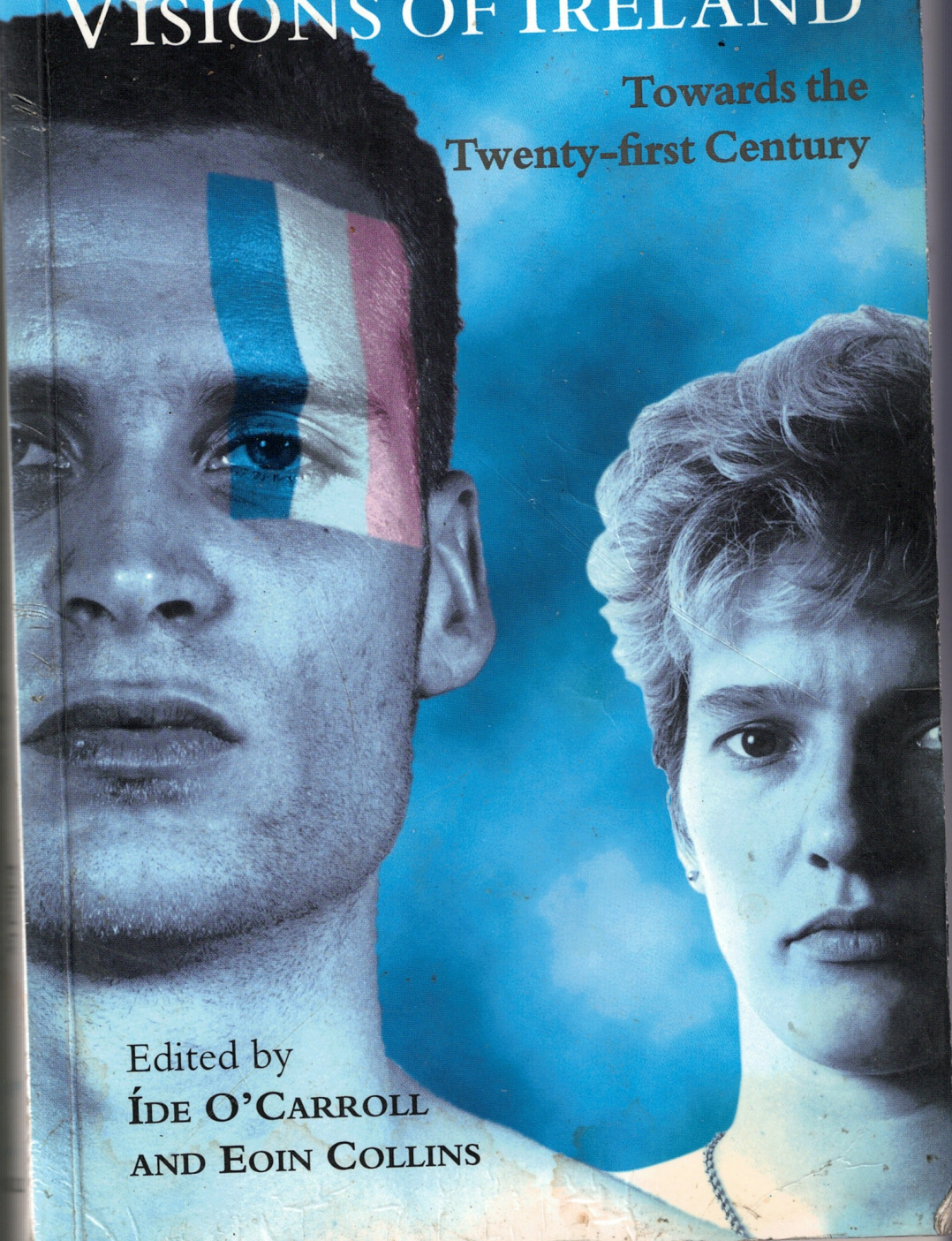


# LESBIAN AND GAY VISIONS OF IRELAND

Towards the  
Twenty-first Century

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## *Anatomy of a Campaign*

Chris Robson

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AT the beginning of 1988 Ireland had a constitutional ban on any form of divorce, there was restricted access to non-medical contraceptives, and a new constitutional provision apparently prohibited entirely any form of abortion. It also boasted what was, on paper at least, the worst legal regime in Western Europe for lesbians and gay men. There was no recognition or protection of any sort, and gay men faced a total ban on any type of sexual activity. If these laws were almost never enforced (largely because of effective action by David Norris and others in the 1970s) they still insulted and marginalized tens of thousands of gay men and, by association, lesbians as well. There is a general perception that these criminal laws simply derived from British law, so it is perhaps important to emphasize that they were not merely similar to the old British laws, but identical. In 1922 the new Irish state had incorporated all British common and statute law into its legal system, and the 1967 Wolfenden-inspired 'reform' in Britain did not apply to us.

Seven years on from 1988, the legal regime for gays and lesbians now mandates:

- The abolition of all previous laws criminalizing gay activity, and their replacement by a new gender-neutral law with a common age of consent of seventeen, and no special privacy conditions. [June 1993]
- No exceptions from this law for the armed forces or for the merchant marine. [June 1993]



- A Prohibition of Incitement to Hatred Act, which includes in its title the category 'sexual orientation'. [November 1989]
- Specific protection for every category of worker from 'unfair dismissal' because of sexual orientation. [April 1993]
- Work codes in all government and local government employment statutes which include the sentence 'Discrimination on the basis of sexual orientation will not be tolerated.' The same codes also specifically protect those with HIV/AIDS. [First code implemented July 1988]

There are also two new laws which have received outline Cabinet approval (October 1994) and which are currently being drafted:

- An expanded Employment Equality Act, which will cover all forms of workplace discrimination and which will now protect under several new categories including 'sexual orientation' and a definition of 'disability' which includes HIV/AIDS status.
- A radical new Equal Status Act to prohibit discrimination in non-work areas including housing, education and social services, together with an Equality Agency to monitor the Act.

Meanwhile, there is still no form of divorce, and, despite horrendous confusion in the law, abortion is still prohibited. Condoms, however, are now widely available.

It can hardly be denied that, by any comparative standards, this is a remarkable outcome. As recently as 1992 at the Paris conference of the International Lesbian and Gay Association (ILGA), Kees Waaldijk put forward a comparative model of legal advances, commenting as he presented each element that 'the exception to this pattern, of course, is Ireland'. But by 1994, Waaldijk had to concede that even he could not quite credit that the Irish reforms occurred both so rapidly and so out of 'sequence'. This article attempts to explain how these surprising reforms were fought for and enacted. It is important to stress that I shall not attempt to cover the origins of this campaign: that long courageous struggle (begun in 1974, by David Norris and others) which eventually resulted in the October 1988 judgement of the European Court of Human Rights

in Strasbourg. Nor can I document the many community organizations that did, and continue to do, so much essential work.

The Strasbourg judgement stated that the total ban on gay sex was too severe, and that some reform must be introduced. However, previous judgements had also indicated that if this reform were based on the 1967 British 'reform', then that would almost certainly be accepted. The real question therefore was 'What sort of law?' A series of meetings was held, under the title 'Unite for Change', to which every lesbian and gay group in Ireland was invited. Almost all did attend, and the result was the foundation of a new organization, the Gay and Lesbian Equality Network (GLEN). It was given a specific mandate: to campaign for an equal criminal law and for new equality-based labour and civil laws. No-one would expect, or even desire, that our diverse communities would agree on everything, but on this specific issue we did. To confirm and renew its mandate GLEN held annual national meetings to present its work and agree its priorities, and throughout each year it attempted, with reasonable success, to maintain a continuous liaison with its sponsoring groups. It might seem frivolous to attribute some of our eventual success to so simple a thing as a name, but GLEN sounds both friendly and Irish, and is easily remembered. It also carries in four words the essence of our entire programme. We were never asked who we were, or what our aims were. More crucially, we were never asked to compromise: to accept, for instance, a differential age of consent. The word 'equality' carries great power. You either have it in total, or you remain unequal.

The mandate we'd been given would have been daunting at any time but in 1988 it seemed almost impossible. It was not long since a referendum had decided, by 66 per cent of the vote, to reject divorce. The previous referendum on abortion had bitterly split the country and, by a similar percentage vote, abortion was (supposedly) rendered entirely illegal. Right-wing groups were successfully prosecuting women's clinics and student health centres for the heinous crime of providing the phone numbers of abortion information services in England. The same right-wing groups were gazing in admiration at Britain's 'Clause 28'. We nonetheless felt confident that there was no inherent majority for oppression. Irish people have for too long been on the receiving end of discrimination to be



comfortable with the charge that they are discriminating against others. On the principle of equality the argument could be won.

## Allies

It seemed (and does still) to be an elementary tactic that lesbian and gay groups should form coalitions with other disadvantaged groups as well as with more powerful allies. It is a matter of continuing surprise to people in GLEN that, year after year at international conferences, we hear a 'new' radical call for creative liaison with both marginalized and sympathetic sections of society. When we mention (again) that this approach has been at the core of our work for eight years, they listen politely and then change the subject.

People who were to become GLEN activists had already begun to work with the first and perhaps the most influential of our allies, the trade unions. Unions are not only comparatively well funded but strongly in need of some effective visible action on civil rights. Following initiatives within their own unions by lesbian and gay members, the annual conference of the Irish Congress of Trade Unions (ICTU) agreed to sponsor a conference on lesbian and gay workplace issues. An ICTU working group, with several lesbian and gay members, was duly set up to prepare 'negotiating guidelines' on lesbian and gay workplace rights. The result was an unapologetic and radical charter of rights, printed in thousands, and sent to every union in Ireland (June 1987). It also gave a mandate to the ICTU to intervene on our behalf in negotiations with government. They have done so ever since, to powerful effect.

A second union-based initiative had a more dramatic initial effect. The AIDS committee of one of the civil service unions (which included a future GLEN member) was mandated by a number of other unions to negotiate an 'AIDS policy for the Civil Service'. The combined union position was accepted almost in its entirety, and resulted not only in effective protection for those with HIV/AIDS but also in a statement that 'discrimination on the basis of sexual orientation will not be tolerated'. The real significance was that it was issued in July 1988, four months before the Strasbourg decision

and at a time when the government was publicly stating that the criminal laws must be maintained. If the government considered such protection necessary for its own workers, then the argument for its extension to everyone else became unanswerable.

## Approach

The above manoeuvres demonstrate that GLEN had agreed on its strategy at an early stage. Lesbian and gay activists have tended (in crude summary) to veer between two well-known stances: 'Please, please, be nice to us', and 'Give us our goddamned rights, and give them now'. The first tends to provoke contempt, the second to elicit the perfectly reasonable response, 'What's so bloody special about you?' There is, however, a third approach: 'You will agree that equality before the law is a basic principle. On the particular equality issue in question, your responsibility is to abolish Statute X, and to add "sexual orientation" to Clause Y, Statute Z. Please sign here. Thank you.'

The summary may be crude but it's not invalid. Politicians neither like to be grovelled to nor shouted at. And however well intentioned they may be, they are rarely well informed. (Ask any of them what the common age of consent is in Italy, or Belgium, or Spain.) Our programmes had to be clear, well argued, highly specific and, above all, be seen to demand no special privileges.

## 'Equality now'

An effective way to present demands is to get others to argue them on your behalf. At the suggestion of its GLEN members, the Irish Council of Civil Liberties (ICCL) set up a working party (which included those same members) to produce a report on legal and civil rights issues for our communities. It eventually became a book, *Equality Now for Lesbians and Gay Men*, which was significant in so far as it was probably the only such book ever published by a non-gay group, and also because it incorporated a model Bill on Equal Status legislation for all minorities. Despite the fact that the ICCL



had almost as little money as we had, they still sent a copy to every TD (Member of the Dáil) and senator in order to initiate the discussion.

### *Law Reform Commission*

Faced with the Strasbourg Judgement, the government, perhaps inevitably, delayed. But, for once, this proved to be to our benefit. The government asked the Law Reform Commission to examine various models of legislations, to invite submissions, and to make a report. Submissions arrived from all quarters, including, of course, a range of gay and lesbian groups. After an admirable process of research, seminars and consultations, the final report included the following key sentence: 'The same legal regime should obtain for consensual homosexual activity as for heterosexual and that, in particular, no case has been established that the age of consent (seventeen years) should be any different' (September 1990).

They were right of course, but it was formidably important to be able to quote a government commission as having said so. It became, and stayed, a pivotal argument, and the entire report was added to our list of resources. A second lesson had become clear: if a document is sufficiently well prepared its usefulness does not just continue, it increases. The ICTU guidelines helped with the civil service policy: both were incorporated into *Equality Now*, which in turn was presented in its entirety to the Law Reform Commission. Right up to the end of the campaign all these documents, and many more, have worked as interconnecting elements in a comprehensive platform. (The metaphor is deliberate: GLEN's membership includes people in planning, architecture, journalism and social research, and our approach has been duly influenced by these disciplines.)

Another lesson was learned during the inter-party negotiations leading to the renegotiated programme for the Fianna Fáil-Progressive Democrat government. We made a phone call to one of the negotiators to establish whether gay law reform was to be included in the programme. Informed that it was not, we asked why,

to which the reply came, 'Good question'. Next morning it became part of the programme. One phone call.

### *Campaign for equality*

Promises are one thing, action another. Law reform was obviously still distant, and our other concerns were pressing. Under the title 'Campaign for Equality' we asked for, and received, written commitments of support from political parties, national organizations, and from individual political leaders for anti-discrimination legislation and a Human Rights Commission. At the press conference launch, GLEN's co-presenters included the Forum of People with Disabilities, the Dublin AIDS Alliance, the Women's Coalition and the Travellers' Development Group, all of whom stayed on as core members of the campaign. Eventually, some forty organizations, including four of the main political parties, became supporters. Precisely because of our commitment to rights in the context only of equality, we now had a range of allies working to a common goal under a common slogan, 'Welcoming Diversity'. (The campaign continues: the day after the new criminal law was decided, a Technical Workshop on Equal Status Law was held under its banner.)

Friends in the media were another welcome addition. Some of Ireland's most powerful political journalists spoke as invited guests at our public meetings: their insights into strategies and tactics, and their opinions on our own proved invaluable. They were happy to be associated with our campaign, as we were so clearly aligned to the direction in which they hoped Ireland would move. The press also published long articles by GLEN itself, where the most radical possible programme was set out in quiet argument with which no reasonable person could possibly have disagreed. (That is the point, after all: everything we ask for is entirely reasonable, though we seem at times to forget this.)

Workplace protection lies at the heart of any lesbian and gay programme. Under a national employment agreement, the Unfair Dismissals Act was due for renewal. Getting it amended to include just two new words, 'sexual orientation', required long, grinding



work involving hundreds of letters and calls to unions, employers' groups, national and even religious organizations, requesting that they articulate to the government our demands on their own behalf. (No file, we've been told, was ever bigger in the Department of Labour.) It worked. Travellers, lesbians, gays and (by understanding) those with HIV/AIDS are now fully protected from arbitrary dismissal in all categories of employment. We'd always said that if we'd had to choose, we'd have taken that rather than a reformed criminal law. Now, with both, we think it is still the more important. There is also, of course, the issue of those denied access to work. A proposal by GLEN to the Combat Poverty Agency was accepted, and we were commissioned to carry out a research project (now almost completed) on the mechanisms whereby discrimination leads to disadvantage and poverty.

A year earlier, however, all this had seemed impossibly distant. The new Taoiseach, after receiving complaints from the Council of Europe, simply stated that reform was 'at the bottom of his list of priorities'. A sardonic fourth birthday party for the Strasbourg Judgement, which we held outside the Dáil, didn't seem to shame him. At a bleak time, an international letter campaign, channelled through ILGA, kept up some real pressure.

In November 1992 the government fell, and while negotiations were proceeding after the election, we gained our most powerful ally yet. At an earlier suggestion of the Limerick Forum, representatives of gay and lesbian groups throughout Ireland were invited to a special reception at the official residence of President Mary Robinson. She had previously been a civil rights activist and had acted as David Norris's barrister in Strasbourg, and is easily one of the most admired public figures Ireland has ever had. The reception symbolized a national reconciliation with our community.

During the election, and after it, we continued to implement these lessons. After the Campaign for Equality's press conference, its policy statement was faxed to every party leader and director of elections. The Campaign, the ICCL and GLEN all subsequently made detailed submissions to the negotiators for the new Fianna Fáil-Labour Party government, submissions which reappeared, sometimes very exactly, in that government's programme. The new government created a Department of Equality and Law Reform with

a Cabinet post and a brief that could have been written by the three groups. The new Minister for Justice, Maire Geoghegan-Quinn, also startled us by announcing that her early priority was gay law reform. Though the record of her party, Fianna Fáil, had recently been socially very conservative, she said it was a task she was delighted to have been given.

The first member of the new government to meet us was Mervyn Taylor, Minister for Equality and Law Reform. He told us that, despite his title, he had no direct interest in specific criminal law. In what proved a crucial discussion, we strongly disagreed: if the first act of the new government was to legislate for *inequality*, where would that leave either his or his department's credibility for the next five years? He became, and has stayed, a most powerful advocate of across-the-board equality.

In all our meetings on the criminal law we have had both lesbian and gay delegates. In the pivotal meeting with the Justice Minister, however, we also brought as a delegate Ms Phil Moore of Parents' Enquiry. The Minister was very well informed and took on all of our arguments and briefing papers, but with Phil Moore she achieved a remarkable rapport. Two Irish mothers decided the issue between them: 'You simply can't make criminals of young gay men. An unequal age of consent would be a huge injustice on our sons.' In all her subsequent statements, the Minister remained steadfastly unapologetic on the issue of equality. Which was just as well, as the next step of her department officials was to issue a 'Memorandum for Government' which was leaked to the press, with consequent furore. In retrospect, it helped greatly to clear the air, but it was unnerving to see robust arguments for various options including 'British-style' reform which spelt out more clearly than anything we'd ever written ourselves why the 1967 Act is no reform at all: 'It retains the principle in law that the sexual conduct in question is unacceptable.' In discussing the other option of complete equality, they suggested that this might mark homosexuality as 'an acceptable or parallel lifestyle', and might even encourage 'the most bizarre manifestations such as homosexual marriage'. Robust indeed.

We had already sent out position papers and briefing documents to every member of Cabinet and to the opposition leaders. The structured options of the memorandum greatly clarified our



arguments. It also prompted us to use one very high-risk strategy. We contacted a member of the Cabinet and said that the only acceptable reform was one that abolished both the common law offences and the Victorian statutes. If these were retained, even with an equal age of consent, we would mount a campaign for the law's defeat and thus risk in one throw all the credibility we had gained. We subsequently learned that the Labour Party ministers, nearly half of the Cabinet, had agreed a common strategy: repeal of existing law, and a common age of consent.

### *Opposition*

Where in all of this were our opponents? Some were in the Dáil and Senate, in government as well as opposition. Some remained quietly unhappy at what their parties were agreeing to, while others ventured the occasional speech saying so. The fight was left instead to the ideological right-wing groups, whose hugely successful manipulation of Irish politics in the 1980s had given them an aura of invincibility.

One such group, Family Solidarity, took on the 'Homosexual Challenge' and published a book with that title. Much of their resources and all of their statistics came from the ideological right in the US and Australia. TV and radio audiences became acquainted with the syphilis statistics in Oklahoma, as well as the forty-five sexual partners that all gay men were supposed to enjoy in a weekend. Politicians' offices were flooded with such stuff. In a country where most view gays and lesbians as peculiar or simply different, the objective was to make us appear loathsome and riddled with disease.

They received little help from the press. We don't have anti-gay tabloids in Ireland, and elsewhere our articles and letters more than answered theirs. However, they got a more sympathetic response from TV and radio. News programmes tended to be fair, but the political and discussion programmes were dreadful. Not once was there a serious analysis of any issue: right to the end they maintained a 'bear-pit mentality'. Happily television as a medium doesn't favour bigots. Our opponents made a further surprising

contribution to the resulting laws. Because their own logic made any decriminalization simply intolerable, they were unable to comment on the various options open to the government. It was left instead to GLEN, and of course Senator Norris with whom we worked closely, to argue the detailed points of the emerging law.

And the role of the churches? Certainly not in alliance with ideological right, whom the churches mostly view with distaste. Every church leader and religious organization received letters from GLEN asking, not for support, but suggesting instead neutrality: 'Even if actions are considered sinful, why demand that they be defined as criminal?' Surprisingly often, instead of neutrality, we received statements of support. The (Anglican) Church of Ireland and other 'minority' churches backed law reform and anti-discrimination codes. The Catholic Church also took our point, and indeed quoted it. Their publicly expressed concerns were formal, and arrived late. The National Conference of Priests of Ireland even chided us for our pessimism, and suggested that identified lesbians and gays might have a positive role in the life of the church. Perhaps.

### *The parliamentary debate*

If the mark of success of a good campaign is to have the crucial points set down in the printed bill, then we had reason to be happy. The section of the bill that referred to gay sexual acts contained virtually everything we had fought for. (Unfortunately, the second section contained unexpected and ill-drafted measures against prostitution, which affected women prostitutes particularly badly. The new gay laws derived from a painstaking five-year campaign, the other laws from no discussion at all. Yet another lesson.)

The most encouraging note in an encouraging Dáil debate on decriminalization was set by Maire Geoghegan-Quinn.

What we are concerned with fundamentally in this bill is a necessary development of human rights. We are seeking to end that form of discrimination which says that those whose



nature it is to express themselves sexually in their personal relationships, ... in a way that others disapprove of, must suffer the sanctions of the criminal law.

The command from Strasbourg seemed forgotten: this was an Irish parliament extending Irish freedoms, and both the Dáil and Senate debates are worth reading in full. Listening in the gallery, we felt justified in our optimism that discrimination is not ingrained in Ireland, that diversity can be welcomed.

Perhaps the most astonishing moment came when the main opposition party, Fine Gael, proposed the raising of the gay age of consent to eighteen rather than seventeen. The proposal was treated with such general derision that the proposers filibustered their own amendment to ensure that there would be no Dáil vote.

By the most perfect of coincidences, the reforms were passed two days before the Dublin Lesbian and Gay Pride march, which turned into the happiest of street parties. ('What *did* we want? Equality!' 'When *did* we get it? *Yesterday*.') Saturday shoppers cheered us. They even thanked us. In a country used to the snail's pace of change in matters of social reform, this issue had been successful at the first attempt. To politicians and campaigners who had fought for divorce, and for the rights to contraception (let alone abortion), it marked a new era of possibility.

This article may appear to make large claims. I can only agree, and indeed I'd go further. It is, I would suggest, a sustainable claim that this campaign for legal and civil rights stands alongside the most successful campaigns undertaken in Ireland since our Independence, and is possibly even *the* most successful. The much-vaunted successes of the ideological right in the 1980s were largely negative holding operations and are in the (slow) process of being overturned. Of the positive reforming campaigns, it is very hard to think of one that has had virtually its full programme implemented at the first attempt and in a relatively brief period. I make the point because, even in our own communities, there is a vaguely articulated feeling that 'If it happened so easily, maybe it's not that important. Maybe Ireland was simply joining the rest of the world.' But it didn't happen that easily, and in the rest of the world there are only a tiny handful of countries with an equivalent spread of legislation. The

entire Irish lesbian and gay community, acting in genuine accord and with a coherent programme, achieved a remarkable result. We deserved our celebration.

'What will you do next?' 'Relax. A little.' From the start GLEN had tried to learn from previous experience. Our working meetings were always open to anyone who was interested. The only question ever asked was 'What work will you take on?' Perhaps the question intimidated, as we never had more than seven or eight members, often fewer. We worked collectively with no defined roles (if you were prepared to put the case to government or before the cameras, you were appointed co-chair). In six years we've not had one fight or even one unfriendly meeting (the blood was still too vivid on the walls from earlier struggles). We also did without a constitution, premises, paid workers, accountants and, to a large extent, funds. (The National Lesbian and Gay Federation and Nexus Research both helped with office facilities; a few good friends helped cover the costs of occasional public meetings and mail shots.)

Most of us had at one time been members of collectives working towards liberation. In our work now for equality in law, that target had seemed further off though still an objective. The paradox was that by finding our voice, and by stressing the simplicity of equality, we moved a surprising distance towards changing national attitudes, towards a welcome for diversity, towards liberation itself.