the (Com)Promised Conditions of Legislative Change

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Abstract

The personal/professional boundary poses particular difficulties for LGB teachers because of the pervasive presumption of heterosexuality. Furthermore, the teaching profession’s concern with the care of children combines with reductive ideas about sexuality and gender identity to pose specific vulnerabilities for LGB teachers. In many contexts worldwide, legislative structures such as Civil Partnership and Marriage Equality are being introduced and this is changing the terms of recognition for LGB teachers. At the same time, deficiencies and ambiguities persist in employment legislation, often through religious exemptions that pose specific threats to LGB teachers. For many LGB teachers who enter into a legal structure such as marriage, these legislative gaps suddenly become more threatening. This paper makes a new and timely contribution by capturing how, across a seven year time period in Ireland, LGB teachers have experienced three legislative moments — ‘Civil Partnership’, ‘Marriage Equality’ and the amendment of religious exemption 37.1 of the Employment Equality Act. Building from an analysis of three qualitative studies (2012, 2015 and 2018), this paper attends to some of the compromised conditions of legislative change and argues for closer attention to the micro-political texture of gender and sexuality in education contexts.

Introduction

For over 25 years, research with LGBⁱ educators has provided rich insight into how the architecture of gender and sexuality at school is lived and configured. All teachers negotiate personal/professional dynamics at school but the heteronormativeⁱⁱ character of these boundaries causes particular difficulties for LGB teachers (Neary, 2017a; Gray, 2013; Neary, 2013; Rudoe, 2010). Furthermore, teachers' role in the care of children and young people mingles with reductive ideas about sexuality, gender identity and childhood innocence, posing specific vulnerabilities for LGB teachers (Ferfolja, 2009; Robinson, 2013; Lee, 2019; Neary et al., 2019). In many contexts worldwide, legislative structures such as Civil Partnership and Marriage Equality are being introduced and these entities are changing the terms of recognition for LGB teachers. At the same time, deficiencies and ambiguities persist in employment protection legislation, often in the form of religious exemptions that pose specific threats to LGB teachers. For many LGB teachers who are planning or entering into a legal structure such as Civil Partnership or marriage, these gaps in protective employment legislation suddenly become more threatening.

Ireland is a majority Catholic country with a uniquely intertwined relationship between church and state. For instance, the Catholic Church continues to hold a prominent position in Irish education with 91% of primary schools and 52% of second-levels schools under religious patronage. In recent years, the power of the Catholic Church has waned in certain ways. A process of patronage divestment is slow but is underway and there is a new and growing sector of multi-denominational schools. Furthermore, despite considerable opposition from the Catholic Church, there have been some significant legislative changes for LGB people in Ireland in recent years. In 2011, the Civil Partnership and Certain Rights and Obligations of Cohabitants Act (heretofore Civil Partnership) introduced a legislative structure that provided same-sex couples with many of the rights afforded heterosexual couples through marriage. In 2015, the 'Marriage Equality' Act was passed by a constitutional referendum, extending marriage to same-sex couples. Another important legislative change came later that year. Section 37.1 of the Employment Equality Act 1998/2004 protected schools from unfair dismissal or recruitment litigation in cases where the purpose was to maintain the religious ethos of an institution under religious patronage. Given the powerful position of the Catholic Church in schooling in Ireland, this religious exemption had wide-reaching effects. It was also viewed as having a particular impact for LGB teachers whose lives and identities were seen as

contrary to Catholic teachings and organisations such as the Irish National Teachers' Organisation (INTO) LGBT teachers' group had been fighting for the deletion of Section 37.1 since 2004. Following many years of campaigning, Section 37.1 was amended in 2015.

These three legislative moments — Civil Partnership, Marriage Equality and the amendment of Section 37.1 — are intimately connected by their specific impact on the visibility of LGB teachers in schools. Following Kitching's (2018) provocation to relate differently to Ireland's postsecular neoliberal assemblage and attend closely to the micro-political in the everyday of schools, this paper inquires into how LGB teachers are understanding and negotiating the changes in recognition and protection brought about by these three legislative moments. As many LGB teachers and activists internationally advocate for and live with the impacts of changes in legislation related to relationship recognition and employment protection, this paper brings new, timely insight of international significance into how LGB teachers are grappling with the texture and impact of such legislative changes in their everyday lives.

The Ambivalences of Navigating School Life and the Promise of Legislative Change

A key concern amongst LGB teachers across the globe concerns the politics of visibility; how to be 'authentic' about their identities at school whilst carefully watching the heteronormative personal/professional divide and negotiating discourses of childhood innocence (Gray, 2013; Neary, 2013; Ford, 2017; Neary, 2017a; Ferfolja, 2008; Mizzi, 2015; Harris and Jones, 2014). In managing this, LGB teachers adopt a spectrum of approaches in disclosing or 'coming out' at school and their everyday negotiations are a messy mix of transgressing boundaries and reproducing normativity (Neary, 2017a; Neary et al., 2016; Ferfolja, 2008; Brockenborough, 2012). Such ambivalences play out in LGB teachers' attempts to maintain professional legitimacy (Ferfolja, 2014; Rudoe, 2010; Neary, 2017a; Neary, 2017b) and successfully negotiate relationships while being a role model for students (Neary, 2017b; Hooker, 2019; Russell, 2010; Hardie, 2012; Connell, 2015; Ferfolja, 2007a; Wells, 2017; Neary, 2013; Khayatt, 1997; Mayo, 2014).

There are several factors that have a significant impact on what is possible for LGB teachers in schools. Principals and colleagues who are proactive and open in fostering queer-positive schools make life much easier for LGB teachers (Ferfolja and Hopkins, 2013). Strong, explicit and carefully constructed policy that avoids victimising narratives is also suggested to

1 be transformative for LGB teachers (Ferfolja and Stavrou, 2015). But some have taken care to
2 point out the limits of policy, illustrating how even in protective policy contexts, LGB issues
3 are still being addressed in problematic, reactive ways that often have reductive effects, further
4 entrenching inequalities (Gray et al. 2016; Meyer and Keenan 2018). In this vein, much
5 research has underlined the need to attend to how equality policy is enacted, alongside a
6 comprehensive evaluation of school staff education needs (Rudoe, 2018; Ferfolja and Stavrou,
7 2015) and adequate attention to the workings of school culture (Neary, 2013).

8 Another significant theme factor is the impact of legislation and this paper seeks to
9 enter the conversation specifically along these lines. In various contexts, deficiencies in
10 equality legislation has posed problems for LGB teachers and non-permanent teachers are
11 particularly vulnerable (Neary, 2013). In the UK, Section 28 of the 1988 Local Government
12 Act stated that a local authority should not ‘intentionally promote homosexuality’ or ‘promote
13 the teaching in any maintained school of the acceptability of homosexuality as a pretended
14 family relationship’. Even though there were no prosecutions under Section 28 and it was
15 repealed sixteen years ago, the legacy of this Act has been deeply internalised by LGB teachers
16 (Edwards, Brown & Smith, 2016; Lee, 2019). In the US, Eckes & McCarthy (2008) point out
17 that recent cases show that it is less likely for a LGB teacher to be dismissed for identifying as
18 LGB. However, court decisions often sustain the threat of litigation, pointing to the need for
19 the removal of disclaimers in court decisions that often create ambiguities and undermine anti-
20 discrimination and equality legislation.

21 Religious exemptions in equality law have particularly negative impacts and some LGB
22 teachers have been dismissed on the grounds of religious ethos (See for example Callaghan,
23 2015). Callaghan (2015) argues that through religious exemptions, heteronormativity is
24 maintained and a kind of ‘holy homophobia’ is facilitated. In Ireland, where there is such
25 intertwining between church and state in education, religious exemptions take on a particularly
26 stark hue. Like Section 28 in the UK, Section 37.1 was never used in court in Ireland, but it
27 acted as a ‘chill factor’ for LGB teachers (Fahie, 2016; Gowran, 2004). In several jurisdictions,
28 the legislative reach of religious ethos is such that it (re)produces LGB teachers’ feelings of
29 insecurity, shame, guilt and unease (Neary, 2017a; Fahie, 2016; Fahie, 2017; Jones et al., 2014;
30 Ferfolja, 2005). But many LGB teachers are themselves religious and/or have embodied
31 memories of religious teachings and so, their navigations are an ambivalent mix of delight in
32 the shared belonging and meaning that religion brings and lived experiences of hurt and
33 exclusion as a result of religious teachings (Neary, 2017a; Neary, 2018). Such complexities

underline how turning to secularism to solve legislative problems caused by religious ethos for LGBT+ people in schools has problematic and limiting effects (Rasmussen 2015).

There are diverging perspectives on the impact of equality legislation on LGB teachers' lives. There is some evidence that when anti-discrimination legislative protection *is* introduced, LGB teachers experience a climate of support following 'coming out' and some describe new feelings of safety and security, noting how their school leaders lean on anti-discrimination legislation to foster inclusive schools (Ferfolja, 2009). But reliance on legislation as a mechanism for improving the lives of LGB teachers has been treated with scepticism (Khayatt, 1997; Ferfolja, 2005). Some note that enacting protective legislation does not ensure that LGB teachers are more likely to disclose or feel secure on a daily basis (Connell, 2015; Lee, 2019) and does little to combat covert or subtle workings of heteronormativity or homophobia (Ferfolja, 2005; Ferfolja, 2009).

Theorising the Com(Promised) Conditions of Legislative Change

Building from these diverging perspectives about the impacts of legislative change upon the lives of LGB teachers, I now turn to explicate some theoretical tools for thinking about how legislative recognition and protection is experienced by LGB teachers. The work of Berlant on 'attachment' (2011; 2006) and Ahmed (2006) on 'orientation' together form the conceptual undergirding of this paper. For Berlant (2011, p. 23), attachments are 'clusters of promises we want someone or something to make to us and make possible for us'. In this vein, we can see how legislative structures promise to act as 'life-building modalities' (Sedgwick in Berlant, 2006, p.23), providing recognition and protection for LGB teachers. As Ahmed (2006) notes in her phenomenological reflections on the concept of orientation, life gets directed through such attachments to the 'good life', requiring that we must return the debt of its life by taking on the direction promised as a social good' (Ahmed, 2006, p.554). Ahmed (2006, p.559) uses the example of the family home, laden with its heterosexual expectation:

Everywhere I turn, even in the failure of memory, reminds me how the family home objects on display that measure sociality in terms of the heterosexual gift...Such objects do not simply record or transmit a life; they demand a return. Not only do they demand a return, but there is also a demand that we return to them, by embracing such objects as embodiments of our own histories, as the gift of our own lives.

1 Characterising such objects of attachment as *promises* facilitates engagement with their
2 incoherences and enigmas; how some attachments are good for us and others are not (Berlant,
3 2011). Berlant (2011) explains how attachments are always optimistic and that optimism in its
4 affective form draws us back to particular objects even when they are potentially damaging.
5 Berlant (2011, p.24) calls this a ‘cruel optimism’ — ‘a relation of attachment to compromised
6 conditions of possibility whose realization is discovered to be impossible, sheer fantasy, or too
7 possible, and toxic’.

8 Berlant (2011, p.228) goes on to point out that, as such attachments orient us towards
9 the normative, political optimism can split us off from the ways things actually *are*. In this
10 vein, in *Normal Life*, Spade (2011) provides a compelling argument for a critical transgender
11 politics that demands more than legal recognition and inclusion, illustrating how such promises
12 fail to deliver transformative change. Reflective of the teaching profession population and the
13 field of research with LGBTQI teachers, nobody in the studies upon which this paper draws
14 identified as trans and so, this paper does not build an argument from the everyday experiences
15 of trans teachers. However, grounded by the work of Berlant and Ahmed, Spade’s (2011) work
16 is vividly instructive in thinking about the orientation to the promise of legislative structures.
17 Spade (2011, p. 119) points out the tensions between a trans politics that seeks out visibility
18 and endorsement by officials and institutions and a politics that ‘seeks to build justice for trans
19 people by challenging these same officials and institutions for the ways they endanger and
20 harm trans people’. The most vulnerable trans communities reveal the need for abolishing
21 prisons, police, borders and transforming healthcare, housing and education but such calls do
22 not fit within the neoliberal, individual rights based model of advocacy that has been the
23 cornerstone of lesbian and gay organizing (Spade, 2011, p.120). We can see then how such
24 institutions are cruel, optimistic attachments with magnetizing promises of equal opportunity
25 and inclusion but they are simultaneously damaging (Berlant, 2011, p.48). They fail to offer
26 ‘respite from the brutalities of poverty and criminalization, but also threaten to reduce our
27 struggle to another justification for and site of expansion of the structures that produce the very
28 conditions that shorten our lives (Spade, 2011, 137).

30 **Methodology**

31 The illustrative data drawn upon in this paper have arisen from three separate studies conducted
32 since 2012 in Ireland. Study A was conducted in 2012 with 15 LGB teachers entering into a

Civil Partnership and six activists involved in Civil Partnership and Marriage Equality campaigns. It was guided by the research question ‘How are primary and second-level teachers negotiating personal and professional identities in their school contexts while planning/entering into a Civil Partnership in Ireland?’ (Neary, 2017a). There were several strands of data collection/analysis. First, I conducted semi-structured interviews with activists and teachers using artefacts to elicit detail. Then, teachers completed diary entries across a six-week period. Following this, I wrote analytical narratives (3000-4000 words) of teacher interviews and diaries and shared these with them before conducting final follow-up interviews.

Study B was conducted at the time of the Marriage Equality Referendum in 2015 (Neary et al., 2017). It was guided by the research question ‘What are the perspectives and experiences of primary school leaders, teachers and parents on preventing homophobia and transphobia as well as educating about gender and sexuality identity?’ One-to-one semi-structured interviews took place with 6 school leaders and 12 teachers and 6 focus groups were conducted with a total of 28 parents. One principal and two teachers in this research identified as LGB and several teachers’ accounts referenced colleagues who were LGB and ‘out’ to varying degrees at school. This study captured how school communities were processing what Marriage Equality might mean for children and schools (Neary et al., 2019).

Study C is an analysis of LGB teachers’ stories and testimonies in the mainstream Irish media since 2012. This timeframe was chosen to reflect the three legislative moments that are the focus of this paper. These accounts ranged from LGB teachers who contributed to various media outlets anonymously, to those who were publicly visible through their advocacy work in the LGBT teachers’ union groups. A total of seventeen teachers’ voices were collated and all identified as LGB. The analysis of these voices was guided by the question ‘How are LGBT teachers negotiating their personal and professional identities in their everyday school contexts?’

In total, 78 people’s voices contributed to these studies, 35 of whom identified as LGB. Each study was rooted in queer, post-structural philosophy and was conducted using qualitative methods of data collection and analysis. Each study yielded a theme related to LGB teachers and legislative recognition/protection and this theme emerged following thematic vertical and horizontal analyses of LGB teachers’ perspectives. Then, guided by the question, ‘How do LGB teachers talk about the promise and impact of legislative recognition and protection in their everyday lives?’, I collated the illustrative data related to this theme in each study and conducted a horizontal meta-analysis across the three studies. Of course, the shape and thus,

status, of each of these studies is different and these studies were not connected to one another. However, aligning with the idea that ‘data’ must be reimagined and not thought as ‘brute data waiting to be coded, labelled with other brute words’ (St Pierre & Jackson, 2014, p.715), the three studies capture a rich snapshot of LGB teachers’ lives at points in time when the promise and impact of legislative structures was emergent and unfolding.

(Com)Promises of Legislation 1: Civil Partnership and Marriage Equality

Across the three studies, there was a strong sense of optimism about the promise of legislative structures like Civil Partnership and Marriage Equality in making a difference in the everyday. For example one Deputy Principal (Catholic Primary, Study B) said: ‘[Marriage Equality] has been a huge thing that is really gonna make people feel a lot more accepted and a lot more equal’. LGB teachers were grateful for this new legal protection and recognition both personally and professionally: This ‘made a huge difference’ (Darina, Teacher, Catholic Primary, Study A) and brought a ‘sureness of foot’ in teaching about gender and sexuality and tackling homophobia at school (Conor, Teacher, Community Second-level, Study A).

Many were grateful for how Civil Partnership opened up opportunities for their colleagues to explicitly affirm their identities and words such as ‘lucky’, ‘blessed’, ‘grateful’ and ‘gracious’ dominated the teachers’ descriptions of their feelings about their colleagues’ reactions to news of them entering into a Civil Partnership. Many expressed a deep sense of gratefulness and loyalty to their colleagues for their support and some saw it as their responsibility to ‘honour’ their colleagues’ positive and supportive reactions by participating in celebratory rituals that had previously only been afforded to heterosexual teachers: ‘If you stay silent you don’t kind of give them the opportunity to express your joy’ (Bev, Teacher, Catholic Second-level, Study A).

But their gratefulness for state recognition and collegial support sat alongside accounts of discomfort. Several teachers noted that Civil Partnership resulted in the reproduction of heteronormative terms of intelligibility. For instance, Richard explained that ‘the women who were straight problematised the whole thing... ‘what are you going to wear? Who is the best man? Who is this ...’, you know, they read the whole thing as a straight wedding’ (Richard, Teacher, ETB Second-level, Study A). Many teachers made significant internal compromises and rode over such discomforts to comply with heteronormative rituals, and maintain the happiness of their colleagues. Their gratefulness for affirmation served to keep these teachers

on ‘the right path’, allowing heteronormativity to remain firmly intact (Neary, 2014; Ahmed 2006).

This gift relation (Ahmed 2006) was echoed in the public discourses around the ME Referendum in 2015. In the weeks before the Referendum, the *Yes Equality* campaign commissioned visual materials with the caption: ‘Loving, Equal, Fair, Generous and Inclusive. There are many words to describe Ireland today: On May 22nd we only need one. YES’. This stage of the campaign signalled a move towards asking Irish people who were on a journey ‘towards greater acceptance of their lesbian and gay family members and friends’ to be ‘kind’, ‘generous’ and to ‘share’ marriage with the lesbian and gay people of Ireland, signalling that they belong’ (Marriage Equality, 2015). This narrative was echoed by those who publicly supported the campaign. For example, the following excerpt from an article entitled ‘Saying Yes to Kindness’ by Róisín Ingle (Ingle, 2015) pleads for kindness towards LGB people:

Most “Middle Irishers”ⁱⁱⁱ are kind. And on May 22nd, I believe “Middle Ireland” will be kind...I listen to friends who have canvassed on the doors of inner city Dublin. It’s the same story there. People like having the chance to be nice to other people. To do a good deed like extending the joy of a big day out to all....It will be my good deed of the decade.

Phrases such as ‘being extremely nice’ and ‘my good deed of the decade’ strategically corral every demographic into ‘extending the joy of a big day out to all’. In this vision, Middle Ireland is kind, tolerant and accepting of LGB people. But in such a vision, Middle Ireland is simultaneously constructed as heterosexual and as the powerful arbiter of sexual legitimacy. Following the Yes vote in the Referendum, the Yes Equality campaign also used a variety of media to thank the Irish people for voting in favour of the referendum. Adding to the aforementioned slogan ‘Loving, Equal, Fair, Generous and Inclusive. There are many words to describe Irish people: On Friday, one word was enough. YES! Today we need a few more: Thank you. Buíochas Ó Chroí’ [Thank you from the heart].

Such dynamics of kindness and gratefulness were also reflected in how schooling contexts were grappling with ME as it was emerging. One teacher talked optimistically about how Marriage Equality brought a new symbolism: ‘Ireland sent a message that the LGBT community are universally accepted’ (O’Rourke, 2015). However, an experience recounted by one primary school teacher invites further inquiry into the power dynamics of this acceptance:

1 During the week of the referendum, one of the teachers made a ‘Yes’ cake. Do you
2 know, people bake all the time and she just made a cake and she wrote ‘yes’ on it in
3 smarties on the top. And it was a really nice cake and I was in the staff room and I was
4 cutting myself a slice, as was everyone else, and...the principal who came in and said
5 “Oh, I see you got your cake”. And that really annoyed me, like straight away, I was
6 just like “it's not my cake...it's for everyone”. And she insisted on continuing with
7 her, what she thought was a joke “oh, no, no, it's *your* cake”. So, yea, I was very
8 annoyed by that. I dunno, do you call that homophobic? I don't know...there's no word
9 for it, homoaware maybe. That they say something to make you be aware of...your
10 sexuality. (Daniel, Class Teacher, Multi-Denominational Primary, Study B).

11 The power dynamics described here by Daniel are subtle and they happen, as power so often
12 does, through the affective sociability of humour (Ahmed, 2008). Ahmed (2006) helps us to
13 think about how the celebratory cake can be read as a symbol of the gift of marriage; a gift for
14 which Daniel, as a gay man, was expected to give thanks. Daniel's annoyed refusal of ME as
15 *his* individual gift and his reference to how Marriage Equality is a public good and a collective,
16 societal change instantly makes visible the ordinarily latent boundaries of heteronormativity at
17 work in social spaces such as schools. It animates the ways in which these boundaries are subtly
18 and often unconsciously protected and reproduced.

19 So, while ME was largely presumed to be a sign of sexual progress and Ireland was
20 viewed as a beacon of equality that had ‘opened up now the gates for the rest of the world’
21 (Catherine, Parent, Catholic Primary, Study B), Marriage Equality clearly contains limits for
22 LGB teachers. Avril, a teacher in a primary school, further elaborated upon these limits:

23 I know it was a yes vote and I think that will be huge... [but] it's not the same as
24 accepting people that are gay ...like that attitude that... ‘I don't want a gay teacher in
25 case it turns my child gay’...that's a huge discrepancy (Avril, Teacher, Catholic
26 Primary, Study B).

27 When read alongside one another, the accounts of Daniel and Avril are reminders of how quests
28 for normalisation, legitimacy and ordinariness for LGBTQ people through legal structures such
29 as Civil Partnership and marriage are individualising and fragile given how everyday life is so
30 predicated on the presumption of heterosexuality (Neary, 2017a). Furthermore, the constant
31 threat of illegitimacy is heightened in schooling contexts that are so fundamentally orientated

1 around and shielded by heteronormative logics of childhood innocence (Cavanagh, 2008;
2 Robinson, 2013; Lee, 2019; Neary et al., 2019).

3 The material and symbolic changes brought about by Civil Partnership and Marriage
4 Equality legislation were enabling and transformative for LGB teachers in their schooling
5 contexts. But the gift relation brought to life here raises new questions about the terms of
6 inclusion and progress on offer for LGB teachers and the kind of work that is demanded in
7 return as the ‘gift of our own lives’ (Ahmed, 2006, p.559). So, optimistic attachments to such
8 mechanisms of inclusion have potential in how they promise individual legitimacy and
9 normalisation for some people but they also produce ‘compromised conditions of possibility’.
10 They fall short of interrupting the rigid and sedimented nature of heteronormativity in schools.
11 They also facilitate an extension of state power in governing individual bodies (Berlant, 2011)
12 and, as Spade (2011) points out, this power bolsters the state in its reproduction of the pain of
13 ‘others’ such as trans and non-binary people whose fight does not fit within and is actively
14 damaged by such neoliberal models of advocacy (Berlant, 2011, p.27). Such relations also
15 mediate and produce the nation-state in heteronormative, homonationalist terms. For instance,
16 in the Vote No campaign in Ireland, heterosexual terms of Irishness were produced through a
17 kind of ‘heteroactivism’ (Browne et al., 2018). At the same time, the Yes campaign produced
18 a heterosexual nation-state through a homonationalist vision of inclusion wherein ‘the terms of
19 homely belonging are framed by a desire for inclusion in what Jasbir Puar (2007, p.4) calls
20 “heterosexual nationalist formations”’ (Gray, 2018, p. 11). Such modes of inclusion and
21 progress optimistically orientate towards promoting ‘acceptance and tolerance’ of certain
22 LGBTQI people (Puar, 2007) often at the expense of others.

24 **(Com)Promises of Legislation 2: Amendment of Religious Exemption Section 37.1**

25 As aforementioned, Section 37.1 is a religious exemption clause in the Employment Equality
26 Act 1998/2004 in Ireland that, in its original form, permitted schools to recruit and dismiss
27 teachers on the grounds of religious ethos. Historically, this has been understood as particularly
28 problematic for LGB teachers whose sexuality and/or gender identity might be deemed
29 contrary to religious ethos, resulting in deep silences in schools (Fahie 2016; 2017). Study A
30 reveals how LGB teachers were continually conscious of Section 37.1 and had feared for their
31 employment because of it. Some had looked for other jobs and some had invested in back-up
32 careers. Many were ‘trying to get away from a school that was governed by Section 37.1’ (Tom,

1 Teacher, Catholic Primary, Study A). As many LGB teachers began entering into Civil
2 Partnerships between 2011 and 2015, they were acutely conscious that they were testing the
3 reach of Section 37.1. For example, Elaine explained how she told only very close colleagues
4 about her upcoming Civil Partnership because she was working in a Catholic school: ‘the
5 reason I stay quiet is because I’m teaching in a Catholic environment, it’s a Catholic school
6 and because homosexuality is seen as not right by the Roman Catholic Church’ (Elaine,
7 Teacher, Catholic Second-level, Study A). This experience was mirrored following the
8 enactment of Marriage Equality in 2015: ‘for a small sector of workers in Ireland, that kind of
9 commitment [marriage] came at a high price. Marriage Equality was at odds with Article
10 Section 37.1’ (O’Rourke, 2015). And there was thus a new wave of urgency in advocacy circles
11 for Section 37.1 to be repealed.

12 Across the three studies, teachers and principals orientated optimistically towards the
13 repeal of Section 37.1 and its promise to make life better for LGB teachers: ‘[Repealing]
14 Section 37 (1) would bring security...It would give me some sense of security that I wouldn’t
15 be unemployed because I said I was gay you know’ (Elaine, Teacher, Catholic Second-level,
16 Study A). In this vein, many LGB teachers also oriented toward the promise of secularism as
17 the solution: ‘all education should be state run...And it shouldn’t be in the care or the custody
18 of any particular church group at all... It should all be in the secular arena’ (Richard, Teacher,
19 ETB Second-level, Study A). Following several versions of the bill across a number of years,
20 Section 37.1 was amended in December 2015. While it wasn’t deleted, the amendment was
21 largely lauded as a victory and some LGB teachers responded publicly with relief about and
22 gratefulness for this change.

23 Berlant (2011) invites us to track and inquire into our “objects of desire” as clusters of
24 promises to which we become bound, attending closely to their enigmas and incoherences.
25 Reading the deletion of Section 37.1 (and broadly, a turn towards secularism) as a cluster of
26 promises to which LGB teachers were optimistically attached, I want to think through two ways
27 in which this object of desire here not only appears to have failed to deliver what it promised
28 but also may delay or even block the potential of more systemic change. First, I turn to examine
29 the changes in the text of the amendment and secondly, I explore teachers’ reflections on life
30 in school since the amendment of Section 37.1 in 2015.

1 The amendment of Section 37.1 now explicitly cross references nine equality grounds
2 (including ‘sexual orientation’) on which discrimination is not permitted. It now also now
3 includes the following text:

4 A religious organisation shall not be taken to discriminate against a person for the
5 purposes of this Part or Part II by giving favourable treatment on the religion ground to
6 an employee or a prospective employee where the religion or belief of the employee
7 constitutes a justified occupational requirement.

8 This new text directly mirrors EU law and a recent case in Germany^{iv} provides an illustration
9 of the potential power of the insertion of ‘occupational requirement’. While the new text of
10 Section 37.1 in Ireland explicitly states that people cannot be discriminated against on the basis
11 of their sexual orientation, the heavy presence of ‘occupational requirement’ takes on a
12 particular hue in a country where 96% of primary schools are under religious patronage and
13 teachers are required to teach religion in a faith formation model – an approach to religious
14 education that follows an ‘education into religion’ philosophy (Jackson 2009). Might
15 ‘occupational requirement’ protect a religious patron who wishes to discontinue the
16 employment of or choose not to recruit a heterosexual primary school teacher because they
17 openly teach about LGBT identities or same-sex parented families in ways contrary to religious
18 teachings? Might a gay teacher be similarly vulnerable, not because they identify as gay, but
19 because they are involved in an LGBT advocacy organisation? Such questions alert to how the
20 same ambiguities that surrounded Section 37.1 continue to linger for many teachers.
21 Meanwhile, it is assumed, politically, that this issue is solved. This sentiment strongly echoes
22 Berlant’s (2011, p.228) idea that we can ‘get numb with the consensual promise,
23 and...misrecognise that promise as an achievement’.

24 Even if one puts aside this new emphasis on ‘occupational requirement’, there are
25 limitations evident in the impact on the everyday lives of LGB teachers. For example, a gay
26 teacher in a rural environment wrote an anonymous article in 2015 that stated: ‘Teaching is one
27 of those professions where conversations around gay issues are still taboo. So, just because
28 Section 37 is being amended, I wouldn’t be expecting an avalanche of LGBT teachers to
29 suddenly start coming out’. This account points to the long-lasting effects of legislative
30 illegitimacy and mirrors how LGB teachers in the UK who taught in schools during the Section
31 28 era are now less likely to be out at school (Lee, 2019). And so, given the political compromises
32 made around the amendment of Section 37.1 and the cultural realities of the majority of schools

1 in Ireland, it is unsurprising to see accounts from teachers outlining how little has changed four
2 years on from the amendment:

3 The law is changed but there are still schools where you feel you cannot be yourself.
4 I now have permanency, and this is the first time I've been openly out and
5 comfortable being out as a gay woman...it's 2018, but you're constantly censoring
6 yourself ...Do I show who I really am, or do I protect my job? Ireland's very small,
7 if you're working in a Catholic school or a Church of Ireland, Presbyterian school
8 and the principal doesn't take fancy to you being gay or whatever it is, they have a
9 network that can be very difficult for you then to get in to other schools (McCarthy,
10 Member of INTO LGBT Teachers' Group cited in Farrell, 2018).

11 The compromises made in amending the legislative text of Section 37.1, combined with the
12 teachers' voices above, are an illustration of the inefficacy of such legislative frameworks for
13 tackling the complexities of injustice (Spade 2011) and the deeply engrained heteronormative
14 and cultural complexities of the teaching profession and school environments. Furthermore,
15 attachments to the deletion of Section 37.1, and the promise of secularism more broadly,
16 (re)produce assumptions about religious schools as conservative and multi-denominational
17 schools as progressive and further accentuate a problematic divide between religion and
18 sexuality, one that doesn't account for the religious attachments of LGB teachers or the messy
19 workings of religion as part of the fabric of normativity and culture (Rasmussen 2015; Neary
20 et al. 2018).

22 **Concluding Thoughts**

23 In many contexts, equality legislation is deemed to have a positive impact on LGB teachers'
24 lives at school (Ferfolja, 2009; Ferfolja & Stavrou 2015). But a reliance on legislation has also
25 been treated with caution and scepticism (Khayatt, 1997; Ferfolja, 2005; Ferfolja, 2009
26 Connell, 2015; Lee, 2019). Ireland recent legislative changes might be presumed to have a
27 positive knock-on effect for LGB teachers in schools and the accounts in this study reveal
28 optimistic attachments to these changes. But Berlant (2011, p.52) notes how 'people's desires
29 become mediated through attachments to modes of life to which they rarely remember
30 consenting'. Irrespective of whether such modes of life 'actually threaten well-being or provide
31 a seemingly neutral, reliable framework for enduring the world, or both', attachments to
32 legislative change are still part of an ideological relation that requires interrogation (idem.).

1 And so, grounded by the work of Ahmed (2006) and Berlant (2011), this paper set about
2 exploring how LGB teachers have negotiated three key legislative recognition and protection
3 changes in the Irish context. Inquiring into these legislative changes as ‘clusters of promises’
4 (Berlant 2001, p. 23) has facilitated inquiry into the textured impact of these changes in the
5 everyday lives of LGB teachers.

6 The emotional labour of several teachers to suppress discomforts, and give thanks for
7 the gift of Civil Partnership, signals the continuance of enduring power dynamics of
8 heteronormativity. Furthermore, teachers’ negotiations of Civil Partnership, when read
9 alongside Marriage Equality moments such as the one played out in Daniel’s ‘Yes’ cake story,
10 are a powerful reminder of the very limited reach of legislative change in de-stabilising or
11 disrupting the micro-political and deeply embedded dimensions of heteronormativity.
12 Berlant (2011, p.126; 2013) has critiqued equality advocacy groups for their attachments to the
13 institution of marriage as a normalising mechanism of social change for LGB people. She terms
14 these attachments a ‘fantasy of normalcy’ a ‘stupid optimism’, explaining that
15 ‘conventionality...is not the same as achieving security’. This was borne out quite explicitly
16 for LGB teachers in Ireland because as they began to enter into Civil Partnerships or marriages,
17 Section 37.1 became all the more threatening.

18 LGB teachers’ orientations to the promises of removing or amending Section 37.1 (and
19 the broader promise of a secular education system in Ireland) were compromised and
20 compromising too. While this legislative change proffered itself as a solution, LGB teachers
21 reported that the pervasive and miry workings of religious ethos did not just magically
22 disappear. This is unsurprising given how religion is so embedded in the fabric of normativity
23 and internalized in the bodies of LGB teachers in Ireland (Neary et al 2018). Moreover, echoing
24 the warnings of Eckes and McCarthy (2008), the eventual text of Section 37.1 enacted actually
25 reproduces many of the same ambiguities for teachers in religious schools. This amendment
26 was largely lauded as a victory and, of course, to some extent, the amendment of Section 37.1
27 decreased the legislative power of religious ethos in schools. While what people perceive
28 matters much more than the intricacies of the new legislative text, the political compromises
29 made in this regard are symbolic; they remind of the continued powerful place of religious
30 ethos in schools. The particularly damaging aspect of such compromises is how the political
31 declaration that the issue is solved can actually provide a cover for the continued exclusionary
32 workings of religious ethos. In this way, Berlant’s (2011) ‘cruel optimism’ has allowed us to

1 see how political optimism can serve to cover over the fine-grained cultural realities and micro-
2 politics of schooling, declaring certain fights over when they haven't even really begun.

3 Staley (2018) reflects on how, in research about gender and sexuality diversity in
4 education, we are so often invoked to direct, or point towards resolutions with the result that
5 'master narratives', such as knowledge deficits in teachers and principals, are continuously
6 repeated and crises and complexities foreclosed. I would argue that equality legislation and
7 policy change together form another master narrative in educational research. Resisting the
8 'invocational ending' that Staley (2018, p.301) talks about and aligning with her call to get
9 'curious about the paradoxes and impossibilities that animate our work', I suggest that the merit
10 of this paper is its attention to LGB teachers' fine-grained experiences of three legislative
11 changes that at first glance might seem transparently progressive for LGB people. Their
12 accounts to some extent echo Spade (2011) in drawing attention to the ways that legislative
13 change through recognition and protection can be a blunt, unwieldy and ineffective instrument
14 of change that can sometimes even block and even further stigmatise those who fall inside as
15 well as outside of its remit . At the same time, and as I have argued in more detail elsewhere
16 (Neary 2017a), these legislative changes provided a framework for new 'conditions of
17 possibility' (Berlant 2011, p. 27). And so, ultimately, this paper provides an argument for
18 staying with the messiness; for attending to the fine-grained texture of gender and sexuality
19 diversity in education contexts and resisting singular or individualised 'solutions'.

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ⁱ The acronym LGB is used mostly in this paper as this is the empirical research base. I refer to trans people more broadly in thinking critically about neoliberal advocacy. In some instances, I use the umbrella term LGBTQI.

ⁱⁱ Warner (1993) used the term 'heteronormativity' to denote how heterosexuality works pervasively as the ideal basis for all gender relations.

ⁱⁱⁱ 'Middle-Ireland' is understood as referring to the ordinary Irish person. Arguably, this term could be read as white, middle and working class, Irish born citizens.

^{iv} Case C-68/17, IR v. JQ, Sept. 11, 2018, cited in <https://www.loc.gov/law/foreign-news/article/european-union-european-court-of-justice-rules-on-religious-employment-discrimination/>).