

Decriminalisation through the GCN Archive

Intro

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1977- 1988



What do we mean when we talk about ‘Decriminalisation’? Essentially, we’re referring to the passing of the Sexual Offences Bill 1993. The Bill decriminalised acts of ‘buggery’ and ‘gross indecency’ between consenting males over the age of 17.

Suffice it to say, a Bill of this magnitude was not passed lightly or overnight; in reality, it was a hard-won fight that had begun 16 years earlier when Senator David Norris first brought a case to the High Court against the Attorney General. Norris’s case failed in the High Court and was later rejected in the Supreme Court, prompting him to challenge the Irish rulings in the European Court of Human Rights. He argued that the *Offences Against the Person Act 1861*, which criminalised “buggery”, and the *Criminal Law Amendment Act 1885*, which referred to “gross indecency” – also commonly known as “the laying on of hands” – were in breach of his right to privacy under the European Convention on Human Rights.

In 1988, following a five-year review, the European Court finally found in favour of Norris, recognising that the Acts contravened Article Eight of the Convention. As a signatory to the Convention, the Irish Government was obliged to amend the archaic Victorian Laws.

But the success of Norris’s case was just the start of a further five-year battle to get the Government to overturn the legislation – one which would involve intense lobbying by the LGBTQ+ community and other civil rights organisations.

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1988



While the ruling and advances in the subsequent five years garnered widespread media interest, a newly published queer magazine paid particularly close attention to the proceedings.

Launched in February 1988, GCN was the brainchild of Tonie Walsh and Catherine Glendon and was published under the National Gay Federation (now NXF).

From the first issue, GCN pledged its allegiance to the cause, dedicating an entire page of its eight-page issue to outlining the precarity of the existing laws and the implications they had on gay men.

In the article, aptly titled ‘Bugger Off’, barrister Jim Treanor highlighted the laws’ impact on wider society and its understanding and attitude towards homosexuals.

He also delivered a call to arms to the community, suggesting ways to “do their bit for this worthy cause”. These ranged from joining a political party to writing letters to newspapers.

The front page of issue 8 in Sept that year, contained a report by Walsh about a Law Reform Seminar which had been held on September 17. Along with Kieran Rose informing the attendees of the trade unions' actions on employment equality, Tom Cooney, Chairperson of the Irish Council for Civil Liberties (ICCL), discussed a Working Party that had been established to undertake the task of producing a policy document on lesbian and gay rights.

In flagging the forthcoming judgement on the Norris case, Walsh also remarked, “...although many gay organisations have been working steadily on specific aspects of law reform it had been recognised for some time among activists that a comprehensive, high-profile public campaign was required”.

On page three of the same issue, in a short article titled ‘Norris Judgement Soon’, the unnamed journalist reminded readers that a favourable outcome was predicted. “Because of the similarity with an action taken by gay activist Jeff Dudgeon against the UK Government in 1982 - which later led to a change in the laws governing homosexual activity in Northern Ireland”.

Although the magazine was intended to be a monthly publication, the first year's output was erratic due to financial instability and staffing problems resulting from migration. As a result, there was a four-month gap between issues nine and ten, meaning the magazine missed out on reporting on the successful ruling on Norris's case from Strasbourg on the 26th October.

Coverage of the campaign resumed in issue 12 (October 1989) with a positive news report titled ‘No To Anti-Gay Laws’. It referred to a study released by the Law Reform Commission on child sex abuse.

The research included a comprehensive investigation into the law affecting relationships where it concluded that the existing anti-gay legislation should be amended.

In a further endorsement, it stated, “We have been unable to discover any compelling argument for fixing the age at which homosexual consensual conduct should be permitted... assuming the age for consensual heterosexual activity remains at 17, no case has been established for fixing a higher age for homosexual activity”.

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1989



The words, ' OUR DEMANDS', were emblazoned across the front of issue 13. The article was penned by Rose, now the co-chair of the newly formed Gay and Lesbian Equality Network (GLEN).

As another article on page three outlines, GLEN was set up to “provide leadership and coordination” in the Law Reform campaign. The Network comprised various groups, including the Cork Gay Collective, Gay Switchboard Dublin, Gay Health Action, and the National Gay Federation.

As well as pointing out the government’s obligation to uphold the European ruling, Rose outlined GLEN’s demands for the introduction of anti-discrimination legislation concerning housing and employment, an end to discrimination of lesbian and gay men regarding custody, succession and pension rights, and the introduction of non-judgemental sex education in schools.

The following two years saw intense pressure on the government and small wins. In October 1989, the Dáil passed the first legislation granting rights to homosexuals by way of the Prohibition of Incitement to Hatred Bill.

Margaret McWilliam reported in issue 17 that the ICCL had published the *Equality Now for Lesbians and Gay Men* report in March 1990.

When introducing the report, Cooney said, Δ. "It is important that everyone shame the Government into responding; it is the most fundamental human rights challenge facing the Government today...it is fair to say that we have the worst record in legal discrimination against lesbians and gay men [in Europe]."

May saw Family Solidarity, one of the most vigorous opponents to amending the law, publish *The Homosexual Challenge: Analysis and Response* booklet. Whilst Jonathan Wallace described it as “a clever piece of work” in his report, he and Don Donnelly, co-chair of GLEN, felt it was necessary reading for all involved in the campaign for law reform – “Know your enemy!”

Two years on from the Strasbourg ruling, in Issue 24 (November 1990), Thackaberry reported that Norris had instructed his solicitors to re-submit his case to the European Court of Human Rights, seeking punitive damages due to “the long delay in bringing Ireland’s law into line with the European Convention on Human Rights.” Δ. And in December, GCN reported that Ireland was being called to account for its inaction over the ruling.

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1991 started positively. In February, GCN reported that the then Minister for Justice, Ray Burke, confirmed the Taoiseach, Charles Haughey's announcement that he would present the new legislation to the Senate by the end of the year. Furthermore, a cabinet reshuffle in March suggested that Minister Burke's workload had been lightened to allow him more time to concentrate on law reform.

However, by October, a spokesperson for the Department of Justice confirmed to GCN that fears of the legislation being further delayed were likely.

1991 also saw a troubling ruling on a rape case before the Dublin Circuit Criminal Court. In issue 28 (March), an article titled 'Sex Crime' reported that a man had been sentenced to two years imprisonment under the 1861 Offences Against the Person Act.

Although the 32 year-old man had been charged with raping and indecently assaulting his former girlfriend, the judge and jury decided the rape charges had not been proven beyond reasonable doubt.

However, since the man had admitted to having anal sex with the woman by way of evidence – asserting that it was consensual and a practice that the woman had introduced him to – the court convicted him of buggery.

Whilst this was believed to have been the first conviction under the 1861 law in many years, the government had claimed it was never enforced when it was called to Strasbourg the previous year.

Moreover, the solicitor for the convicted man said that they would appeal the sentence to the Court of Criminal Appeal and the European Court of Human Rights, citing Norris's case as precedent.

1992 brought little in the way of advancement. With Albert Reynolds becoming Taoiseach in February, a new ministerial cabinet was appointed, creating confusion over when the reform might be tabled, prompting GLEN to throw a party outside the gates of the Dáil on 28th October.

The party was "to 'celebrate' four years of promises and insults from the government".

Invites were sent to all members of the Oireachtas, along with a pink ribbon to wear as a symbol of support.

Suzy Byrne read a responsorial psalm titled 'The Sayings of Albert' with the response of "Oh Albert!" while the Diceman sported a banner telling politicians to "get off their bottoms" and that "a kiss is just a kiss".

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By November, a general election had been called, resulting in a Fianna Fail Labour coalition forming in January 1993, with Reynolds retaining the post of Taoiseach.

Immediately, the new government proved to be more progressive, appointing a dedicated ministerial post with special responsibility for equality. Labour TD Mervyn Taylor was awarded the honour, tasking him with addressing discrimination in the workplace, housing, education and the provision of services. The decriminalisation of homosexuality was also included in the programme for government, with Máire Geoghegan-Quinn being appointed Minister for Justice.

And the government continued to uphold their promises. By February, Minister of State for Labour Affairs Mary O'Rourke introduced sexual orientation in the Unfair Dismissals Act.

The front page of issue 51 (May 1993) posed the question, 'Legal at Last?'. The article broke the news that the Department of Justice had begun talks on law reform, citing a leaked draft memorandum as its source. Essentially, the document suggested that two options were being presented to the government for consideration.

The first option would bring Irish law in line with British law, meaning the existing legislation would be amended to permit an age of consent over 21 and only in private. The second option would repeal the 1861 Act and parts of the 1885 Act and then introduce new legislation protecting young persons.

On page 15 of the same issue, Suzy Byrne delved into the implications of the various outcomes, generally favouring option two with an age of consent of 17, in line with the existing heterosexual age of consent.

By the 18th May, the Government Information Service released a statement saying, "The Minister for Justice, Mrs Maire Geoghegan-Quinn TD, today announced that she had secured government approval for her legislative proposals in response to the Judgement of the European Court of Human Rights in the Norris case."

It continued, "On the Minister's recommendation, the Government agreed to repeal the existing law on homosexual acts and to enact new provisions prohibiting such acts with persons under 17, in a similar way to the existing prohibition on sexual intercourse with young girls."

The Dail eventually passed all stages of the Sexual Offences Bill 1993 on the 24th June. The Bill was passed by the Seanad on the 30th June, and on the 7th July,

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	<p>1993, it was signed into law by President Mary Robinson – who, prior to her presidency, had been legal counsel on Norris’s case.</p> <p>Issue 54 (August 1993) displayed a full-page photo of four people toasting glasses of champagne outside Dáil Éireann.</p> <p>They were Chris Robson, Kieran Rose and Suzy Byrne of GLEN, and Phil Moore, founder of Parents Enquiry, an organisation set up to support parents of LGBTQ+ people.</p> <p>It was the first time the magazine had printed a full-page image on its cover and was a fitting tribute to the incredible campaign that Norris, GLEN and the rest of the community had fought so incredibly to achieve “decriminalisation”.</p>
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List of Referenced Articles

- [‘Bigger Off’](#) - Issue 1, page 7, February 1988
- [‘United for change’](#) - Issue 8, page 1, September 1988
- [‘Norris judgement soon’](#) - Issue 8, page 3, September 1988
- [‘No to anti-gay laws’](#) - Issue 12, page 3, October 1989
- [‘Our demands’](#) - Issue 13, page 1, November 1989
- [‘Our rights, where they stand’](#) - Issue 13, page 3, November 1989
- [‘ICCL blasts Govt’](#) - Issue 17, page 1, April 1990
- [‘Norris to Europe’](#) - Issue 24, page 6, November 1990
- [‘Govt called to account’](#) - Issue 25, page 1, December 1990
- [‘Govt to implement Strasbourg Ruling’](#) - Issue 26, page 3, February 1991
- [‘Sex Crime’](#) - Issue 28, page 3, March 1991
- [‘Legal at Last?’](#) - Issue 51, page 1, May 1993
- [‘The politics of morality’](#) - Issue 51, page 12, May 1993
- [‘Secured Government Approval’](#) - Issue 52, page 1, June 1993
- [Issue 54, August 1993](#)