

GLEN Briefing to the Labour Parliamentary Party:

Building on the Success of Civil Partnerships/Civil Unions

Kieran Rose, GLEN Chair
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Chair, Deputies, Senators, Colleagues

GLEN is delighted to have the opportunity to brief the Labour Parliamentary Party on the critical issues for lesbian, gay and bisexual people in Ireland today.

Firstly, I would like to introduce my colleagues: Brian Sheehan, Sandra Irwin-Gowran and Tiernan Brady on the staff of GLEN

There has been a **transformation in the status of lesbian and gay people in Irish society** over the past two decades, symbolised by the approx 30,000 people from all sectors of society celebrating the Pride Parade in Dublin last Saturday.

The **Labour Party has been critical to this transformation**. Three crucial legal pillars in achieving this transformation are:

- **Decriminalisation** on the basis of equality in 1993
- The powerful and wide-ranging **equality legislation**, the Equality Authority, and the Equality Tribunal, initially introduced by Minister Mervyn Taylor
- Marriage-like **Civil Partnership legislation (based on Labours Civil Unions Bill)**, with Tánaiste Eamon Gilmore's most recent great statement of support for Civil Marriage.

Labour were also critical to putting 'sexual orientation' back into the **Amsterdam Treaty** equality clause (after the Dutch Presidency dropped it). This gave the EU competency to support equality for lesbians and gay men. Minister Joan Burton put 'sexual orientation' into the 1996 **Refugee Act** and Ireland became the first country in the world to give such explicit statutory protection to gay asylum seekers. Niamh Breathnach expanded **Labours Equal 1990 Status Bill** out from gender and marital status to include what are now the 9 grounds of our Equality legislation.

GLEN worked closely and actively with and publicly supported Labour on all these initiatives.

GLEN:

GLEN was founded in 1988. We work in on a wide range of areas, including:

- **Education**, concentrating on equality of opportunity for LGBT students at second level. There has been very good progress here with Minister Ruairi Quinn setting up Anti- Bullying Working Group.

- **Employment;** delivering an equality based workplace, working with trade unions and employers
- **Mental health;** working with professions and other agencies to address difficulties in relation to health, mental health and wellbeing and suicide prevention
- **Sexual health**
- **Ageing**
- **Community empowerment**
- **Public Safety and Policing**
- **The economic competitiveness case for equality and diversity**

GLEN can provide to the Labour Party, to TD's, Senators and staff:

- A huge level of professional expertise
- Robust research
- Agreed Guidelines for example on bullying in schools .. agreed by all educational bodies including religious ones

We are very happy to share these with you.

Civil Marriages; Civil Unions; Civil Partnerships

We strongly welcome the recent statements of support for Civil Marriage by the Tánaiste and by the Minister for Education.

GLEN's position has always been that **Civil Marriage is the ultimate equality option.**

At a meeting with Brendan Howlin in 2006, he advised us that the Labour Party legal advice was that a Civil Marriage Bill would be unconstitutional, but that the **Labour Party wanted to introduce a Civil Unions Bill that would be based on marriage.**

We had a dilemma. Up to then we had argued for Civil Marriage and had not accepted that it would be unconstitutional. But we had a concern that if a leading lobby group did not enthusiastically welcome the Civil Unions Bill, it (reasonably) might not get the priority in terms of scarce Oireachtas time

Now we had to make a quick strategic shift. **We agreed to enthusiastically support the Labour Party Civil Unions Bill**, though we got sustained criticism from those whose position is 'Civil Marriage or nothing'.

Our position is that it would be irresponsible and unconscionable to say to lesbian or gay couples that there is the possibility of immediate legal progress that can respond to your urgent needs (such as threat of deportation) but to then oppose such immediate progress, and say you must wait for the 100% answer at some indeterminate time in the future.

The Labour Party introduced the Civil Unions Bill twice, and there is no doubt that this pressurised the previous Government to introduce the Civil Partnership Act.

Like the Labour Party Civil Unions Bill, the Civil Partnership Act goes as close as possible to marriage while trying to make sure that it will pass the Constitutional test.

The Civil Partnership Act is a great achievement for all political parties and particularly the Labour Party, as it is in a sense the child of the Civil Unions Bill

As President Michael D. Higgins said last week

“On a wider scale, one of the landmark achievements in this country in recent years must be the bringing into law of civil partnerships for same-sex couples.”

Differences:

There are and have to be some differences between Civil Partnership legislation and Civil Marriage to **‘fire – proof’ the legislation from Constitutional challenge**.

However, the general intent was to provide for equality and the **Oireachtas went as far as it thought legally possible in order to provide a parity of rights and responsibilities between same-sex and opposite sex couples**. Civil partnership was ‘fire-proofed’ from constitutional challenge by making some differences with marriage and ensuring that in most cases these differences were not on matters of substance but related to nomenclature e.g. ‘shared home’ vs ‘family home, or logic/history e.g. there is no provision for separation because there is provision for divorce (dissolution).

The **‘intent of equality’** is progressed in a major way under this Government. Last year, Minister for Finance Michael Noonan introduced **tax equality** for civil partnered and married couples. This is a complex piece of legislation and its equality provisions and its quick enactment is a huge statement of support for equality from this Government

Tax equality for civil partnership is also a critical practical support in a time of rising unemployment; it means that couples can support one another if one becomes unemployed.

Minister for Justice and Equality, Alan Shatter introduced equality in terms of **citizenship** provisions, again a highly symbolic and practical support for gay and lesbian couples.

Parenting

Parenting is a serious omission from the Civil Partnership legislation but it is an issue in the Programme for Government. The Minister for Justice and Equality Alan Shatter said last week:

“Our Civil Partnership legislation enacted in 2010 provides for the civil union of same-sex couples and confers on them most of the rights and obligations of civil marriage. It did not address issues relating to the children of civil partners and I hope, in the not too distant future, to publish legislation addressing this omission.”

Eamon Gilmore's and GLEN's Strategy to Achieve Civil Marriage building on Civil Unions/Civil Partnership

In an interesting and detailed speech in 2009, Eamonn Gilmore set out the Labour strategy to achieve Civil Marriage building on Civil Unions, which GLEN wholeheartedly supports.

Basically it is **modelled on the second and successful divorce campaign**:

- introduce marriage-like Civil Unions (or Civil Partnership) legislation giving legal protections that are urgently needed by lesbian and gay couples now
- and then move to a referendum

In the speech, Eamonn Gilmore said:

"Our Civil Unions Bill is designed to meet the present needs of present day couples."

"Our Bill offers same-sex couples the greatest measure of equality possible under our constitution...and it goes as far as we can go within a constitutional framework that denies full marriage equality."

"I strongly believe that just a few short years of such legislation being put into practice will greatly strengthen the support for an amendment to the Constitution."

"And at that referendum there will be just one, straightforward change: the change of name to marriage."

Using the comparison of the second successful divorce referendum, when the issue was not so much divorce as the right to remarry, Mr. Gilmore said "to campaign against full marriage equality in that context would effectively be to campaign against what has become the status quo. In short, it would be unthinkable."

Mr. Gilmore noted that some people might not be satisfied with Civil Unions, but made the crucial point, which we wholeheartedly support:

"In the meantime, there are immediate, unmet needs that should not be postponed until such a referendum is held. Waiting for the best should not be a reason for delay in bringing about the better."

This strategy of Civil Unions/Civil Partnerships leading to Civil Marriage is working

The strategy is working, perhaps quicker than we dared hope. **The introduction of Civil Partnership in Ireland has had a transformative effect on social attitudes and the status of gay people in our society.**

From April 2011, when civil partnerships first became available, to the end of June 2012, more than 700 couples – more than one per day - went to their registry offices in all counties and before the registrar solemnly affirmed their love and commitment to one another.

These legal commitments are then followed by joyful celebrations where family, friends, colleagues and neighbours give their affirmation of the profound commitment the couple have just given to one another.

These new civil partnership celebrations are extraordinary in their parallel to traditional wedding celebrations. One might have thought that this new status of civil partnership and the consequent celebration rituals would take some time to be established and widely accepted. However, almost overnight and as if by some “hidden hand”, gay couples and their families and friends have adopted the traditional wedding rituals of the hotel reception, speeches with laughter and some teary moments, children running around, dinner, dancing . . . and the Fields of Athenry!

There has been an enthusiastic general welcome for these new wedding celebrations, as evidenced by the high-profile media coverage of delighted couples, including on the front pages of local newspapers throughout the country. I suggest that the people of Ireland in this open-hearted welcoming of civil partnerships, have spoken and are saying we are entitled to marry.

I would like to pay tribute to all the couples who have or will enter into Civil Partnerships. **Every time a lesbian or gay couple publicly celebrate their Civil Partnerships, they bring the day of Civil Marriages much, much closer.**

What GLEN says consistently is that Civil Partnership is marriage-like with almost all the rights and responsibilities of civil marriage and that the ‘weddings’ of civil partners are building the support for Civil Marriage all across the country.

And as Mr. Gilmore put in his strategy; when the referendum is held, it won’t be about what rights and responsibilities lesbian and gay couples should have; these have already been legislated for; it will be about changing the name from Civil Partnership to civil marriage with all the Constitutional status and protection that that implies.

Conclusion

There has been huge progress in Ireland for lesbians and gay men over the past 20 years. The Labour Party and GLEN have been at the heart of this transformation, which we also recognise opens out progress for all other groups.

For Ireland to move to marriage now is not a massive legislative leap; it is an incremental step building on the powerful 2011 Civil Partnership legislation which in turn was built on the Labour Party’s Civil Unions Bill.

Note: The Government’s Colley Working Group Report on Domestic Partnership (2006) laid the foundations for progress in this area, and was the intellectual basis for the civil partnership legislation and for the Labour Party’s Civil Unions Bill 2007, both closely modelled on marriage. The GLEN representative, Eoin Collins, successfully persuaded the working group that civil marriage was the ultimate solution. The Colley group report makes the powerful point that: “The introduction of civil marriage for same-sex couples would achieve equality of status with opposite sex couples and such recognition that would underpin a wider equality for gay and lesbian people.”