

The Meaning of Civil Partnership for Same-Sex Couples in Ireland:

An Interpretative Phenomenological Study

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Declaration

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Names & Acronyms

AHR	Assisted Human Reproduction
AMACH Kerry	LGBT support service, Kerry, South West Ireland
BeLongTo	Support and advocacy group for LGBTQI youth
CSO	Central Statistics Office
DLGMC	Dublin Lesbian and Gay Men's Collective
Dundalk Outcomers	LGBT support service in North East Ireland
DVAS Sligo	Domestic Violence Advocacy Service, North West Ireland
Equality Authority	Governmental body which promotes equality in Ireland
GAELICK	LGBT blog
GCN	Gay Community News (publication of NLGF/NXF)
GLEN	Gay and Lesbian Equality Network
GLF	Gay Liberation Front (UK)
HSE	Health Service Executive
Iona Institute	Conservative Catholic group promoting traditional views of marriage and religion in society
ICCL	Irish Council for Civil Liberties
IGRM	Irish Gay Rights Movement
IHRC	Irish Human Rights Council
KAL Case	High Court case taken to seek recognition of their Canadian marriage by Dr Ann-Louise Gilligan and Dr Katherine Zappone
LATS	Living alone together structure for relationships
LRC	Legal Reform Commission
LGB/LGBT/LGBTQI	Referring to Lesbian, gay, bisexual people/Lesbian, gay, bisexual, transgendered people and lesbian, gay, bisexual, transgendered, queer and intersex people
LGBT Noise	Civil society group supporting LGBTQI rights in Ireland
Marriage Equality	Civil society group advocating for civil marriage rights for same-sex couples
NLGF/NXF	National Lesbian and Gay Federation (renamed NXF in 2013)
NWCI	National Women's Council of Ireland
NESF	National Economic and Social Forum
Outhouse	Resource centre supporting LGBTQI community, Dublin

Abstract

The Meaning of Civil Partnership for Same-Sex Couples in Ireland:

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By Gráinne (Gertrude C.) Healy

This thesis explores the meaning of Civil Partnership for same-sex couples in Ireland. An interpretative phenomenological study, it examines the relationship recognition experiences of lesbian and gay couples in Civil Partnerships. Using the philosophical texts of Heidegger and Gadamer, the study explores *Dasein's* (human beings) mode of being-in-the-world (Heidegger 1969) and how we make sense of our thrown-world through interpretation and language (Gadamer 1979). The study takes the reader on a journey in which a deepening understanding of the meanings and significance of relationship recognition for same-sex couples and wider society emerges. Deploying an interpretative analysis of the experiences of 12 same-sex couples and a fusion of horizons (Gadamer 1979) which includes sociological relationship recognition and sexuality studies discourses, the study includes a review of the socio-historical emergence of relationship recognition forms. Chapters One and Two outline the historical discourse on sexuality and non-normative sexualities and Chapter Three examines the context for the emergence of the same-sex relationship recognition construct of Civil Partnership in Ireland in 2010. Chapter Four presents the methodology and details the research methods. Chapters Five, Six and Seven discuss the themes which emerge from dwelling with the data (Heidegger 1969). These include: an exploration of Civil Partnership as a Be-coming-out for same-sex couples (Chapter Five). Civil Partnership is seen to be of huge importance for couples as its recognition brings a crucial sense of belonging to them (Chapter Six). Chapter Seven examines a further significant theme of Civil Partnership, parenting rights and family. In Chapter 8 the study suggests that while Civil Partnership offers the two adults entering Civil Partnership significant rights and recognition, the absence of parenting rights in the Act means that same-sex headed families are not gaining recognition through Civil Partnership, but rather are left without a significant element of affective equality, thus their families remain insecure and unrecognised.

Chapter 1. Introduction and Overview

Let the people who never find true love
Keep saying that there's no such thing.

Their faith will make it easier for them to live and die.

(*'True Love'* Szymborska, W. 1998, p.141)

1. 1. The Research Journey: an Introduction

This study is entitled 'The Meaning of Civil Partnership for Same-Sex Couples in Ireland: An Interpretative Phenomenological Study.' The subject is the legal and social recognition of same-sex relationships and how lesbian women and gay men experience and understand this phenomenon. The Polish poet Szymborska in the excerpt from her poem '*True Love*' above (1998, p.141) captures a significant element of the motivation for pursuing this study - that of the denial of the reality and depth of loving relationships, in this case same-sex love relationships. The advent of Civil Partnership in Ireland has allowed the love between same-sex couples find a public space, gain a visibility, take on an acknowledged value. This study takes the reader on a journey from the historical denial of same-sex love through an exploration by couples of what relationship recognition means for them, and how the experience of Civil Partnership in Ireland has impacted on their personal and wider social relationships. It offers an analysis of the implications of relationship recognition for those in same-sex love relationships. Such relationships are a phenomenon about which for so long many have been '[...] saying that there's no such thing' (Szymborska, 1998, p.141). This study examines the lived reality for same-sex couples.

1.2. Aim, Purpose and Research Question

The aim of the research is to explore the meanings and understandings that same-sex couples in Civil Partnerships give to their experiences of relationship recognition. The purpose of this hermeneutical phenomenological study is to discover the meanings that lesbian women and gay men attach to those experiences of Civil Partnership, the structure for legal recognition of same-sex relationships in Ireland since 2010. The research core question is ‘What is the meaning of Civil Partnership for same-sex couples?’

1.3. Overview of Study

The journey of the study takes place over eight chapters. Chapter 1 continues below with an exploration of the emergence of human relationships and their recognition through an examination of how marriage was historically created for the protection of property and ownership of women and progeny amongst heterosexuals. Various developments in marriage over time have led to modern marriage being viewed as mostly about love and family connections, but still this institution contains significant legal rights and protections for married families. While other relationship structures have emerged as alternatives, marriage is still the construct with the most privileged position in society. Other heterosexual relationship constructs have emerged alongside marriage and it is into this developing context that same-sex relationship recognition constructs such as Civil Partnership has emerged.

Having established the origins of relationship recognition and marriage, Chapter 2 takes the reader on an exploration of the treatment of same-sex sexuality and the socio-historic emergence of same-sex relationship recognition, including the influences of key institutions and their attitudes towards and understanding of same-sex sexuality and same-sex relationships. Following this overview and discussion, Chapter 3 explores the background to and provisions of the Civil Partnership and Certain Cohabitants Act (2010) which introduced same-sex relationship recognition into Ireland.

Chapter 4 describes the Research Methodology for the study and details the research methods used in this interpretative phenomenological study. Chapters 5, 6, and 7 present the analysis and interpretation of interview data provided by 12 same-sex couples in Civil Partnerships and discusses the research findings emerging from that data, establishing the meanings of Civil Partnership for same-sex couples. Finally, Chapter 8 concludes the reader's journey when it lays out the conclusions and recommendations arising from the study. It is a voyage of discovery of same-sex love relationships and an exposition of the meaning of relationship recognition for those entering Civil Partnerships.

1.4. Choice of Topic and Proposed Contribution

As a lesbian woman and gay rights activist I have been involved in the Irish campaign to access civil marriage rights for same-sex couples in Ireland, through being the Chairwoman of Marriage Equality which considers the 2010 Civil Partnership legislation as a milestone. For the first time it regulated same-sex relationships. However, marriage continues to be preserved for heterosexual couples in Ireland and provides Constitutional protections for the married family under Article 40.1 of the Irish Constitution (*Bunreacht na hEireann* 1939). Academic and media debates on the subject of same-sex relationship recognition have been polarised into “*pro*” and “*anti*” same-sex marriage debates as the decision to hold a referendum on the issue is confirmed. My interest in the topic is a concern to understand the experiences of lesbian and gay couples who have entered Civil Partnerships, using a hermeneutical phenomenological approach to examine and interpret what the phenomenon means for these couples who have experienced the recognition of their same-sex relationships. My passionate interest in the subject as a social justice advocate has led me both to explore what couples understand Civil Partnership to mean, and to explore the significance of Civil Partnership in their lives. By listening to their narratives and ‘dwelling’ with the themes, the study seeks, in Heideggerian terms, to come to a ‘clearing’ where an understanding emerges of Civil Partnership. This interpretation contributes to the body of knowledge on same-sex relationship recognition in Ireland and elsewhere (Heidegger 1962). There is a dearth of such research and little examination or exploration of the specific Civil

Partnership experiences of same-sex couples in Ireland. This present study makes a contribution to that field.

1.5. Context: Relationship Recognition - The Heteronormative Model: Marriage

Legal recognition of adult relationships is most commonly understood as marriage. Marriage has become a story focussing increasingly about choice of sexual partners, a celebration of romantic love. More recently, a view of marriage has emerged of the marriage ideal as that of companionate marriage (Lyons and Lyons 2011). The *Dictionary of Sociology* defines marriage as ‘traditionally conceived to be a legally recognised relationship, between an adult male and female that carries certain rights and obligations’ (Scott and Marshall 2014). The term ‘traditionally’ belies the recent inclusion of same-sex couples into modern marriage provision in some jurisdictions. The origins of this long-standing relationship recognition construct are contested (Bachofen 1861; Morgan 1877; McLennan 1886). What we do know about marriage is that the tradition has changed over time, some of the changes include the move from polygamy to monogamy in many parts of the world; what was thought as “for life” became impermanent with the introduction of divorce; recognition of rape within marriage was established; changing ages of eligibility to marry have been enacted and more recently we see the inclusion of same-sex couples in marriage in some jurisdictions. An examination of marriage, its functions and its place amongst modern emerging relationship constructs sets the heteronormative context as background for this study exploring the meaning of Civil Partnership for same-sex couples.

As a durable form of relationship recognition, the functions of marriage have changed very little – the key elements established themselves when societies began to end indiscriminate mating between men and women (Bachofen 1861). The early functions arise from the regulated exchange and ownership of women, the orderly management of property ownership and the rearing and ownership of children (Morgan 1877). Marriage rules became the rules for organising society and were a civilizing practice which deeply

influenced the evolution of family forms (Engels 1972). The rise of patriarchal organised society supported the accumulation of private property and private wealth, and monogamous marriage supported this (Engels 1884). Influenced by Morgan (1877), Engels recognised the historical material conditions including the rise of private property which led to monogamous marriage and the monogamous family form. While polygamy was evident in many early communal societies and in early Greek city states, it was the prohibition of polygamy infused by Christian doctrine that influenced the shape of western-world marriage as monogamous (Anderson 2012). Marriage became primarily a property arrangement, with women and children included in the property package (Boswell 1994). St Paul (Turner 2004) and St Augustine laid out the marriage rules for Christians which sought to control human sexual desire by allowing it be used only for procreation purposes, between a man and a woman, within marriage (Saint Augustine 1961). It was in the twelfth century that canonical rules regarding modes of conducting marriages were devised by the Christian church and marriage became a sacrament (Brook 2002). Marriage which had begun as a way to regulate sexual relationships, property rights and procreation was now in the Western world, firmly in the control of the Christian church. By turning it into a sacrament, the Church successfully exerted 'its power as a system of belief and practice relating to the sacred' (Turner 2004, p.289).

Following the Reformation, marriage became a civil contract in the Protestant churches and was no longer had sacramental status, also divorce was permitted on very limited grounds amongst Protestants (Fisher 1992). Monogamous, Christian, procreative-based heterosexual marriage became the norm for adult sexual relationship recognition. With the advent of marriage as a civil matter, the fundamental concept of it as heterosexual, permanent, procreative and a property-protective institution was copper-fastened.

Until the end of the nineteenth century, in Western culture, ecclesiastic and civil codes governed sexual practices. These codes laid out what was 'licit and illicit' (Foucault 1978 p.37). They laid out what was acceptable in the family and they usually centered on marriage

– the husband and wife relationship; their obligations to each other; what was forbidden and what was allowed. Foucault (1978) tells us ‘the sex of husband and wife was beset by rules and regulations’ and marriage became subject to such rule and regulation, that it was ‘required to give a detailed account of itself’ (Foucault 1978, p.37). What was seen as “family” had become shaped by heterosexual, monogamous marriage and these relationship types became the standard union promoted, accepted and adopted by Western societies. Those who were ‘other’ came under scrutiny. These others included non-married (see Luddy 2007 on unmarried women), children and their sexuality, as well as men and women who desired same-sex relationships (Foucault 1978). This latter category came to be set apart as unnatural and became the subject of the developing field of sexology. The medical field ‘classified, created categories and undertook to manage’ these ‘unnatural’ people’ (Foucault 1978, p.46). A detailed examination of this historical treatment is contained in Chapter 2.

In Britain (and Ireland under British rule), by the nineteenth century, there was widespread acceptance of marriage (Weeks 1981). After Lord Hardwick’s *Marriage Act* (1753) (full title ‘For the Better Preventing of Clandestine Marriages’), church weddings, as opposed to ‘verbal spouse-hoods’ (that is verbal agreements to be married), become the single legally binding form of marriage. The 1753 Act withdrew legal recognition from informal common-law marriage (Barlow *et al.* 2005). The 1753 Act made compliance with formalities necessary, including compulsory registration in the parish register. Parental consent was required up to the age of twenty-one and the solemnisation of marriages before a recognised registrar, such as a priest or a monk, took place in churches (Barlow *et al.* 2005). The subsequent *Marriage Act* (1836) and the *Registration Act* of the same year, allowed for civil registration of marriages and effectively ‘established total state control over marriage’ in Britain and Ireland (Barlow *et al.* 2005, p.27). The enforcement of marriage was thus transferred to secular authorities, though the purpose and duties of marriage had been greatly shaped by earlier ecclesiastical control. Marriage became the route to respectability and stability (Weeks 1981). The monogamian family (Anderson 2012) had gained dominance

and the closed, domesticated nuclear family was emerging (Stone 1977). This nuclear family form based on marriage emerged as the core economic unit for Western society (Engels 1884) including Ireland.

In Victorian times married families became the recognised site of socialisation of children and continuing socialisation and control of adults (Stone 1977). The function of the married family was to secure the maintenance of social order, '[...] economically, ideologically and sexually' (Weeks 1981, p.25). By Victorian times, marriage was moving away from the earlier kin and property considerations towards an acceptance of sexual love as a basis for marriage (Stone 1977; Weeks 1981). By the end of the nineteenth century, this new ideology of family comprised a revised set of rules relating to marriage, the family and home. These were the new norms of the closed, domesticated nuclear family, where affective individualism now made the home more private for families and less influenced by or open to influence of wider kin and neighbour (Stone 1977). The married family became a world where emotional and sexual fulfilment was expected (Giddens 1992). The belief began to spread that the sexual component of relationships was now vital to marital harmony (Weeks 1981). However, the influence of the state and other apparatuses of control still held the marriage rules firm and kept property management, child bearing and rearing and sexual relationship control firmly within the realm of the married family (Foucault 1978). Despite changing family forms (Stone 1977) across centuries we see that marriage, forming the nuclear family, remained a central plank in the formation and regulation of relationships and family structures. The influence of the Catholic Church in policing dating and social interaction of young people and the influence of church/state relations on education, health and social policy in Ireland, meant that the move to widespread public understanding of the romantic marriage ideal was somewhat delayed in Ireland (Ferriter 2009).

While married couples were for the longest time the only socially recognized and respectable form of non-kin relationship, they have since the twentieth century been joined by those constructs inhabited by those who are divorced, separated, cohabiting, those living apart

together (LATs) and also those in relationships, but living alone. Smart (2011) explores what these changing patterns of intimate living mean for contemporary personal life, where love and emotions are now the driving forces for intimate relationships. The transition of families from modernity to post-modernity has led to familial liberation characterised by choice, freedom, diversity, ambivalence and fluidity. Contemporary family relationships are undecided (Stacey 1990). Changes in marriage patterns affect family patterns and changes in family patterns affect marriage patterns. The concept of 'doing family' rather than being a family is part of post-modernist thinking (Butler 1990) whereby family is no longer a set concept but rather made up of multitudinous sets of possible practices.

Marriage in Western cultures has for some time been based on romantic love (Giddens 1992). There is an assumption that intimate sexual relationships which result in marriage are for the most part based on romantic love (Smart 2011). Marriage is no longer the only basis for family life, even if it remains the one with the most legal support and protection (Barlow *et al.* 2005). The fluctuations in patterns are as a result of the fact that it is no longer compulsory to get married (Giddens 1992). 'Sociologically speaking, there is insufficient evidence to suggest marriage is better than cohabitation' in terms of stability of relationships (Smart 2011, p.39). Many people are opting for cohabitation rather than marriage or are cohabiting for periods before marriage. These changing patterns are interpreted by some as signs of the inexorable rise of individualism and break-down of family (Fukuyama 2000). Others (Giddens 1992; Beck and Beck-Gersheim 1995) see cohabitation as the best form of partnership for conducting democratic, consensual pure relationships in post-modern society. 'We no longer live under externally imposed codes, even if we want to' (Barlow *et al.* 2005 p.2). By this they suggest that people are choosing cohabitation and going against what was the almost hegemonic hold of marriage that society once imposed. Not only are rates of marriage and cohabitation changing, but so too are the cultural meanings of both (Smart 2011). In Ireland, cohabiting couples are on the increase, between 2002 and 2011 the increase was 11,000 per year (CSO 2014). In Ireland, while cohabitation was not very

common until the last two or three decades, we see an increase in numbers, but a slowing down of the rate of growth for cohabitation (CSO 2014).

In exploring this new phenomenon we may wonder why so many heterosexual couples are choosing to live together, despite the fact that such arrangements are inferior in law to marriages (Barlow *et al.* 2005). Marriage gives partners substantial and automatic legal benefits which they do not possess as unmarried cohabitants. In Ireland, constitutional protection is provided to the married family, giving it status and protection. The effect of this is that cohabiting families are legally vulnerable. Yet more and more heterosexual couples who could marry, are choosing cohabitation. In Ireland, as elsewhere, cohabitation is often seen as being a precursor to marriage (CSO 2012). The question of why so many couples are opting for cohabitation is a question for another study, but it is a common modern phenomenon.

Two other relationship forms have joined marriage and co-habitation in recent times and they are Solo Living where people may be in relationships but choose to live alone. Also, Living Apart Together (LATs). LATs is where couples entering new relationships choose to maintain two households. Solo living is the choice made by some people following divorce or separation to live alone though entering into a new relationship (Smart 2011). Divorce rates in Ireland have levelled off, following the introduction of divorce in 1996. Divorce, once seen as a worrying problem for family life, is now seen as ‘one transition amongst others’ in the normal life course (Smart 2011, p.44). These more recent forms of relationship set-ups show the fluidity of intimate relationship and family life. Yet, significantly, in terms of relationship recognition and regulation – these emerging forms of relationships are socially recognised but are not recognised in family law, nor privileged in the manner that married relationships are.

The principal debate about marriage and family in the twentieth century has:

[...] revolved around the so-called romantic love complex, that is, the notion of love as the basic motivation for marriage and

intimacy as the foundation of marital happiness (Turner 2004 p.302).

We have seen how in earlier times marriage was essentially a contract between two families ‘[...] designed to legitimise sexual intercourse in order to guarantee the continuous ownership and distribution of property through new generations’ (Turner 2004, p.302). Modern marriages represent a transformation of this traditional pattern. Modern marriages seek to base marriage on romantic attachment and to define marriage in terms of companionship and intimacy. More and more courtship and dating in youth are significant: love, rather than economic partnership or family alliance, is becoming the sole justification for marriage (Turner 2004). This results in ‘high rates of marriage, high incidence of adultery and high levels of remarriage, and extensive intra-familial conflict across generations’ (Turner 2004, p.302). This is the modern pattern of marriage and family (Beck and Beck-Gernsheim 1995). Amongst these patterns sits the growth of cohabitation and other modern structures creating new family forms (Barlow *et al.* 2005; Brown and Booth 1996). Whether these changes are a move towards a brand new relationship form of pure relationships of love (Giddens 1992) characterised by ‘equality, intimacy and sincerity’ is contested (Turner 2004, p.302; Jamieson, 1998). Companionate relationships of marriage or cohabitation entered into for the sake of intimate companionship and not for the procreation of children are very evident in modern times (Turner 2004). Thus some couples are choosing not to have children as part of their relationship plan as heterosexuals. It is into this pool of emerging relationship and family forms that same-sex relationship recognition has entered in recent times.

As marriage patterns and family forms alter family shape, many of the traditional protections afforded married families continue to apply to the married family only. Forged from marriage requirements in earliest times, marriage regulation still provides protection for children, still provides protection for the family itself and still provides protection of property ownership (including other financial protections relating to pensions, inheritance

and welfare). Many of the earlier rights and duties still pertain, even if procreation, since the advent of contraception, is no longer the primary enforced function of marriage.

Marriage, as the dominant legal relationship recognition construct is not without its critics. Key amongst these critics are feminist theorists who have critiqued heterosexual marriage and some of whom continue to critique the possibility of same-sex couples entering marriage. Early feminist writers like Friedan (1963), Oakley (1974a, 1974b) Firestone (1979) and Rich (1977, 1986a, 1986b) raised questions which led to heterosexual marriage being seen as an oppressive institution with grave consequences for women's autonomy and freedom. It was Rich's (1986b) "compulsory heterosexuality" analysis which saw marriage as a tool for replicating and enforcing heterosexuality. Her work began the modern focus which feminists have brought to bear on marriage. Many of the arguments and criticisms for and against same-sex marriage are rehearsed in much of the feminist discourse on marriage over the last four decades.

Rich (1986b, p.25) spoke of how it was necessary for feminists in the early 1980s to 'take a critical stance toward the ideology which demands heterosexuality'. She advocated resistance as a major strategy to defeat enforced heteronormativity. Resistance to marriage was included as a political strategy. According to Rich, heterosexuality was the presumed sexual preference of most women. Heterosexuality is enforced by patriarchal society through use of means to convince women that 'marriage and sexual orientation towards men are inevitable' (Rich 1986b, p.39). For Rich, the failure to examine critically the forces that push us towards heterosexuality is problematic. She suggests it leads to a gap in our analysis of women's subjugation. She compares that failure to see enforced heterosexuality to one which fails to see the economic system of capitalism or the caste system of racism as oppressive systems, maintained by forces which uphold them (Rich 1986b). Rich's work was motivated by a desire to raise awareness of how lesbian existence had been hidden and unrecognised, but the result of her short essay was to lead many scholars and theorists to focus on the

concept of compulsory heterosexuality for all and acknowledge marriage as one of its oppressive institutions.

Jeffries (2004, p.327) calls for the abolition of marriage as a state institution because it 'is the legal mechanism whereby women are tied to heterosexuality as a political institution' . Where lesbians and gay men call for access to marriage, they '[...] shore up a foundational practice of male dominance' as 'marriage exists to form the cement for hetero-patriarchy' (Jeffries 2004, p.330). Jeffries rejects marriage itself because as long as it exists, it will put those who are not married into some sort of lesser social category when compared to their married counterparts. It also ties those who are married to compulsory heterosexuality. She opposes both heterosexual and same-sex marriage - the former, because it reinforces compulsory heterosexuality, and the latter, because same-sex marriage supports marriage as an institution of normativity and hetero-patriarchy.

The family based on marriage is seen as a traditional site of exploitation for women. The historically uneven burden which women carry in the married family structure, where women do the unpaid caring work, has been well researched and theorised upon (Delphi 1992). Women are seen to be disadvantaged within marriage. This theme is taken up by Richardson and Turner (2001) when they examine women's disadvantage in paid employment and how their caring responsibilities impact on their ability to achieve equality as citizens. Calhoun (2000) draws our attention to the fact that while these earlier feminists were using compulsory heterosexuality as a concept to critique the family and marriage – it was largely with a lens on heterosexual women's experience, to the cost of making the lesbian experience almost invisible in this early theory. For Calhoun (2000) the painting of a lesbian (non-married) as an example of someone who perfectly resisted heteronormativity and hetero-patriarchal relations came at a cost. That cost was one of silencing the reality of lesbian experiences and realities. The result kept lesbians from public policy spaces – in particular prevented them from having definitional authority to name their families or have their same-sex relationships recognised in law. The gender analysis of feminists alone does

not explain or convey the lesbian and gay identity and experience of systematic subordination – Calhoun calls on us to apply a further lens to the gender, class and race lenses (which were latterly added following criticisms of feminism in the 1980's). She calls for a new axis of systematic subordination – heterosexism – to be recognised - not as a subset of gender oppression, but as a form of lesbian and gay subordination requiring its own documentation and analysis (Calhoun 2000). This lens, when taken to same-sex couples' experience of parenting and family rights throws light upon and helps us understand what Civil Partnership means to same-sex couples (see Chapter 7).

For many theorists, marriage is also seen as playing a key role in the construction of masculinity – where for men, heteronormative roles, fed by masculinity, insist on men playing gendered roles and fail to provide men with the space to explore their identities. Or the opposite, men have dominant masculinities thrust upon them, as women have feminine identities enforced (Connell 2005). Marriage is a site of masculinity construction, an institution whose impact on men is to push for male heteronormative conformity and compulsory heterosexuality for both partners.

Feminists have always been sceptical of the promotion of marriage by Church and State and they have critiqued the discourses of love, romance and coupledness that surround the institution of marriage in western culture (Finlay and Clarke 2003, p.413).

We see how much of this critique was used when feminists began their work examining marriage in the period from the mid 1970's into the new century. It has been largely linked to themes of marriage and the role of housewife (Friedan 1963; Oakley 1974b); marriage and the exploitation of women's unpaid labour (Delphi 1992) and the issue of domestic violence and marriage (Dworkin 1981). For feminists, the promotion of marriage by church and state has made them sceptical of the benefits of marriage and their research efforts have shown how marriage is linked to or is a support for linked subordinations of women, from labour exploitation to gender violence. These theorists have joined with the voices of those

criticising the construction of masculinity to see marriage as a site of enforcement for heteronormativity (Altman 1972; Connell 2005, Sedgwick 2008).

While noting that theorists in the 1990s were exploring individual agency and structural constraints as reasons for the problematic nature of marriage, Robinson (2003) concurs with Jamieson (1998) who rejected Giddens's (1992) claim that the shifts in heterosexual couples' ways of relating are more egalitarian or based on mutual disclosure. For Robinson (2003), an examination of practices in heterosexual relationships is a more useful way to conceptualise how people 'do' heterosexuality or gender, allowing for fluidity and changes in relationships and the agency of the individuals involved. Robinson and other feminist and masculinity theorists are not yet convinced that marriage has been redeemed by becoming more egalitarian. However, what is agreed is that marriage remains the single most recognised legal relationship recognition construct. It is a construct to which same-sex couples are entering or seeking to enter. On this journey, they are moving progressively by entering domestic partnership or civil partnerships of various hues, as they progress along the path to equality of relationship recognition in marriage equality (further discussed Chapter 2).

Marriage continues to support the management and regulation of property rights, and it is one space in which childrearing continues. Marriage has been joined by other heterosexual and same-sex relationship forms which share the key functions of marriage: property management, child-rearing, care giving and sexual relationships. These new forms are mostly unregulated but are creating new diverse family types in contemporary society. Despite changes in heteronormative relationships and family forms, marriage remains central to family and relationship ideals and the benefits, legal protections and social significance of this ancient institution remain strong. Marriage retains its primacy in legal and social terms despite feminist and other critiques of it.

The rights and obligations of Civil Partnership are experienced by same-sex couples and for the most part measured against the normative ideal – heterosexual marriage. The changing

shape and fluidity of modern love relationships provides an opportunity for and a context within which loving couples in same-sex relationships are staking their claim for relationship recognition equality.

Chapter 2. Socio-Historic Review of Same-Sex Relationships and Emergence of Same-Same Relationship Recognition

2.1. Introduction

This chapter begins the detailed uncovering of same-sex relationships. It explores their historical background leading to the emergence of same-sex relationships and the current demand for same-sex relationship recognition. It begins by exploring attitudes towards same-sex oriented sexuality and same-sex relationships socio-historically. This chapter goes on to explore the birth of organised resistance to homophobic prejudice in the 1960's and the foundation of the Gay Liberation Movement that created a community which began the struggle for recognition of identity rights for lesbians and gay men. The emergence of relationship rights for same-sex couples is examined and shown to be contested even within the LGBT community. It argues that the demand for such rights is a resistance to the displacement of lesbian women and gay men and their relationships from public institutions, including those of the family and marriage. The provision and take up of same-sex relationship recognition is detailed and finally, recent studies conducted on this emerging area of research on same-sex relationship recognition are examined to identify emerging themes. The detailed uncovering of same-sex relationships begins here.

2.2. Same-Sex Love and Same-Sex Relationships: a Socio-Historical Review

The acknowledgement of romantic same-sex relationships in earlier societies suggests that there has always been a variety of human romantic/sexual alliances with varying societal responses. This acknowledgement dispels a modern myth that such things never happened until modern times (Boswell 1994; Eskridge 1993; Crompton 2003). Sullivan suggests that

[s]ame-sex love as *Plato's Symposium* shows, is as ancient as human love, and the question of how it is recognized and understood has bedevilled every human civilization (Sullivan 1997, p.3).

However, homosexuality has been viewed as a sin and a capital crime for the longest time (Crompton 2003). The literature depicts a history of homosexuality and lesbianism and shows that same-sex relationships existed from earliest ancient societies and in pre-Christian Europe (Boswell 1980; 1994, Eskridge 1993, Crompton 2003). Evidence is provided that same-sex relationships suffered ‘the dire consequences of officially sanctioned prejudice’ (Crompton 2003, p.xv).

2.2.1. Roots of Officially Sanctioned Prejudice against Same-Sex Sexuality

Pre-Christian Greek society and culture (776-480 BCE) has left us evidence in writings, art and theatre that male love:

[...] was pervasive throughout all levels of Greek society and held an honoured place in Greek culture for more than a thousand years from 600 BCE to about 400 BCE (Crompton 2003 p.2).

Some evidence of lesbianism at this time exists from the remnants of art and writings such as Sappho’s poetry. However, in post classical Western society, the homosexual hero became an object of vilification and homosexuality became associated with ‘sin, crime and sickness and in the political sphere, with weakness and treason’ (Crompton 2003, p.31). The questions to be asked are why and how did this change in attitude and resulting change in treatment take place?

Answering these questions means looking to Mosaic and Judaic writings from Babylon (c.500 BCE). One of the five books of Torah law contains the *Book of Leviticus* in which we find the Judgement of Leviticus (Lev. 18-24, Holy Bible 1982). This judgement condemns certain sexual acts, including incest and male homosexuality. Jews were warned that these ‘abominations’, common amongst non-Jewish peoples, if practiced by Jews would likewise lead to their dispossession of the lands they had so recently claimed for themselves from the Canaanites in Palestine (Crompton 2003). The penalty for a man who ‘also lieth with mankind as he lieth with a woman’ according to Leviticus should be death (Lev. 20:13, Holy Bible, 1982). Leviticus is seen as the basis for much of the law on

homosexuality that was introduced by subsequent states and in particular was included in the influential Justinian Code in the 6th century, which affected law-making of Western Europe for centuries.

This view of homosexual behaviour and the harsh penalties attached to it became significant and influential for the Western world, as Judaism became the parent of Christianity, and as Christianity spread throughout the Western world and retained many Old Testament laws about sexuality. Leviticus' statute became the model for laws decreeing capital punishment for homosexuality in Christian Europe and those parts of the world which were under European influence to the end of the eighteenth century. What is generally taken as Christian moral teaching on homosexuality is 'in fact essentially Christian teaching with its roots in ancient biblical beliefs' (Crompton 2003, p.34).

Leviticus' writings were followed by others which have been influential in affecting Christian thinking on homosexuality. Philo of Alexandria wrote at the time of Jesus and Paul (30-40 CE). He defended the Levitical penalty of death for homosexuality (Crompton 2003). Lesbianism is not mentioned in the Hebrew scripture as it was seen more as an obscenity rather than a crime (Boswell 1994). Other influential Christian writers on the matter included St Paul (Epistles, Holy Bible, 1982) and St Augustine (1961) and St Thomas Aquinas (Aquinas 1947) whose thinking helped endorse certain attitudes towards sexuality, including homosexuality, as core Christian church beliefs. Christian states made laws in the image of these writings and church rules. Paul's epistle speaks of homosexual acts as 'sins worthy of death' (*Romans* 1-32, Holy Bible 1982). From the 4th century onwards, Christian Europe regarded same-sex relations as anathema and devised punishments for what were seen as "unnatural" crimes' (Crompton 2003, p.1). During this time and for centuries that followed there is evidence of persecution and Christian anti-homosexual campaigns (Crompton 2003). In Augustine's view (1961), homosexuality was a direct affront to God the creator. The Justinian code became law for 900 years, it penalised both active and passive homosexual partners.

When Mary Queen of Scots came to the throne in England (1553), sodomy laws were repealed but revived once again by Elizabeth in 1564. Elizabeth's statue had a very long life. The language remained unchanged until 1861, when life imprisonment for conviction of sodomy replaced the death penalty. This law survived in Britain until 1967 when, following the Wolfenden Commission, decriminalisation of homosexuality was recommended and instituted. It survived in Ireland until the decriminalisation of homosexuality in 1993.

The origins of the view that homosexuality was wrong and required legal sanction presented above shows the influence that early church thinking had on social views and the maintenance of legal sanctions against and criminalisation of homosexuality.

2.2.2. Same-Sex Relations as Transgression

The Church's suppression of what they viewed to be sexual transgression was powerful (Foucault 1978). Any sex outside marriage or for pleasure, not procreation, including same-sex practices, was suppressed through the insistence of full confession on these matters. This focus on confessing caused more talk and discussion about same-sex sexual activity and sexual activity than ever before. Foucault maintains that the seventeenth century:

[...] was a time of direct gestures, shameless discourse, and open transgressions, when anatomies were shown and intermingled at will (Foucault 1978, p.3).

In the Catholic Church he says, 'the confession of the flesh is created' (Foucault 1978, p.19) and this examination of conscience was about examining desire. The persecution of same-sex sexuality was particularly targeted.

The injunction to tell or to confess became a tool for producing great quantities of 'discourse about sex' (Foucault 1978, p.23). Other key institutions of power joined with the confessional approach taken by the Church. The issue of public interest and management of sex for the public good was taken up by a number of other significant powerful institutions: schools, medicine and psychiatry. For Foucault (1978):

[w]hat is peculiar to modern societies, in fact, is not that they consigned sex to a shadow existence, but that they dedicated themselves to speaking of it *ad infinitum*, while exploiting it as THE secret (Foucault 1978, p.35).

He describes what he says was the transformation of sex into discourse. Attention was paid to sex by state institutions determined to uphold what they saw as society's wish to ensure that sexuality was economically useful and conservative.

The significance of this interest in things sexual by the institutions of society - churches, schools, doctors, and in particular, psychiatry, was that in their policing of sex, same-sex attractions were focused upon and transgressions outside of socially acceptable forms of sexuality including non-procreative sex outside marriage, were severely dealt with. The net effect of this interest was to move society into an era when a multiplicity of sexualities began to be defined. A discovery of perversions had begun (Foucault 1978). The invention of the word 'heterosexuality' to describe those attracted to members of the opposite sex took place in late nineteenth century when Kraft-Ebbing (Transl. C.G. Chaddock, 1999) used the term in his work. He also coined what was then seen as its polar opposite, 'homosexual', meaning those with same-sex attraction, which was seen as a perversion. Homosexuality was the term used to describe what was seen as an inversion of masculine and feminine within some people in the late nineteenth century. 'The sodomite had been a temporary aberration; the homosexual was now a species [...] a natural order of disorder' (Foucault 1978, p.43).

2.2.3. Changing Views of Sexuality

The medicalisation of the field of sexuality continued to maintain threats of, and actual punishment for, sexual transgressors (Foucault 1978). The power to oppress transgressing sexualities, including same-sex activities and desire, is defined by Foucault (1978) as:

[...] the multiplicity of force relations immanent in the sphere in which they operate and which constitute their own organisation [...] forming a system or a chain [...] whose general design [...] is embodied in the state apparatus, in the formulation of the law, in the various social hegemonies (Foucault 1978, p.93).

Foucault suggests that the state used its power through its institutions to regulate and control sex and sexuality, and also to oppress and attempt to control transgressors and transgression.

It is impossible to speak of the universalistic history of sexuality or same-sex relationships as the 'various possibilities of same-sex behaviour are variously constructed in different cultures as an aspect of wider gender and sexual regulation' (Weeks 1981, p.97). However, we do know that despite that absence of a universalistic history, we have evidence of some same-sex unions where in various ways couples sought to enter same-sex relationships and seek recognition in constructs of various kinds from 'Boston marriages' (Faderman 1985) to 'passing' as male (Simmons 2009). Changing views of sexuality in the late nineteenth and early twentieth century began to affect attitudes towards same-sex oriented sexuality (Boswell 1984, Eskridge 1993, Weeks 2007). However, homosexuality was still a criminal offence on the statute books of most Western states.

Contemporary Roman Catholic views on homosexuality and same-sex relationship recognition reflect the views established in earlier centuries and are to be found reiterated in a document by former Pope Benedict (Ratzinger 2003). This document lays out clearly that Catholic marriage is only between a man and a woman and in co-operation with God is the place for procreation and child-rearing. Marital union is a sacrament, a contract between Christ and the Catholic Church (Ratzinger 2003). According to Ratzinger (2003) there are absolutely no grounds for considering homosexual unions to be in any way similar or even remotely analogous to God's plan for marriage and family. Homosexuality and its sexual acts remains intrinsically disordered and must only be tolerated (Ratzinger 2003). The document says 'The Church teaches that respect for homosexual persons cannot lead in any way to approval of homosexual behaviour or to legal recognition of homosexual unions' (Ratzinger 2003, p.5). On the matter of homosexuality the Catholic Church's views remain firm and constant.

2.2.4. Beginnings of Revolts and Organised Resistance

‘Where there is power, there is resistance’ (Foucault 1978, p.96) and in this section we examine some of the revolts and organised resistances and challenges to the dominant views on homosexuality. The nineteenth century preoccupation with sex made sexology respectable only when it was taken under the wing of the medical profession. The early sexologists’ views on sex and sexuality were uncannily similar to the pronouncements of St Augustine and St Paul centuries earlier – sex and sexuality was seen as an engulfing, natural phenomenon to be controlled. ‘The pioneering sexologists were anxious to assert the absolute centrality of the heterosexual impulse, rooted as they saw it in natural processes’ (Weeks 1985, p.84). The emergence of the homosexual identity as a distinct type of person supported the further oppression of homosexual identity, and is quite contrary to the modern understanding of sexuality as being as much a product of history as of nature (Weeks 1985).

Early critiques of sexuality, such as those by Freud (1905) assume an essential masculinity and femininity and a consequent ‘natural heterosexuality’ (Weeks 1985, p.142). However, Freud knew that norms could be changed and his views were built upon by later sexual theorists including Marcuse (1987) who challenged earlier views that sexuality was genital and heterosexual. Marcuse (1987) rejected the naturalism and primitivism of earlier writers and held that “perversions” express a rebellion against the hegemony of procreative genital sexuality and was in fact a refusal of enforced normality. The most significant aspect of Marcuse’s analysis was that he questioned the necessity of hetero-genital norms. For him real perversions, such as homosexuality, led to a revolt against the procreative norm. His analysis moves the understanding of what sexuality is away from the essentialist, procreative hegemony and actually re-defined homosexual ‘perversions’ as revolts against prevailing norms (Marcuse 1987). The twentieth century sees the emergence of an understanding of alternative sexualities which challenged the heterosexual hegemony. Such alternative sexualities were seen as revolts and identities with agency rather than as mishapen heterosexualities.

By the late 1960's a prevailing view of sexuality emerged according to which there were *sexualities*, not a single sexuality (Weeks 1985). The struggles for recognition of same-sex relationships are part of a political struggle for intimate citizenship rights (Plummer 1996). As the emergence of sexualities took place the political struggle for rights for lesbian and gay people began. The following section explores how LGBT people themselves began to challenge the dominant hegemony and demanded rights to a self-defined sexual identity.

2.2.5. Emergence of Relational Rights in the Gay Liberation Movement

Prior to the emergence of the struggle for relationship recognition rights, a community to fight for sexual identity rights came into being. The birth of the Gay Liberation Front in 1969 took place following the Stonewall Riots in New York. This was the space in which a group of lesbian, gay and transgender people gained global recognition for fighting back against legal oppression and police brutality. They began a battle against the oppression of homosexual people. Their action was to be a spark across the world. Their founding statement says clearly what they are about:

We reject society's attempt to impose sexual roles and definitions of our nature. We are stepping out of these roles and simplistic myths. WE ARE GOING TO BE WHO WE ARE [...] Babylon has forced us to commit ourselves to one thing – revolution (*New York Times* 1970 p.5).

The founding statement of the New York Gay Liberation Front caught the imagination of lesbian and gay men in Britain and 1970 saw the foundation in London of the GLF (Gay Liberation Front). The need for pride in one's identity as a homosexual person became a political act which led to the refusal to accept the continuation of oppression of lesbian and gay people. A community had been formed. The implications of these events in Ireland are examined in Chapter 3 (section 3.4).

Over the decades since the late 1960's, much work has been done by gay rights organisations to gain decriminalisation of homosexuality, to put in place legal protections for gay and lesbian people in employment and to gain equal access to provision of

services. The move from individual protections towards relationship recognition has taken place (Andenaes and Wintemute 2001).

Since the 1970's the lesbian and gay movement has fluctuated between an attitude of transgression and one of seeking moments of citizenship (Weeks *et al.* 2001). This transgression included challenging the existing sexual order by questioning conventional values. In particular, this included sharp criticisms of the family as a site of hostility to homosexuality and the subordination of women (Altman 1972; Barrett and McIntosh 1982). Such moments of citizenship include claims for citizenship from the margins of society – from homosexuals and lesbians claiming their rights, especially in the area of relationship rights (Weeks 1999). Contrary to views that relational rights claims are assimilationist and a wish to be seen to fit into heteronormative society (Warner 1999, Sedgwick 2008), others argue that relationship rights claims by LGBT people are a 'queering of the notion of family and creating families reflective of our life choices' (Goss 1997, p.12). The gay and lesbian community has competing views within it: some think that being homosexual is about being different and exhibiting that difference through being 'queer.' Some think that being lesbian or gay is about equality of rights and opportunities between non-heterosexuals and heterosexuals (Warner 1999; Sedgwick 2008; Duggan 2003). Theorists on 'the family' have spoken about seeking recognition for diverse or alternative families (Stacey 1996). Thus, non-heterosexuals calling for and achieving relational rights are becoming part of the wider battle over meaning and definitional authority regarding family and relationship recognition.

2.3. Same-Sex Sexualities and Emergence of 'Families of Choice'

The family, as a sociological concept, is under strain (Budgeon and Roseneil 2004). The normative gender and sexual order 'grip' is loosening on the modern family and is resulting in more people spending their lives outside the conventional family unit (Budgeon and Roseneil 2004, p.127). The sociological discourse on family includes voices which described the family as a 'zombie category – dead and still alive' (Beck and

Beck-Gernsheim, 2002 p.203). By this they mean that while the family survives there is much of the traditional family experience that is gone. There are many more categories of families, including; lone-parent families, stepfamilies, lesbian and gay families of choice, blended families and what Stacey calls 'brave new families' (Stacey 1990). Each are places where practices of intimacy and care continue to occur. The function and original purpose of what we earlier knew as the family remains. Only some of these family constructs are recognised and legally protected. The hegemony of what was the conventional family in the West, based on the long-term heterosexual married couple living together, monogamously in a romantic/sexual relationship is experiencing challenge and change. While some of the theorists have pessimistic views of this development (Bauman 1998), others offer the view that there are fundamental shifts in how we organise family and relationality and that there is a diversity of practices and forms in these various spaces where a range of personal relationships are taking place - these represent evidence of individualisation and the transformation of intimacy (Giddens 1992; Budgeon and Roseneil 2004). Same-sex headed families are included in these new families (Stacey 1996). The examination of such families, as part of the study of same-sex relationship recognition is a contribution to the discourse which casts 'a gaze on relationship normativities' allowing us to see the prevailing assumptions about the gender of sexual partners and also the overbearing heterosexual relationship order or 'hetero-relationality' which still prevails but is under growing scrutiny and challenge (Budgeon and Roseneil 2004, p.129).

The use of the term 'family' by non-heterosexuals to describe their families is both a challenge to more conventional definitions of family, while also an attempt to widen such definitions. It is an effort to seek legitimacy by non-heterosexuals while also an attempt at subversion (Weeks *et al.* 2001). New patterns of relationships are being invented by these families of choice (Plummer 1995).

What unifies non-heterosexual lives is the experience of institutionalised hostility towards homosexuality, and its complex cultural effects (Stacey 1996). This becomes clear when we examine how non-heterosexuals have been displaced from private and public spaces concerning family and marriage (Calhoun 2000). When we see the heteronormative family represented as a cornerstone of society, for non-heterosexuals, this has been experienced by them as the antithesis of homosexuality. This experience has been a radicalising influence. A Foucauldian reverse discourse (Foucault 1978) has occurred, whereby the hostile negative categorisations of the homosexual created the starting point for positive identification among gay and lesbian people when a pride in being gay or lesbian emerged. This pride has, since 1960s, allowed a community voice to emerge which asserted gay identity and community and provided an affirmation of a positive sense of self and of the collective means of realising an identity (Weeks 1995).

Seeking family recognition by same-sex couples and advocates is not an assimilationist approach; rather, it is a queering of the notion of family (Goss 1997). The call to be included in family and marriage and to have same-sex relationships recognised by the state is an attempt to widen the definitions of those institutions and break down the narrow traditional versions of family which have so far existed (Goss 1997). Stacey (1990) asks if there are indeed many types of families, why same-sex families should be ignored.

Morgan (1996) analyses 'the Family' as a set of social practices rather than as an institution. This approach is very important for understanding non-heterosexual lives because it dispels the prevailing idea of family as a fixed entity, unchanging over time in which one is either a member or is not. Instead we can see family as a series of practical, everyday activities which we live: through activities such as mutual care, the division of labour in the home, looking after dependents and relations (Morgan 1996). These are all practices in which lesbians and gay people engage. The significance of Morgan's (1996) analysis is that it means there is no longer any theoretical reason to exclude non-heterosexual everyday practices from the discourse on family or from recognition as

family. In this study we see in interviews in chapter 7 which describe same-sex headed families in Civil Partnerships experiencing these everyday family practices, yet these families are not legally recognised as families under Irish family law.

2.4. Displacement of Lesbians and Gays from Family and Marriage

The historical treatment of lesbians and gay men by churches and the medical profession, particularly psychiatry, is reflected in law and has resulted in the subordination of gay and lesbian existence. Cultures define what family is and who can be married. In the West, this has led to the understanding that family and marriage are essentially linked. The gender analysis offered by early and contemporary feminists is useful for uncovering the gendered nature of patriarchal oppression *i.e.* namely issues such as: the rule of male over female and the appropriation of female labour; production and reproduction as subordinated by men and the definition of woman as male-defined (Calhoun 2000).

Despite the inclusion of an intersectional analysis in feminism in the 1990s (race and class were added to gender analysis and included in what was seen as a mostly white middle class feminist analysis of the 1970s and 1980s), the failure to include a fourth axis of analysis - heterosexism, as a separate set of systematic subordination of lesbians and gays, has occluded and excised an analysis of the lesbian and gay experience of subordination. Feminism has mostly ignored the experience of non-heterosexuals with an over-focus on gender (Calhoun 2000). Interviews in this study provide a focus on the non-heterosexual experience of subordination. But how has this displacement taken place?

Heterosexuality has become a way of organising family life. The sum total of all the social, economic and legal arrangements that support heterosexuality and lead to sexual and relational coupling of men and women comprise 'heterosexual privilege' (Calhoun 2000 p.47). This privilege is central to the maintenance of marriage and definitions of family as, for the most part, heterosexual affairs. It is the challenge to this system of privilege which emerges when same-sex couples seek access to heterosexual-defined

institutions such as family and marriage or to relationship recognition constructs which include family and parenthood rights.

It is these systems of heterosexual privilege that subordinate lesbians and gays and displace them both from public and private spheres. 'Family-related policies, same-sex marriage bans, adoption bans, child-custody decisions' all of these displace gays and lesbians or keep them from a place in the protected private sphere allowed only to heterosexuals (Calhoun 2000 p.47). These exclusions, allied to institutional discrimination and, for some, even criminal law coercion, displace the visible signs of gay and lesbian relational existence from the public spheres of family, marriage and society generally. The gay and lesbian political priority of challenging the primacy of the male-female social unit and lack of recognition of the male-male or female-female unit can be done by countering the reservation of these spaces for heterosexuals only (Calhoun 2000). The focus in this study of interviewing same-sex couples who have experienced these exclusions is a way of making these exclusions public and visible.

The social and legal prohibition or lack of recognition for same-sex relations is only the tip of the iceberg of the systematic heterosexualisation of social life. Heterosexuals are allowed a political system in which they 'have and exercise power over non-heterosexuals' (Calhoun 2000, p.46). As Foucault (1978) reminds us, such social hegemonies enforce the power position of the dominant players, in this case, heterosexuals. This explains why seeking tolerance of lesbianism or homosexuality in terms of the private sexual practices is a relatively easy task, unlike attempts to get lesbian and gay parenting rights or same-sex relationship recognition, including equal marriage rights.

2.5. Sexual Identities are Troubling

Our study of same-sex relationship recognition includes an examination of sexual identity.

Heidegger's concept of 'being-in-the-world' speaks about human beings or *Dasein* (there-being) and how we live our lives - our identities can either affirm or obliterate differences

(Heidegger 1962, 2002). It is the way in which we stitch our contemporary identities together into narratives that ‘give coherence to individual lives, support and promote social agency, and express certain values’ (Weeks 1995, p.85). Agency allows us a mode of action in the world in which we live. However, identities are troubling and are battlegrounds, in particular sexual identities.

Seeing identities as sites of contestation is useful and points us to understand that human agency is both possible and essential, and that the narratives we construct to share support us to have a collective sense of belonging which in turn provides agency and the means of bringing about change. So it is by questioning and challenging heteronormative sexual identities that the possibility of creating new ones and challenging imposed ones arises. Butler (1990) speaks of the paradox of identities:

I’m permanently troubled by identity categories, consider them to be invariable stumbling-blocks, and understand them, even promote them, as sites of necessary trouble’ (Butler 1990, p.101).

Sexual identities are not fixed and yet are personal, while also being full of paradoxes. We see how this fluidity has led to sexual identity becoming part of our personal narratives; this can become problematic when we see that some sexual identities are treated in a preferred fashion to others. There is evidence emerging of same-sex relationships being recognised and legislative provision being made for them, despite a prevailing privileging of heteronormative sexual identities.

2.6. Changing Patterns: Current Provision of Same-Sex Relationship Recognition

In a review of relationship prevalence amongst homosexual men and lesbian women, 40-60% of US gay men and 40-80% of lesbian women are reckoned to be in committed relationships at any given time (Bohan 1996). Globally, twenty countries have legalised marriage between people of the same sex (Appendix 6. Table 1), yet some seventy six countries criminalise homosexual acts (Paoli and Zhu, 2013). Some countries have adopted legislation allowing various forms of same-sex relationship recognition, including

civil partnerships, registered partnerships, civil unions or domestic partnerships with varying rights and responsibilities attached. Ireland introduced Civil Partnership in 2010.

The move to recognize same-sex relationships has been developing globally since Denmark in 1989 was the first country to introduce legal recognition of same-sex relationships. The Netherlands, was the first country to introduce marriage equality for same-sex couples in 2001.

Commenting on the advent of the regulation of same-sex relationships, Herdt (1997) says:

[...] love and romance, intimacy, and lifelong vows of commitment and partnership could never be a part of homosexuality, it was mistakenly believed. Now, a generation of people in many countries, making their lives together as partners in life, have proved this bias to be wrong. This false conception of homosexuality in the past reduced the whole person and his/her goals and aspirations to nothing more than sex, denying all of the full and loving person as well as his/her creativity, civility and spirituality (Herdt 1997, p.178).

The mistaken belief of what homosexuality is has reduced lesbian and gay people and their relationships ‘to nothing more than sex’ (Herdt 1997, p.178). There is research that speaks to the existence in modern times of gay and lesbian committed relationships.¹ This data on the existence of same-sex relationships is a marker of the emergence, into a public space, after centuries of denial and oppression, of same-sex relationships. They are evidence that same-sex committed relationships are being lived and are finding their way into the research literature. Recent research on same-sex relationships is now examined and the emergent themes identified.

¹ (Bohan 1996 (USA); Bryant and Demian 1994 (USA Profiles of lesbians and gay men); Kurdek 1995 (relationship quality); Kurdek and Schmitt 1986 (relationship changes), Peplau 1993 (lesbian and gay relationships USA), Smith and Brown 1997 (gay male couples and supports) and Badgett 2009 (data examining same-sex married couples in Netherlands since 2001)).

2.7. Same-Sex Relationship Recognition Research Themes

Here, key findings of international empirical studies where same-sex relationship recognition experience is central to the study are analysed. The studies range from those capturing experiences of same-sex couples whose relationships have been recognised and who have entered some form of same-sex recognised partnership, union or marriage (Alderson 2004; Mitchell *et al.* 2009; Fingerhut and Maisel 2010; Rothblum *et al.* 2011; Heaphy *et al.*, 2011; Lanutti 2011; Morales 2012) and studies which examine attitudes to same-sex relationship recognition amongst the wider lesbian and gay community (Lanutti 2005; Shipman and Smart 2006; Harding 2006; Smart 2007; Harding 2008; Porche and Purvin 2008; Fingerhut and Maisel 2010).

2.7.1. Positive Impacts of Relationship Recognition

Same-sex couples in legally recognised relationships predominantly express the view that relationship recognition has had positive impacts on their lives and their relationships. This is also the view of respondents from the wider lesbian and gay community on the advent of same-sex relationship recognition (Lanutti 2005; Harding 2006; Shipman and Smart 2006; Rothblum *et al.*, 2011; Lanutti 2011). These studies echo the views of Alderson (2003) and Coleman (1982) who both found that the right to relationship recognition improves the psychosocial well-being of same-sex couples.

The introduction of relationship recognition (civil unions/domestic partnerships/marriage) has a positive impact on couples, including impacts of a psychological nature, where couples feel more accepted and where tangible benefits that flow from relationship recognition such as medical and health-care emerge as important and welcomed (Rothblum *et al.*, 2011). Couples who had been together for a long time, or saw little benefit from the advent of civil unions, saw it as less important or unimportant to them (Rothblum *et al.*, 2011). Increased security, whether of a financial, medical or relational type was seen as a positive result of entering a relationship regulation construct (Lanutti 2011). While the importance of legal recognition for same-sex relationships was expressed in a general way (Lanutti 2005; Harding 2006; Lanutti 2011), personal

recognition for the couples themselves and recognition by the state were both seen as important elements of recognition resulting from entering a registered partnership or union.

In the UK, Mitchell *et al.*, (2009) conducted a large study with interviews of same-sex couples to explore the impact of the legislative changes when the 2004 British Civil Partnership Act was introduced. They found it had overall positive impacts and they concluded that respondents were calling for even greater equality than civil partnership and pushing for the introduction of civil marriage. Personal impacts on the couples included impacts on their relationships, finances, rights and responsibilities and feelings about equality and self-definition. Mitchell *et al.*, (2009) also explored the impact of visibility and social recognition on same-sex couples with regard to family and friends, society and the state and sought to determine the impacts of residual and historical discrimination amongst gay and lesbian couples. This study also examined the impacts on perceived attitudes towards lesbian and gay couples in wider society. A key conclusion by the researchers is that the legislation led to ‘increasing couples’ sense of belonging, security and entitlement’ (Mitchell *et al.*, 2009 p.76). This can be linked to work conducted by Morris *et al.*, (2001) who found that those who disclose their sexual minority identity (through relationship registration or other means) are psychologically healthier than those who do not. The issue of the significance of belonging is discussed in detail in the findings section (see 6.3).

2.7.2. Concerns Arising from the Introduction of Same-Sex Relationship Regulation

Studies highlighted concerns among the lesbian and gay couples and the wider LGBT community concerning the advent of relationship recognition. Recognition means regulation and this had implications for some of the LGBT communities studied (Lanutti 2011; Harding 2008). Lanutti (2011) discusses the fears of lesbians and gay men of being mainstreamed into society by relationship regulation. In other words, for some participants the possibility of being different and living lives outside of the norm of

mainstream society was threatened by the advent of same-sex relationship recognition, which they saw as a heteronormative regulating construct.

Some participants spoke of a fear of the dangers of having both regulated and non-regulated same-sex relationships. It was thought this might cause tensions within the LGBT community itself, with the possibility of the development of a resulting hierarchy of same-sex relationships (Harding 2008; Lanutti 2011). Shipman and Smart (2006) found that their interviewees were divided on the issue of marriage or partnership rights. Some expressed fears that adopting marriage would seem to mean adopting heterosexual values. Harding (2011) speaks of a fear of assimilation by some in the community, which would mean a loss of a gay or transgressive identity which is important to some. Respondents in Lanutti's (2005) study express the view that availability of legal relationships might make other non-legally recognised same-sex relationships seem less serious or less important.

A further concern arose about negative financial impacts experienced by some couples on entering same-sex relationship constructs. These especially referred to changes in joint tax and welfare recognition by the state which can lead to less generous tax or welfare eligibility for the individual (Harding 2008). These potential negative results led to wide differences of opinion amongst respondents on preferences for civil partnership or civil marriage rights in Harding's study (2008). In this study, views on Civil Partnership as equality or inequality are discussed in Chapter 6 (see 6.5).

2.7.3. Impact on Community and Public Policy

Lanutti's (2005) study raises wider issues of how the introduction of relationship recognition structures may make the lesbian and gay community stronger or weaker depending on how the community reacts to the opportunities legally available. Lanutti's work also suggests that the realisation of same-sex relationship rights may help to heal relationships between the heterosexual and non-heterosexual communities which may be damaged during some of the robust public debates on relationship recognition. Participants describe the hurt they felt at some of the comments made by those opposing

the introduction of same-sex relationship recognition. The successful legalisation of marriage or civil partnerships will, some participants hoped, heal the hurt of the many negative things said about non-heterosexuals and their families in the public debates prior to the introduction of same-sex relationship regulation. Evidence of the sense of inclusion, recognition and belonging felt by same-sex couples in Civil Partnership in Ireland are discussed in Chapters 5 and 6.

Harding (2006) found in her study of perceptions regarding equality and legal recognition amongst lesbian and gay men, that there was more support for marriage than for civil partnership amongst respondents from 27 different countries. Rothblum *et al.*, (2011) found in their study that respondents were making the connection between their sexuality and the development of social policy by the state, perhaps for the first time. Some respondents made the connection between social policy changes and sexuality which occurred in Vermont, since the introduction there of Civil Unions. This realisation of the connection between sexuality and public policy matters has begun to be realised as a result of public debates on and provision for same-sex relationship recognition (Rothblum *et al.*, 2011).

2.7.4. Same-Sex Parenting and Family Issues

Parenting issues and family issues arise as themes in recent research findings of same-sex couples who have entered Civil Unions or Civil Marriages. Rothblum *et al.*, 's (2011) study cites the importance of benefits to children in their study of same-sex headed families when relationship recognition is taken up as an option by parents. Smart (2007) examines the attitudes of family of origin to same-sex commitment ceremonies, prior to the introduction of Civil Partnerships in the UK and found that such attitudes from both family of origin and chosen kin families ranged from positive through to ambivalent to negative. Likewise, Shipman and Smart's (2006) study exploring the meaning and significance of legitimating same-sex relationships found their respondents are divided on whether to support Civil Marriage or Civil Partnerships. Aware of the criticisms from

others for adopting seemingly heterosexual values by entering such partnerships, many respondents acknowledged the protections which Civil Partnership provides to same-sex couples and their children and they looked forward to examining the new forms of kin which they see emerging as a result of Civil Partnership uptake.

Heaphy *et al.*, (2013) conducted joint and individual interviews with couples who had entered Civil Partnerships in the UK. Key findings of their study include evidence of a new 'ordinariness' regarding Civil Partnership amongst younger couples (those aged under 35). They found that for this cohort being Civil Partnered was just another ordinary life experience and that for the most part such couples felt like 'any married couple'. Alderson (2004) suggests that moves to seek same-sex marriage provision is perhaps the next step for many couples who enter Civil Partnerships and for States which offered such partnerships they are a starting point towards full relational equality. Registered partnerships and, 'same-sex marriage is here to stay, and increasing our understanding of this phenomenon is an important new area of social science research' concludes Alderson (2004, p.107) in his study.

2.7.5. Parenting Rights Gaps, Heteronormativity and the Legacy of Same-Sex Family Studies

In a review of the wider research field regarding the outcomes for children in lesbian/gay headed families, four decades of research comparing the development of children with gay and lesbian parents and children with heterosexual parents, including longitudinal research in the USA (www.nllfs.org) shows that there are no significant developmental differences between the two groups in their intelligence, psychological adjustment, social adjustment, popularity with friends, development of social sex role identity or development of sexual orientation (www.marriagequality.ie/ 2012). Studies which compare such families have found positive learning and developmental outcomes for the children (Flaks *et al.*, 1995; Golombok, Perry *et al.*, 2003). This research has led to significant international bodies adopting formal policies which recognise that sexual orientation is not relevant to parental ability. Organisations such as the American

Psychological Association (2004), the American Academy of Paediatrics (2002, reaffirmed (2010) and in Ireland, the National Association of Social Workers (2011) have all issued guidelines for practitioners based on the significant research findings which show that sexual orientation is not relevant to parental ability.

Yet, resistance to the research findings remains. It is a resistance that is steeped in and fuelled by a wish to maintain 'heterosexual privilege' (Calhoun 2000, p.47). The nuclear family is described as 'the heteronormative institution *par excellence*' (Kentlyn 2007, p.66) and is predicated on sexual relations between one woman and one man – termed 'reprosexuality' (Warner 1991, p.9). It is the quintessential site of heteronormative ideology and practice (Kentlyn 2007). While acknowledging the emergence of new family forms in modern times (Section 2.3), the resistance to allowing a widening or broadening of family rights of non-normative families can be clearly seen when we explore the heteronormative and heterosexist lens which has been applied to parenting and family recognition studies of same-sex families.

An examination of recent research on same-sex families and parenting and gives us an indication of how heterosexual privilege and heteronormativity prevails in that field. The very approach taken to such research has further enshrined the heteronormative paradigm underpinning discourses on what counts as family.

A review of research on same-sex headed families, or on children being raised by lesbian and gay parents, shows that the examination of outcomes for children has in effect been a comparison of lesbian and gay parenting with heterosexual parenting, non-normative and normative². Greene (NLGF 2009) concluded in her summary of the literature on same-

² On gay parenting and child development: Brewaeys *et al.* 1997; Chan, Raboy *et al.* 2008; Chan, Brooks *et al.* 1998; Flaks *et al.* 1995; Hotvedt and Barclay 1982; Huggins 2008; Green *et al.* 1986; Golombok, Spencer *et al.* 1983; Golombok, Perry *et al.* 2003; Kirkpatrick *et al.* 1981; MacCallum *et al.* 2004; Patterson 1994, 1992; Tasker 2005; Tasker and Golombok 1995; Wainright *et al.* 2004. On quality of parenting: Bigner *et al.*, 1990; Bos *et al.* 2004; Golombok, Perry *et al.* 2003; Golombok, Tasker *et al.* 1997; Perrin, 2002. On impact on children's gender

sex parenting, that the outcomes for children in same-sex headed households are good and are in line with average outcomes for children from traditional families. Indeed, there is an emerging body of research that suggests in some aspects, parenting by lesbian couples, and the outcomes of children parented by lesbian and gay couples, show comparative strengths and even some areas where those children out-perform those of heterosexual-headed families (Golombok *et al.* 2003; Short 2007; Crouch 2014;).

The family studies literature indicates that family processes such as the quality of and satisfaction with relationships within the family and the quality of parenting and psychosocial well-being of parents are the factors that contribute to determining children's well-being and 'outcomes' rather than family structure *per se* (Short 2007). Recent studies (Parke 2013; Crouch 2014) found that across all same-sex couple families and heterosexual lone parent or heterosexual couple families, it is processes and not structures of family that are associated with children's developmental outcomes and happiness (Lamb 2012; Tasker 2013; Parke 2013).

The society we live in is one '[...] that organises sexual discourse to produce hierarchies in which traditional and heteronormative family forms are dominant' (Hicks 2005, p.164). This hierarchy is evident in the research in the field of family studies where same-sex families are compared to the normative heterosexual one which insists on the question: 'Is gay parenting bad for kids?' (Hicks 2005, p.165). The dominant hierarchical discourse in such studies on same-sex families means that same-sex families will always be found to be different and in being different deemed deficient (Hicks 2005). It is a problem which arises from the dominant heteronormative discourse. Who counts as family and what such displacement feels like is a core theme which emerges from the interviews with couples in this research exploring the meaning of Civil Partnership for

and sexual development: Bailey *et al.* 1995; Golombok and Tasker 1996; Hoeffler 1981; Lamb 1999; Patterson and Chan 2004; Russell 1999; Stacey and Biblarz 2001.

same-sex couples who are parenting or are planning parenthood, and is discussed in Chapter 7.

2.7.6. Same-Sex Relationship Recognition: Future Challenges for Same-Sex Couples

The struggle which same-sex relationship recognition may bring with it in the future includes issues of lesbian parenting, child-raising, and resisting the heterosexist hegemony (Barry 2004). Other issues related to ageing, include retirement housing, domestic abuse and same-sex family break-up all of which will be emergent issues for those engaging in or examining same-sex relationships in the future (Barry 2004). LGBT people are only beginning to represent their own indigenous cultural forms through ambivalent strategies of demanding to be let into the language of family and marriage:

While at the same time groping towards a new language that escapes from under the deadweight of family values orthodoxy, [...] same-sex relationship recognition and even marriage rights are an important step towards full participation in civil society. (Barry 2004, p.276)

These steps towards legal recognition are just the beginning of the challenge to the dominant regime of family ideology which assigns ‘the realms of romance, courtship, marriage and family to heterosexuality, while relegating alternatives to ‘just sexual’ (Barry 2004, p. 276).

2.8. Conclusions

This chapter examined the advent of same-sex relationship recognition and explored the views of and attitudes towards same-sex relations. It traced the origins of prejudice against homosexuality, examined the links between the spread of Christianity and criminalisation of homosexuality over hundreds of years, making the formation of same-sex relationships difficult and the recognition of same-sex love impossible. It explored the birth of organised resistance to homophobic prejudice in the 1960’s which led to the origins of the Gay Liberation Movement and the development of a community of people with lesbian or gay identity which began the struggle for recognition of self-defined identity rights for lesbians and gay men. It showed how the emergence of relationship rights for same-sex

couples is contested both within and outside of the LGBT community, and argues that the demand for such rights is a countering of the displacement of lesbians and gay men from family and marriage in the context of contemporary sociological discussion on family. The legal provision of same-sex relationship recognition was presented. Finally, the chapter explored recent research conducted on the area of same-sex relationship recognition and outlined some emerging themes therein. This literature review is part of the fusion of horizons (Gadamer 1979) which this study is applying as we examine how same-sex couples in Ireland understand and give meaning to their experiences of Civil Partnership. This overview of same-sex relationship recognition sets the context for the examination of the Irish setting for the advent of Civil Partnership in Chapter 3.

Chapter 3. Same-Sex Relationship Recognition in Ireland

3.1. Introduction

This chapter explores the background for the emergence of same-sex relationship recognition in Ireland. This chapter discusses the advent of same-sex households and the uptake of Civil Partnership since its introduction. It acknowledges the socio-political changes in Ireland in the late 20th and early 21st century that have contributed to the conditions allowing for the emergence of same-sex relationship recognition. The chapter presents the milestones of LGBT rights and progress and the accompanying ‘KAL’³ court case which sparked an escalation of the demand for relationship recognition to a demand for marriage equality. The place of family and marriage in the Irish Constitution and its implications for same-sex relationship recognition is also examined. The Civil Partnership and Certain Cohabitants Act (2010) is analysed and its key provisions and gaps explored to set the scene for an interpretation of the experiences of same-sex couples of Civil Partnership in Ireland.

3.2. Emergence of Same-Sex Headed Households

The 2011 census was the first time a question was asked which allowed same-sex headed households to declare themselves and become visible and counted. The emergence of same-sex headed households in the 2011 Census is an indicator of change in the recognition of same-sex family patterns in Ireland. There were 4,042 households who declared themselves as same-sex headed households (2,321 males and 1,721 females) (CSO 2012). Of these, 230 had children and 166 stated that they were ‘married’, this indicates that they were married outside of Ireland as same-sex marriage was not available in Ireland, or that they saw themselves as married (CSO 2012). As the Civil

³ The KAL case refers to the High Court challenge taken by Dr Katherine Zappone and Dr Ann Louise Gilligan seeking to have their Canadian marriage recognised for tax purposes by the Irish state.

Partnership Act (2010) was enacted in 2011, it is thought that the full extent of same-sex headed households may become more visible in each future census.

From 2011 to June 2014, some 1,441 Civil Partnerships have been registered (559 female, 882 male) in the Irish State (Bailey 2014). An unknown additional number of same-sex couples have had Civil Partnerships or Civil Marriages which took place outside of Ireland recognised as Civil Partnerships by the Irish State, but these figures are not yet available. The age breakdown shows that the vast majority entering Civil Partnerships were aged between 31 years and 60 years of age. The majority were Irish, with others coming from over 58 countries. All 26 counties of Ireland have now seen couples enter Civil Partnerships. The highest number is in Dublin City and County. The majority of those who registered expressed an intention to live in Ireland after their Civil Partnership (GLEN June 2013).

Such new household and family forms are increasingly prevalent (Fine-Davis 2011; Canavan 2012; Elliot 2010; Pillinger and Fagan 2013) and their views, attitudes and behaviour form an important area of new research in Ireland. The reluctance of same-sex couples to declare themselves in the census may be due to concerns relating to privacy and social acceptance, but their statistical presence is likely to continue to grow (Lunn *et al.*, 2009). The 4,042 same-sex households identified in *Census 2011* suggests that as Lunn *et al.*, (2009) argue this cohort will continue to rise as greater visibility of same-sex couples having Civil Partnerships gives such couples more confidence to declare themselves for statistical purposes (CSO 2012.)

In their examination of Irish family dynamics and family forms over three census periods (1996, 2002, 2006), Lunn *et al.*, (2009) comment that 60% of same-sex couples are male and that people in their 30's and early 40's are considerably more likely to be in same-sex partnerships than the cohort now in their 50's. Same-sex couples are common among people with third-level education. They also identify that, compared to Catholics, all other

religious affiliations are significantly more likely to be in same-sex partnerships (this includes non-mainstream religions and the non-religious affiliated). Also, compared to the majority white population, all ethnic minorities are less likely to be in same-sex partnerships. The vast majority of same-sex couples are concentrated in Dublin (Lunn *et al.*, 2009 p.88). However, since the adoption of the legislation Civil Partnership registrations have now taken place in every county of Ireland (GLEN 2013).

Key socio-political changes account for the changing face of households and families in modern Ireland, in particular the emergence of same-sex headed households and families. Noted influences that have made an impact include the changing roles of men and women and a growing tolerance, including towards same-sex sexuality in Ireland (Kennedy 2001; Williams *et al.*, 2010) which affected Catholic *habitus* (Bourdieu 1984) regarding sexual matters and the accompanying fall in confidence in the Catholic Church in Ireland (Andersen and Lavan 2007). Furthermore, the advent of the Irish women's movement (Inglis 1998; Kennedy 2001; Connolly 2005; Ferriter 2009) Ireland joining the EEC (European Economic Community) in 1973 (Hug 1999; Ryan 2012) and the influence of the media in changing attitudes in Ireland are also key (NicGhiolla Phadraig 1995; Inglis 1998; Brady 2012,). While secularisation 'tendencies became apparent from the late 1950s and early 1960s' and the Catholic Church has in the 21st century been 'relegated to a fully back-seat position in relation to political and economic decisions' it still retains its symbolic influence Malesevic suggests (2010, p.28).

Irish society in late 20th century saw a decline in agriculture, an increase in urbanisation, the introduction of television and mass media, changing gender roles and greater gender equality. All of these changes contributed to the decline of Catholic *habitus* of Irish sexuality:

[...] the unreflective, immediate, ongoing disposition which people had when encountering sexuality, began to change from fear, doubt, suspicion, guilt and shame more towards positive pleasure and enjoyment (Inglis 1997 p.6).

This led to a reduction of the power and control of the Church. In this more secularised society, religion became more private in expression and thus restricted in its influence (Corish 1996). Recent polls on Irish Catholic attitudes to issues of sexual morality (Amarch 2012) show that the split has taken place amongst Catholics themselves, on the private issues which are considered no longer Church business (contraception, sexuality) and the matters that are properly for the Church to control or advise upon (e.g. new Mass texts). The authority of the Catholic Church, particularly in regards to its leaders and messages, is under considerable strain if not outright threat (Malesevic 2010). The clerical sex scandals and child sexual abuse uncovered since the 1990's (O'Gorman 2002, 2006) have also had an important impact on attitudes to and the advent of LGBT rights, including relationship recognition rights in Ireland.

3.3. Family, Marriage, Same-Sex Relationship Recognition and the Irish Constitution

Article 41.3.1 of the Irish Constitution says:

The state pledges itself to guard with special care the institution of marriage, *on which the Family is founded*, (italics mine) and to protect it against attack (*Bunreacht na hÉireann* 1937).

The italicised words above indicate that the 'family' to which the Constitution is referring is that based on marriage alone (Ryan 2007). This provision is cited as further evidence of the influence of the Catholic Church in the drafting of the Irish Constitution (Kennedy 2001; Ryan 2007) as it reflects the historical position of the Catholic Church which sought to encourage the state to promote and protect married families.

This Constitutional preference for marriage is a key element informing both the calls for and opposition to full marriage equality rights for same-sex couples in Ireland. If granted, such rights would allow same-sex headed families avail of all the protections afforded

married families (Fagan 2011). Those who continue to call for the exclusion of same-sex couples from equality of treatment, continue to ask that non-marital unions are not treated equally with married ones. They claim such equality would undermine marriage (Ryan 2007; Iona Institute 2014). This special status of marriage for heterosexuals exclusively is a contributory factor to the introduction of Civil Partnership (rather than Civil Marriage) for same-sex couples resulting in the creation of a new institution for lesbians and gay men. It ensures their continued exclusion from marriage and the Constitutional protection which that provides. It can be argued that the Civil Partnership Act (2010) retains this exclusion. Elements of the new Act specifically differentiate Civil Partnership from Marriage, and, in doing so ensure that there would not be a constitutional challenge to Civil Partnership for being too 'marriage-like'. The Civil Partnership Act (2010) contains some 169 differences between the rights and entitlements which marriage gives to opposite sex couples and those given to same-sex Civil Partnered couples (Fagan 2011). However, the lack of constitutional protection, available through marriage only, is a most significant legal difference between the two constructs.

The *Irish Law Reform Commission (LRC) report on Rights and Duties of Cohabitants* (LRC 2006) has acknowledged the functional equality of opposite/same-sex couples outside marriage (Ryan 2007). In other words, in everyday life, many of these couples are acknowledged as couples and treated equally, socially. The LRC report (2006) recognised same-sex and opposite sex couples when defining 'qualified cohabitants' and the Irish Human Rights Commission (IHRC 2006) recognised as '*de facto* couples' cohabiting couples of both same-sex and opposite sex. The *Irish Council for Civil Liberties* (ICCL 2006) called for legislation for partnership registration and revisions to the Constitution to give improved protection to all children in Ireland. A consensus was developing that same-sex and opposite sex couples should be treated equivalently (Ryan 2007). Cohabiting opposite-sex couples had a legal remedy of marriage (if both parties were free

to do so and willing and legally entitled to marry). Same-sex couples did not, and this made the legal remedy for same-sex couples more urgent (Ryan 2007).

The Irish Constitution remains a document which is ‘conservative and confessional,’ beginning as it does with a reference to ‘The Most Holy Trinity’ and followed by an acknowledgement of ‘Our obligations to the Most Divine Lord Jesus Christ’ (Ryan 2007 p.35). In the Irish Constitution, God is directly invoked in an article which says that all Government powers are deemed to derive from him. Furthermore, the family provisions in the Constitution can be traced back directly to Roman Catholic encyclicals on the Family (Ryan 2007). The influence of Catholic Church teaching on the Irish Constitution, while evident in the document, has not meant that all interpretations have been in line with Roman Catholic teaching. We are reminded of the *McGee V Attorney General* case (1974) which saw contraception importation for married couples for their private use allowed, despite it being against Catholic Church policy and teaching. However, *Norris V Attorney General* (1984) which challenged the ban on sexual activity between males was not allowed and the weight of Christian tradition against homosexuality was cited as part of the reason for not allowing the Norris challenge (Ryan 2007).

The *All Party Oireachtas Committee on the Constitution* (All Party Oireachtas Committee 2006) took the view that the introduction of same-sex marriage would require a Constitutional amendment. Likewise, the Working Group on Domestic Partnerships (Colley 2006) took a similar view. On the other hand, O’Mahony (2014) has argued that a constitutional amendment through a referendum is not necessary, rather the *Oireachtais* could directly legislate for marriage equality.

Advocacy groups like the Gay and Lesbian Equality Network (GLEN) set aside the immediate goal of civil marriage rights for same-sex couples when advocating for Civil Partnership in favour of an approach that sought to equalise the position of same-sex

couples by incremental steps towards equality (Mullally, 2014). It was an approach taken by GLEN in Ireland similar to the one taken by Stonewall in the UK, which led to the introduction of Civil Partnership there in 2004 (NLGF 2009). In the UK that led to a scheme of ‘formal registration’ not marriage, but it did ‘substantially replicate for same-sex couples the consequences of legal marriage’ (Ryan 2007). Similarly in 2010 in Ireland this approach led to the introduction of Civil Partnership, however, a substantial number of rights and duties contained in the UK Civil Partnership legislation are absent from the Irish Civil Partnership (Fagan 2011). Marriage equality was finally introduced in the UK in 2013.

Separate but equal policies necessarily imply that the ‘state does not really think that the subjects of the differentiation are alike’ (Ryan 2007, p.39). This difference in status of married and same-sex Civil Partnered couples and their families is a key point for the *Marriage Equality* advocacy group, which was founded following the KAL⁴ case in 2003 and has been advocating for marriage equality for same-sex couples since that date. They found that the issue of marriage equality gained momentum following the passage of the Civil Partnership Act in 2010 (Mullally 2014). It influenced the Coalition Government (made up of a majority Christian Democratic *Fine Gael* Party and a minority social democratic Labour Party) to include in its programme for government an agreement to include consideration of same-sex marriage provisions in a citizens’ and elected parliamentarians’ forum: the Constitutional Convention (Regan *Irish Examiner*, ‘Cabinet agrees to establish constitutional convention’ 11 July 2012). At this time also, Marriage Equality hosted a powerful visibility campaign of bus and billboard posters advertising the missing pieces in the Civil Partnership legislation. In particular, making visible the stories of Irish lesbian and gay couples with children, who had not been given equal parental rights despite having their same-sex relationships recognised in Civil Partnership (Pillinger and Fagan 2013).

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The separate-but-equal legislative approach is a significant one, as it was this approach that caused the Californian judge in 2005 to find that the same-sex marriage ban there infringed on the guarantee of equality in the US Constitution. Justice Kramer, J. made interesting comparisons between the anti-miscegenation statutes, which banned interracial marriage, struck down in the US Supreme Court by *Loving V Loving*, Virginia (1967) and state laws that banned same-sex marriage in the US (Solomon 2014).

The argument that marriage is about procreation, as a defence for having a ban on same-sex marriage is addressed by Ryan (2007) who reminds us that not having nor not wanting children, nor being barren, or without children, are not valid bases on which to strike down the validity of a marriage. Non-consummation - may be grounds for dissolution, but not having children is not. Citing *Baxter V Baxter* (1997) where Lord Chief Jowitt stated clearly: 'it is indisputable that the institution of marriage is not necessarily for procreation of children, nor does it appear to be the principal end of marriage as understood in Christendom' (Ryan 2007, p. 39). This interpretation is significant for those pushing for inclusion of same-sex couples into civil marriage, as it states that procreation - or intention to procreate, is not the sole objective of marriage and thus for same-sex couples who do not have, or cannot without assistance have children, this is not a valid ground for their exclusion.

3.4. Gay and Lesbian Rights Progress

Ireland inherited Victorian British laws which 'proscribed virtually all forms of male homosexual sexual activity' (Ryan 2007, p.9). Lesbianism or lesbian sexual acts have never been subject specifically to legal penalty, but this does not indicate any tolerance for lesbianism. Rather, it is indicative of an attitude that meant the law saw the female as the sexual subject of the male (Ryan 2007). Lesbian women, while denied criminality, were actually denied recognition in law of an autonomous sexuality independent of the male. The gay community, North and South, put decriminalisation central to their

campaigns for equality. Rose (1994) argues that the focus on decriminalisation was the primary thrust of gay rights campaigns in Ireland in the 1980's and early 1990's.

The European Court of Human Rights (ECHR) had found that criminalisation of homosexuality was an infringement of the right to privacy according to *Article 8* of the *European Convention on Human Rights* (ECHR). *Dudgeon V UK* (1981) and *Norris V Ireland* (1991) both made arguments that were based on a right to a private life (Ryan 2007). Decriminalisation of homosexuality occurred in Northern Ireland in 1982 and in the Republic of Ireland, 1993 (see Table 2 in Appendix 7 for a Gay and Lesbian Legislative Table of Progress in Ireland, 1980s-2010).

Despite the win by Norris in 1991, the Irish Government prevaricated on transposing his successful case into Irish law and thereby delivering homosexual law reform. The British Government had also been found to be in error in relation to their total ban on homosexual conduct by the ECHR (1981). With legal success behind the IGRM (Irish Gay Rights Movement), the time came for the *Oireachtas* to act. The agreed priorities for homosexual reform actions were for equal treatment in the criminal law and also anti-discrimination legislation protections for gay people and other set of minorities. The Irish Council for Civil Liberties (ICCL 1990) recommended that criminal law on consensual sexual activity should 'be the same for homosexuals as for heterosexuals' (Rose 1994, p.41). In 1990, a Law Reform Commission Report further published its recommendation whereby the legislation which criminalised homosexuality should be repealed (LRC 1990).

On 23rd June 1993, the Minister for Justice, Maire Geoghegan-Quinn T.D., proposed *The Criminal Law (Sexual Offences Bill 1993)* to the *Dail* (parliament) which provided for equality between heterosexuals and homosexuals. The bill passed all its stages without a vote. A celebratory issue of *Gay Community News* was published (GCN August 1993, *Irish Queer Archives*). Rose (1994 p.60) said

[...] while the equality-based law reform is fundamentally important in removing the taint of criminality, it must be remembered that it only provides the basis for achieving equality in everyday lives.

Subsequent to decriminalisation in 1993, significant rights legislation including that protecting lesbians and gay men was introduced. The 1998 *Employment Equality Acts* included bans on discrimination on grounds of sexual orientation (and eight other grounds) from employment, recruitment, training and pay and the *Equal Status Act* (2000) included bans on discrimination in relation to supply or sale of goods and services (but allowed different treatment in relation to pensions and insurance policies.) These acts were helpful in moving gay men and lesbian women not just away from the criminal taint but towards a sense of the possibility of experiencing equality in their everyday lives.

LGBT individuals, apart from ‘the familial-relational aspects of the law’ were otherwise doing well in Ireland (Ryan 2007, p.13). Individual rights and protections against discrimination on the basis of sexuality for individual gay men and lesbian women were now on the statute books. However, as members of alternative families they had virtually no legal protection. There was an invisibility of same-sex relationships in Irish law. Family/marriage law areas did not include co-habiting heterosexual or non-heterosexual people. Significant areas of legal exclusion for lesbian and gays included: laws concerning maintenance, the family home, property rights on relationship breakdown, inheritance, immigration, taxation and pensions. The legal approach in Ireland was to confine full legal relationship recognition to married couples. The use of the term ‘living together as husband and wife’ had some recognition for heterosexual couples but same-sex couples were unrecognised as they were excluded under that term. Allied to these exclusions were rights under the *Employment Equality Acts* which brought benefits to ‘family’ by marriage/birth of a child or in relation to a blood relative (bereavement *etc.*) – heterosexual employees had benefits that non-heterosexuals continued to be excluded from enjoying (Ryan 2007).

3.5. Same-Sex Relationship Recognition: Growing Support

A significant part of the new equality infrastructure in Ireland was the formation of the Equality Authority in 1999. It was this body, led by Niall Crowley, which moved very quickly to examine what steps needed to be taken in Ireland to provide for equality for lesbian women and gay men. The Equality Authority identified the significance of relational or partnership rights for same-sex couples as central in the move towards equality for gay men and lesbian women in Ireland (Mee and Ronayne 2000).

Very soon after its formation in 1999, The Equality Authority set up an *Advisory Committee on Lesbian, Gay and Bisexual Issues* and its Report by Mee and Ronayne (2000) with eighty-eight recommendations, stated that lesbian, gay and bi-sexual (LGB) people were near invisible and absent from official, statutory and legislative provisions. A suggested solution which would protect and create essential rights for such people would be to provide for the recognition of same-sex relationships. The Equality Authority report suggested that state policy on LGB issues should be informed by three core principles of diversity (including offering greater legal choice to families and households), equality (including heterosexual and homosexual equality in rights and responsibilities) and accessibility (including rights to financial, property, inheritance and social rights) (Mee and Ronayne, 2000). (For a table on Milestones Regarding Same-Sex Relationship Recognition, see Appendix 7, Table 3).

A deep silence on the issue of same-sex couple's rights was being broken - the first mention of rights for same-sex couples was in the *Irish Times* in December 2002 when in an editorial, comments were made on foot of the British Government intention to extend to gay couples the property and inheritance rights afforded to married couples and that the Equality Authority's working group had endorsed similar changes to the law (Zappone and Gilligan 2008).

The Equality Authority report (2000) was an audit of the reality for same-sex couples in Ireland in the 1990s (Mee and Ronayne 2000). They were to 'Identify the areas of Irish

law where married couples received different treatment to same-sex couples (who are prohibited from marrying)' (Mee and Ronayne 2000, p.5). The report significantly detailed differences in treatment for same-sex couples in a number of significant areas:

In relation to children the report says that there was no access to couple adoption for same-sex couples, no fostering rights, no legal guardianship rights, no automatic right to custody and access to children, no requirement to provide financial support for children, no naming of same-sex parents on registration of births. Moreover, same-sex couples had no right to have passports issued for their children and there was a dearth of information and support on fertility services and surrogacy.

In relation to workplace and property issues for same-sex couple, the report details rights that are affected to include workplace benefits, such as pensions. Also it refers to property rights, including housing and tenancy rights which do not include same-sex couples. Also the transfer of family home in separation or relationship breakdown does not apply and unmarried couples' rights on breakdown and cohabitation rights are not applicable to same-sex couples.

On taxation issues, this was an area also identified as being subject to different treatment for same-sex couples and married couples: income tax, Pay Related Social Insurance and Health levies, Capital gains tax, capital acquisitions tax, stamp duty and probate tax were all available to married couples and not available to same-sex couples.

Finally Mee and Ronayne (2000) also examined areas such as social welfare, domestic violence, insurance, funeral arrangements, immigration, citizenship, legal aid and marital privilege and found these to be areas where same-sex couples due to their lack of relationship recognition suffered unequal treatment under the law. This 2000 report was the subject of the 2003 *NESF Report (Forum Report No.7)* which examined how best to overcome the barriers to LGB equality in Ireland (NESF 2003).

The *NESF* report team said of same-sex relationship recognition:

Partnership rights emerged as a key and complex theme in the work of the team and it became increasingly clear to them that the absence of legal equal recognition for same-sex couples was a substantial barrier to implementing equality for LGB people (NESF 2003 p.55).

Other significant reports on LGB equality, with a focus on same-sex relationships rights, included the Colley Report (2006). This Department of Justice report gave options for legal recognition for same and opposite sex couples. Furthermore, Walsh *et al.*, (2007) examined both the Republic of Ireland and Northern Ireland jurisdictions and explored how strategies from both jurisdictions could best deliver equality for LGB people in the area of partnership rights.

These reports were highlighting both the reality of life for same-sex couples and LGB people in Ireland and creating a visibility at a policy level of the extent of the remaining discrimination. They also highlighted that the issue of same-sex relationships was emerging as a core area to target if inequality of LGB people was to be overcome.

3.6. Emergence of Civil Partnership

Senator David Norris proposed his Civil Partnership Bill in December 2004 which was debated in February 2005. Following a Government amendment, a vote on the Bill was postponed indefinitely (GLEN 2010 p.5). The *Law Reform Commission* (2005) proposed a presumptive scheme for qualified cohabitants (those living together). This scheme was to be an 'opt-in' facility of a registration scheme for cohabiting couples (Ryan 2007). This recommendation was taken up by the *All Party Oireachtas Commission on the Family* (2006). However, their report suggested that any proposed scheme should exclude same-sex couples and ensure no change to the Constitutional definition of Family⁵. It proposed continued exclusive recognition of the heterosexual marital family, stating that it felt it was not practicable to provide Constitutional recognition for all family types while at the same time maintaining the uniqueness of one – the married family (Ryan 2007). Thus the

⁵ Article 41.3.1. of the Irish Constitution defines the family as the married family (see 3.8. below for discussion).

Commission made it clear that it supported a solution for same-sex couples which would not require a Constitutional amendment. It concluded that there was a need for a set of ‘marriage-like’ supports for same-sex relationships, matching, but not exceeding those of married couples (*Commission on the Family* 2006). It is arguable that this is exactly what Civil Partnership delivered as the Civil Partnership law provided for some marriage like reliefs for same-sex couples, but did not make those reliefs and provisions equal to those available to married couples.

In 2006 the Minister for Justice (Mr Micheal McDowell T.D.) established the *Colley Working Group on Domestic Partnerships* whose role was to identify the categories of relationships and partnerships outside of marriage to which legal recognition might be accorded and from this to identify options on the form and extent of such recognition. In November of that year a *Landsdowne Opinion Poll* on marriage rights for same-sex couples was commissioned and it showed 84% in favour of relationship recognition for same-sex couples, with 51% supporting civil marriage, while 33% supported Civil Partnership, but not civil marriage (GLEN 2010b).

The *Colley Working Group* published its findings in November 2006. The group noted regarding same-sex couples, that the lack of equal legal recognition for their relationships had important implications for the:

[...] status and standing of same-sex couples, contributing to a perception that their relationships lacked value and were unequal to others (GLEN 2010b, p.10).

The Colley report stated that marriage rights for same-sex couples would be the option that would achieve equality of status with opposite sex couples and that such recognition would underpin a wider equality for lesbian and gay people. However, they concluded that as the marriage rights option for same-sex couples was vulnerable to Constitutional challenge (noting that the Zappone and Gilligan case was still before the courts – detailed discussion in 3.6 below) the other option proposed for same-sex couples was ‘Full Civil Partnership, giving equivalent rights and obligations of marriage to same-sex couples,

including consideration as joint adoptive parents' (GLEN 2010b, p.11). It noted that this fell short of equality, in particular, it would mean that same-sex couples and their families would continue to be excluded from the Constitutional protection afforded to opposite sex married families. However, in many respects what finally was introduced in 2010 in Civil Partnership fell significantly short of the Colley group expectations especially in relation to children/parental rights of same-sex couples (Fagan 2011).

Also at this time, the Irish Labour Party (then in opposition) launched their *Civil Unions Bill* for same-sex couples, which proposed giving same-sex couples equivalent rights and obligations to married couples. This Bill was to reflect the suggestions of the *Colley Report* and was followed swiftly by the publication of the *Law Reform Commission Report* (2006) which proposed a redress scheme be available to unmarried and same-sex couples in intimate relationships, recognising how vulnerable they were as cohabitants. The Labour Bill was debated in February 2007 and was seen to allay Constitutional concerns about introducing rights for same-sex relationship recognition. The Government introduced an amendment to postpone a second reading of the Bill for six months, while awaiting the outcome of the Supreme Court appeal (see 3.6 below). The Government dissolved soon after and effectively the Bill fell.

During the election campaign in 2007, some of the political parties came out to support various forms of same-sex relationship recognition – ranging from a redress scheme (proposed by centre-right Progressive Democrats⁶ Party) to full civil marriage rights (proposed by The Green Party). As the new programme for Government was agreed, a commitment to legislate for Civil Partnership was agreed between The Green Party and their coalition partners of the *Fianna Fáil* party and the Progressive Democrats. While the Labour Party *Civil Unions Bill* was re-introduced late in 2007, it was defeated by a

⁶ Progressive Democrats was a small party which formed from a breakaway group of *Fianna Fail* and due to electoral success they were a minority party in Government from late 1990's to end of 2000's.

motion of the newly formed Government which stated its intention to introduce legislation to ‘[...] provide substantial and significant equality for same-sex couples who do not have the option of formalising their relationship through marriage’ (<http://debates.oireachtas.ie/Debate.aspx?F=DAL20071031.xml&Node=H17>). They rejected the *Civil Unions Bill* on the advice of the Attorney General who had advised that the measure would not withstand a legal challenge because it clashed fundamentally with Article 41.3.1. In other words, the *Civil Union’s Bill* was seen to be too close to marriage in its rights and entitlements provision and thus could be challenged by those wishing to keep the Constitutional protections just for opposite-sex married couples, defined as ‘family’

In June 2008, the headings for a *Civil Partnership Bill* were published by the Government in which they proposed two key models of relationship recognition: a civil registration scheme for same-sex couples, providing many, but not all equivalent rights and obligations to married couples. The Bill also included a redress scheme for cohabitants, opposite sex or same-sex which would provide legal redress for such couples and their children in the event of relationship breakdown. The Bill was criticised by some gay and lesbian equality groups, in particular for its omission of rights relating to same-sex family recognition. In particular it was criticised for the lack of provision of any recognition of children being parented by same-sex couples (Collins 2009; Healy 2009; Mullally 2014).

In October 2008 a further *Landsdowne Market Research* opinion poll was conducted (Healy, 2009). This nationally representative series of face to face, in-home interviews with 1,000 participants was independently conducted for Marriage Equality⁷ and ‘showed 81% or eight out of ten Irish people surveyed agreed that everyone in Ireland should receive equal treatment from the state regardless of whether they are gay, lesbian or

⁷ Marriage Equality is an advocacy group seeking civil marriage rights for same-sex couples in Ireland

straight' (Healy 2009, p.4). It also said 61% believed denying same-sex marriage was a form of discrimination, rising to 74% in the Dublin area. 62% said they would vote in favour of same-sex civil marriage in a referendum (Healy 2009, p.6).

Micheal McDowell T.D, the Minister for Justice, Equality and Law Reform published the *Civil Partnership Bill*, in June 2009 with its separate redress scheme for cohabiting couples. Significantly, the Minister insisted that for tax and social welfare purposes civil partners would be treated as spouses under those codes. Furthermore, in relation to immigration, he said it was the Government's intention to amend relevant legislation to ensure that civil partnership couples would be recognised for immigration purposes in the same manner as married spouses (GLEN 2010b, p.26).

In June 2010, following debates in both upper and lower houses of the *Oireachtas (Irish Houses of Parliament)*, the *Civil Partnership and Certain Rights and Obligations of Cohabitants Act, 2010* was passed without a vote in the Dail (parliament) and only four senators voted against it in the upper house. The Act was enacted in January 2011 and the first same-sex couples applied to have their relationships registered and recognised by the Irish State.

3.7. Legal Discourse Backdrop to Same-Sex Relationship Recognition in Ireland

Ireland is in the throes of a debate about same-sex relationship recognition which cuts across two intersecting legal discourses that have implications for the extent to which the law should recognize and support patterns of family life not involving heterosexual marriage. The first discourse is that concerning the confining of rights, duties and privileges to married couples (heterosexuals), excluding co-habiting heterosexuals and same-sex couples. The second discourse concerns the identity of sex rule in marriage law, which confines civil marriage to two persons who are of opposite sex (Ryan 2007).

The ban on same-sex marriage was affirmed when the *Civil Registration Act 2004*, section 9.2 (e) (CRA) precluded the ‘solemnization of a marriage between two persons of the same sex’ (www.irishstatutebook.ie/isbc/2004_3.html). This was further upheld in the so called KAL case - the case of *Zappone & Gilligan v. Revenue Commissioners and Others* (2006), where Justice Dunne concluded that the *Civil Registration Act* did not impinge on the Constitutional right to marry, which Gilligan and Zappone said was key to their claim of having their Canadian marriage recognised for revenue purposes (Gilligan and Zappone 2008). They did not succeed because in Dunne’s view the right to marry under the Constitution is confined to opposite sex couples. She held that the recently passed CRA (2004) had laid out who could and could not marry and, in this sense the people, through their politicians who legislated, had spoken. O’Mahony argues (2014) that the judge erred in her interpretation and he holds that in fact introducing legislation for civil marriage rights for same-sex couples could be done by the *Oireachtais* (Parliament and Senate) and that a Constitutional amendment is not needed.

Opposite sex couples may choose not to marry, this choice is not open to same-sex couples and thus same-sex couples are left without legal protection. Putting it succinctly, Ryan (2007, p.2) says ‘the problem for same-sex couples is that they are not straight’ . This lack of recognition of same-sex couples indicates wider societal and social exclusion, including the invisibility of LGBT people generally in Ireland.

Drawing attention to the opposing sides in the same-sex marriage regulation debate, Ryan (2007) refers to the submissions made to the *All Party Oireachtas Committee on the Family* (2006). Ryan challenges the idea that the debate in Ireland is merely traditional family values opposing liberal calls for change. He argues that it is more complex, as many of the calls for reform evident in that report fundamentally reaffirm values that could well be called traditional. Many of the calls for change replicate norms promoted by those upholding concepts of traditional marriage, including, he says (2007, p3.) ‘stability, security, mutual trust and commitment’ . Contemporary debates, in his view,

represent a softening of liberal discourses and a definite trend away from ‘radical individualism’ of earlier gay and lesbian rights discourse (Ryan 2007 p.4). The model emerging in the same-sex marriage/family debates, ‘is one which seeks to reaffirm ‘traditional’ values, not to replace them’ (Ryan 2007 p.4). This shift in LGB discourse sees earlier discourses on free love and subverting straight society norms, especially marriage (DLGMC 1986), replaced with dominant concerns of the gay rights agenda of relationship rights, marriage equality and equality in matters of child-rearing (GLEN 2010b; Fagan 2011; Pillinger and Fagan 2013). Relationship recognition as an equality issue has become one of the key topics in modern LGBT rights discourse (Ryan 2007; Weeks 2007). Indeed, the *Tánaiste* (Deputy Prime Minister) who was also leader of the Irish Labour Party at that time, Deputy Eamon Gilmore T.D., went further, when he said that same-sex marriage rights were the civil rights issue of our generation (McGee, *Irish Times* July 2, 2012).

Acknowledging the criticisms of commentators who opposed gay and lesbian people seeking entry to marriage (Ettelbrick 2012), the shift towards relational rights it can be argued is a radical and positive departure for discourses on both marriage/family and gay rights (Solomon 2014, Marriage Equality 2013). However, in the trend towards regulation of same-sex relationships, concern must be taken that other equality discourses are not discounted, such as those of the queer theorists that are challenging social and gender norms that continue to exclude and marginalise people (Warner 1999; Bell and Binnie 2000). Much of the current discourse and debate sees same-sex couples moving to embrace, with modifications, features of traditional family life (Ryan 2007; Ni Bhroin 2009). This concurs with findings from interviewees in Civil Partnerships in the UK who speak about themselves as being ‘just ordinary’ (Heaphy *et al.*, 2013) and also reflects the experiences of interviewees in this study who describe the importance of relationship recognition for them and their families.

The legal discourse shift has moved from one of liberal-individualism of the 1970s and 1980s to becoming more relational in the 1990's and 2000s, a shift that represents the gradual enhancement of laws on the legal position of individual lesbians and gay men, to one focussing on the inter-relationships that they wish to enjoy with other persons. This shift corresponds with that recognised by those who hold that non-heterosexual rights discourse has moved firmly into the relational field (Weeks *et al.*, 2001, Weeks 2007; Lewin 2008).

3.8. Irish Same-Sex Relationship Recognition Legal Challenge: The KAL Case

The KAL case is detailed here because it is the key legal challenge taken which attempted to establish a right to equal relationship recognition for same-sex couples in the Irish courts. The Irish judicial sphere seeking relationship rights involves the KAL case (*Zappone & Gilligan v. Revenue Commissioners and Others*, 2006). This was a challenge by two married women to have their long-time intimate relationship recognised by the State. Dr Katherine Zappone and Dr Ann Louise Gilligan were two lesbian women living in Ireland who had married in Canada in 2003. They took a case seeking the legal recognition of their 25 year relationship and their legal Canadian marriage conducted in Vancouver in 2004:

The deepening of our desire to do something that could bring about change, had more to do with the fact that our lifelong partnership was being denied proper legal recognition (Gilligan and Zappone 2008, p.223).

It was their intention to push forward some of the policy recommendations emerging in the early 2000s by taking a case which would mobilise grass-roots action to bring pressure to bear on law-makers by taking a legal challenge to the courts.

These two theologians decided that they had a right to demand 'that our human dignity was respected, not undermined' (Gilligan and Zappone, 2008, p.235). Acknowledging that the institution of marriage had altered over time, they argued that marriage was not a static institution and that it has recently become a more egalitarian construct.

The two women put forward their case that the Irish Constitution was not ‘frozen in the permafrost of 1937’ when it was written, but rather was ‘a living document that required reinterpretation as society changes’ (Gilligan and Zappone 2008, p.252). According to them, while the Constitution was silent on the gender of married couples, statute or case law in Ireland had until then interpreted marriage as between a man and a woman. Their case was a challenge to this view. Their engagement with the Constitution was an attempt to maintain the living and changing nature of this document – the Irish Constitution. They took their case, a judicial review of the Revenue Commissioners’ failure to recognise their Canadian marriage for tax purposes. Revenue had based their rejection on an Oxford English Dictionary definition of Husband and Wife, which as a same-sex couple Zappone and Gilligan has failed to meet. Despite the decriminalisation of homosexuality since 1993 and the introduction of various pieces of legislation to protect rights of lesbians and gay men in Ireland in the 1990’s and 2000’s, Zappone and Gilligan could not find other couples willing to join them in their Constitutional challenge and neither did any of the Irish equality, gay and lesbian advocacy groups want to enter with them in their case. At that time there was no national group campaigning for civil marriage for same-sex couples in Ireland. They were granted leave to appeal Revenue’s decision in November 2004 (Zappone and Gilligan 2008, p.254).

Shortly after the leave to appeal was granted a small support group formed to help raise funds and provide support to the women in their legal case. The group ‘KAL’ formed and within 18 months had transformed into *Marriage Equality*, the campaigning organisation seeking civil marriage rights for same-sex couples in Ireland (O’Carroll and McDonnell 2012). The need for such an organisation to highlight the presence of lesbian women and gay men in relationships with needs, whose rights could only be vindicated in access to civil marriage was sparked by the KAL case. The State decided to challenge the KAL application and by April 2005 (*Irish Times*, ‘State to challenge lesbian couple’s legal action’ 15.4.2005) it was evident that the case was going to raise significant issues for

Irish society. The two women appeared on the *Late Late Show* (Irish talk and entertainment show with very high viewing figures) in early 2006 during which the host Pat Kenny, asked the audience to put up their hands to indicate if they would vote to change the Constitution so that gay and lesbian people can marry each other. The vast majority of hands went up and the media programme, that had been the gauge of many social issues in the past, gave the public nod to the case being taken (Zappone and Gilligan 2008).

Witnesses in the case were called to testify that marriage had evolved over time, while other witnesses claimed that children raised by same-sex headed families did as well as those who were raised in married heterosexual families. Justice Dunne delivered her judgement in December 2006. Commenting on her rejection of their claim, the couple stated:

In summary, she said we do not have the right to marry here under the Constitution because that right is confined to the union of a man and a woman; consequently, our marriage in Canada is not recognised as valid here (Zappone and Gilligan 2008, p.269).

Later on the day of the judgement, Gilligan speaking on RTE *Drivetime* radio programme said:

This judicial decision, its lack of recognition means that we are not equal in this country in one of the most critical aspects of our lives. You are either equal or you are not. We are not. (Zappone and Gilligan 2008, p.270)

While the case failed⁸ it left a legacy of a strengthened lesbian and gay rights movement. It achieved their ambition to stir up a grassroots revolt against the lack of equal same-sex relationship rights. While GLEN had committed itself to seek Civil Partnership rights as a stepping stone to equality, Marriage Equality, National Lesbian and Gay Federation

⁸ The couple subsequently withdrew their appeal of the decision in favour of taking new proceedings in 2012 to challenge directly two acts which prevented recognition of their marriage,

(NLGF), LGBT Noise, and the Irish Council for Civil Liberties (ICCL), and others, had taken up the baton to push for full equality for same-sex relationships by continuing to advocate for Civil Marriage rights in Ireland following the introduction of Civil Partnership in 2010 (Mullally 2014).

Central to the case of *Zappone & Gillian v. Revenue Commissioners and Others* (2006), is the view put forward that the gender of those who can be married is not specifically defined in the Irish Constitution (O'Mahony, 2014; Fagan 2011; Walls 2010; Ryan 2007). Both the legislature, in the passing of the *Civil Registration Act, 2004* and the Courts, in issuing the KAL judgement (2006) have concluded that 'marriage is a union of one man and one woman respectively' (Ryan 2007). The notion of marriage as a heterosexual union dates back to 1866 (*Hyde v Hyde & Woodmanse*) and has been stressed as such in both British and Irish courts subsequently. The enactment of the Same Sex Couples Act (2013) has changed this in the UK – where from 2014, same-sex couples are able to be legally married and their relationships recognised as married in England and Wales. Northern Ireland retains its derogation on the matter and Scotland passed its marriage equality legislation in early 2014.

However, it is only in the *Civil Registration Act* (2004) that Irish law breaks its silence on the matter when it states that the option of civil marriage between two members of the same-sex is not allowed (Ryan 2007). In the KAL judgement (2006) the High Court found that 'for the time being' the term 'marriage' as used in the Constitution refers only to a marriage of persons of opposite sex. Thus, there was no Constitutional right, according to Judge Dunne, to marry a person of the same-sex, or a requirement to recognise in Ireland same-sex marriages celebrated abroad – such as that of Gilligan and Zappone in Canada (Ryan 2007; Zappone and Gilligan 2008).

The Act providing for Civil Partnership (2010) contains a further impediment to the recognition of same-sex marriages, by stating that a couple may only be legally

recognised as either married (opposite sex only) or civil partnered (same-sex only). This effectively bans same-sex couples who are married elsewhere from being recognised legally as anything other than Civil Partnered under Irish law. It was this new development in the Civil Partnership Act (2010) which formed part of the later Zappone and Gilligan High Court challenge launched in Summer 2012 (Marriage Equality Press Release June 2012) and later dropped while a referendum to decide the issue is promised by the government to held in May 2015. This issue of foreign marriages being downgraded to Civil Partnerships is a significant issue for some of the couples interviewed in this research (Chapters 5, 6, and 7.)

In 2006, Justice Dunne held that there was in her view, insufficient evidence of any emerging consensus regarding same-sex couples right to marry which would uproot the view as understood in the Constitution to that point (Zappone and Gilligan 2008; Ryan 2007). However, a shift in consensus has taken place since that judgement if policy documents and *Dail* debates and public polls are to be seen as an indication of shifting public opinion on the matter (Ryan 2007; Mullally 2014). Since 2006 there is evidence of successive public opinion polls showing increasing consensus on, and public support for, same-sex marriage equality in Ireland.

3.9. Key Provisions of the Civil Partnership and Certain Cohabitants Act (2010)

The Civil Partnership Act seeks to amend over 130 separate pieces of legislation that confer rights or place obligations on spouses. ‘The broad effect of these amendments is to provide equivalent protection for civil partners’ (Ryan 2010a, p.2). The Civil Partnership scheme is confined to same-sex couples who register their partnerships and it is for those who are unrelated and in an intimate relationship, aged 18 or over and not already in a civil partnership or marriage. Foreign civil partnerships or marriages are to be recognised as Civil Partnerships in Ireland.

The changes which ensue for registered same-sex couples include entitlement to seek maintenance; the shared home of the couple cannot be sold or leased without the consent of the other partner and a variety of court remedies become available on legal dissolution of the partnership, specifically in relation to property, pensions and succession. On the death of either civil partner, claims from the estate may be made under similar conditions to those enjoyed by widows and widowers (opposite-sex married couples). Other reliefs to which civil partners are entitled include those for domestic violence and wrongful death and succession, as with spouses, protected tenancy and rent-controlled tenancies will be available, while employers will not be permitted to discriminate against a civil partnered person and civil partnered couples will be eligible for pension entitlements, again in the same manner as for a spouse. Initially, taxation, social welfare and immigration were not dealt with under the Act, though Government promises were made and mostly kept, that these further changes would take place and civil partners under these headings would be treated as spouses and the codes would be changed to reflect this (Ryan 2010a; Fagan 2011). Such amendments were passed in a separate Finance Act later in 2011, the contents of which were proposed by Senator Katherine Zappone, the named litigant in the KAL case.

Pre-Civil Partnership, legally, a couple who were not married to each other were treated as strangers in law (Ryan 2010). Even where some reforms had been made in favour of non-marital couples (such as the right to succeed a tenancy) reforms such as this were worded with the intention of extending such rights and obligations only to opposite-sex couples. The legal provisions of the Civil Partnership legislation changed this.

3.9.1. Key Differences between Civil Partnership and Civil Marriage

Key differences between Civil Partnership legislation provision and marriage rights include those relating to a civil partner and his/her partner's children (Ryan 2010a; Fagan 2011; Pillinger and Fagan 2013; Marriage Equality 2013). The parent-child relationship is not generally acknowledged in the Act. Furthermore, differences exist for dissolution and

annulment of a Civil Partnership, compared to what is required for divorce and annulment of marriages. The recognition of children in the Civil Partnership Act (2010) which extends to non-biological parents who are a co-parent, extends only to their rights to seek access in respect of a child, if the child is in the custody of the other Civil Partner. In relation to maintenance, courts must only take into account a Civil Partner's obligations towards his/her own biological children, similarly after the dissolution. Thus, no specific financial support is required for the child by the non-biological parent who is a Civil Partner to the child's biological mother or father. Ryan (2010) and Fagan (2011) conclude that full equality undoubtedly demands equal access to civil marriage. However for Ryan (2010a, p.18), Civil Partnership '[...] both practically and symbolically [...] represents real and substantial progress in the recognition and protection of non-traditional families'.

Further key gaps identified in relation to differences between the Civil Partnership Act (2010) and marriage rights were enumerated in Fagan (2011). Judy Walsh, (Walsh, J. in Fagan 2011, p.5) lawyer, in her foreword to that report states:

[...] the point is to reveal that through Civil Partnership the Irish State has created a separate and unequal institution on many levels [...] the better path would have been to remove the ban on marriage for same-sex couples.

Some 169 differences in treatment were identified in the report:

[...] covering rights and protections across a range of legislation including areas of family law, immigration, housing, inheritance, taxation, freedom of information, and other miscellaneous provisions, which apply to married heterosexual couples, but not to same-sex couples who are registered Civil Partners (Fagan 2011, p.10).

Three areas in particular as identified by Fagan (2011) and Pillinger and Fagan (2013) are examined here, representing significant areas where the Civil Partnership act treats same-sex couples and their families in less favourable terms than married couples. They are:

Family Home protection provisions, Finance and Taxation matters, and Parent and Child provisions. The first two areas drew some attention and were discussed in the media prior to the passing of the act. The third, relating to parenting and child provisions has emerged as a most significant gap in the legislation.

3.9.1. i. Family Home Protection

The Family Home Protection Act (FHPA) 1976 (as amended) is a key piece of legislation which prohibits the sale or mortgage or lease of a family home without the written consent of the other spouse. Some 25 differences in provisions were found by Fagan (2011) when examining the Civil Partnership Act (2010). These included differences in terminology: FHPA defines the dwelling of a married couple as their ‘family home’, whereas the Civil Partnership Act defines the dwelling of the Civil Partnership couple as a ‘shared home.’ The difference in terminology reflects the fact that a shared home is not subject to the protections of the Constitution afforded to the family home of the married family. The language used ‘ensures that same-sex couples who have registered a Civil Partnership are not recognised as or even called a family’ (Fagan 2011, p.13). This failure to feature as a family is a significant omission for lesbian and gay headed families in Civil Partnerships.

The omission from the Civil Partnership Act (2010) of a deserted spouses’ right to apply for consent to sell the family home, means that a deserted Civil Partner is left without this protection in the event of desertion. Throughout the provisions dealing with conduct leading to loss of family home all references to children are omitted. This effectively excludes children of those in Civil Partnerships from the protection of their family home, something provided for children in married families (Fagan 2011). This means that even in families where the parents are in a Civil Partnership, where there are children, children’s rights and family security are not guaranteed by the Civil Partnership Act.

There is no provision made for a court to make an order to compensate a child for the loss of his or her home due to the conduct of a Civil Partner, whereas children of married couples may apply for this compensation. Other relevant housing provisions include the availability of housing grants for married families in the event of fire or damage to their family home, such provision is not made to Civil Partners. Exemptions from need to pay for the production of a certificate when transferring land or creating joint tenancy do not apply to Civil Partner homes. Lack of directions regarding maintenance by Civil Partners (Ryan 2009) is also highlighted by Fagan (2011). She concludes that the differences and exclusions are significant as they amount to a serious lack of protection and support for Civil Partners and their families at times of crisis, desertion or mishap. The FHPA contains a definition that recognises all children in a married family, whether biological or not, as dependent children and in need of protection. This is not applied to Civil Partnership and is a fundamental flaw of the Act (Healy 2009; Fagan 2011). The gaps in provision, purposely made in the drawing up of the legislation are evidence of the resistance by the state to recognise same-sex families and same-sex relationships as equal in law to opposite sex families and opposite sex relationships. The impact of this heteronormative and heterosexist policy approach leaves same-sex headed families, excluded from the majority of Constitutional and family law protections afforded married heterosexual couples and their families even where the parents are in Civil Partnerships.

3.9.1.ii. Finances and Taxation

The financial matters audit discovered 18 differences in treatment covering areas such as taxation, employment, pensions, and others (Fagan 2011). Twelve specific areas where equivalence between Civil Partners and married couples do not exist include tax treatment in relation to breakdown of a Civil Partnership, maintenance payments for children and definition of relatives. One significant implication for Civil Partnered couples in the event of breakdown is the failure of the Civil Partnership Act to provide for quick tax assessment on separation without having to wait for a court order. This means Civil Partner couples may have to continue living together after relationship breakdown

while waiting for the proper tax assessment to take place following a court order, while married couples, on breakdown, are eligible for fast track treatment in such matters. For married couples 'relative' and 'family' are based on blood or marriage links. However, the failure to recognise Civil Partner relatives for consanguinity reliefs, which include reduced stamp duty on transfers between relatives, shows a further unequal impact of this lack of equivalence for Civil Partner couples (Fagan 2011).

Acknowledging equality under employment law for Civil Partners, Fagan (2011) welcomes the equivalence in the provision of pension rights between Civil Partnered couples and married couples. However, the exclusion of Civil Partner couples from what is recognised as the engagement period, prior to marriage for opposite sex couples is regrettable as it again draws attention to the State differentiating in a way that disadvantages same-sex couples when compared to opposite couples, in the period immediately before registration/marriage (Fagan 2011).

3.9.1.iii. Family, Children and Parents' Rights

The omission of robust protections for the children of Civil Partners will have real consequences for the young people concerned and it is in their interests that law reflect and provide for the reality of their lives (Ombudsman for Children 2010).

In making these comments critical of the proposed Civil Partnership Act in relation to provisions for children, the Ombudsman for Children was drawing attention to what she saw as a failure by the state to recognise the rights of existing children in same-sex families requiring protection under the law within Civil Partnership (Ombudsman for Children 2010).

The audit of the Civil Partnership legislation covers areas of significant omission regarding children (Fagan 2011). The Act does not provide for amendments to the Adoption Act, 2010, which says that only a married couple may apply to jointly adopt. Civil Partners may not jointly adopt, even in cases where the proposed application to

adopt is in relation to a biological child of one of the Civil Partnered couple. This prohibition also includes entering the process for inter-country adoption orders. This is out of step with parental adoption rights for same-sex couples in other EU countries.

Guardianship issues are also omitted from the Civil Partnership Act (2011), where there is no way to '[...] confer parental rights or responsibilities on a civil partner who is not the biological or adoptive parent of a child, but is in fact parenting a child or children within their family unit' (Fagan 2011, p.26). Neither have provisions been made for testamentary guardianship which would allow the wishes of a deceased parent be followed, that the surviving Civil Partner parent would be guardian to the child. Other issues relating to Custody and Access have not been extended to include a Civil Partner who is not the biological parent of the child. As references to dependent children have been omitted from the Act, no orders against a non-biological Civil Partner parent can be made for maintenance. Also, in the event of a dissolution of a Civil Partnership, no proper provision is made for the needs of children to be provided for in that union (Fagan 2011). Inheritance rights were included in the final text of the Civil Partnership Act (2011). Any child of one of the partners can inherit without punitive tax penalties in the same manner as a married couple and their children. However despite this inclusion, overall, the view of the Act, following the audit of its provisions regarding children is that:

[t]here is profound injustice in the failure of the Civil Partnership Act to recognise the relationship between children and their lesbian or gay non-biological parents, omitting protections afforded to non-biological children of marital couples from children with same-sex parents in a registered Civil Partnership (Fagan 2011, p.28).

The implications of these exclusions are very real for same-sex families. Elliot (2010) reports on the experiences of children from lesbian-and-gay headed households in Ireland, where some of those children spoke of the significant impacts of the lack of legal recognition of their relationships with their non-biological parents. What mattered most to those children was that:

[...] their family relationships be recognised and protected, and that no other generation of children with LGBT parents should experience the pervasive homophobia that they had experienced (Elliot 2010, p.28).

In relation to Irish research on parenting by LGBT people, Elliot *et al.* (2010) in their study, asked children (16+ years or older) in LGBT parented families their views on their experiences. They found that a lack of legal recognition and protection of their families has caused considerable problems and frustration for children with LGBT parents. Furthermore, in a study on LGBT parenthood in Ireland, researchers call for access to civil marriage for same-sex couples, and access to the right to be eligible for assessment for joint adoption for same-sex couples (Pillinger and Fagan 2013). They also call for the right of a child to have a legal relationship with their parents/carers, highlighting the key parenting legal exclusions experienced by LGBT parents in Ireland, despite the enactment of Civil Partnership in 2011. The need for government policies and state policies that reflect diversity of family life are highlighted, including access for LGBT people to schools and health services that respect diversity of family life (Pillinger and Fagan 2013). These issues are discussed, and the links to current research on the impacts of same-sex headed families are discussed in Chapter 2 (Section 2.7.5).

The presence of legal recognition for same-sex relationships is shown to be supportive of same-sex families, in particular regarding the security it gives to children in such families (Pawelski *et al.*, 2006). That means that attention must be paid to the heteronormative and heterosexual discourse dominance whose influence continues to hold sway, even when scientific research shows that there is no need to be concerned about the outcomes for children in same-sex headed families.

3.10. Conclusions

Chapter 3 discussed the development of the emergence and recognition of same-sex households in Ireland. It argues that recent socio-political changes in Ireland have created the conditions allowing for a greater tolerance towards same-sex sexuality and the move

towards same-sex relationship recognition. The chapter examined the progress of lesbian and gay rights and the KAL court case which sparked the demand for civil marriage equality for same-sex couples in Ireland. The special place of family and marriage in the Irish Constitution was explored and the implications of this examined for same-sex relationship recognition. Finally, The Civil Partnership and Certain Cohabitants Act (2010) was discussed and an analyses of its key provisions and gaps examined. Many of the provisions of Civil Partnership are seen to be milestones in equal treatment before the law for same-sex relationships, while the gaps identified convey the persistence of inequality of same-sex family recognition and thus the continued inequality of same-sex relationships. This chapter has provided another set of horizons which make up the canvas and backdrop against which we now move to examine the experiences and meanings of Civil Partnership for same-sex couples.

Chapter 4. Methodology and Research Methods

4.1 Introduction

This chapter outlines the epistemological and ontological considerations which inform the chosen research methodology for this study. Section one outlines the reasoning for choosing a qualitative research approach and then presents some of the core concepts informing Interpretative Phenomenological research. Section two presents the method used in this research study and focuses on data collection and data analyses presenting the decision trail for both processes and providing evidence of the quality of the research study by examining issues of trustworthiness, rigour and reflexivity.

4.2. Section One: The Principles of the Theoretical Framework Underpinning Hermeneutic Phenomenological Research

4.2.1. Qualitative Vs Quantitative Methodology

The aim of this research is to explore the meanings and understandings that same-sex couples in Civil Partnerships give to their experiences of relationship recognition. The core research question is: ‘what is the meaning of Civil Partnership for same-sex couples?’ The research objectives are to examine the understanding that lesbian women and gay men have of same-sex relationship recognition (Civil Partnership) in Ireland, and to explore the meanings they give to this phenomenon.

In considering an appropriate methodology to deliver on the research objectives of this study, I have followed the advice of Hogan *et al.*, (2009 p.1) who says that; ‘the process can be made significantly easier if the student is genuinely interested in his/her topic.’ My research interest stems from my own experience as a lesbian woman and my work as an equality and social justice advocate in the field of gender equality, lesbian and gay rights for thirty years. Hogan (2009 p.1) further advises that choosing an appropriate methodology can be supported ‘by having a clearly defined research question’ leading to ‘a research methodology that is carefully structured to investigate that exact research question’.

In the twentieth century positivist researchers, such as Durkheim (1895) claimed that certain research methods could produce knowledge that is objective and value-free and that the world held external truths that could be revealed by research. However, Gray (2009, p.39) describes how such methods have been replaced by post-positivist stances, including interpretism, of which hermeneutic phenomenology is a sub-set. The interpretive tradition has its origins in the work of Max Weber (1922) who rejected the idea that external truths are just waiting to be revealed; rather he posited the view that individuals create and re-create the world about them.

A major influence on the above sociological theorists' thinking was the philosophy of Heidegger (1962) and his follower Gadamer (1989) who in the world of philosophy repudiated the project of investigating meaning objectively. They saw the search for meaning as always linked with an object via a context of tradition or fact for which [that we always have] a certain pre-understanding is always available to us. In effect they contributed greatly to the debunking of the ground held by positivists (Ritzer 2013).

This research project is seeking to examine the meanings which lesbian women and gay men attach to a form of same-sex relationship recognition – Civil Partnership. I have chosen to take a qualitative approach, as it is a multi-faceted approach that investigates culture, society and behaviour by analysis and synthesis of people's words and actions (Hogan *et al.*, 2009). Qualitative research is pragmatic and grounded in the lived experiences of people (Marshall and Rossman 2006). My choice of a qualitative approach fits with my desire to use a methodology that allows me examine the meanings of the phenomenon, Civil Partnership, grounded in the lived experiences of people. It interprets the significance of the phenomena by exploring the meanings people bring to them.

I rejected a quantitative methodology as a method because such research is typically taken to be exemplified by conducting a social survey and by experimental investigations (Bryman 1988). In choosing a qualitative method I was influenced by the philosophical

issues as presented below in 4.2.2. A key factor in my decision to take a qualitative approach was that surveys and experimentations often ‘fail to take into account the differences between people and the object’ being studied (Bryman 1998, p.3). Furthermore, Bryman (1998, p.3) tells us that qualitative and quantitative research approaches are ‘divergent clusters of epistemological assumptions’ and that they are ‘different ways of conducting investigations which may be conceived as being appropriate to different kinds of research question’ (1998, p.5). As my question is one of understanding through interpretation of lived experience, a quantitative approach in this instance is not appropriate.

Researchers play a role in the research itself in qualitative studies. They bring theoretical frameworks and concepts to the research design, all of which influence how they interpret what they uncover. This fits with the ontological and epistemological principles underpinning the choice of Interpretative Phenomenology as methodology.

4.2.2. Rationale for Not Opting For Other Qualitative Research Traditions

There were a number of other qualitative research methods which were options when I began this research journey. It is useful here to outline briefly what they are and why I rejected them and choose Interpretative Phenomenology.

Using Cresswell’s (1998) examination of five qualitative research traditions, I will present now the key rationale for rejecting Biography, Grounded Theory, Ethnography and Case Study as my research method in favour of phenomenology.

Cresswell (1998) compared the above five traditions according to headings: Focus, Discipline origin, Data collection, Data analysis, Narrative form.

4.2.2.i Focus

The research tradition of biography focuses on exploring the life of an individual; while grounded theory tradition focuses on developing a theory grounded in data collected from the field. Ethnography has its focus on describing and interpreting a cultural and social

group, while case study tradition is about developing an in-depth analysis of a single case or multiple cases. In this study, the phenomenological research tradition is most appropriate, as its focus is on understanding experiences about a phenomenon. The phenomenon in question is the same-sex legal recognition construct of Civil Partnership and this study focuses on this and on how it is understood through the experiences of those who have entered it, as well as what it means for lesbian and gay couples.

4.2.2.ii. Discipline Origin

The discipline origins of each tradition of inquiry also help to indicate suitability of choice of phenomenology in this study. Again according to Creswell (1998), biography originates from many disciplines, including anthropology, literature, history, psychology and sociology. Grounded theory originates in sociology, while ethnography has its origins in cultural anthropology and sociology. Case study is used in political science, sociology, and urban studies. Phenomenology is grounded in ‘philosophy, sociology and psychology’.

4.2.2.iii. Narrative Form

Of all the dimensions of the five traditions which Creswell (1998) outlines, the narrative form is that which most clearly identifies phenomenology as the most suitable for this study. When describing the narrative form of phenomenology, description and interpretation are key characteristics. Other traditions result in very different outcomes: biography gives us a detailed picture of an individual’s life; grounded theory provides a theory or theoretical model; ethnography results in a description of the cultural behaviour of a group of an individual, while case study’s narrative form is an in-depth study of a case or cases. As it is central to this study to understand the meaning and experiences of civil partnership for same-sex couples, the narrative form of phenomenology will enable us to detail an interpretative description of the meaning of their experiences.

4.2.2.iv. Data Collection

The data collection methods across the five traditions vary. Biography consists of primarily interviews and examining documents; grounded theory is based on interviews

with 20-30 individuals to saturate categories and detail a theory; ethnography data is gathered through observations and interviews during an extended period of time spent in the field with participants; case study uses multiple sources to make a case. Cresswell (1998) describes phenomenology data collection as long interviews with up to 10 people. The plan for this study was to interview 8-10 civil partnered couples. This data collection method is the one most suited to this study and is characteristic of phenomenological inquiry.

4.2.2.v. Data Analysis

For biography, Cresswell (1998) tells us that data analysis consists of discovering and analysing stories and historical content, while grounded theory requires open coding, axial coding, selective coding and development of a matrix. For ethnography, description, analysis and interpretation occur, while in case study there is development of description, themes and assertions. For phenomenology, Cresswell (1998) maintains that the basic phenomenological approach to data analysis is the development of statements, meanings, meaning themes and general description of the interpretation of the experience of the phenomenon. Lavery (2003 p.22) describes it as the search toward understanding the experience ‘from particular perspectives [...] as well as the horizons of participants and the researcher.’

This analysis of the five traditions and the factors which I took into account for each when deciding to opt for Interpretative Phenomenology as my research method, form the basis upon which the decision was taken. The overriding factors affecting my choice were the ontological and epistemological considerations regarding phenomenology as a tradition and the significance of my understanding of the importance of reflexivity as a researcher.

4.2.2. Ontological and Epistemological Considerations, and the Importance of Reflexivity as a Researcher

The ‘techniques the researcher uses to collect and analyse data’ is methodology (Johnson 2000, p.135). It is important to choose an approach that is clearly suited to the ontological

and epistemological positions which the researcher holds. Ontology refers to how a researcher considers the nature of reality and truth. Some researchers believe that reality and truth are external and exist regardless of human interaction while I think that reality and truth are socially-constructed. This leads to each individual having a different, although sometimes shared, interpretation of reality and truth (Hogan *et al.*, 2009).

Epistemology refers to how a researcher considers the process of knowledge generation, or how a researcher can come to know 'realities' or 'truths'. This matter of how to know realities or how we come to know the truths of a phenomenon is dealt with in detail later in my examination of the work of the philosophers Heidegger (1962) and Gadamer (1979), and my intention to use their understanding of how we come to know things in my interpretation of the data gathered in this study (Heidegger 1962; Gadamer 1979). As a researcher I need:

[...] to find ways of working that fit with who I am: my underlying values, my philosophies on life, my views of reality and my beliefs about how knowledge is known and created (Etherington 2004, p.71).

In adopting an interpretative phenomenological approach informed by Heidegger and Gadamer, this research has found a way of working that fits with this understanding of how knowledge is known and created, in my view.

Furthermore, our understanding of, and connection with such concepts, guides the decisions we make about choice of methodologies and methods and the way we analyse and make sense of our data and represent it.

To discover the meanings which lesbian and gay couples hold of Civil Partnership, I have chosen to follow an Interpretive or Hermeneutical Phenomenological approach. In this study, I conduct interpretative research, focusing on individual experiences and meaning-making in order to explain phenomena. For Creswell (2009), social constructivism:

[h]old assumptions that individuals seek an understanding of the world in which they live and work [...] subjective meanings

are negotiated socially and historically. They are not simply imprinted on individuals, but are formed through interaction with others and through historical and cultural norms that operate in individuals' lives (Creswell 2009, p.8).

There is no fixed external reality to be 'objectively' known, but a fluid social reality which is co-constructed and which the researcher has to reveal or de-construct. Therefore, qualitative researchers '[...] do not claim to generate universal truths or scientific laws, but rather are striving to build meaningful local knowledge' (McLeod 2003, p.75).

These perspectives are congruent with an inquiry which is seeking to understand the unique subjective experience of each interviewed lesbian woman or gay man, while at the same time recognising the social reality or context in which that experience is located. Through a series of interviews with 24 lesbian and gay people (12 couples) who have entered Civil Partnerships, I aim to illuminate and clarify the meaning attached to social actions and situations with the desired outcome of interpretation rather than explanation (McLeod 2003).

Far from treating the knowledge-creation process of this research project as something distant and removed from the researcher, qualitative research sees the researcher's engagement with the topic of research study as part of the knowledge-creation process (Hogan *et al.*, 2009). Researchers' reflections on their own research actions become an element of the project, constituting part of the data:

Keeping a journal as part of reflexive research can help us to focus on our internal responses to being a researcher and to capture our changing and developing understanding of method and content (Etherington 2004, p.254).

Maintaining a research journal throughout the research period enabled me to capture my experiences and track decision-paths through the research process itself, supporting a reflexive approach to my work and the knowledge-creation process in which I was engaged. Furthermore, this journal supported the important matter of proven rigor: 'Rigor in research relates to the justified and informed choices made by researchers during the process' (Hogan *et al.* 2009, p.27).

By using reflexivity in the research process, the reflexive researcher is narrowing the gap between researcher and researched (Etherington 2004). The philosophy of Heidegger (1962) and Gadamer (1979) repudiated the idea of investigating meaning objectively. In their work we see that the search for meaning is always linked with the object under scrutiny. For them, we always have a certain pre-understanding available to us. Using reflexivity as a researcher allows one to be more aware of these pre-understandings. In my own research journal, pre-understandings that I had regarding Civil Partnership and its meaning coloured by my own experience of Civil Partnership and political activism on lesbian and gay rights, were replaced by new understandings arising from my reading of the literature and my interviews and analysis of the data collected. This awareness of my insider status in the research brought both an understanding of the context in which lesbian and gay couples lived their lives in Ireland. The use of the reflexive journal allowed me space to ensure that my pre-understandings were scrutinised and an openness to the emerging data maintained (Oakley 2005). Such reflexivity fits well with phenomenology and its philosophical roots.

4.2.3. Interpretive Phenomenology and its Philosophical Roots

Heidegger and Gadamer's philosophy has been chosen to support this interpretive phenomenological study.

Phenomenology is a low-hovering, in-dwelling, meditative philosophy that glories in the concreteness of person-world relations and accords lived experience, with all its indeterminacy and ambiguity, primacy over the known (Wertz 2005, p.175).

Phenomenology places emphasis on the world as lived by a person, not the world or reality as something separate from the person. Although there is no uniformly accepted definition of phenomenology, I agree with Creswell's (2009) understanding that phenomenological research aims to gather, and or understand and interpret the meanings of the participants' lived experiences of a phenomenon.

Philosopher and phenomenologist Husserl (1983) says we should go back to the things themselves when trying to explain or understand what he termed the life-world. This approach is appropriate to this study of the experiences of gay and lesbian couples of Civil Partnerships in Ireland as:

[a]ccording to a hermeneutic perspective, social reality is seen as socially constructed, rather than being rooted in objective fact. Hence, hermeneutics argue that interpretation should be given more standing than explanation and description. Social reality is too complex to be understood through the process of observation (Gray 2009, p.24).

Thus, an interpretive phenomenological approach has been chosen in this study. Furthermore, rather than describing a detailed research design, processes of the phenomenological method 'emerge and unroll' during the research process (Gray 2009, p.25). In other words the research trail becomes visible as the research project develops rather than following pre-determined study designs.

The differing philosophical perspectives of Husserl to those of Heidegger and Gadamer have 'an impact on the practice' of phenomenology as research methodologies, which themselves are not static (Lavery 2003, p.3). Indeed, critics of those who appropriate Heidegger's philosophy as a research methodology are correct in that Heidegger never intended to develop a method as such (Lavery 2003). However, it is possible to draw a methodology or structured approach to research from Heidegger's philosophy and it is this understanding of some of the principles of Heideggerian philosophy, added to by the ideas of Gadamer, that underpins the particular methods this researcher used in this phenomenological study.

Husserl (1983) believed that researchers who attended only to external, physical stimuli that could be isolated and correlated missed important variables and ignored context. Van Manen (1997) says that phenomenology is essentially the study of lived experience or the life-world. The life-world is the context of this study, the space within which, with, and

from which, lesbian women and gay men experience and understand their lives and specifically the meaning of Civil Partnership for them.

This enquiry will ask ‘What is the experience like?’ as it attempts to unfold meanings as they are lived in the everyday existence. Polkinghorne (1989) identified this focus as trying to understand meanings of human experience as it is lived. Using an approach derived from phenomenology – even the early forms of it, as devised by Husserl – clarifies some of the underlying beliefs and concepts held by this researcher. A phenomenological approach to my research means that I must ask those who have the experience of Civil Partnership firstly, to explore their understanding of their context and their views from living in ‘the life-world’. Secondly, I ask them to share their understandings and meanings without suggestion of headings or themes, but rather ‘pre-reflectively’ to uncover meaning.

Husserl (1983) viewed consciousness as a co-constituted dialogue between the person and the world. For Husserl, intentionality is crucial – this is a process, where the mind is consciously directed towards objects of study. Conscious awareness is the starting point in building one’s knowledge of reality (Lavery 2003, p.5). ‘To do research is always to question the way we experience the world, to want to know the world in which we live as human beings. This inseparable connection to the world is called ‘the principle of intentionality’ in phenomenology’ (van Manen 1997, p.5). Consequently, interviewees are asked to focus on their experiences of Civil Partnership and that is the starting point for the meaning-making process of this research project.

Husserl’s proposal (1983) that we bracket out the outer world, as well as individual biases, in order to successfully discover essences, is an impossible task that harks back to positivistic research principles (Moran 2000). It is a key point of departure between his phenomenology and that proposed by Heidegger (1969) and Gadamer (1979) used in this study. Heidegger’s phenomenological approach, his understanding of how we come to

know things, is one of the significant places where Husserl and Heidegger parted ways. It also affects my research methodology design. Heidegger emphasised the worldliness of our existence, being-in-the-world as central to our understanding of realities as human beings or *Dasein* (Heidegger 1962). Husserl (1983) focused on understanding beings or phenomena, of the world, his approach is seen as descriptive essentially. Heidegger focused on '*Dasein*' (there-being), that is the mode of being human or the situated meaning of a human being-in-the-world (Heidegger 1962).

Heidegger viewed humans as primarily concerned creatures with an emphasis on their fate in an alien world. He viewed the person as always a worldly person-in-context (Heidegger 1962). This is significant and explains Heidegger's (1962) term 'intersubjectivity' which refers to the shared, overlapping and relational nature of our engagement in the world. Heidegger's phenomenology is interpretive (1962).

Thus, if we understand that for Heidegger (1962, p.276) human beings are 'thrown-into' existence in a world of objects, relationships and language (and that our 'being-in-the-world' (Heidegger 1962, p.15) is always in-relation-to-something) we understand Heidegger's view that the interpretation of people's meaning-making activities is central to phenomenological inquiry (Heidegger 1962).

For Heidegger, meaning arises not from consciousness, but from the essential finitude of being human. For Husserl (1983), one's consciousness structures what is experienced – the transcendental ego – and therefore a bracketing of influences is needed to reach 'true meaning'. Heidegger rejects the possibility of, and necessity for, a transcendental standpoint that grounds knowledge and experience (1962). Husserlian themes of consciousness and perception are replaced by Heideggerian notions of interpretation – where all interpretations have both a fore-structure (pre-suppositions) and an as-structure (meaning). The pre-suppositions about the meanings of Civil Partnership arise from the contexts, era and life experiences of interviewees, and are also influenced by those of the

researcher. The as-structure is used in interpreting the meaning of data, as we see Civil Partnership being described as many things (for example as coming-out, as recognition, as belonging, as equality).

Heidegger's (1962) being-in-the-world – as temporality - means that humans are always involved in the practical world of experience. 'Whenever *Dasein* tacitly understands and interprets something like Being, it does so with time as its standpoint,' (Heidegger 1962, p.39). Heidegger's being-in-the-world as temporality is not just a spatial relation but indicates the way that human beings relate to other entities in a world of involvement – a towards or with-others world (1962). Therefore, the things we encounter in the life-world do not simply exist 'out there', they are part of an interconnected world. Heidegger (1962) explored in *Being and Time* how it is that things become meaningful to us – his conclusion in Division Two of that work (1962, p.231-260) is that temporality is the condition for the possibility that things will be meaningful to human beings, (i.e. the meaning of being is time). Heidegger (1962 p.39) tells us that 'Time [...] is the horizon for all understanding of Being and for any way of interpreting it'. Thus, the early chapters in this research take a socio-historical perspective in order to help to understand the background to the pre-suppositions and meanings which couples have of their Civil Partnership experiences, and also their context and that of the researcher in Ireland.

From Heidegger's (1962, p.42) perspective, *Dasein's* being-in-the-world includes a 'present-at-hand' (*vorhanden*) mode. This always implies a 'prior' stance and understanding of engagement in the world. In summary, our everyday way of being-in-the world is not one of detachment, but of engagement (Heidegger 1962). We see this as our study of *Dasein*, with gay and lesbian identities are people engaged in relationships with each other, and with others they care about, and with the wider world into which they are thrown.

Speaking of *Dasein's* understanding of the world, Heidegger (1962, p.167) says:

If *Dasein* discovers the world in its own way and brings it close, if it discloses to itself its own authentic Being, then this discovery of the 'world' and this disclosure of *Dasein* are always accomplished as a clearing-away of concealments and obscurities, as a breaking up of the disguises with which *Dasein* bars its own way.

Disclosing authentic being is something which *Dasein* strives to do. Heidegger (1962, p.166) contrasts this 'authentic Being' state with that of 'inauthentic' which he describes as 'a failure to stand by one's Self'. The purpose of phenomenology, as a way of thinking and researching, is to clarify – to lead to a 'clearing-away'. This clarity can lead to change, as there can be a difference between what we think we live and how we experience life, and the reality of actually living. A 'discovery of this difference and its correction can lead to more authentic living and interaction with others and thus a better world' (Giorgi 2009, p.77).

This clearing-away includes Heidegger's (1962, p.167) rejection of cultural meanings of a given phenomenon, which he calls 'the dictatorial voice of' the-they or '*das Man*'. He (Heidegger 1962, p.167) distinguishes the 'they-self' from the 'authentic self' as the 'self which has been taken hold of in its own way'. So, to find true meanings, Heidegger (1962, p.167) suggests *Dasein* 'must first find itself,' so that the influence of 'the-they' in interpreting meaning can be thrown off and the authentic self, free of '*das man*' discovers the world in its own, authentic way. For lesbian and gay participants in this study, examining their experience of Civil Partnership will require a throwing off of 'the-they' version of same-sex sexuality and same-sex relationships, or at least a recognition of the influences of the-they. This attempt to get to the 'clearing' is a pathway towards their own interpretation of themselves and their own meanings attached to their Civil Partnership experience.

Regarding being and time, Heidegger (1962, p.41) explains that:

Temporality is also the condition which makes historicity a possibility as a temporal kind of Being which *Dasein* itself possesses [...] Historicity stands for the state of Being that is constitutive for *Dasein*'s historizing.

In Heidegger's view consciousness is not separate from the world, but is a formation of historically-lived experiences. For Heidegger, understanding is a basic form of human existence, in that understanding is not a way we know the world, but rather it is the way we are in the world (Heidegger 1962).

Heidegger's (1962) historicity of understanding, that one's background or situatedness in the world cannot be separated out, conflicts radically with Husserl's suggestion to bracket out such things. For Heidegger's (1962, p.142) '*Dasein*' (mode of being human-in-the-world) there can be no bracketing out of experience or thought as 'understanding is a basic mode of being in the world'.

Interpretation is seen as critical to the process of understanding in Heideggerian and Gadamerian phenomenology. Claiming that to be human was to interpret, Heidegger (1962) stressed that every encounter involves an interpretation influenced by an individual's background or 'historicity'. For Heidegger's understanding of meaning and being, we must note that humans are 'already' what they essentially are; we are never complete and we are always already in the process of 'becoming' (Heidegger 1962). Identity construction is therefore always a work in process – never ending (Heidegger 1969, 2002). To consciously and personally be oneself, one must *affirm* one's essence. This essence is a fluid thing. It is linked to the idea that *Dasein* is always be-coming. It is seen in the ongoing nature of be-coming for lesbian and gay men in this study. This idea of affirming one's essence is linked to Heidegger's (1962) 'authentic' mode of Being' or finding this mode by attributing meaning to our situation by being 'our own possibility.' This raises his concept of 'mineness' (Heidegger 1962, p.43) whereby each of us or *Dasein*, when in our authentic mode, is ourself or can say "I am". In the way no-one else can be us (Heidegger 2002). This affirmation of self, a crucial part of 'be-coming' for lesbian and gay individuals, becomes evident in the lives of lesbian and gay couples who are 'be-coming' and whose be-coming is affected by their decision to participate in Civil Partnerships, as we will see in Chapters 6, 7 and 8.

Gadamer (1979) further developed Heidegger's phenomenology. Gadamer agreed with Heidegger's assertion that language and understanding are inseparable structural aspects of human-being-in-the-world.

The effect of Heidegger's analytic of *Dasein* was to render unsuspendable precisely the life-world Husserl intended to reduce and replace the transcendental ego with the being whose facticity reflection could not set aside, *Dasein* has its essence, paradoxically, in its existence (Linge 2008, p.lvi).

In relation to Husserl's proposal of bracketing, Gadamer viewed bracketing not only as impossible, but as absurd (Gadamer 1979). It is Gadamer's view that pre-existing prejudice in understanding is the condition of knowledge that determines what we find intelligible in any situation. In his view all understanding involves some prejudice. Being open to and aware of this is a key aspect of quality hermeneutic research (Whitehead 2004).

This emphasis on Heidegger's (1962) concept of 'historicity' of understanding, including one's background or situatedness in the world, tells us that a person's history or background of how a culture shapes a person from birth, generates ways of understanding the world. This is understood more commonly as a socialisation process. Through this understanding, one determines what is 'real'. Yet, Heidegger believed that one's background cannot be made completely explicit nor is it accepted unquestioned by *Dasein*. Heidegger is described as 'having a view of people and the world as indissolubly related in cultural, in social and historical contexts' (Lavery 2003, p.8). For this study, the importance of understanding the cultural, social and historical contexts of the emergence of Civil Partnership in Ireland is evident, as are the impacts of this 'historicity' or 'situatedness' on the meanings and pre-understandings of the research participants and the researcher that emerge in the study. Whether *Dasein* accepts or rejects their handed-down reality or the view as determined by '*das man*' is part of the challenge *Dasein* faces in the journey for authentic being and be-coming in the lifeworld.

For Heidegger (1962), pre-understanding is not something a person can step outside of or put aside – it is what he understands as being-in-the-world. Heidegger claimed that nothing can be encountered without reference to a person's background understanding. Heidegger's (1962) 'thrownness' view of how we are in the world is akin to Gadamer's (1979) phrase 'effective history'. Gadamer (1979, p.216), speaks of how the horizons of the past and present are not isolated and tells us that instead understanding is always 'the fusion of these horizons':

Every experience has implicit horizons of before and after, and finally merges with the continuum of the experiences present in the before and after to form the one flow of experience.

4.2.4. Fusion of Horizons – Moving Towards a Method

It was Gadamer (1979) who moved to extend Heidegger's work into practical application in the research context. Agreeing with Heidegger's view that language and understanding are inseparable structural aspects of human being-in-the-world (Heidegger 1962), Gadamer (1979) argues that language is the universal medium through which understanding occurs and that understanding occurs in interpreting. Gadamer viewed interpreting as a fusion of horizons, a dialectical interaction between the expectation of the interpreter and the meaning of the text. Understanding is thus not just a reproductive procedure, but rather always a productive one. Understanding is a dialogue between persons and is a fusion of horizons.

A 'horizon' is a range of vision that includes everything seen from a particular vantage point. A person with no horizon, in Gadamer's (1979) view, does not see far enough and overvalues what is nearest at hand, whereas to have a horizon means being able to see beyond what is close at hand. Thus, in this research, each of the research participants has their own sets of horizons from which they view their experiences. These horizons are joined by those of the researcher, academic and theorist viewpoints brought to the process by the researcher in the process of interpretation, leading to a further 'fusion of horizons'

which deepens and enriches the understanding of the phenomenon at hand. Using the hermeneutic approach of questioning what is found and making interpretations, leads to the development of further horizons. This dialogic approach is fundamental to hermeneutic phenomenology.

This ‘fusion of horizons’ is a useful concept for this study, as it describes how the researcher explores the meanings found, being aware of prejudices, influenced by the participants’ own multiplicity of horizons, their historicity, and their interpretation and understanding of the phenomenon of Civil Partnership as it impacts on their lives. The researcher in her readings and reflections brings further pre-understandings of cultural, historical and theoretical matters to bear on the interpretative hermeneutic task, while also engaging the researcher’s own horizons and historicity in the hermeneutic circular process of interpretation. This process will seek to ‘unfold’ the meaning and understandings that lesbian women and gay men have of Civil Partnership.

Phenomenology, for van Manen (1997 p.7) is ‘a philosophy or theory of the unique’ . Each horizon visited allows the researcher to move back and forth from the specific experience of individuals, with their unique experiences and perspectives, to the emerging picture of the ‘whole’ phenomenon.

Whenever something is interpreted as something, the interpretation will be founded essentially upon the [...] fore-conceptions. An interpretation is never a pre-suppositionless apprehending of the something presented to us (Heidegger 1962, p.191-192).

Phenomenological reflection focuses on the participant’s recollections or ‘imprints’ of experience, influenced by culture and experience of being-in-the-world. It is evident in Heidegger’s description of such reflection as following ‘certain paths’ towards a ‘clearing in the woods’ where ‘something could be shown, revealed or clarified’ (van Manen 1997, p.29). These imprints forming ‘woodpaths’ contribute to the emergence of meaning in the ‘clearing,’ where reflection on the fusions of horizons allows the understanding to emerge, for the moment. ‘The paths (methods) cannot be determined by fixed signposts

[...] They need to be discovered or invented as a response to the question at hand' (van Manen 1997 p.29).

4.2.5. Interpretation

For Gadamer (1979) interpretation begins with fore-conceptions that are replaced by more suitable ones. This constant process of new projection constitutes the movement of understanding and interpretation. What happens in the hermeneutic circle when we ask questions and remain open to what is emerging is a movement from 'unintelligibility to intelligibility' (Johnson 2000, p.141). This interpretive process is achieved through a hermeneutic circle by which we move from the exploration of parts of experiences, to the whole experience, and back and forth again and again to increase the depth of engagement and understanding. The end of this spiralling through 'a hermeneutic circle' occurs when 'one has reached a place of sensible meaning, free of inner contradictions, for the moment' (Lavery 2003, p.9).

In moving to choose a methodology which fits with the above epistemological and ontological positions, Gadamer (1979) tell us that questioning is an essential aspect of the interpretative process as it helps make new horizons and understandings become possible. Understanding is always more than just re-creating someone else's meaning. For Gadamer (1979) interpretation is a pointing to something. He suggests we attempt to interpret that which at the same time conceals itself. For Heidegger (1962) things have certain visible meanings for us, but they can also have concealed or hidden meanings, so hermeneutic phenomenology is concerned with understanding the thing as it shows itself, and as it is brought to light. However, hidden or concealed meanings, may reveal or unfold meaning to the watchful researcher.

Meaning may not be immediately given. Sometimes it needs to be unearthed from its 'hiddenness' (Gadamer 1979). Since meaning is embedded in the stories which interview participants narrate of their experiences and understandings, 'it becomes the task of the researcher to uncover and make these meanings explicit' (Johnson 2000, p.141). Being-

in-the-world, as temporality, reminds the researcher that while we notice what is coming out into the open, we must also notice 'what is not spoken, what is not revealed. The researcher must listen to the silences in the interview' (Johnson 2000, p.142).

Using an interpretive phenomenological approach involves asking questions of the interviewees, of their transcribed texts and further questions of the texts to which responses may draw us. Johnson (2000 p.141) describes this as necessarily including questions in the process because 'questions provide not only a sense of direction, but a place from which it is questioned within a particular perspective'. So, in the interpretive approach the interviews bring forth questions and more questions for the researcher to clarify and move deeper into the participant's world, to obtain a clearer, deeper, richer description of what happened and how it happened and what their interpretation may mean to them and subsequently, through more interpretation, to the interviewer. Interviewing another person is not simply collecting data – it is a conversation which connects the researcher and participant so that the distance between the two diminishes (Johnson 2000). The concerns of the participants are shared with the interviewer in the interview process and so the everyday 'messy' lives of people become the subject of the research (Smart 2009). With the analysis of the resultant transcribed text, Johnson (2000) suggests we ask questions of the text in order to move into the meaning of the participant's world. In both interview and text analysis the researcher needs to be open, curious and in wonder, so that the researcher can be drawn into the participant's world.

The researcher does not enter into the research with a blank slate (Johnson 2000). All interpretations and understandings, including the research question, the interview and the analysis of text of the interview, are 'grounded in fore-having, fore-sight and fore-conception,' (Gadamer 1989, p.267-269; Heidegger 1962, p.199-200). Thus, the researcher cannot completely separate from or set aside one's culture or viewpoint. 'There can be no presuppositionless state from which we can approach the research process' (Johnson 2000, p.141). For van Manen (1997, p.26), the phenomenological text

is interpretative in the sense that it mediates between the phenomenon and the participant's experience and understanding of it. Gadamer (1979) believed that understanding and interpretation are bound together and interpretation is always an evolving process, thus a definitive interpretation is 'likely never possible' (Lavery 2003, p.10). These are all key considerations affecting the research method decisions taken in this study.

Moving from understanding the philosophical underpinnings of methodology to producing a neat, orderly method is not quite so simple in interpretive phenomenology.

Rather:

Method, or 'the way' must also embrace Heidegger's understanding of *Dasein* as being-there, being open, being-in-the-play, going with what comes, awaiting the moment of understanding (Smythe *et al.* 2008, p.1392).

The purpose of the in-depth phenomenological interview is to:

Understand a phenomenon by drawing from the respondent(s) a vivid picture of the "lived experience" complete with the richness of detail and context that shape the experience (Sorrell Dinkins 2005, p.113).

4.3. Section Two: Reflections on Study Method

The ability to follow a decision trail relating to theoretical, methodological and analytic choices is an important indicator of trustworthiness in hermeneutic inquiries (Koch 1994).

The principles of the theoretical framework underpinning Hermeneutic or Interpretive Phenomenological research are presented in Section One (4.2) above. Here in Section Two, key elements of the research method used in different stages of the study are discussed. Firstly, the decision trail for data collection and data analysis is laid out and a method based on that proposed by Crist and Tanner (2003) for interpretive analysis is outlined. Secondly, a discussion of the application of five characteristics of quality in research is detailed (Guba and Lincoln 1985). Finally, the chapter examines researcher bias and addresses reflexivity issues.

4.3.1. Decision Trail - Ethics Approval

Understanding that I needed to conduct interviews to begin my data collection, I needed to access participants who had had the experience in question (Smythe 2011). The decision to interview couples who had entered Civil Partnerships since the enactment of Civil Partnership in January 2011 meant that an application to the DCU Research Ethics Committee was to be made. The ethical approval, which sought permission to recruit same-sex couples in Civil Partnerships was considered suitable for expedited review. The application included the Plain Language Statement (Appendix 3) and proposed Consent Form (Appendix 2) for the interviews. Approval was received in April 2012 (DCUREC/2012/074 – Appendix 1). In preparation for commencement of interviews a mobile phone and digital voice recorder were purchased specifically for the study.

4.3.2. Accessing Research Sample

On receipt of ethical approval, the advertisement for participants was placed in *Gay Community News* (GCN), a national gay community magazine, (in the letters page) and was also placed in various digital and other notice-boards used by the gay community (Appendices 4 & 5). Copies of the advertisement were sent to national organisations (GLEN, National Women's Council of Ireland, LGBT Diversity, BelongTo, UCD Equality Network, LGBT Helplines) and to regional and local LGBT organisations (Outhouse, DVAS Sligo, Dundalk Outcomers, Galway and Kerry *Amach* and *Gaelick*) asking for their assistance to disseminate the call for participants. Contacts working with, and in contact with, the LGBT community across Ireland were also circulated with the advertisement. While the initial number of participants sought was 10 couples, the final number of couples volunteering to participate in the study was 14. Two couples withdrew due to illness or bereavement.

4.3.3. Data Gathering Issues – the Couple Interview

A primary factor influencing the decision to conduct couple interviews was the understanding that the experience of entering Civil Partnership is a joint decision and joint experience. The decision to interview couples who had entered Civil Partnerships

together, rather than individually, was taken mindful of work done on the issue of dyadic interviews (Heaphy and Einarsdottir 2012). Joint interviews produce single accounts of joint experiences, they also generate relationship stories and have the potential to aid recollection of events and create spaces in which partners can interact with each other in reflecting on an event or experience (Allan 1980). They can help establish rapport, create an atmosphere of confidence and produce more complete data as interviewees fill in each other's gaps and memory lapses (Seymour Dix *et al.*, 1995).

The conversations between couples during interviews have the possibility to produce data of additional depth regarding understanding of, and on-going meaning attachment to their experiences (Smart 2009). Couple interviews produce 'biographically embedded narratives of relating selves' (Heaphy and Einarsdottir 2012). Finally, in Heideggerian terms, couple interviews, or solo interviews, must be chosen in the context as deemed appropriate by the researcher (Healy 2011). This researcher was mindful of the Heideggerian (1962, p.167) concept of *Dasein* 'disclosure' when planning the interviews. Heidegger (1962, p.167) says disclosure of *Dasein* is always accomplished as a clearing away of concealments. Joint interviews facilitate this process and can provide opportunities for researchers to understand the collective perspective of the pair and provide insights into the dynamics of the couple (Taylor and de Vocht 2011). There is no one single truth in interpretive hermeneutics (Heidegger 1962) but rather a fusion of horizons where new understandings are reached and new conversations held. Data collected from these conversations are a further fusion of horizons or perspectives (Koch 1996).

4.3.4. Participant's Replies and Initial Contacts

Responses to the advertisements were made to a secure mobile telephone number purchased exclusively for the study. Respondents left a message expressing interest and in response I called them back and spoke briefly about the study asking them for an email address to which I could send the approved Plain Language Statement (Appendix 3)

about the study and a copy of the Informed Consent Form (Appendix 2) for their information.

A week after these documents had been sent, I again contacted the volunteer participants and arranged a suitable place and date/time for the interview, which they were informed would be recorded. All the participants offered to conduct the interview in their homes and mostly in the evening at a time suitable to them.

A total of 24 people (12 couples) formed the final research study sample. While this was two more than originally anticipated, it was felt to be appropriate that those who had been generous enough to offer should not be refused the possibility to participate. Qualitative research studies often have small samples. Hermeneutic doctoral studies may have samples of '12-20' (Smythe 2011, p.41). This study with its 24 participants may have limitations regarding generalizability of findings to a wider population (Hogan *et al.*, 2009). However, this limitation is shared by most qualitative research projects:

[...] reasoning that the depth and richness of qualitative findings outweighs the constraints of trying to generalise across time and context, which in any case, qualitative researchers would argue, is not reliable, given the proposition that all research (qualitative or quantitative) is context-researcher-and-temporally-specific' (Crowley-Henry 2009, p.59).

The depth of and extent of findings presented in Chapters 6,7, and 8 show that this sample size generated rich and deep data, contributing critical insights into, and understandings of, experiences of Civil Partnership in an Irish context.

4.3.5. Profile of Participants' Sample

The profile of participants (see Table 4 Interview Participants in Appendix 9) shows that interviewees ranged in age from 34 to 65; there were 7 female couples and 5 male couples. All had been in a relationship ranging from 2 to 32 years together when they entered Civil Partnership. Two of the couples had children. 7 couples had Civil Partnerships in the Republic of Ireland, one couple in Northern Ireland and 4 couples had been married in other jurisdictions (Spain, Canada (2), Connecticut, USA). These

marriages are recognised as Civil Partnerships in Ireland, not as marriages. To ensure anonymity all participants were allocated ancient Celtic names. The phonetic spelling of names is also provided in Table 4 (Appendix 9.)

Despite my activism on LGBT rights, there was only one couple of the cohort who was known to me. Otherwise, none of the participants was known to me personally prior to interview. A number of friends and colleagues who knew I was conducting the study offered to participate but I refused their offer as I wished to have a sample which was self-selecting and personally unknown to me, to guard against possible bias (Whitehead 2004).

4.3.6. The Interview Schedule

The interview schedule consisted of one single question ‘Can you tell me about your experience of Civil Partnership?’. In formulating the question I was mindful of setting the tone for a beginning to an ‘inter-view’ conversation (Kvale 2006). The single question began a conversation which allowed the interviewees to bring to the interview their experiences, rather than responding to set of questions pre-prepared by the interviewer. It allowed them to express their understanding of what Civil Partnership meant and means to them in their own ways.

The interviews were conducted in participants’ homes with a minimum of intervention by the researcher, consisting mainly of prompts to explore a point further. A ‘listening attitude’ was adopted by the researcher (Fiumara 1990, p.145). Keen attention was paid to the interaction and conversation between the interviewees and, at some point during each interview, the researcher shared the fact of her own lesbian sexuality and that she and her partner of 30 years had also entered a Civil Partnership. This sharing of the researcher’s own experience, albeit in outline, contributed to a relaxed attitude and establishment of trust amongst interviewees and acted as an invitation to the couples to make further contributions.

Interviews between researchers and participants who share similar cultural, linguistic, ethnic, national, religious, sexual identity or heritage raise the issue of what it means to be an 'insider researcher' (Silverman 2011). Insiders/outside does not mean 'better or worse', just different (Corbin-Dwyer and Buckley, 2009, p.56). The advantages of being an 'insider' as an Irish, lesbian woman, in a Civil Partnership, conducting interviews with same-sex couples on their understanding of what Civil Partnership meant produced more rapid and more complete acceptance by the lesbian and gay interviewees, leading to greater levels of participation, openness and greater depth of material (Kanuha 2000). As an insider, attention was paid to loyalty tugs which might have led to undue influence in the interview and the data analysis phase (Adler and Adler 1987).

The key to balancing this lean towards bias is reflexivity – a commitment to be open, honest and committed to accurately represent and interpret the experiences of the interviewees. My use of a reflective research journal throughout the research process (Gadamer 1976; Etherington 2004) as part of a commitment to research rigour, was a key element in ensuring that any research benefits from the insider status were accrued, while guarding against its disadvantages (Koch 1994).

Immediately after each interview I went to a quiet place and wrote up field notes on each interview. I made comments on how the interaction between the couple seemed. I noted the areas they were most concerned to speak about as well as anything from the interview that struck me as notable including attitudes, emotions and notes on how, as the researcher, I felt the interview had progressed. I also took note of any technical issues that I needed to take into account for subsequent interviews. These notes were written up and summarised and were useful when I revisited the interview transcripts some weeks after the initial interview itself.

Each interview lasted one to one-and-a-half hours and before the recording device was switched on participants were taken through the Plain Language Statement and the

Consent Form (Appendices 3 & 4), the latter of which was signed by both interviewees and kept with the transcripts and recordings in a secure, locked location at DCU. The interviews were digitally recorded and saved on a secure icloud storage programme. A professional transcriber was commissioned to transcribe the digital recordings in an agreed format of spacing, with ample margins and line numbering to facilitate initial analysis. Each interview was transcribed as soon as possible following the interview itself. The interviews were conducted over an 8 month period (February-October 2013).

Following the transcription production, a review by the researcher of the text was conducted while listening to the tape recording. Any identifying information (places, place-names, family names) were removed from the transcript. At this point the transcript was returned to the participants so they could confirm its accuracy and remove any material with which they felt uncomfortable or thought had misrepresented them (Byrne 2000). One couple removed one reference to a family member which they thought inappropriate to be left in the text. This inclusion of the participants in the beginning of the interpretation process, by providing access to their transcription, assured the researcher that both the transcription process and the interviews themselves were accurate, thus proving acceptable text with which to continue with the research interpretation and data analysis. It also added to the credibility of the research and contributed to the fusion of horizons (Gadamer 1979).

4.3.7. Data Analysis

Prior to the first participant interview, following the advice of Smythe (2011), I asked one of my co-supervisors to conduct an interview with me on my own experiences of Civil Partnership. This I saw as an exercise in reflexivity. This interview, subsequently transcribed, allowed this researcher to become 'mindful of the assumptions and prejudices' that I carried with me into the study (Smythe 2011, p.40). By telling my own stories and examining them this process allowed me to become aware of how my values and past experiences shape the way I understood the phenomenon, at the outset.

Heidegger (1962) tells us that it is often hardest to see that which is closest. The use of the pre-interview and its analysis in my reflective journey brought an awareness of my own views and pre-understandings of the phenomenon of Civil Partnership.

Following the model proposed for interpretive analysis by Crist and Tanner (2003) I followed five phases of data analysis:

Phase 1, was that of highlighting preliminary lines of enquiry. This phase involved each tape being listened to a further half-dozen times while following the interview on the approved version of the transcribed text. Sustained engagement with the text took place. Dwelling with each transcript before moving onto the next gave each transcript, each story of each couple, its own thinking space for the researcher (Smythe 2011). Using the transcription with numbered lines and wide margins, exploratory marking-up of text took place with early lines of enquiry being noted in each interview transcript. These were summarized and interview notes were also referred to. At this stage the summaries were mostly descriptive and served to capture the stories under emerging headings of each couple's experiences of Civil Partnership. Each couple's story was given a title which captured a key theme of their story. The process included a moving back and forth between transcripts allowing the researcher to use the hermeneutic circle of understanding, moving from the specific experiences of couples to an examination of the whole phenomenon and back to the specific once again (Whitehead 2004).

Phase 2 involved selecting participant stories or salient exemplars. The emerging themes, linked to clear exemplars allowed the meaning-making of participants and the interpretation of these to unfold (Benner 1994). Experiences, the 'salient excerpts that characterise specific common themes or meanings across informants' (Crist and Tanner 2003, p.204) were marked up and noted with written commentaries. Some 20 themes were originally identified, but during the process these were gathered into sub-themes

with overarching headings which became the themes analysed and discussed in Chapters 6, 7 and 8.

Phase 3 was when the data analysis moved more fully to meaning and interpretation. Informants' central concerns became clearer as the researcher dwelled with the exemplars and texts. Links with both the extant literature on the emerging themes and engagement with the writings of Heidegger (1969) and Gadamer (1979) were made. This created resonances and brought about a shift in thinking of the researcher. This shift allowed me to link the meanings participants attached to their experiences with sociological research and also to begin to see the ways in which these participants have developed understandings of their experiences, drawing from my readings of Heidegger (1969) and Gadamer (1979). Central to this shift was a growing understanding of how *Dasein* thinks and generates understandings of being in the life-world (Smythe 2011). As the data analysis continued, the shared meanings between participants emerged into overarching themes and sub-themes. The researcher made the 'interpretive leap' allowing something more than what the participants said, to be said. Meaning is uncovered 'between the lines and behind the saying' (Smythe 2011, p.46). At this point, the researcher was drawn to other literature not previously delved into in the literature review of the study (Smythe 2011). The earlier chapters of the study contained socio-historical contexts to same-sex relationships and examined extant research in this field. I found that interviewees' concerns brought me to additional related areas of literature, including psychological and sociological studies on fields of belonging and coming out, only some of which were present in the extant literature on same-sex relationship recognition.

Phase 4 of the data analysis process is a further dwelling with philosophy and literature and writing up of more detailed interpretations. The emerging interpretations are written up into shared meaning themes which brings the researcher and the reader to a place where they come to see more than the given narratives. We come to an understanding 'for

now’ of what Civil Partnership means to these couples (Lavery 2003, p.9). These writings, as draft chapters, were shared and discussed with co-supervisors to check for credibility and resonance (Smythe 2011). Likewise, emerging findings were discussed with members of the wider research community, at conferences when papers based on the research were presented and discussed.⁹ A final interpretation was reached in Phase 5 when final chapters were re-written and finalised.

4.4. Research Quality Checks

4.4.1. Trustworthiness

The ability to follow the decision-trail relating to theoretical, methodological and analytic choices is an important indicator of trustworthiness (Koch 1994). For Guba and Lincoln (1985, p.76-77) research depicts trustworthiness if there are five criteria met: Credibility – this researcher has described the decision-trail and research experience of this study. Transferability - this researcher considers that using the decision trail from this study, the approach taken is transferable to another context. Dependability - the reader can follow the decision trail of this researcher throughout the study. Confirmability - using Crist and Tanner’s (2003) model, this researcher has been able to show how interpretations have been arrived at during the study. Reflexivity - the findings of this research are informed by attention to praxis and reflexivity, understanding how one’s experiences and background affect what one understands and how one acts in the world. Journal keeping during the study has been a useful tool for reflexivity as it was a space in which the content and processes of interactions were noted (Koch 1994). The journal is a record of events and how my own ‘horizon’ of understanding was developing, and provided

⁹ Healy, Grainne. ‘*Socio-Political Developments Leading to Civil Partnership for Same-Sex Couples in Ireland*’ delivered at 7th European Consortium for Political Research, Bordeaux, France. September 2013. and ‘*What Does Same-Sex Relationship Recognition Mean to Civil Partnered Couples in Ireland?*’ delivered at Self, Selves and Sexualities Conference, DCU, Ireland. March 2014.

material for reflection (including during the interviewing process) and acknowledgement of my own ‘prejudices’ and fore-knowledge (Heidegger 1969).

4.4.2. Reliability and Validity

Qualitative researchers need to provide sufficient evidence of procedures which will ensure ‘stability or consistency’ of responses (Creswell 2009, p. 190). Validity and reliability evaluation by Barker *et al.*, (1994, p.80) suggest five key elements must be present: openness about theoretical orientation or biases in the study; replicability, whereby sufficient data collection methods are described to enable replication of the study elsewhere; grounding, whereby the researcher demonstrates that their findings are grounded in the raw data collected; verification, that methods for checking results are indicated; and uncovering, this enables the reader to interpret meanings of the phenomenon.

In this study I have made explicit my social justice activist perspective, my lesbian sexuality and my experience of having participated in a Civil Partnership with my partner of 30 years standing. I have ensured that the process and methods of inquiry undertaken are demonstrated to enable replicability. I believe that Interpretive Hermeneutic Phenomenology allows for a deeper analysis of participants’ experiences and allows an insight into the interpretative and reflective process of this study. The findings themes are presented grounded in the verbatim transcripts of the participants but allowing the interpretive leap (Smythe 2011) to bring the reader and the researcher to a deeper understanding of the experiences of this sample of Civil Partnered couples.

4.4.3. Rigour in Hermeneutic Phenomenology

This study contains the five expressions of rigour required in hermeneutic phenomenological studies (de Witt and Ploeg 2006). These are Balanced Integration – where there is clear congruence between the methodology and the method used in the study; Openness – which shows evidence of consideration of the researcher’s own pre-suppositions, enabling an assessment to be made that the researchers pre-suppositions have been acknowledged, and that the researcher is aware of them and open to listening

to the voices of the interviewees; Concreteness - refers to the relevance of the findings for everyday life – this study’s findings have definite application for same-sex couples’ lives. Resonance - involves evidence of an emotional effect of the findings upon the reader – some of the findings are moving, to joy or to sorrow - many of the findings are surprising, yet obvious (Smythe 2011). Actualisation – refers to the potential for resonance in the future – if, by reading the study the reader is encouraged to ‘think on,’ further affirmations of the interpretations can be achieved.

4.5. Conclusions

In this chapter I have outlined the epistemological and ontological considerations of research theory, leading to my choice of an appropriate methodology to explore and analyse the research question ‘what is the meaning of Civil Partnership for same-sex couples in Ireland’. I briefly outlined the reasoning for choosing a qualitative research approach and then explored a brief history of the origins of Phenomenology in philosophy and sociology. I then shared my understanding of the philosophical origins of the Phenomenology of Husserl. I then explored the Interpretative or Hermeneutic Phenomenology of Heidegger and Gadamer and outlined some of the core concepts arising from that philosophical tradition which are applicable to the approach taken in this research study. Finally, the data analysis trial was laid out and the research quality checks conducted in this study were presented.

Chapter 5. Findings and Discussion: Civil Partnership as (Be)-Coming Out

5.1. Introduction

Chapter 5 explores the experience of Civil Partnership as ‘coming out’ which emerges as an overarching theme in participants’ interviews. Civil Partnerships are contributing to the publicising and normalising of lesbian and gay identities. All social interaction is managed (Goffman 1963; Gahagan 1984) hence Civil Partnership as coming out is a form of strategic outness (Orne 2011). Entering Civil Partnership is a tool to manage the disclosure of sexual identity used by same-sex couples. It represents a socially acceptable mode of sexual identity disclosure (Warner 1999) for couples coming out in a non-post gay society (Seidman 2002) such as Ireland. Coming out is in Heideggerian terms a form of Being, a moving towards becoming one’s possibility (Heidegger 1969). This chapter unveils how Civil Partnership as coming out, is a form of Be-coming for same-sex couples.

Civil Partnership is an outness strategy used by same-sex couples to manage disclosure of their sexual identity, ever mindful of the social context and social relationships in which they find themselves, in a predominantly heteronormative world (Orne 2011). Coming out has a twofold effect: it is about affirming a positive identity understanding (Woodward 1997) and about managing how the lesbian or gay self fits with and survives in a homophobic world (Alcoff *et al.*, 2006). Coming out is both a personal and public process:

Coming out is usually seen as a personal process, the acceptance, and public demonstration, of the validity of one’s own homosexuality. But it can also be seen as a historic process, the gradual emergence and articulation of a homosexual identity and public presence. (Weeks 1977, p.vii)

The personal and public aspect relates to the impact on the self, both the acceptance and visibility of self which leads to a validation of one’s sexual identity. Coming out also has

a historical aspect whereby, over time, homosexuality or non-normative sexual identities are publicly expressed and their presence felt in the predominantly heteronormative public spaces.

The four main sections of this chapter cover firstly, Civil Partnership as coming out to and unity with self. Secondly, it explores Civil Partnership as coming out to family. Thirdly, it examines Civil Partnership as coming out in the workplace and fourthly, it discusses Civil Partnership as coming out to wider society, with some of the residual concerns and fears for same-sex couples in Ireland.

Earlier chapters have documented a context for same-sex couples; that of a predominantly heteronormative world, both diachronic and synchronic experiences in which lesbian and gay people live their everyday lives as socially stigmatised (Goffman 1963), legally excluded and criminalised (GLEN 2013). Despite legal and social advances benefitting LGBT people in the EU, the experiences of many LGBT people continue to include violence and discrimination. 47% of Irish LGBT who were surveyed, were found to have experienced discrimination because of their sexual orientation or gender identity in the previous twelve months (EU Fundamental Rights Agency Report 2013).

The twelve interviews conducted with 24 lesbian and gay people, in couples, who have been Civil Partnered show how they understand and manage their otherness in Ireland. Civil Partnership provides them with an opportunity to manage the disclosure of their identity, coming to a greater sense of unity with themselves and a public uncovering of their sexual identity through their decision to enter Civil Partnership.

5.2. Coming Out in Civil Partnership for *Dasein*

When Heidegger (1962) explores what Being is or what it means for us as human beings who are concerned about our being (*Dasein* – being there) he sees identity as a fundamental trait of Being: ‘To every being as such there belongs identity, the unity with itself’ (Heidegger 1969, p.26). Heidegger suggests that at the core of our being as humans

is our identity which he sees as a sense of or experience of unity within the individual, a connection and understanding of the self. This is the fundamental characteristic of the Being of beings (Heidegger 1969). As sameness and difference show identity, Heidegger (1969, p.64) advises us to 'step back' and 'assume a proper position face to face with the difference'. Exploring the experiences of Civil Partnership for same-sex couples allows us to step back and reflect on their differences. In adopting this approach to thinking about identity and being, we have the opportunity to 'step back out of the oblivion of the difference' and come to the 'unconcealing of self-keeping arrival' (Heidegger 1969, p.67). Through the interview analysis of couples' experiences, Civil Partnership is explored as coming out, as an experience of unconcealment in which gay and lesbian couples 'make certain of something' (Heidegger 1969, p.14). They are making certain of their sexual identity and the ways of managing their difference in a heterosexual world. They are doing this in a way that heterosexual people are not required to. Civil Partnership is an event of appropriation (*eregnis*) which allows one 'to come to where one belongs – to catch sight of, to see with the mind's eye, to see face to face' (Heidegger 1969, p.14). Individuals entering into Civil Partnership, in a sense enter a clearing in which they make certain of something – in this case, their sexual identity, a part of their unity with the self.

Exploring the experience of Civil Partnership allows these couples to dwell on that experience generated '[...] from the very nearness of that neighbourhood in which we already reside' (Heidegger 1969, p.37). The experience of relationship recognition in 'the world' (*der Welt*) is a taken-for-granted aspect of everyday life (Heidegger 1969, p.63). To have their relationship recognised is, for most heterosexuals, part of the 'nearness' or usual experience of everyday life, a taken-for-granted thing. Our understanding of the significance of the Civil Partnership experience for same-sex couples begins to emerge as we begin to explore a taken-for-granted experience of everyday life for heterosexuals, from the perspective of lesbian and gay couples who are being included in this everyday

experience for the first time in Ireland through Civil Partnership. We see how individual experiences of Civil Partnership, while unique, begin to form patterns or themes – Civil Partnership as coming out is the first of these themes to be examined in this chapter. We are using the ‘Hermeneutic circle of understanding’ in our study¹⁰ (Mulhall 2013, p.31). Using this approach to interpretation, we move from the individual specific experiences of Civil Partnership where the emergence of commonalities and differences begin. Interpreting these through the literature, we return again to specific experiences and then again to the circle to view the whole phenomenon of Civil Partnership as we begin to understand some of its meanings (Gadamer 2007). This allows for a fusion of horizons which ensures that this analysis is not just one perspective but a fusion of perspectives allowing for a rich analysis of the phenomenon (Gadamer 2007). The human *Dasein* actually finds itself already embedded in ‘factual existence’ and for him/her, ‘experience is always a knowledge of the known’, we do not come to knowing any experience except through other earlier experiences (Gadamer 2007, p.26). Thus, in exploring the lived experiences of these couples and applying the hermeneutic circle of understanding we are moving towards an understanding of the meaning of Civil Partnership - a knowledge of the known.

5.2.1. Coming Out – Definitions, Lived Realities and Meanings

In terms of sexual identity, ‘Coming out’ is a strategy used to affirm a positive identity as gay or lesbian, and at times a sense of belonging to a community or movement (Woodward 1997, p.207). The interviews depict some couples who might share a sense of belonging to a lesbian or gay community or for others a sense of belonging to a family or social circle – (the theme of belonging is explored more fully in Chapter 6). Civil

¹⁰ Mulhall (2013) describes the Hermeneutic Circle approach to understanding, as used by Heidegger (1969) and Gadamer (1979). Entering a circle of understanding with one supposition and then through thinking and exploring other linked concepts, literature and experiences we are moving to understandings in the circle which deepen meaning, making ‘ones conclusions more profound’ (Mulhall 2013, p.31).

Partnership as coming out gives couples a means to display a sense of belonging and a positive attitude to their sexual identities.

For Woodward, (1997, p.1) 'identity gives us a location in the world and presents the link between us and the society in which we live'. With non-heterosexual identities which are stigmatised identities or 'spoiled identities' (Goffman 1963, p.112) techniques of information control are developed. These techniques may be applied when disclosing such identities. We see this play out below in interviews which display information control regarding disclosure. In fact all the interviews display some information management at some point. Wilkerson (2000, p.266) tells us that coming out as lesbian or gay 'reflects a new and more accurate understanding of who one is in the world and how one can act in the world'. The couples in this research display their understanding of the world they live in and use Civil Partnership as an acceptable way of acting when they choose Civil Partnership as a way to come out.

Knowing how to act in the world is a basic human competence (Gahagan 1984). Coming out for same-sex couples using Civil Partnership provides a sense of how a person with same-sex desires fits into a homonormative world. Couples display evidence of their enhanced knowledge and understanding of how the world treats those with non-heterosexual identities when we see how couples use Civil Partnership as a coming out tool. Brenna and Casey tell how entering a Civil Partnership meant that they experienced a sense of multiple experiences of coming out: '... everything you had to do you were outing yourself' Brenna tells us. Couples strategically manage their identity disclosure in their various lived realities and circumstances with family, workplace and wider society or community.

The interviews in this study support the idea that coming out is not a one off event, moving away from earlier linear stages model of coming out (Eliaison 1996; Cass 1979; Troiden 1989). Gagnon and Simon (1973, p.262) suggest that sexuality is always a

‘socially scripted behaviour’, an interaction between the individual and their surroundings. Sociologists exploring coming out (Horowitz and Newcomb 2001; Kaufman and Johnson 2004) began to use the term without exploring its ‘tangled history’ (Orne 2011, p.683). According to Orne (2011, p.684) coming out has ‘merely accrued so many meanings that researchers and participants often assume shared understanding’. This study provides evidence that coming out is indeed an ongoing process.

In this way seeing Civil Partnership as a form of coming out has taken on a ‘ready to hand’¹¹ use for interviewees as their ‘pre-understandings’(Heidegger 1962, p.191) of coming out affects their sense-making of Civil Partnership. Their understanding of Civil Partnership is described ‘as’ coming out - something they have grasped in advance – ‘a fore-having’ (Heidegger 1962, p.191) of coming out is brought to bear on their descriptions of their experiences of Civil Partnership. None of the interviewees in describing their Civil Partnership as coming out stopped to define or explain that concept. However, a shared meaning of the concept begins to emerge as we see that for many of them, their experience of Civil Partnership is a way to disclose their sexual identity to family, friends, workplace colleagues and to a wider public. While sexuality is socially scripted, the couples in Civil Partnership found a way to come out to a multitude of audiences, presenting the sexual identity of their self in a way that was acceptable (Goffman 1963).

Warner (1999) and Armstrong (2002) examine how coming out by individuals impacts on the political success of gay rights. It was murdered gay rights activist, Harvey Milk’s direction to come out (Shilts 2009), that highlighted his belief in the links between coming out as a strategy in gay liberation consciousness-raising and achievement of gay human and civil rights (Orne 2011).Some of the interviewees shared this idea of

¹¹ Heidegger (1962, p.73) speaks of *Dasein*’s concern with ‘ready-to-hand’ matters of concern which ‘lit up for it’ entities within the world. In this manner coming out and its links to Civil Partnership help to explain the meanings of Civil Partnership for same-sex couples.

understanding coming out in this way. In other words each individual that comes out makes a contribution to gay visibility and in this way is contributing to human and civil rights for gay people. Some of the couples interviewed here see their Civil Partnership experience as a coming out: Brocc and Ailcha come out in a rural context to neighbours, Begley and Callan come out to family. Similar to Milk's perspective, their coming out is a political act making a contribution to gay human and civil rights. Even when they have been living lives as lesbian or gay people for years prior to their Civil Partnership, they consider their Civil Partnership to be a coming out (Neamhain and Fallon; Brocc and Ailchá; Áinle and Cóilín).

5.2.2. Overcoming Closetedness

Before coming out, there is non-coming out. Sometimes a chosen silence, or an agreement to keep silence, a hiding or a mask is used to stay hidden or remain in the closet (Chauncey 1994) and keep the stigmatised identity hidden (Goffman 1963). For LGBT people, silence is culturally determined, sometimes a way of staying safe. (We shall examine this in section 5.5. which deals with coming out in workplaces). Remaining unspoken can be seen as a strategic management of self-identity, something taught to us by society, '[...] learning when not to speak is basic to the production of culturally appropriate behaviour' (Goldberger 1996, p.365). It can also therefore be a form of discrimination, a silencing by others of what they do not want to hear or will not listen to. In giving what is acceptable, as in the case of acceptable relationship recognition engagement, same-sex couples are responding to society in a manner that is based on society's values – being 'normal' can be troubling for those who wish to live lives outside of the normative (Warner 1999). Both in relation to coming out to family and to wider social circles such as workplace or more publicly, remaining in the closet can be an appropriate stance if those in authority have the power to be dangerous for those coming out. Hurtado (1996) speaks of strategic silence to describe an approach used by oppressed people, including LGBT, who must watch how others respond to information about them prior to revealing of self.

In exploring Civil Partnership, coming out and closetedness for lesbian and gay couples in Ireland, it is important to remember, that ‘most people claim a choice about when and where they speak what they know’(Goldberger 1996). This choice may not be available to all.

[...] It is only those who are silenced by oppressive and demeaning life conditions who feel powerless, mindless and truly without words [...] the sense of choice about whether to speak or not is missing for such men and women, as is their sense of knowing [...] they are silenced, rather than silent (Goldberger 1996, p.346).

Casey and Brenna’s experience of lack of next-of-kin rights when in hospital show their lack of choice, their silencing. Brenna was excluded from participating in the active care of her long-time partner Casey because the hospital had its rules which meant only married couples or some heterosexual couples were awarded next-of-kin rights. The experience was one of silencing and oppression:

You feel so [...] I felt so inept and so like [...] no control or anything [...] we just thought if we ever got the chance [...].
(Brenna)

Brenna and Casey decided after their silencing because they were a lesbian couple in a Dublin hospital, that as soon as relationship recognition rights were introduced in Ireland, if only for the matter of obtaining next-of-kin rights, they would enter Civil Partnership. They experienced silencing and powerlessness and understood that they had been discriminated against because of the nature of their relationships and the lack of legal recognition of it.

Our exploration of silences and closetedness begins from this stance and a realisation for some that fears and threats may result, and this leads them to adopt an appropriate defensive position of silence as a necessary survival strategy in their lifeworld.

Sedgwick (2008, p.xvi) speaks about the ‘special focus on the powerful performativity of coming out’ . She (2008, p.xvii) is aware of the ‘politically progressive, personally transformative effects that a wave of gay coming-out had been creating across the

culture'. In Ireland, a similar view is taken of the impact of the Civil Partnerships which have taken place in Ireland since the Civil Partnership legislation enactment in 2011 (GLEN 2013). The visibility created by Civil Partnership ceremonies across the 26 counties of Ireland has been transformative of the culture and has opened a path towards greater acceptance of marriage equality for same-sex couples (GLEN 2013).

Sedgwick (2008, p.3) explores what she calls closet dynamics and she asks us to pay attention to the 'performative aspects of texts' and describes non-coming out as closetedness:

[...] a performance initiated as such by the speech act of a silence – not a particular silence, but a silence that accrues particularity by fits and starts, in relation to the discourse that surrounds and differentially constitutes it (Sedgwick 2008, p.3).

Begley and Callan speak of how Civil Partnership 'has allowed them equality' (Begley).

Callan describes the silence she kept about her sexual identity in her home town – a promise she made to keep the silence when she came out to her family many years ago:

[...] when I came out to my parents 21 years ago [...] I assured them at the time that their neighbours and their siblings and nephews and nieces [...] they could tell them if and when they wanted to. I was not going to impose that on them.

She has kept a silence about her sexual identity, a silence which she broke on the public announcement of her impending Civil Partnership with Begley. Her ending of both her silence and her closetedness coincided.

In the experiences shared in the interviews we see that couples inhabit and exhibit silences as closetedness in various aspects of their lives (with family, at work or in wider society) while at the same time breaking that silence in one or other of those spaces. Thus the act of coming out, a process of coming out, begins in silence and is always in the context of the discourse on sexuality or on same-sex relationships that surrounds it. This fits with the strategic outness approach (Orne 2011) adopted by many of the couples in this study. Civil Partnership as a coming out tool is used to break the silence of the closet.

Civil Partnership as a legally recognised, socially acceptable, disclosure of same-sex sexual identity, provides the couple with an opportunity to move out of closetedness, to change their performance and break out of the regulated discourse, to come out (Butler 1990).

The reaction to the silence of closetedness, and the breaking of the silence in coming out, impacts on the phenomenon of Civil Partnership. The positive presentations of Irish couples having Civil Partnerships across Ireland has reinforced the idea that it is a positive choice in public minds (Rose 2014a). These experiences support Warner's (1999) suggestion that coming out in Civil Partnership or same-sex marriage ceremonies is safer than coming out in a non-relationship recognition situation – a way of not saying too much about same-sex desire or same-sex sexual attraction:

At the same time, taking part in them is safer than coming out. Coming out publicly exposes you as being defined by desire. Marrying makes your desire private, names its object, locates it in an already formed partnership. Where coming out always implies some impropriety because it breaks the rules of what goes without saying and what should be tacit, marrying embraces propriety, promising not to say too much (Warner 1999, p.133).

Brocc and Ailchá, two gay men together for almost forty years, have lived through the era of criminalisation of homosexuality in Ireland. They know the fears of speaking out and being discovered as two men in a same-sex relationship. The fact that their relationship is now legalised and recognised in Civil Partnership means they do not have to 'say too much' about their same-sex desire. Speaking about the response of their neighbours and relatives to their Civil Partnership Brocc says, '[...] it was ok, it's legal, it must be ok.'

For Warner (1999, p.133) same-sex unions or marriages simply reaffirm 'the repertoire of acts and identities for straights and gays'. He (1999, p.133) tells us that gay marriages or same-sex relationship recognition ceremonies merely lend themselves to a form of fiction, a fiction where their normative nature induces a 'sort of amnesia' about the homophobic nature of the way same-sex desire is actually seen and treated by society. We

will explore this when we examine the fact that many of the couples actually use their Civil Partnership as a way to come out for the first time to their immediate family and workplaces – a reality that suggests they too see Civil Partnership as a safer way to declare their sexual identity in an Irish context.

5.2.3. Living Both In and Out of the Closet

Mosher (2001, p.165) suggests that gay people live both in and out of the closet, and that ‘[...] identity formation [...] continues to develop throughout life’. Orne (2011 p.681) uses that understanding as his basis for developing what he calls the concept of ‘strategic outness’. By this he means that coming out is a continual, contextual, social identity management tool. The couples in this research are managing the disclosure of their sexual identity using strategic outness. Entering Civil Partnerships is a key tool they use to apply this strategy. It is important to remember that multiple social identities are not at all problematic, so long as they are not stigmatised (Hurtado 1996, p.374). Sometimes, we may use our silences as a means to keep an eye on ‘other’ worlds and gain knowledge of how to be, safely.

Sedgwick (2008, p.67-68) suggests:

There are remarkably few of even the most openly gay who are not deliberately in the closet with someone personally or economically or institutionally important to them [...] every encounter with a new classful of students, to say nothing of a new boss, social worker, loan officer, landlord, doctor, erects new closets whose fraught and characteristic laws of optics and physics exact from at least gay people new surveys, new calculations, new draughts and requisition of secrecy or disclosure.

Even making the plans for their Civil Partnership event, Brenna and Casey, two lesbian women, together for 20 years, experience this phenomenon of each new encounter requiring a further coming out:

[Be]cause everything you had to do you were outing yourself to do it, to random people, again and again. To random people [...] (Brenna)

Brenna and Casey's experience reflects Sedgwick's understanding of ways of being out as each encounter requires the couple to make a decision to come out and disclose or not.

What this tells us is that many lesbian and gay people, even when openly gay in some aspects of their lives, are also living lives both in and out of the closet (Mosher 2001; Sedgwick 2008). Sedgwick (2008) asserts that all social encounters made by lesbian and gay people require a calculation to be made as to whether they can and do disclose their sexual identity. She describes how every encounter requires a calculation to be made in everyday life, with non-heterosexuals constantly making choices to be in or out of the closet. This can be at work where we see how Fechín speaks about entering Civil Partnership as a way of coming out at work, 'It was the only area of my life where I hadn't named it' and she acknowledges that it meant she came out in her workplace following her relationship recognition event. Begley tells us how entering a Civil Partnership 'allowed us equality' in particular, in her workplace. 'It makes you come out more' she says of her Civil Partnership experience in her workplace.

It can also be about coming out to family or wider society. The interviews here show that many of the couples engage in a strategic outness strategy. They live both in and out of the closet - a strategy that dispels the notion that coming out is a single event with a single outcome. Hurtado (1996, p.386) reminds us that living in the closet may be an experience of what she calls subjugated knowledge – that is:

Knowledge that is temporarily suspended or subjugated to resist structures of oppression and to create interstices of rebellion and potential revolution.

Brocc and Ailchá adopted strategic outness strategies in the heteronormative world in which they lived. Brocc worked in education and Ailcha in medicine. The survival of their long relationship, shared openly in Civil Partnership after 38 years, contains the seeds of a potential revolution which may impact on the wider world of normative sexuality by displaying the love and commitment of these two men publicly and in

celebration. Similarly, the other couples named below are also holding subjugated knowledge – a feature of those living in an oppressive world.

Brocc and Ailchá have spent years of their working lives in the closet, '... [t]hirty-eight years we had been together' Ailchá tells us. His description of being able to be out to work and neighbours following their Civil Partnership is 'such a relief ... a feeling of being further out'. Begley was not overtly out in work while she was out to her immediate family for 21 years, entering Civil Partnership allowed her to feel it 'normalised it for people'. People she worked with could understand their relationship recognition and see their relationship as something normal or usual. Banbhan and Cana are out both to their family and in their workplaces, while Casey is now out to her workmates following her wedding and Brenna has always been out in work but not with family. The choices that individuals and couples face requires them to develop a strategic outness strategy (Orne 2011).

Coming out as strategic outness acknowledges the social context in which coming out takes place. The meaning of their world for the couples is co-constituted - the couples' experiences and interactions in the world co-create the meanings of Civil Partnership . The couples use Civil Partnership as a coming out tool in a toolkit of possible identity management strategies. This takes place in the variety of different social contexts and settings in which they find themselves. This supports Swidler's (1986) suggestion that lesbian and gay people daily use tools and strategies to manage who knows what about them and how others may learn about their sexual identity. Sedgwick (2008, p.68) holds that for:

[...] many gay people it is still the fundamental feature of social life; and there can be few gay people, however courageous and forthright by habit, however fortunate in the support of their immediate communities, in whose lives the closet is not still a shaping presence.

The interviews with Civil Partners in this research overwhelmingly support Sedgwick's (2008) proposition that the closet is a 'shaping presence' in their lives. They also show

that Civil Partnership has been used by many of these couples as a strategic outness tool to manage their exit from the closet, which is only ever an exit for now, a response for the moment to the ever-shaping presence that is closetedness.

5.3. Civil Partnership as Coming Out - Unity to Self

In describing their experiences of Civil Partnership, many of the 24 people interviewed saw the state recognition of their relationship and their celebration event(s) as a coming out and spoke of it in this manner using the term without specifically defining what they meant. This section deals with the experiences which couples have had of Civil Partnership as coming out to self.

For Fechín the recognition of her same-sex relationship was hugely significant for her, returning to Ireland where their foreign marriage was recognised as a Civil Partnership:

[...] I think for me it was probably the first time I felt like me really. I had been carrying some load. I knew I was in lots of ways. I have lots of regrets about my past you know. [...] about how I reacted in my family and left Clancy on the side-lines, you know, mixed between not wanting to stand up and be loud, not loud and proud, but you know what I mean, this is who I am.

The Civil Partnership relationship recognition allowed Fechín to feel, for ‘the first time’ to ‘feel like me.’ This feeling like herself, for the first time, links to Heidegger’s (1969, p.26) view of identity for *Dasein* as ‘unity with itself’. Fechín acknowledges the Civil Partnership as coming out for herself. Her coming out through Civil Partnership enabled her to say who she was, to express her sexual identity, to feel happy about it and to experience the ‘unity with’ herself. Her relationship recognition experience in the USA gave Fechín the confidence to be herself ‘for the first time to feel like me’, to be able to say who she was; it provided her with a sureness of her self. That part of her identity which she had hidden and denied, including denying her relationship with Clancy to her family at times, was now able to be shared and uncovered. Her sexuality and same-sex relationship could now be shared, and others were invited to join them in celebrating its

recognition and acknowledgement, including in her workplace, after twenty years of not speaking about her sexual identity:

I'm sure people knew but just didn't name it [...] it was the only area in my life where I hadn't named it [...] people were amazing.

For Fechín, the Civil Partnership was a coming out – to herself – an acceptance through the public event and public declaration of who she was – a lesbian woman in a long term relationship now recognised by the State. Through Civil Partnership recognition, she was able to feel true to her inner self, to experience the ‘unity within the self’ (Heidegger 1969, p.26), which is her own recognition of her identity, now disclosed in coming out following her Civil Partnership recognition. Her enhanced sense of comfort with herself allowed her to go into work following her marriage in the USA for the first time she announces her sexual identity to her work colleagues. We see here Fechín’s application of strategic outness (Orne, 2011). She chooses, following her relationship recognition ceremony, to tell her workmates. She finally names it, breaking a silence and moving out of closetedness (Sedgwick 2008).

Brocc and Ailchá speak of how after 38 years in a same-sex relationship their Civil Partnership and celebration allowed them as a couple to speak about, come out about and plan for areas of their life that prior to the Civil Partnership they felt were out of bounds for them to comment on:

[...] it has certainly helped me a bit more, to talk with you to come out with you about areas, financial areas and so on (Ailchá).

I never felt like I had any right to [...] object if Ailchá decided to take a career path [...] the same way as I see a married couple would do [...] We didn't have that. We had to try and survive and exist and keep a loving relationship going without that [...] I made decisions down through the years kind of independently [...] because we were strangers to each other legally. We had no hold. Nothing (Brocc).

Here we see Ailchá speaking directly to his partner Brocc during the interview and Brocc responding to him, reflecting Giorgi’s (2009) view that the interview can enable a

dialogue between a couple to take place, indeed it allows a deeper disclosure of understanding to take place during the interview process. This couple uncovers insights that an interview with one person from the couple on their own, might not have revealed. Brocc describes how, in the absence of legal ties, they both held back from intervening in aspects of financial or career decisions of the other. He speaks of how the absence of the legal frame meant that they had to ‘survive and exist’ without the support such a mechanism allows those who are married or legally tied. Their relationship was restricted by the social and legal norms attached to marriage and legal relationship recognition. He describes his own decision to act ‘kind of independently’, a decision which was in many ways foisted upon him, due to the lack of legal ties between the two men prior to Civil Partnership. Ailchá agrees and describes how being Civil Partnered has caused him to ‘come out’ to Brocc, his partner, to talk more about areas of their lives such as finances which, prior to the Civil Partnership, he had held back on. They had no framework within which to address these aspects of their relationship:

[...] legally, we were separate and we did yes as you say, Jesus I never really challenged you or your choices, [...] or my barmy choices in work, but I would be much more conscious now. But it was part of the setting at the time [...] now we go to the accountant together (Ailchá).

These taken-for-granted areas of the relationship were not within the men’s sphere of influence as they had no financial ties, no legal structure, prior to Civil Partnership. ‘Part of the setting of the time’ is how Ailchá describes their lives in pre-Civil Partnership times. Since Civil Partnership he describes a sense of now having legal ties on one another, of being entitled to talk about financial matters, of going to the accountant together.

[...] I have a sense of us having come out fully in Civil Partnership and its celebration (Ailchá).

For Ailchá, at the time of the interview, after forty years of a relationship with Brocc, he speaks of how he has ‘come out fully’ to his partner in having the Civil Partnership and the celebration that followed it. This sense of the Civil Partnership as a new phase or

continuation of the development of the relationship between the couple speaks of coming out as an ongoing process, even for the couple themselves. With the legal vessel of Civil Partnership now holding their relationship, they have now ‘come out fully in Civil Partnership’.

Participants use the term coming out to have many meanings but each is articulating Civil Partnership as an event in a process of becoming fully themselves, fully expressive of who they are including their sexual identity and sharing of that with others.

[...] it's a feeling of being a further coming out for us. A level of emerging that is there all the time and, particularly around here (Ailcha).

Ailchá's use of the term ‘emerging’ reminds us of Sedgwick's (2008, p.67) description of coming out or breaking closetedness as ‘a gay uncovering’. Ailcha uses the term to describe their disclosure to others and a deepening connection to each other. The couple are continuing to *become*, even after 40 years of a relationship. Heidegger (1962) speaks of our understanding of *Dasein*, our being-in-the world- as always becoming. We are never a completed entity until death and then becoming is over, it ends but only then.

The coming out process and an awareness of this for the couples is part of the experience of ‘authentic being’ (Heidegger 1962). Inwood (1997, p.26) explains that this term authentic (*eigentlich*) applies to *Dasein* when we are ‘true to one's own self, to be one's own person, to do one's own thing’. The core concept here is when we as human beings decide to step out from conformity and authentically choose to do something that the generality of unthinking people ‘*das Man*’ disapproves of (Heidegger 1962). The authentic being, stands by oneself and goes against ‘*das Man*’. A failure to stand by oneself is how Heidegger (1962, p.166) explains it when we do what ‘*das Man*’ insists upon. In Heideggerian terms, coming-out is one of these moments of authenticity when gay and lesbian people step outside the stream of ‘*das Man*’ and feel their own authenticity of being themselves in expressing their sexual identity. For Fechín, Ailchá and Brocc their Civil Partnerships as coming out has allowed them step outside the

stream of '*das man*' and feel their authentic identity, a unity with themselves. They have stepped out of their 'everydayness' (Heidegger 1962, p.118) where they were under the influence and operating in their closetedness, according to *das Man*, not out and not fully themselves living in a heteronormative society. Civil Partnership and its celebration is an opportunity for gay and lesbian couples to experience *ereignis* – an appropriating moment in which according to Heidegger (1962), the individual being has a sense of a clearing or an opening which brings things into view. Heidegger (1962) suggests *Dasein* must first find itself, so that the influence of 'the-they' in interpreting meaning can be thrown off and the authentic self, free of '*das man*' can discover the world in its own, authentic way.

In entering Civil Partnership couples have taken the leap (*sprung*) which for Heidegger represents the possibility of doing something which changes a relationship or changes our relationship with self and others and leads to 'unfolding' of 'wholeheartedness' (Heidegger 1989, p.278-282). The leap is a form of original action or thinking and is evident in the experiences of these couples as their Civil Partnership is a coming out for them.

5.4. Civil Partnership as Coming Out to Family

In this section we explore four of the stories told regarding strategic management of sexual identity through Civil Partnership with family. Many of the couples speak of how they use the Civil Partnership announcement and the celebration event as a coming out moment to their close family. Having seen that most couples live both in and out of the closet (Mosher 2001), they judge when to tell and what to tell about their sexual identity. Civil Partnership as a coming out to family is a theme common across many interviews. Though each experience is unique to each individual, each narrative gives us a specific experience of coming out, while also contributing to the fusion of horizons (Gadamer 1979) of the meaning of Civil Partnership for same-sex couples in Ireland.

There are reactions of family and friends on news of the announcement of the Civil Partnership event: C  il  n, Callan, Conr   and Faol  n each describes how their families reacted to their Civil Partnership news:

They were all delighted, they were. I remember even going into my house [...] the day after   inle proposed, and I remember my granny was there and my auntie was there and me Mam and Dad were there [...] and I just showed Mam me hand and she was like ‘oh jaysus, jaysus’ (Coil  n).

C  il  n describes how his wider family were delighted with his news that   inle and he were getting Civil Partnered. Less excited, but just as expressive, Conr   greatly values the extent to which his family had dressed up and made huge efforts to be turned out well for their day ‘exactly like as if they were going to a wedding’: He stresses:

But there was about 20 altogether [...] they all made a big effort and [...] like all got new outfits, got dressed up, got the hair done. It was exactly like as if they were going to a wedding really and [...] they were delighted with it I think, you know? (Conr  )

I think like knowing the people we know and the length of time we know them [...] there was no indication, or feeling of awkwardness. Certainly none of that [...] (Faol  n).

Each of the interviews above captures the response of families to the Civil Partnership and each is to varying degrees positive yet different. Coil  n’s description of the day he broke the news of his Civil Partnership to his intergenerational family focuses on the human presence. His mother’s excitement at the news, heralded by his flourishing the ring on his finger and the welcoming surprised response of ‘jaysus, jaysus’ from her. His family welcomed his engagement and forthcoming Civil Partnership. For Conr  , the event was planned to be wedding-like and so his family reacted by preparing for it in a wedding-like fashion and they were ‘delighted’. Faol  n describes their family and friends as simply not exhibiting any ‘feeling of awkwardness’, there was no surprise for him that they were comfortable with the Civil Partnership. The following stories tell of further Civil Partnership experiences where the Civil Partnership itself is seen as a coming out experience for the couples.

5.4.1. Breaking the Promise of Silence

Callan, originally from rural Ireland, had told her family twenty-one years ago that she was a lesbian. She agreed then that they could tell the rest of the neighbours, siblings, nephews and the wider family about her sexual identity and that she herself would not. She promised that she was ‘[...] not going to impose that on them’ (Callan).

Callan’s use of the term ‘impose’ indicates her understanding that to disclose her sexual identity twenty one years ago in Ireland would have been an imposition of sorts. It could have invited disapproval on her family. Her family did not tell neighbours or friends that she was a lesbian in the intervening twenty-one years. Callan kept the secret too, agreeing ‘not to impose’ on those outside the family the fact of her non-normative sexuality, she was aware of her own stigmatised identity (Goffman 1963) and, when in her home town on visits to family, presented the socially acceptable public performance of normative heterosexual sexual identity by not coming out outside her family home. ‘I don’t kind of hide the fact, but I don’t necessarily broadcast it either’ she says of her behaviour on those family visits.

In passing as a heterosexual amongst her rural neighbours, Callan showed she knew what was expected of her, she developed an ability to co-ordinate her activities in as much as her knowledge of the correct *habitus* (Bourdieu 1977) helped her to continue to belong. She kept her sexual identity hidden. She successfully performed and ‘kept face’ through impression management and not coming out (Goffman 1959). When Civil Partnership legislation was passed and her intention to enter a Civil Partnership became known in her place of origin and to her wider family (via her brother), she met neighbours whom she had not spoken to for years who used the occasion of the forthcoming Civil Partnership to congratulate her, and in doing so, acknowledge her lesbian identity and same-sex relationship.

Callan describes a meeting in her rural hometown with a friend whom she had not seen for 25 years. The friend was ‘[...] able to say “oh Callan, I believe congratulations are in

order". She was able to say in her own way "oh Callan, congratulations, I believe you are gay since I met you last,"" Callan tells us. Callan decided to break the promise of her silence twenty-one years on, when she invited her wider family to their Civil Partnership. She could now perform her true sexual identity using Civil Partnership as a prop. Using her impending Civil Partnership as the tool, Callan has moved into a more authentic relationship with her home town neighbours and wider family. Her Civil Partnership can be seen as the appropriating event (Heidegger 1967). 'It has legitimated our relationship with the rest of our world' Callan says, explaining how their Civil Partnership has brought legitimacy and recognition to them as a same-sex couple.

Callan has come out to a much wider network of people since they decided on the Civil Partnership. Her partner Begley felt the Civil Partnership as a coming out experience also 'You wouldn't want to be sensitive to coming out because it is like, at every turn' Begley says. Speaking about the Civil Partnership experience, Callan says:

[...] it makes you come out more. Another part of the coming out process, because you end up having to say it more often. But it actually is easier to say it because there is a normalised label to hang it on.

Begley and Callan were coming out again and again. In coming out they were breaking the silence surrounding their sexuality. As Sedgwick (2008) suggests, they were breaking out of their closetedness. They were coming out by telling a wider circle of people about their same-sex relationship. The secret was out – the promise to keep the family secret was broken, as Callan says, 'I had kept my promise to my parents for the last 21 years.'

The promise Callan had kept had resulted in the practice of her hiding of self (Heidegger 1962), a hiding she had taken on for her family. Twenty-one years later she has been able to throw off the mask, escape the family closet (Sedgwick 2008). She tells the story of visiting her father down home and how while he didn't attend the ceremony and was opposed to her getting Civil Partnered, he now gives her sums of money which he knows

she shares with her partner. Callan sees this as her father's way of showing his acceptance of them and their coming out in Civil Partnership:

[...] my father is a Kerry man and he is quite emotionally retarded [...] he can't articulate anything that way so the envelope gets left and I come upon it. And actually [...] I rang him this morning to say thank you, I told him there was €1,000, "Yeah" he says, "C'mere, what did you do with my socks?"

While Callan's father is still keeping verbal silence or at least not willing to speak overtly about her same-sex relationship, Callan has broken the long standing promise of keeping her silence. His gift is a way of approving without speaking it verbally. Her use of Civil Partnership as the way of breaking the promise in a rural townland in Ireland supports Warner's (1999) suggestion that same-sex relationship constructs, whether Civil Partnerships or marriage, are all more acceptable ways of coming out. It also supports Bourdieu's (1997) understanding of *habitus* as a changing social interaction management system. The introduction of Civil Partnership has contributed to a changing sexual *habitus* or social know how in Ireland, with people in rural communities taking the opportunity, like Callan's neighbours and family to acknowledge and congratulate the couple.

5.4.2. The Relief of Being Out – An End to Disguises

For Brocc, living with his partner Ailchá for 38 years, the opportunity to have a Civil Partnership and come out to all his relatives was a way to leave no room for doubt with others about his sexuality and to leave off the old ways in which gay people and their relationships were made invisible:

[...] thirty eight years or so we had been together [...] a very long time. So all the family has either asked no questions, accepted or never thought about it [...] I decided this was my chance now, whenever I shuffle off this mortal coil and die and there'd be no cousins there sort of saying "wasn't he a lovely man, isn't it a shame he never married". That they now have to face the fact than I am a fecking gay man, living with my gay partner [...] That has been part of the experience of coming out in Civil Partnership [...] they were all sent invites and I was saying God I'd love to be there when that invite comes through

the letter box [...] they were so delighted to come [...] that was tremendous (Brocc).

The event, for Brocc, was a turning. In Heideggerian terms this is when an uncovering happens, when an event turns *Dasein* away from denial of its essence (Mitchell 2012). Heidegger (1967) speaks of the turn as a way of safeguarding the truth. Here we see Brocc understanding his Civil Partnership as a way of revealing truths by unconcealing things about himself when he says ‘I am a fecking gay man, living with my gay partner’.

The revealing of the truth about himself through Civil Partnership is a revealing of himself to others: to his family, to those who have played their part in the concealment ‘[...] I’d love to be there when that invite comes through the letter box’ (Brocc). Whether family had consciously been covering up the truth or just not looking, he sees the invitation to their Civil Partnership as ‘putting it right up to them.’ The Civil Partnership is the turn for Brocc, a turning towards his self, a unity with self. Likewise for his partner Ailchá who says ‘It is such a [...] it is a relief.

Ailchá expresses relief at finally coming out to everyone through his Civil Partnership. The burden of keeping the secret of their relationship from others is a weight and finally letting the secret out, using Civil Partnership as the vehicle, is a great relief for him. He sees it as ‘a further coming out’ not a once-off completed process. The relief is palpable, but he knows it is not a final coming out, rather ‘a further coming out for them’ (Ailchá). There is more to travel in their ongoing journey of (be)coming.

Speaking of *Dasein*’s understanding of the world, Heidegger (p.167) says:

If *Dasein* discovers the world in its own way and brings it close, if it discloses to itself its own authentic Being, then this discovery of the ‘world’ and this disclosure of *Dasein* are always accomplished as a clearing-away of concealments and obscurities, as a breaking up of the disguises with which *Dasein* bars its own way.

Dasein, in clearing his way – reaches an opening which allows him to end disguises and clear barriers from his way of being himself, he discovers his authentic identity. Ailchá

and Brocc in their closetedness have been engaged in disguises and barring their own way to self. Ailchá and Brocc discover their own true world, disclosing their own authentic being by disclosing their sexual identity through Civil Partnership. The clearing away of the lies, untruths and the unseen by their disclosure of their sexual identity through Civil Partnership has created a means by which the two men have thrown away their disguises and brought their sexual identity into a clearing (Heidegger 1969). The Civil Partnership disclosure allows them to come closer to a unity of being with themselves, and a connection as *Dasein* to other *Dasein*, in family and friends.

Ailchá's expression of relief is a description of his ongoing concern with how he lives his life – a feature of *Dasein* identified by Heidegger (1962) as discussed by Mulhall (2013, p.14):

Only *Dasein* exists in the sense that the continual living of its life, as well as the form that its life will take, is something with which it must concern itself.

The opening provided by Civil Partnership, this making of a clearing to show the truth, is for Heidegger (1969, p.17) 'the presupposition for revealing and securing'. For Brocc and Ailchá the Civil Partnership was the event which allowed revelation of their truths and is a necessary happening when *Dasein* enters into 'the event of appropriation' (Heidegger 1969, p.37), the space where truths are unveiled.

Speaking of their relationship prior to Civil Partnership as invisible, hidden and concealed, Ailchá describes it as in some way akin to 'the elephant in the room' i.e. that which everyone can see but pretends not to. These passed over or ignored phenomena are the elements that become clear and visible in the clearing that is provided by the Civil Partnership experience:

One of the wonderful pieces at the celebration was that here were these two elephants standing utterly visible, incontrovertibly totally open, absolutely no ifs or buts out there [...] (Ailchá).

The truth, which Heidegger (1962, p.263) defines as ‘uncoveredness’ has been exposed in the Civil Partnership of Brocc and Ailchá. In choosing to use Civil Partnership as a coming out, the couple are being more consciously human. Mulhall (2013, p.16) describes as:

In choosing [...] one chooses what sort of person one is. In identifying with certain activities, character traits, life styles and visions of the good and in rejecting others, we reveal our conception of what it is to flourish as a human being, and so of what it is to be a human being, and make it concrete in our own existence.

‘Being-true as Being-uncovering’ (Heidegger 1962, p.263) is evident in this couple’s act of Civil Partnership. In Heideggerian terms, the couple are using *Dasein*’s concern with the being of Being and they are, in making choices to be Civil Partnered and come out, making choices. They are concerned with their existentials – with how they live their lives, their Being-in-the world. This understanding of their Being, this concern by Ailchá and Brocc with the truth of their sexual identity is indeed characteristic of Being.

The issue of being gay is a possibility for self-interpretation. The choice to have a gay or lesbian relationship publicly recognised is another way of choosing what sort of person one is. In making one choice or decision one is taking a stand on who one is and what one sees as essential about one’s being, defined by the stand in this case, the Civil Partnership. We reveal our understanding of what it is to flourish as a human being and of what it is to be a human being and make it concrete in our existence – in the lived world with self and others. By doing this we reveal our human-beingness, the Civil Partnership choice or experience is a statement of gay or lesbian identity, human identity, this is *Dasein* unconcealment:

It is *Dasein*’s essential capacity for self-definition or self-interpretation that fundamentally distinguishes *Dasein* from other entities (Mulhall 2013, p.16).

5.4.3. Adopting a 'Don't Ask Don't Tell' Policy to Sexual Identity Disclosure

Prior to Civil Partnership, Casey and Brenna had lived in New Zealand. While in New Zealand they had lived a more 'out' life. They had enjoyed the relative freedom they experienced there but since moving back to Ireland they found themselves closeted again. Apart from some lesbian friends they had told no-one outright of their sexual identity or their same-sex relationship:

We both would have been in the closet really when we went to live in New Zealand and when we came back we decided that if anybody asked [...] we'd tell them, but up to that point we hadn't told anybody (Casey).

The 'every-day-being' (Heidegger 1962, p.159) of the couple in Ireland is a closetedness, a not telling others of their true sexual identity. The couple's every-day-being while in New Zealand allowed an authenticity of the self to emerge and allowed them to live a less closeted life, one which they felt they had to change on their return to Ireland. Describing Ireland in the 1980's and 1990's Casey says:

But everybody's in the closet. At the time during the 80's and 90's nobody was saying a word.

Her version of a closeted Ireland reflects commentary by writer Colm Toibín (2001, p.9), who grew up in Ireland at that time: 'Gay people on the other hand, grew up alone'. For Toibín and for Casey, there was a sense that each person felt as if they were alone in discovering or living their non-heterosexual life. 'That nobody was saying a word' (Casey) meant that the every-day-being of a lesbian in Ireland at that time was, for many, silent and closeted. Toibín (2001, p.10) suggests that while there must have been others in unions of a non-heterosexual nature, gay and lesbian couples like Casey and Brenna, closeted and hidden, were creating everything for themselves.

The gay past is not pure (as Irish past can often seem too pure); it is duplicitous and slippery, and it requires a great deal of sympathy and understanding. (Toibín 2001, p.14)

Between their return to Ireland in 2004 and their Civil Partnership in 2011, the couple, like other lesbian and gay people, lived both in and out of the closet (Mosher 2001).

They offered the truth of their identities as lesbian only to those who asked. In fact no-one asked them, so they did not come out about their sexual identity or sexual relationship until they had their Civil Partnership in 2011. Civil Partnership represented their coming out publicly to family and wider personal circle of friends. Their experience gives another example of strategic outness, of managing their identity disclosure in Ireland and using Civil Partnership as a tool, a safer way to do it. Civil Partnership could be presented or performed as marriage-like and thus it was a more acceptable mode of identity disclosure. They were operating out of their acquired *habitus* (Bourdieu 1977) or social know how – the Civil Partnership became the acceptable vehicle for their coming out in Irish society.

When Casey and Brenna decided to get Civil Partnered, it meant that Brenna had to come out formally to her parents. Brenna and Casey had been together for 18 years, but Brenna had never told her parents directly that she and Casey were in a lesbian relationship:

We were together 18 years and I hadn't quite got around to telling them. So that was fun, [...] that was a fun lunch on my mother's birthday, but it went down really well, obviously, I think they probably knew, but the words had just never come out of my mouth so [...] but then no, it was all fine (Brenna).

That 'the words had just never come out of my mouth' is how Brenna explains how she managed the disclosure of her sexual identity, and the fact of her long-time relationship with Casey. The phrase emphasises the silence and lack of verbalisation of their situation to her parents – the silence keeps their sexual identity invisible and concealed from others and does not give words to who or what they are to others – a same-sex couple. While Troiden (1989) emphasised verbalisation as a necessary part of coming out, Brenna and Casey had lived lives in and out of the closet (Mosher 2001) while being involved in a same-sex loving relationship for over two decades. But in coming out to their families they had found no words to speak it for years. Yet, in the performativity (Goffman 1959) of their closetedness, they were managing their identity disclosure, watchful of and responding to the society and *milieu* in which they found themselves (Orne 2011). Not coming out and coming out are both elements of closetedness (Sedgwick 2008). They

were more out in New Zealand where they found they could re-invent themselves in the absence of the threat of family disapproval, in a country where they were not known. They were again closeted in Ireland on return home until they had the opportunity to have their relationship and themselves, recognised in the acceptable format of a Civil Partnership. Their social know-how and adaptability to a changing social *milieu* is evident. However, in the use of Civil Partnership as their coming out at home tool, Casey says:

We decided the signing of the register wasn't the important bit for us [...] it was standing out in front of our friends and family and finally saying it [...] it was that we considered to be more important (Casey).

For Brenna's parents the occasion of the Civil Partnership decision is the moment that Brenna actually comes out to them.

Brenna describes her approach to not telling people about her relationship with Casey as adopting a 'don't ask don't tell' approach. In this manner Brenna does not offer the information voluntarily except to those who ask – few have asked if, on the occasion of their Civil Partnership she has to come out to both her parents and her workplace friends. Describing how they lived like this, Brenna says:

[...] but it was just something that nobody asked and that was always our thing, if they don't ask we don't tell (Brenna).

That this was 'always our thing' is how she describes her pre-Civil Partnership every-day-life with Casey. Her every-day-being-in-the world life was one of closet and silences - managing her identity mask and giving careful performances (Butler 2004) until Civil Partnership becomes her chosen tool for strategic outness. The Civil Partnership was the opportunity to finally come out about themselves and be open about the nature of their relationship to family and workplace.

The context and history of how non-heterosexual sexuality had been dealt with in Ireland goes some way to explaining the cultural and social influences which have been exerted

on these two women to retain their silence and invisibility as lesbians in a long-term committed relationship (Ferriter 2009; Toibín 2001; Dublin Lesbian and Gay Men's Collective 1986). Their being-in-the-world, a facet of Being of *Dasein* (Heidegger 1962) meant they lived in and with others in the world with its prevailing heteronormative conditioning. Heidegger (1962) sees the human way of being as essentially conditioned. Thus Brenna and Casey's closetedness is a strategic response to the reality of their *welt*. Civil Partnership becomes their strategic outness tool.

Casey says she had been more open and out in her dealings with family and workplace over the years, yet, she also had never actually spoken the words to them of being lesbian, 'it never came out of my mouth.' Casey uses the same phrase that Brenna had used earlier to describe how she had managed her sexual identity disclosure:

My parents would have known. It never came out of my mouth but they knew, they knew Brenna was my partner. My mother died in 2011 and Brenna looked after her before she died and they would have known. My family know and obviously they love Brenna to bits and they would have known, I think.

The uncertainty of Casey's 'I think' reveals the reality that she is unsure yet insists they must have known, despite her never speaking of it. Here we see evidence of Casey and Brenna's ongoing management of their identity disclosure over decades. It allowed them to live both in and out of the closet and manage their outness, strategically. The Civil Partnership announcement allowed this couple to finally move away from concealment and speculation to direct disclosure of their sexual identity and to come out .

5.5. Civil Partnership as Coming Out in the Workplace

This section explores Civil Partnership as coming out in the workplace and examines the experiences of couples who have used Civil Partnership to come out in their workplaces, which can be safe or unsafe spaces for people with non-heterosexual identities.

5.5.1. It Just Keeps Getting Unspoken

For Fechín, a major significance of their marriage, recognised as Civil Partnership, was that it led her to come out in work as soon as they got home from getting married in the USA: 'The big thing for me was that I came out at work'.

She told everyone in her workplace that she was married in Connecticut days after she returned home to Ireland. It seems the experience had given her the confidence to come out at work after 20 years of being closeted in her workplace. While she thought some colleagues had known, she adopted a 'giving clues' approach to identity management with them (Orne 2011). Fechín says: 'I'm sure people knew but just didn't name it.'

She describes her dilemma of coming out in her workplace:

It was the only area in my life where I hadn't named it. And you know when you start, you actually [...] it is a real problem like when do you declare it? It is unspoken and it just keeps getting unspoken, like I just wished I could say it on *The Late Late Show* so everybody would know. In fact I didn't. I had told my mother before we went, earlier in the year, we were going to do a Civil Partnership, and she was just like "ok".

In 1980, lesbian feminist Joni Crone appeared on *The Late Late Show* and became the first Irish woman to speak openly about her lesbian sexuality on a national TV talk show. Fechín's desire to announce her lesbian sexuality on that TV show would, she felt, mean she was out completely, once and for all. Crone (1995, p.66) speaking of the reaction she received following her coming out on the programme, said:

I suffered rejection from my family, received threats of violence and experienced ostracism. My parents had feared that their house would be set on fire or that they would be shunned by neighbours. (Crone 1995, p.66)

Fechín wished she could just go on to the television show with the largest viewership, just once and tell everyone she was lesbian. This is an interesting wish – the reality is that coming out happens over and over again and in the case of Crone, it was not a positive experience. Fechín's wish that she could just come out once and for all is understandable. Her phrase 'it just keeps getting unspoken' is her way of expressing how silence around sexual identity remains unbroken until it is broken and even then it requires an ongoing

commitment to break the silence again and again, with an understanding that it is safe to do so. Workplace spaces require careful handling at times.

Subjugated knowledge is often kept silently as a safety strategy for those in danger (Hurtado 1996). While Fechín does not describe her silence as one kept in fear, the reality for her is that her mother is also her employer and not positive towards her daughter's sexual identity:

My mother's first words to me when I said I was, when I confirmed I was lesbian ... was that it was deviant behaviour, deviant, nice Catholic word'.

The disapproval from her mother has been a warning to her that her sexuality was not acceptable. It was a message which Fechín read as one to keep silent. As Sedgwick (2008) has said the silence is where the coming out process begins. Fechín's experience highlights her strategic outness management approach – the Civil Partnership gave her the courage and the opportunity to come out in work and she describes this as 'a big thing' in her life. She has overcome the prohibition to speak about her sexuality despite her employer/mother's disapproval.

Telling her work colleagues of her wedding was the first time she came out to them. Since then they have had various parties and many other work colleagues who were not present that day approached her to congratulate her. Fechín describes it , 'People were amazing ... [they] were just so excited for us'. Recent Irish research on LGBT mental health indicates that being able to be out in a school or workplace situation is of huge importance to LGBT mental health wellbeing (GLEN 2011b; Higgins 2011, Duffy and Sheridan 2012). Fechín knows it is good for her mental health to be out in work. While some of her colleagues are perhaps not fully accepting about the fact she is lesbian, she feels confident about herself: 'I'm not having any of it you know' she says, indicating that she is determined to be out and proud now:

[...] Oh yeah it is very liberating, and I know it is good for me. I know it is good for my psyche for want of a better way of phrasing it.

Fechín is aware of how her authenticity, being able to be out and truly herself, is good for her 'psyche' (Heidegger 1962). The marriage recognised as Civil Partnership experience has allowed her to come out as herself in her workplace. It is an example of the strategic outness management of her identity disclosure, facilitated by Civil Partnership.

While Clancy, Fechín's partner had been out in her workplace, it was with her family that she had kept her silence on her sexuality:

[...] it didn't really make a difference to me in work as such. [...] a lot of my colleagues would know Fechín anyway and would have met Fechín so, because I have never not been out in work it was much more significant I think for (her). I felt that I hadn't been out in my family. Again it was just kind of unspoken [...] I'd never spoken it to my family, even though I'd think, well they did all know, and that was good for me, but I'm not really all that close to my family. And I don't see my family that much.

Clancy has lived in Ireland away from her family of origin for over ten years. The distance from her family of origin has allowed her to be more herself in her workplace as she did not have to see or meet with her family and come out to them. Clancy has used the 'giving clues' or 'concealment and speculation' approach to managing her disclosure with family, while she had been able to be open and out in her workplace (Orne 2011). For Clancy, being out in her workplace is not a final act of coming out. Acknowledging that coming out is never over Clancy says: 'You are never finished you just keep on coming out.' She understands that her be-coming out is unending, it is an ongoing be-coming. She will never just be, as *Dasein* –in the *welt* context means *Dasein* is always becoming (Heidegger 1962).

5.5.2. Positive Workplace Acknowledgement of Civil Partnership

There are interviews which give accounts of positive workplace recognition: Faolán and Conrí describe above how their workplaces reacted to their Civil Partnership news for the

most part positively. Here, Faolán describes people's reactions to his Civil Partnership as an experience of coming out in his workplace:

Most of my work people would have been at it (the Civil Partnership). It is probably different in work because we all kind of hang out together anyway. We've all been to their christenings, house warming, engagements and they've been at everything we've had. We all kind of hang out together outside, so they were fine like you know?

Faolan's description is of a workspace where he experienced a positive response from his work colleagues, many of whom are part of his social circle. His partner Conrí's description is also positive, but he focuses on the professional distance he keeps with his work colleagues, yet he says 'they were fine':

[...] It was such a low key thing I didn't want them to make a big deal of it. But that is because they weren't at it, they weren't there at the event but that's 'cos they are more work colleagues than friends. But I mean they were fine; they were all fine with it you know what I mean? [...] so yeah it was good.

Faolán and Conrí share positive experiences of how their Civil Partnership was received in their workplaces. Both men work in the financial services sector and they both had been out in their workplaces prior to their Civil Partnership. They summarise their Civil Partnership event for those who attended as, 'Exactly as if they were going to a wedding' (Faolán). Being out in their workplace allows these men to be open and authentic about their sexual identity and relationship.

5.5.3. When Workplaces Are Not Safe Spaces

Not all Irish workplaces have LGBT positive policies and some are unsafe spaces. Cólín's and Siofra's stories exemplify experiences of unsafe workspaces for gay and lesbian people. The stories also show how strategic management of disclosure of knowledge about sexual identity in the workplace is shaped by the context and safety of that workplace.

Cóilín is a secondary school teacher. He hates coming out - he chooses strategically when he will come out to strangers or new acquaintances. Many of his work colleagues know his sexual identity:

My colleagues would know, well most of them would know and [...] some of them I don't know whether they know or not. I'm kind of not [...] I'm not keeping it a secret you know.

There is a reason for the fear and reluctance which Cóilín expresses as a gay man working in a school in Ireland. Cóilín mentions that he would not be sharing the fact of his sexuality or his relationship status overtly with his students. He speaks of his fears if the children were to find out about his sexual identity: 'It could be used as leverage'. He fears that this information about him could harm him in a work context.

Cóilín and his partner Áinle have had so much family and social acceptance of their sexuality, yet they still have fears about Cóilín coming out in a workplace school setting where equality legislation since 1998 allows school employers, mostly Church managed, to discriminate against employees who do not uphold the religious ethos of such institutions. A Catholic secondary school in which Cóilín is employed could decide that as a gay man Cóilín is not upholding the school's Catholic ethos and he could be dismissed.¹² A campaign to remove this Section 37.1 of the Equal Status Act (1998) is underway, but meanwhile the lesbian or gay teacher is mostly an invisible person for fear of his employer acting to impose this ethos statute:

I suppose we treat it like a heterosexual couple would. I mean they don't have to go around saying "I'm heterosexual" (Cóilín).

Cóilín compares how he deals with his sexual identity in a workplace setting to how heterosexuals do not have to go around declaring themselves. This he uses as his rationale for not declaring his sexual orientation in his workplace. However, the threat of Section

¹² Section 37.1 of 1988 Employment Equality Act states that an employee must uphold the religious ethos of that school or medical establishment thus allowing the employers an exemption to the charge of discrimination on the grounds of religious ethos.

37 is a very real one for lesbian and gay workers in education and healthcare where the ethos exemption applies. The vast majority of education facilities at all levels in Ireland are owned or managed by Catholic bodies and most of the teaching hospitals for nursing are likewise Catholic owned and managed (Inglis 2005). Thus for same-sex couples or lesbian or gay individuals working in those workplaces, fear remains a reality given the continued existence of Section 37.1 (Equal Status Act 1998). These workplaces exemplify Hurtado's (1996) description of spaces of strategic suspension, where individuals, for their own economic and employment security do not share the knowledge of their sexual identities.

Similar to Cólín, Siofra left her teaching career to live an openly lesbian life due to the Catholic ethos of her school employer and the presence of Section 37 legislation. She felt she could not be her authentic self in her school. Siofra's Civil Partnership with Sinéad was part of her coming out – a 'coming out completely' she calls it:

I was teaching [...] religion and an awful lot of my teaching career working life I wasn't out, and while I would have been out to some people in school [...] I wouldn't have been out to others and not that I'm screaming and there's no way you could mistake it but I was never kind of [...] flaunting it. But when I moved down here and when we had our Civil Partnership in my current job I was able to put it down on the form that I was Civil Partnered and so I was out completely.

Both Cólín and Siofra are adamant that they were never 'screaming' their sexual identity in their workplaces. This is a code for describing how they did not go around announcing their sexual identity in the teaching workplace, breaking the heterosexual assumption. Siofra sees her Civil Partnership as contributing to her being 'out completely'. Unlike Cólín, who is still in a Catholic school, Siofra has left her full-time teaching job. Due to the power of the religious ethos legislation, she never felt she was able to be fully out in work. Siofra was never able to be fully her authentic self, in the Heideggerian sense. Having moved to another city and changed her job, and having entered a Civil Partnership with Sinéad, she feels she is finally 'completely' out. She no longer needs to

hide her self. The Civil Partnership was a ‘turning’ for her, a turning towards her self and her freedom to be truly authentic in presenting and living her sexual identity.

Siofra’s decision allows her to be open and out about her sexual identity and she is pleased to have opted for this. The feeling of being completely out she describes as ‘brilliant’ and ‘fantastic’. She tells us ‘I didn’t realise I was so stuck in it until I threatened to leave it’ . Siofra describes how being in the teaching job as a situation where, not only was she not out, but as a situation she was ‘stuck in’. The Civil Partnership was for her an opportunity to ‘completely’ come out. Using her strategic management skills, Siofra understood that to be completely out for her was hugely important and that to enter her Civil Partnership openly would mean leaving her teaching job.

Unlike Siofra, Cólín remains in his teaching job and is out to some of his colleagues (showing his strategic sharing of his sexual identity knowledge) but not to any of his students, or management, as his partner says: ‘You just wouldn’t know what way they’d be’ (Áinle).

For both Siofra and Cólín, teaching is a space of strategic suspension (Hurtado 1996) where being out or sharing knowledge about sexual identity is not possible without penalty, as their stigmatised identities mean such sharing could be interpreted in ways that might mean an end to their employment and livelihood. They would be in contravention of the ethos clause. Using their strategic management skills, they suspend the sharing of certain knowledge, aware that they are working in spaces which are unsafe due to the overwhelmingly heteronormative space which teaching is in Ireland (Inglis 1997). Describing such places as spaces of enforcement, in this case of heteronormativity, Hurtado (1996, p.376) says:

These social contexts are not independent of a ruthless relentless and pervasive social structure that still uses gender, race, ethnicity, class and sexual orientation [...] to enforce privilege and subordination.

In such spaces non-normative sexualities are best hidden, as C  il  n decides when he chooses to tell some and not others of his sexual identity. In such spaces the non-normative person, to be open and uncloseted finds at times that they must move out, as Siofra did. Reflecting on being out and on the challenges for teachers in schools in Ireland where the religious ethos allows schools to discriminate against LGBT employees, Siofra says -

I'm sure if I was out in school as a religion teacher it would have been difficult but as a [general subjects] teacher it still would have been difficult you know. I know a lot of teachers will never come out. Just couldn't, their life will not [...] they just wouldn't be able to handle the stress of it [...] if I ever went back teaching I would not go back into the closet because I just found getting out the most liberating thing.

Siofra describes her understanding of three aspects of being out in a school as a LGBT teacher subject to Section 37.1. Firstly, she speaks of it as 'difficult', with a high degree of 'stress' and for her a situation she will never go back into as she found getting 'unstuck' from her closetedness to be 'the most liberating thing' for her. Secondly, despite giving up her job, Siofra is adamant that even if she were to go back to teaching in the future, she would not re-enter the closet about her sexuality. Thirdly, she now has her relationship recognised in Civil Partnership, she has changed her job and has escaped the stress of closetedness. She now sees being completely out as 'the most liberating thing.' Civil Partnership is a significant part of this liberation for her. There has been a cost for her though; she had to give up her job to get 'unstuck'. However, in getting unstuck she has experienced a freedom which has allowed her to move towards her authentic self, free to share this knowledge of herself in her workplace and in wider society .

5.6. Civil Partnership as Coming Out to Wider Society

This section explores how couples (Callan and Begley; Brenna and Casey; C  il  n and   inle; Brocc and Ailch  ) understand the meaning of Civil Partnership as they come out through Civil Partnership in wider society, disclosing their sexual identity. It captures and

analyses some of these experiences which show that Civil Partnership is used by couples as a means of coming out to wider society.

Some couples describe experiences which show that in entering their Civil Partnership they were also coming out to the wider world, sometimes in unexpected ways. When organising their Civil Partnership event, Callan and Begley speak of having to come out to the event manager they were dealing with at the hotel at which they were having their celebration. They had to explain the fact that they were marrying each other and not a man. The women also had to come out to the owner of a B&B they were booking rooms with, when she asked which of them was the bride:

We hadn't realised that we hadn't specified we were getting married when we went to see the B and B (Callan).

Similarly whether getting the spray tan, ordering the flowers, or printing the invitations, almost all of the arrangements meant that couples were constantly coming out to service providers surrounding the Civil Partnership and its accompanying celebrations. As Begley explains: '[...] you wouldn't want to be sensitive to coming out because it [...] was, at every turn'.

The experience of most couples was that everybody reacted well. Here is more evidence of Bourdieu's (1984) *habitus* or social know-how development as the Irish public are coming to terms with how to be with same-sex couples who take up the possibility of a legally recognised ritual and celebratory event. The legitimisation of same-sex relationships by the Irish State is encouraging acknowledgement by family, friends, service providers and wider society. The marriage-like nature of the celebratory event is making Civil Partnership a safe, acceptable coming out tool for Irish same-sex couples.

Brenna and Casey found that organising their Civil Partnership meant they constantly had to come out – whether to the printer or the restaurateur. A coming out to 'random people' is how Brenna describes it. She captures the stop-start or ongoing nature of coming out by describing it as an almost serial coming out process:

[...] ‘Cos everything you had to do you were outing yourself to do it, to random people again. Random people [...] like the make-up girl and all these random people that you are never going to see again. And yet they have this bit of you that is normally very private and had been very private for us and it is nobody else’s bloody business to be quite honest. You know and they get this little bit of you [...].

Brenna’s description of how they were coming out to ‘random people’ is a new departure for them. As a couple they had been closeted for a long time and now found that the Civil Partnership event was causing them, a very private couple, to come out to strangers. She says, ‘they get this little bit of you’. In sharing their sexual identity through Civil Partnership they were sharing part of themselves with strangers. Identity is unity with the self, Heidegger (1969) tells us. Thus, Brenna’s sense that these strangers were getting a part of her, is in some sense true. The knowledge these strangers now had about her is part of her own-most identity, her sexual identity and unity with self. Brenna feels the discomfort of this experience for her as a lesbian woman living in a predominantly heteronormative society.

Cóilín and Áinle did not have a positive experience with their printer. He refused to take the order for their Civil Partnership event in Belfast, because they were two gay men.

Cóilín describes what happened:

We had this guy, rang him up and he was like yeah, yeah I’ll do it. And we called down to a little office in his house. Went down and explained it all to him you know and we went through different designs of the invitations and everything and picked everything we wanted. That was grand. And the next morning then got a phone call in work to say that he wouldn’t be doing it because of his religious beliefs. And I was just like what?

This experience indicates some residual resistant attitudes that couples experience when coming out in Civil Partnership to wider society. It shows that homonegative fears and attitudes exist and there is still resistance to acceptance of same-sex relationship recognition in wider society.

For Callan, saying she was ‘getting married’ was an easier way to come out to her rural community, because marriage is such a known and acceptable thing in the predominantly heteronormative world of workplaces and rural communities in Ireland. Warner (1999) is critical of relationship recognition and suggests that it acts as an amnesiac on same-sex couples, regarding both the State and society’s denial of same-sex sexuality. Civil Partners, when they are announcing a forthcoming union, are not usually announcing their sexuality too. The heteronormative presumption prevails. The heterosexual presumption is that getting married means heterosexual relationship recognition – the disclosure and coming out over and over again for same-sex couples is in this way very un-marriage-like. Acknowledging that coming out is never over, Clancy says: ‘You are never finished you just keep on coming out’.

The story of Brocc and Ailchá, in their mid 60’s, living in a rural area, is the story of two men who have for the longest time lived closeted lives. Their everyday life experience was one of strategic suspension of knowledge sharing due to their context (Hurtado 1996). Ailchá reminds us that homosexuality was only decriminalised in Ireland in 1993:

For me, coming from a place where I was a criminal and being decriminalised I begin to feel oh my god this can’t be – I can’t be blackmailed now because they can’t. I can at least go to an ombudsman, at least I can challenge it now [...] yes of course younger people who rightly feel marriage should be in. But I appreciate more than ever, you won’t understand if you don’t have our direct experience.

Their ‘direct experience’ was of living in an Ireland where they were criminals until 1993 because of their homosexuality. Their experience was of societal disapproval and oppression of their non-normative sexual identity . Being criminal and also living in fear of being blackmailed were facets of these gay men’s lives over the last five decades in Ireland. Ailchá realises that now, if they were being attacked in some homophobic way at least they could go to the law or ‘an ombudsman’ to seek protection or redress.

Describing their residual fears from living in those times, Brocc speaks of how, after coming out so publicly in the local community with their Civil Partnership party on their own farm and all the locals invited and present, he still wondered:

But I thought, I was waiting for the fire alarms all that day from the road and I thought we may be killed in our beds at some stage in life, but as of now it was a great thing to do. As of this moment in time. But the future [...].

His description of the fear of being killed in their beds ‘at some stage’ is his own reminder that despite their special day he is aware that they live in an Ireland where their future security is still not certain. Their non-normative sexuality is still a target for hatred and violence (EU Fundamental Rights Agency 2013). They had their Civil Partnership and Ailchá, explains:

Now I am not so naive as not to think that behind all, there is the huge homophobia at the back of it once you scratch the surface.

The fears of these older men, are palpable, even in their celebration of the Civil Partnership event:

There was poignancy about having the Civil Partnership, there was a great sense of oh Jesus we’ve had to struggle for this, yes all those years, and yes (Ailcha).

Post Civil Partnership, this couple have a sense of being out and accepted locally. They acknowledge the struggle it has been for them – Ailcha’s exclamation of ‘yes all those years, and yes’ is powerful and moving. The Civil Partnership is joyful for its advent but also tinged with sadness for all the years it was absent and the struggle these men had lived in the intervening years. Ailchá describes it:

For the first time I am just suddenly [...] if for example either one of us was to die tomorrow, in this community, the local people would gather and either of us survivors would be the full partner and it would be very open [...] it would be absolutely like that now. And that’s very different. That’s very different.

It is only since Civil Partnership that this is possible to think this way ‘for the first time’.

The images of death and dying that Ailchá chooses to indicate the significance of the

changes for them since entering Civil Partnership is an unusual one. The Civil Partnership is a turning (Heidegger 1962) for these men. Their sense of public/neighbour acceptance for them as they face end of life issues and death is significant. They are finally secure in the knowledge that their local community, as a result of coming out in Civil Partnership, would mourn them and pay their respects to them as a couple – a same-sex couple.

Áinle and Cóilín originally met through a locally based LGBT support and social club:

I was 17 he was 19 [...] friends of friends and that was it [...] because we met so young we kind of had our own friend groups and never really went for the scene and even when we were up in Dublin I didn't go say to the George¹³ much or anything like that [...] we had no need to be on the scene. We had each other, we had our friends. [...] We were probably a bit insular [...] even though we had gay friends who went to Pride and stuff like that we just didn't (Áinle).

They describe their experience of meeting and getting involved with each other and coming out together at a young age as making them 'a bit insular.' They did not go to Pride events or become part of the gay scene community until after they moved back to Ireland in 2010. One of the concerns they had when planning their Civil Partnership was that of making a public display of affection between them at their ceremony. It was an element of their coming out in Civil Partnership and it was not without fears. Kisses and holding hands, normally done privately would be expected in a public Civil Partnership ceremony:

We wouldn't be mad into public displays of affection [...] Not that we couldn't be, but we are just not like that you know what I mean? (Áinle)

We were very aware that the first time a lot of people were going to see us kiss or be intimate like that would be on the day, so that for us, secretly, that was a big deal (Cóilín).

While many Irish heterosexuals might also be shy on the occasion of kissing in public, for these gay men there is more than just an Irish cultural significance for the kiss. Here the taboo of two men kissing becomes visible at the Civil Partnership. We see same-sex

¹³ The George is a well-known gay bar in Dublin's George's Street.

desire raise itself. Here it is a reminder to those present that what is being celebrated is same-sex love and same-sex desire – that which Warner (1999) tells us usually becomes invisible when same-sex couples enter legal recognition constructs which normalise and make same-sex desire disappear to those present. ‘We had ourselves mad worked up about it, even the first dance’ Áinle says. Here he is aware that same-sex desire was making itself visible in what was otherwise a homonormalised (Duggan 2003) affair.

Unlike heterosexual weddings where the public display of affection by heterosexuals is so normative, in their case this was another coming out experience and was a cause of concern and an indication that this was a wedding with a difference. In the event, the couple kissed and danced the first dance, ‘[...] it felt like the most natural thing in the world’ Cólín tells us.

The public display of affection is an indication that the couple involved are not just friends or housemates, but rather they are a same-sex couple with same-sex desires and they express their love in a sexual manner. The fears which the couple express support Warner’s (1999) view of same-sex marriages or Civil Partnerships as ways to lessen the reminder of same-sex desire and passionate love between two men or two women. The couple’s discomfort and concerns regarding their own public display of affection supports Warner’s view. However, despite the blurring or ‘amnesia’ (Warner 1999) which such ceremonies manage to present, fears of disapproval remain for some couples.

5.7. Conclusions

In this chapter we saw how same-sex couples live lives that are both in and out of the closet (Mosher 2001). Civil Partnership as coming out allows a clearing to emerge, a space where the invisible relationships become visible and named. Using the clearing, same-sex couples, through Civil Partnership come out to partners, family, friends, workplaces and wider society. For these lesbian and gay human beings, coming out in Civil Partnership has allowed them as *Dasein*, to move towards their authentic self, so that they have a greater sense of their own truth, of their sexual identity, generating a

unity with self. They now know themselves with a knowledge absolutely certain of itself (Heidegger 1969).

For lesbian and gay participants in this study their experiences of Civil Partnership has led to a throwing off of 'the-they' version of same-sex relationships to get to the clearing of their own interpretation of the meaning of Civil Partnership experiences for them, free, of the prevailing view of '*das Man*' and celebrating publicly their same-sex loving relationship.

Coming out is used in relation to coming out to self and others. Gadamer tells us there is nothing to help us become what we are, only normative messages and disapproval (1979). For non-heterosexual people trying to be themselves, the normative messages and disapproval are keenly felt in the social settings in which they find themselves. Strategic outness is deployed by lesbian and gay couples to manage disclosure of their sexual identity, a sexual identity which is problematic, non-normative and stigmatised (Goffman 1969).

In this study, by applying the sociological imagination (Wright Mills 1959) to the troubles of gay and lesbian individuals (their lack of relationship recognition and stigmatised identity) we see that entering a Civil Partnership is far more than just a personal matter; it is a space which represents how societal structures are changing to support the emergence and acceptance of non-heterosexual identities. Non-heterosexual couples are strategically managing their identity disclosure mindful of their personal issues.

Various narratives provided a fusion of horizons (Gadamer 1979) and evidence of how Civil Partnership is supporting the development of a more positive '*habitus*' about same-sex relationships in Ireland (Bourdieu 1984). The disclosure through Civil Partnership allowed us hear about the keeping and breaking the silences of closetedness (Sedgwick 2008) and the ending of disguises to un-conceal truths with family (Heidegger 1969).

We also explored how couples use Civil Partnership as a coming out tool in the workplace and how such spaces may be safe or unsafe. Civil Partnership is experienced as part of coming out, an ongoing, never ending process, a part of the Be-coming of *Dasein* (Heidegger 1962).

Finally, we explored Civil Partnership as coming out to wider society where we saw how couples understand the meaning of Civil Partnership as they come out to wider society, disclosing their sexual identity. Civil Partnership stories suggest how Civil Partnerships conducted as ‘wedding like’ events are contributing to homonormativity (Duggan 2003).

Civil Partnership as an event of appropriation for *Dasein* and a turning for *Dasein* is exemplified. Through Civil Partnership ‘*das man*’ disapproval of same-sex relationships is rejected (Heidegger 1962). Fears of disapproval re-emerge as Civil Partnership touches on overt celebrations of same-sex sexual expression evident in dancing and kissing at celebratory events. This residual fear shows how Ireland is a society where being lesbian or gay is still an issue (Seidman 2002).

A notable feature of the interviews is that so many of the couples used Civil Partnership as a means to formally announce their sexual identity for the first time, be it to their immediate family or in their workplaces. Civil Partnership provides State recognition and accords social and legal status to couples (GLEN 2010b) and is seen as an acceptable way to manage sexual identity disclosure in Ireland. It is a strategic outness tool identified and used by the couples in this research (Orne 2011).

Chapter 6. Findings and Discussion: Civil Partnership as Recognition, Belonging and the Dichotomy of Equality and Inequality

6.1. Introduction

Chapter 6 explores the meaning of Civil Partnership for same-sex couples by firstly, examining Civil Partnership as recognition. The importance of recognition is established and the examination of next-of-kin rights experiences in a medical context depicts the experience of recognition absence - misrecognition and stigmatization experienced by same-sex couples prior to Civil Partnership. Secondly, the chapter explores the links between the themes of recognition and belonging and shows how belonging matters for same-sex couples and how Civil Partnership delivers both belonging and recognition to them. Thirdly, the chapter explores the meaning of Civil Partnership ceremonials and shows that same-sex couples are creating familiar rituals to celebrate the recognition of their relationships and these are a symbol of how they have come to belong through Civil Partnership. Finally, the chapter examines the range of experiences and understandings which depict the dichotomy that exists whereby Civil Partnership is experienced as both equality and inequality.

6.2. Recognition and Misrecognition

Why does recognition and acceptance of same-sex couples matter? This section examines narratives which couples present of their lived experiences of a lack of recognition and lack of esteem for them as same-sex couples and their relationships prior to Civil Partnership. It then explores narratives of recognition, subsequent to entering Civil Partnership. These experiences depict recognition and misrecognition (Frazer 2000). In exploring them we are entering what Heidegger (1962, p.133) calls (*lichtung*) ‘the clearing’ – a space in which *Dasein*’s understanding of his/her experiences through Being-in-the-world, is disclosed for itself. Looking at both the experience of presence of recognition and absence of recognition, the interview data brings us into a clearing where we begin to see the significance of Civil Partnership and the meaning of these

experiences for *Dasein*. We can better understand why these experiences are particularly significant when we see that recognition is a gateway into the important realm of belonging (6.3), a significant realm for *Dasein* generally and for same-sex couples who have experienced misrecognition, in particular.

6.2.1. Civil Partnership as Recognition

Recognition takes different forms. In Chapter 5, we examined how Civil Partnership was a mechanism for recognition of self and sexual identity when used as a coming out tool. In this chapter, the interview data indicates that Civil Partnership provides recognition of same-sex relationships and acceptance of individuals in those relationships. Recognition is experienced as a validation, an acceptance of who and what one is. Such recognition contributes to a couple's sense of belonging which is 'how people make sure of themselves within a complex world' (May 2013, p.10).

Frazer (2000, p.3) tells us why recognition is important to us:

Recognition from others is thus essential to the development of a sense of self. To be denied recognition – or to be misrecognised is to suffer both a distortion of one's relations to one's self and an injury to one's identity.

Non-heterosexual sexualities are denied recognition or 'misrecognised' in society and are devalued by the dominant culture. Frazer (2000, p.6) sees such misrecognition as 'status subordination'. While Goffman's (1963) work on stigma did not specifically address issues of sexual identity, his views on stigma can be applied in the current context. He says that stigmatized people have their social status diminished. Indeed, the dominant heterosexual culture can 'delegitimate' lesbian and gay sexualities (Frazer 2000, p.4). One way of doing this is by ensuring the absence of legal protections for non-heterosexual relationships. This is part of the history of the lived lives of couples in same-sex relationships (see Chapters 2 and 3).

Neamhain and Fallon had their 30 year relationship legally recognized in their Civil Partnership. The ensuing social recognition from their families and friends was a positive experience:

I think I certainly felt very [...] validated [... it ...] seems like a very cold word, but I felt recognized in some way and it felt good (Neamhain).

This recognition has particular significance as she tells us:

[...] I mean my mother for example who was dying at the time was at the wedding. [...] she died less than three months later [...] that was quite poignant because she knew she was dying and everybody else did and I guess [...] I never imagined that if we were doing this that Mum would be there [...] (Neamhain).

Neamhain feels that their Civil Partnership ‘wedding’ event (as she calls it) was especially poignant for her as she recalls that her mother, who was gravely ill, had been able to attend the ceremony where her relationship legal validation took place.

Fallon, Neamhain’s partner, repeats the same phrase ‘validation’ when she expresses how she felt on the day of their Civil Partnership:

It was a really, really happy day [...] And validation, that is a word that yeah, I felt accepted (Fallon).

Fallon explains that the Civil Partnership led her to feel both ‘happy’ and ‘accepted’. For Fallon, acceptance of who she was and of her lesbian identity and relationship has come about in Civil Partnership. Recognition and acceptance are significant experiences these women recall of their Civil Partnership event. Neamhain further describes the event:

[...] it wasn’t a big party, about 60 people, so we had both families and we had friends [...] a slice of every part of our life was there on the day and I certainly felt [...] validation from that.

From this, we can begin to see how recognition acts as a gateway to the realm of belonging. Same-sex couples, through Civil Partnership, experience recognition and this recognition translates into a feeling of being part of and accepted by society. They begin to feel they belong.

For Casey and Brenna, women in their mid 50's, recognition was also a part of their Civil Partnership experience. 'It was a recognition that the country has finally caught up even a little bit with the rest of the world' Casey says. Here, Casey is referring to the growing number of jurisdictions where same-sex relationship recognition is now legally available.¹⁴ Casey sees the recognition of their same-sex relationship in Ireland as part of the growing world-wide acceptance of same-sex relationships.

Poet, newscaster and psychotherapist, Michael Murphy describes the day of his Civil Partnership in Dublin as:

That glorious day in June
When I was finally allowed
To be loved

(Epithalamion: A Poem for Terry, Murphy 2013, p.105).

Civil Partnership for him brought acknowledgement that he could publicly state that he was in a loving same-sex relationship. He could finally be loved, like anyone else. For heterosexuals, the experience of having the possibility of one's love being allowed or recognised in marriage, is a usual or ordinary experience. Murphy captures the extraordinary experience this is for same-sex couples, where Civil Partnership, in recognizing their relationship, has allowed the public acknowledgement that he could be

¹⁴ list of countries globally where same-sex relationship recognition is available:
(marriage and other constructs 2014)

Marriage - UK, March 2014; Scotland, Jan 2013; Netherlands, 2001; Belgium, 2003; Spain, 2005; Portugal, 2008, Norway, 2009, Sweden, 2009, France, 2013 Also: Canada 2005, South Africa 2006, Argentina 2010, New Zealand 2013, Uruguay 2013, Brazil 2013, parts of USA and Mexico

Other constructs (Domestic Partnership, Civil unions etc); Andorra, Australia (6 states); Austria; Colombia, Czech Republic; Denmark, Ecuador, Finland; Germany; Gibraltar, Ireland; Hungary, Isle of Man, Jersey, Mexico (4 states); Lichtenstein, Luxembourg; Slovenia, Switzerland; parts of USA and Venezuela.

loved as other human beings can be loved and have that love recognised legally. The sense of recognition and validation of the Civil Partnership experience for same-sex couples is evident, and allows for the possibility of:

[...] the establishment of the misrecognised party as a full member of society, capable of participating on a par with the rest (Frazer 2000, p.6).

Michael Murphy (2013), Casey and Brenna, as well as Neamhain and Fallon have, through Civil Partnership recognition, moved from misrecognition to being seen as 'on a par with the rest'. The law can be used by the dominant culture (heterosexual) to define and classify the minority culture. Failure to provide for relationship recognition is a form of misrecognition and makes the minority group 'other' than the normative. The interviews with these couples show how the advent of Civil Partnership which allows same-sex relationships to be recognized and validated is a significant experience. It is a reclassifying of people who had been excluded. It is a telling of a truth, long denied by the majority culture.

The interviewees show that the provision of Civil Partnership has meant that the recipients of legal and social relationship recognition have status. Their relationships of love are now recognized by State and society. This recognition relieves them of significant elements of their status subordination (Frazer 2000). Having their relationships recognized in Civil Partnership moves them out of misrecognition and takes them further along the road to equality. Full legal equality of relationship recognition with heterosexual couples has yet to be achieved in Ireland. It will be achieved on the advent of access to civil marriage for same-sex couples.¹⁵ Achieving a level of same-sex relationship recognition moves non-heterosexual couples from outsiders to insiders, marking them as persons with relationships worthy of respect and esteem (Becker 1963). The interviewees experience Civil Partnership as bringing recognition to them as persons

¹⁵ The Irish Government announced in November 2013 that a referendum on Marriage Equality would be held to decide the issue by spring 2015.

whose relationships are deemed to be of worth and this is evidenced in the way it is celebrated by friends, family and wider society. The recognition and celebrations welcome the couple's new status and represents an inclusion and an indication of belonging. Couples in the UK also describe their social recognition following Civil Partnership as a form of validation and say it has allowed couples to be seen as ordinary (Mitchell *et al.* 2009) while couples in Vermont, USA, expressed a sense of enhanced legitimacy that makes others take their gay relationships more seriously (Rothblum *et al.* 2011).

This experience of recognition allows same-sex couples to feel part of a culture in which their social status is changing. It also dislodges their social subordination whereby they have historically been 'prevented from participating as peers in social life' (Frazer 2000, p.3). We have seen in earlier chapters, when we explored the history of non-heterosexual sexuality in Ireland (Chapter 3) and elsewhere (Chapter 2), how prevention from participation led to social exclusion. We will examine this issue of what it means to be prevented from participating fully in society when we explore, in Chapter 7, the experiences of couples in Civil Partnerships and its impact on their parenting and family rights. Civil Partnership in Ireland is bringing recognition and validation for couples, and in this way, contributes towards undoing the delegitimation which occurs due to non-recognition (Frazer 2000). The experience for Irish couples of validation and recognition is a common experience mentioned in other studies of couples entering same-sex relationship recognition in other jurisdictions (Heaphy *et al.* 2013; Rothblum *et al.* 2011; Fingerhut *et al.* 2010; Goodwin and Butler 2009; Mitchell *et al.* 2009; Smart 2007; Harding 2006; Lannutti 2005). These experiences give us insights into the significance of Civil Partnership for lesbian and gay couples. Recognition in Civil Partnership enables us to see how couples are escaping their subordinated status. An exploration of pre-Civil Partnership misrecognition or exclusion experiences highlights why recognition in everyday lived experiences is significant for lesbian and gay people and for same-sex

couples. We now move on to examine every-day experiences of lack of recognition or misrecognition in health care services prior to Civil Partnership and its impacts on same-sex couples.

Exploring these everyday experiences of same-sex couples takes us to everyday lives of *Dasein*, the places where our exploration of the phenomenon of Civil Partnership and its meanings emerge into a clearing (*lichtung*) (Heidegger 1962).

6.2.2. Experiencing Misrecognition: Heteronormative Custom and Practice in the Health System

A number of couples provide narratives of their experiences of and concerns with so called next-of-kin¹⁶ recognition in medical situations, prior to entering Civil Partnership. Next-of-kin status in the Succession Act¹⁷ (1965, part 71) lays out the legal pecking order of blood relatives who are entitled to inherit from an estate of a deceased person. The Act (1965) lists these as: spouse or civil partner (amended following the Civil Partnership Act, 2010) followed by children, parents, siblings.

In relation to health matters, there is no common law or statutory rule regarding next-of-kin rights to be involved in decision making regarding medical situations of another adult. The *National Consent Policy* of the Health Service Executive (HSE 2013, p.15) states that ‘family’ may include ‘the immediate biological family and/or relatives, spouses, partners (including civil, same-sex and *de-facto* partners)’ when dealing with the matter of consent regarding treatment. However, the document deals with incapacity situations and does not lay out any guidance regarding so called next-of-kin rights such as visiting hospitals. In fact, only those with legal authority may give consent on behalf of an adult

¹⁶ Next-of-kin rights assumed to be available to family members and spouses include visitation rights, consultation rights and a general right to be consulted with regards to a partner’s health situation. There is no such legal right in Ireland, rather these “privileges” are permitted or denied according to custom and practice. For an example see Rory’s Story www.youtube.com/watch?v=BZU-HQ_c8bg.

¹⁷ Succession Act (1965) www.irishstatutesbook.ie/1965/en/act/pub/0027/index.html

of 18 years or more (HSE 2013, p.33). The Law Reform Commission (LRC 2006, p.83) mentions the difficulties associated with ‘the informal system of obtaining substitute consent from next-of-kin’ and recommends a code of practice be issued. The HSE consent policy (2013) is a response in policy terms, to clarify the matters for clinicians regarding consent in medical situations, yet it does not refer to next-of-kin rights. The absence of clarity on this matter has been problematic for lesbian and gay people and same-sex couples prior to Civil Partnership (2010).

There has been a practice and custom among clinicians and institutions to seek consent or assent from next-of-kin which extends to spouses (and, since the Civil Partnership Act (2010), to civil partners). There is no legal basis for this custom and practice and the experiences of some of the couples below show that in such situations heteronormative assumptions are applied. Same-sex couples when not legally recognized in law, find themselves relying on the goodwill of individuals for recognition and inclusion in medical situations. Sometimes this worked out well for couples, sometimes it did not.

The Mental Health Act¹⁸ (2001) which governs hospitals sets out a definition of who may act for another person over 18 years who is unable to act for themselves. This Act was amended by the Civil Partnership Act (2010) where ‘Civil Partner’ was inserted where ‘spouse’ was found in that 2001 Act. Prior to that amendment definitions of ‘spouse’ in that Act (2001 Part 1, section 2) stated:

Spouse is husband or wife or man or woman cohabiting with a person of the opposite sex for a continuous period of not less than three years but not married to the patient.
(irishstatutebook.ie/2001/en/act/0025)

We can see from this original definition that it is heteronormative. Prior to its amendment by the Civil Partnership Act (2010) the definition omits to mention the possibility of same-sex partners. I suggest that the application of custom and practice arising from such definitions led to an invisibility and lack of recognition in health

¹⁸ Mental Health Act (2001) www.irishstatutesbook.ie/2001/en/act/pub/0025/iindex.html

services generally of same-sex sexuality and of same-sex couples in particular. Invisibility of non-heterosexual sexualities has been found previously in the Irish healthcare system (Duffy 2011), while advice on how to provide appropriate health care for diverse sexualities and gender identities has also featured in recent health policy reports (Maycock *et.al.*, 2009; Higgins 2011). The stories here bear witness to the lived experience of such invisibility and lack of recognition. Recognition of same-sex couples in law began to emerge in health policy documents subsequent to the Civil Partnership Act (2010). This indicates the significance of relationship recognition in Civil Partnership for same-sex couples in the important arena of healthcare services.

Casey and Brenna tell the story of Casey being admitted to hospital for a routine medical procedure some years prior to the advent of Civil Partnership. The couple had been together for 20 years at the time. The hospital staff refused to allow Brenna stay at Casey's bedside to discuss her medical condition with the doctor. Casey relates the experience:

[...] I had to go into hospital [...] they wouldn't let Brenna in [...] you know the consultant comes in and [...] they wouldn't let her be by the bed [...] the nurse was very apologetic. She said "look I'm really sorry, the rules is the rules, she can't come in" [...] we weren't classed as next-of-kin [...] when the consultant was coming around [...] one girl [in the ward] said "this is my boyfriend" and the consultant said 'Great' and he talked away to her but Brenna had to leave [...] we decided then that we would do it.

There are no rules regarding next-of-kin in such situations but only 'informal customs' (LRC 2006, p.83). The informal customs applied were heteronormative. The experience for them as a same-sex couple was one of invisibility and exclusion.

The heteronormative assumption in the medical system meant that the opposite-sex couple in the ward was recognized as a couple and the lesbian couple was not. Brenna recalls the experience with anger at the unfairness of their treatment. Brenna describes how it left her feeling: '[...] so I paced up and down outside and had a little cry because I

just found it so frustrating’. Her feelings of frustration and exclusion are accompanied by a sense of powerlessness arising from the lack of recognition for them as a couple:

I felt so inept and so like no control or anything [...] while you were fine, nothing had happened you know but if it had been anything worse [...] we just thought if we ever got the chance, that sounds awful but that’s the only reason why we did it (Brenna).

Feeling ‘inept’ and with ‘no control’ for Brenna was tempered a little by the reality that in this instance the medical situation had not been a matter of being gravely ill or ‘worse’. Both of the women agree that the experience of exclusion and lack of recognition was a key element in their decision to seek legal recognition for their relationship, if and when such an opportunity arose. ‘[I]f we ever got the chance’ Brenna says, displaying the reality that at that time there was no option for them for legal recognition, only the hope of ‘a chance’ that this might happen in the future. They wanted to place themselves within a legal construct which they understood would mean they would be recognized as partners. That such recognition as next-of-kin is only allowed by custom and practice is significant. Indeed it is only since the advent of the Civil Partnership Act (2010) that we see health policy documents which include and recognize same-sex couples. The couple subsequently entered a Civil Partnership in 2011. Medical recognition is a significant form of recognition for same-sex couples and it now flows from Civil Partnership.

Clancy and Fechín were together 18 years when they were married in Connecticut USA, which is recognized as a Civil Partnership in Ireland. Like Brenna and Casey their concerns regarding their lack of relationship recognition were also regarding the custom and practice of how next-of-kin rights were vindicated in a medical situation:

I’d been in hospital in 2004 and had quite a serious operation and while our experience was very good and the consultant was very inclusive of Fechín I think that made us think that we could have had a very different experience [...] I have a brother who lives in England [...] and I am not at all close to him but theoretically he is still my next-of-kin [...] it made us think about it [...] (Clancy).

The experience brought home to her the fact that they were depending on grace and favour and the kindness of hospital staff for the recognition of their relationship. As we see from the experiences of Brenna and Casey above, such grace and favour is not to be relied upon by lesbian and gay people when heteronormative concepts such as next-of-kin are applied.

Concern at the lack of recognition of same-sex partners in everyday lived lives forms part of the findings of Goodwin and Butler (2009) who see such lack of recognition as resulting in a lack of recognition for the interpersonal relationships of lesbians and gay men, leading to their exclusion. Lack of recognition or lack of visibility for lesbian women specifically in the Irish health services is also a theme in the literature (Duffy 2011).

The recognition of same-sex relationships brings everyday benefits and rights for these couples, in this case, in the health services. These experiences show clearly the manner in which Civil Partnership affects the lived lives of same-sex couples. Recognition brings with it a sense of belonging. The next section explores why belonging matters and how it is a key concern for *Dasein*, achieved by some same-sex couples through Civil Partnership.

6.3. Civil Partnership as Belonging

The question of why belonging matters is one which helps to explain the significance and meaning of Civil Partnership for same-sex couples. The interview data displays a variety of ways in which Civil Partnership experiences bring same-sex couples a sense of belonging. Following her Civil Partnership to Fallon, Neamhain describes her sense of being a person with recognition and legal status:

I actually did feel as we were checking into the hotel [...] I did sort of feel like actually we are official you know, it is not like I have ever felt [...] ashamed or anything like that but it felt different. I actually felt like I have a legal status now. [...] I actually am recognized. If anything happens [...] if anybody

tries to deny me anything [...] actually, I have a come-back now.

For Neamhain, following her relationship recognition ceremony, after more than 30 years with her partner, she finally feels like a person with 'legal status.' While she says she has never felt shame at her otherness, at her non-heterosexual identity and lack of relationship recognition, now that she gets the recognition and legal protection, she can feel the difference. It is as if the lack of her recognition only becomes visible to her now that she has experienced recognition. Sometimes the appearance of one thing may cover up or throw light on another (Heidegger 1962). This fluctuation in Neamhain's legal status, feels different for her. The recognition is a central element of the experience of Civil Partnership. She feels the protection which a legal status now gives them. This echoes the experiences of couples in the UK, who feel that since their Civil Unions, they can now vindicate their rights and stand up against intolerance or discrimination if they had to (Mitchell *et al.* 2009).

'I have a comeback now' Neamhain says indicating how prior to Civil Partnership she lived a life with no 'come back', no protection for her status or relationship. In the presence of recognition, the understanding of its absence dawns on Neamhain. Her recognition leads her to a sense that she belongs.

Belonging is a basic human need (Baumeister and Leary 1995; Calhoun 2003). It is:

The process of creating a sense of identification with or connection to, cultures, people, places and material objects. It is one of the ways in which these connections manifest themselves [...] Belonging also acts as a barometer for social change: significant changes in our surroundings are reflected in a fluctuation in our sense of belonging (May 2013, p.3).

Neamhain experiences this 'fluctuation' in her sense of belonging. The feeling of recognition and belonging indicates to her that the change affecting her relationship status has become a lived reality in her everyday life.

Dasein lives as a being-in-the-world: Heidegger (1962, p.118) also points out that *Dasein* is, from the outset and for the most part, a Being-with (*Mitsein*) others. This Being-with others, ‘those among whom one is with too’ (Heidegger 1962, p.118), means that encountering others in the world where ‘*Dasein* essentially dwells’ (Heidegger 1962, p.119), makes our relationship with those others of concern to *Dasein*. That we belong or do not belong is a concern for *Dasein*. Significantly, Heidegger (1962, p.121) says that ‘as care the Being of *Dasein* in general is to be defined’. For human beings, our understanding of experiences and meaning-making takes place arising from our dwelling in the world with others. Our relationships with others matter. That our primary loving intimate relationships are recognized is therefore of crucial importance to *Dasein*. It is a way in which we can belong in the world. Our concern to belong matters and characterizes our everyday Being-with-one-another (Heidegger 1962). Belonging is a core concern for human beings which is evident in this study.

Neamhain recalls the Civil Partnership she and Fallon had:

[...] we had friends [...] about 60 people [...] we had both families and [...] and we had friends from work [...] a slice of every part of our life was there on the day [...] I certainly felt validation at that.

The first time this quotation was used in Chapter 5 it showed us the sense of validation felt by the couple at their Civil Partnership celebration, we use it here to show how the gathering depicts the couple’s sense of belonging to their wider social group. For Neamhain this gathering of significant people from their lives represented ‘a slice of every part of our life’. Being-with in celebration was significant for them it depicts acceptance. It is a mark of belonging.

Same-sex couples and participants at these ceremonies of public recognition find them significant. Fingerhut and Maisel (2010) tells us that a sense of being part of a welcoming community for same-sex couples is related to and promotes psychological

well-being of the couple. The approval and recognition of same-sex couples relationships is a very positive and healthy experience (Badgett 2009). Belonging requires a response from the community to actualise it.

Heidegger (1962) encourages us to examine the taken-for-granted, the everyday-world and in particular to examine the '*umwelt*', the world closest to us in which we live. He (Heidegger 1962, p.65) urges us to explore and examine the meanings of taken-for-granted, so called 'natural' concepts. In this study we examine both concepts of recognition and belonging in such a manner. For Heidegger (1962, p.66) such common concepts 'are to be considered within the horizon of average everydayness'. It is for this reason we explore recognition and belonging as lived experiences for same-sex couples in Civil Partnerships. Being other, by virtue of a non-normative sexual identity means that same-sex couples do not have the taken-for-granted experience of heterosexuals in a heteronormative world.

Onchair and Cathair were married in Canada with two friends as witnesses. Their foreign legal marriage is recognized as a Civil Partnership in Ireland. They are frustrated by the fact that they have no certificate of recognition from the Irish State of their marriage. There is no formal recognition notice issued by the Irish authorities of such foreign same-sex marriages – except that they are considered legally to be in a Civil Partnership. Onchair states:

[...] but I would like to have some kind of recognition from the State. I don't care if it's even in the form of something from the bloody tax people.

Onchar's wish for some certificate or piece of official recognition, even just a tax form depicting their status, shows her sense of the importance of and her desire for evidence of the formal State recognition for their new relationship status. She wants evidence that they are recognized, that they are in an Irish setting a legally recognized couple. It is one of the deficiencies of the Civil Partnership Act (2010) that in recognizing same-sex couples who are married elsewhere as Civil Partners, the Minister for Justice simply

publishes a schedule of jurisdictions from time to time from which a same-sex marriage is recognized in Ireland as a Civil Partnership. There is no paper or certificate exchange in the process. Onchair feels this lack of documentation as a lack of recognition.

Other couples who conducted their registration in Ireland are very pleased to have their Civil Partnership registration certificate in their hands soon after the registration takes place. For example, Conrí and Faolán had their certificate copied and passed it around at the celebration which followed their Civil Partnership. They,

[...] printed out the certificate so that we could bring it back.
We actually brought it to the family party and passed it around.
So they all had a good look at it [...] this was actually the full
legal deal' (Conrí).

For Conrí and Faolán being able to show the certificate allowed them to have proof that they were now legally recognised as a couple. Likewise, Casey and Brenna carry copies of their certificate with them when they travel abroad. '[...] every time we travel the Civil Partnership document goes in, just in case' Brenna tells us. It is a comfort to these couples that they have proof of the State's recognition of their same-sex relationships. Their recognition means, as Neamhain, says that 'they have a comeback now' a way to prove their legal status as Civil Partnered. Lanutti (2011) explains how in her study of older same-sex couples getting relationship recognition, both the personal and political recognition is of importance to them. Recognition by one's immediate social grouping leads to direct tangible benefits for couples. Cathair calls this phenomenon 'tapping into the social glue' which means being able to access the supports that exist for recognised relationships. It is a new experience for these non-normative couples who have not had the taken-for-granted experience of relationship recognition so long available to heterosexuals.

Cathair describes their new relationship status as something which people support. She sees it as a way in which one's personal community, especially one's family, 'gets behind' a couple to support them. This reflects other literature findings that having a

legally recognized relationship draws out supports for the couple and their relationship (Heaphy *et al.*, 2013; Rothblum *et al.*, 2011; Lanutti 2011). For Cathair this represents a sense of the social support, recognition and belonging that her new relationship status brings to them:

[...] that whole social glue idea, if you get married other people get in behind it and if you are going into trouble or if you are stressed or if you are on a rocky patch people support couples that are married in a different way [...].

The social glue image used by Cathair depicts her understanding of the benefits a recognized couple gets from society when their relationship is accepted because socially they now belong. She lists the sort of problems or difficulties that couples experience over a life time – being ‘in trouble’ or ‘stressed’ or on ‘a rocky patch’ and she suggests that there is a support system available to people who are married which operates specifically for such couples - for married couples. The social glue concept suggests that the support both helps the couple stay together, and, supports stability within society itself. Cathair and Onchair both refer to their Civil Partnership status as being ‘married’, similar to other couples in this research study and others (Heaphy *et al.* 2013; Lanutti 2005).

The ‘social glue’ supports made available to recognized couples by society is an example of how society shows its liking, preference and care for recognized relationships. Feeling you belong is not sufficient though, reciprocation by others to reinforce your belonging is essential (May 2013). Belonging means being accepted by others ‘as an integral part of a community or society’ (Cohen 1982, p.21). This support is part of what society does to show acceptance, and reinforces the idea that this couple and their relationship is important and worthy of support. We see this support very clearly in Ireland, where being married brings Constitutional protections and favourable tax treatment for the married couple, and where family based on marriage is protected in the Irish Constitution (*Bunreacht na hÉireann* 1939). Being married or having one’s

relationship recognized in Civil Partnership can mean one is ‘viewed as a real couple’ and seen as ‘grown-up’ (Shulman *et al.* 2012, p.172; Heaphy *et al.* 2013). Cathair captures this when she speaks of her sense of tapping into the ‘social glue’ since they were recognised as Civil Partners. Calhoun (2000) reminds us that the historical exclusion of same-sex couples from relationship recognition has meant that they and their relationships were excluded from the supports made available to the valued heterosexual relationships. These supports included marriage guidance and family counselling supports (Calhoun 2000).

Recognition must be institutionalised in the form of legal recognition if people are to be able to exercise their capacities of personhood (Honneth 1995). In other words, legal recognition matters. The legal recognition of Cathair and Onchair’s same-sex relationship gives them access to the support that community and society makes available to couples in recognised relationships. The sense of belonging which the couple experiences is not just something that happens, it is created through ‘a process of establishing a sense of identity with one’s social, relational and material surroundings’ (May 2013, p.89). Having one’s relationship recognized starts a process – the social glue process - which helps bring about the sense of belonging when one’s identity and relationship is recognized and accepted. Same-sex couples, through Civil Partnership, feel they belong.

6.4. Civil Partnership Ceremonials as Weddings

Relationships which exhibit social familiarity are permitted to belong. This section examines ceremonials used by couples to celebrate their Civil Partnerships. The public ceremonies at Civil Partnerships both represent and bring about inclusion for same-sex couples and deliver a sense of belonging to them. This belonging:

[...] is a feeling that affords a sense of ease or accord with who we are as individuals and a sense of accord with the various physical and social contexts in which our lived lives are lived (Miller 2003, p.220).

Interviews with Civil Partners in this study depict a sense of ‘accord’ amongst couples. Accord is registered in the first instance at the celebrations or ceremonies enacted for Civil Partnerships. For many couples the celebration or ceremonial is a wedding-like rite which allows same-sex couples move from a sense of exclusion to a sense of belonging. Heaphy *et al.* (2013) examine the experiences of under 35 year olds who have entered Civil Partnerships in the UK since its enactment there in 2004. Their (2013, p.14) study provides insights into what many of those couples describe as their ‘ordinary’ relationships which are lived in ways that are ‘producing convention rather than undermining it’. In other words couples, in their desire to be seen as ordinary and included, are constructing ceremonies which may seem to support convention rather than deconstruct it. These couples, like their Irish counterparts in this study are ‘doing’ their relationships in very ordinary and familiar ways. One of these ways or practices is that many of the couples ceremonialise their relationship recognition in ways that are familiar and marriage-like. In effect they ‘do’ their relationship recognition in familiar ways which makes them recognisable, but in so doing they also ‘[...] trouble core tenets of an institution that has historically been intrinsic to modern gender, sexual, and relational inequalities’ (Heaphy *et al.* 2013, p.14). This institution is marriage.

Same-sex relationship recognition ‘troubles’ marriage by its re-definition of that very gendered marital institution (Alderson 2004). This trouble is evident in the contestation that continues to take place in the discourse on same-sex relationship recognition. Some argue that for same-sex couples, taking up relationship recognition options is merely assimilation to the mainstream (Warner 1999) by homonormative homosexuals who ‘refuse to contest dominant heteronormative assumptions and institutions’ (Duggan 2003, p.50). Others see it as a weakening of the heterosexual panorama (Calhoun 2000), a challenge to the heterosexual assumption (Weeks 1999), or a rejection of compulsory heterosexuality (Rich 1986; Calhoun 2000). While the academic debate is polarised, the lived experiences of couples opting for Civil Partnership shows that in the everyday life

of same-sex couples, wanting to belong draws them towards same-sex relationship recognition. Like many of the couples in this study, legislation for Civil Partnership is generally regarded as being a positive factor in gaining equality within the law for LGBT people (Harding and Peel 2006). For the couples themselves, wanting to belong and ‘doing’ their relationship recognition in a recognisable, predictable and familiar manner, means that their ceremonialisation is for the most-part, wedding-like or marriage-like. While wedding-like, the reality is that same-sex relationship recognition greatly troubles sexist gender norms and contributes to the ‘new ambiguity’ where categories of ‘normal’ and ‘weird’ are no longer so clear-cut (Badgett 2009).

What follows is an analysis of a variety of narratives of how couples ‘did’ their ceremonialisation. What emerges is that there is a common care or ‘concern’ amongst the couples to belong. Care is another Heideggerian (1962) term which tells us how Dasein’s way of being-in-the-world is one of care or concern. The ceremonies display the care and concern of the couples, they want to belong. Same-sex relationship commitment ceremonies in other jurisdictions, prior to the availability of legal relationship recognition are:

[o]ften consciously designated to proclaim the equal legitimacy of same-sex and different-sex relationships and these ceremonies often generate the same kind of emotional intensity and community approval that mark legal weddings (Badgett 2009, p.123).

This is also true of Civil Partnership ceremonies in Ireland. Seven of the couples from our cohort, speak of how they wanted the ceremonialisation of their Civil Partnership to be marriage-like. Some use the terms ‘marriage’ and ‘wedding’ and ‘Civil Partnership’ interchangeably, like their UK, US and EU counterparts (Heaphy *et al.* 2013; Fingerhut 2010, Badgett 2009). Seven of our couples (Siofra and Sinéad, Callan and Begley, Brocc and Ailchá, Cathair and Oncha, Cana and Banbhan, Conrí and Faolán and Casey and Brenna) describe in great detail their relationship recognition ceremony or celebratory party. While some of the couples started out wanting something different to a wedding

(Siofra and Sinéad; Casey and Brenna), they ended up having ‘a wedding like any other’ with many of the traditional recognizable wedding elements present. They were events which intended to proclaim the equal legitimacy of same and opposite-sex relationships. Siofra speaks about their ‘wedding album’ during the interview:

[...] I was going to bring down the wedding album [...] I was thinking about the day and [...] I was going to show you [...] our family photos, photos of us with our families [...] that was a very, very important thing because it is us [...] we are just like our brothers and sisters you know (Siofra).

They, like other interviewed couples produced mementos such as photographs from the day. Their ‘wedding’ album has great significance for Siofra. She speaks of it as ‘very important’. Its importance is that it depicts them at their ‘wedding’ and they are ‘just like our brothers and sisters’. Being just like their other siblings represents their normality and their belonging to their families in a manner similar to their siblings. This is a comment echoed by Conrí and Faolán who tell us that their ‘wedding’ for them was like that which they had experienced with other friends and family at opposite-sex wedding celebrations. They were, Conrí tells us, ‘Doing this exact thing. I suppose it felt like the equivalent thing’. By doing the same ‘exact thing’ in Civil Partnership, publicly exchanging vows and signing a register, as they had witnessed their family and friends doing when getting married, Conrí and Faolán feel affirmed and this brings a sense of belonging. Their relationship recognition event was for them ‘equivalent’ and equal. Their experience is similar to that of younger (under 35) UK couples who also see their Civil Partnerships as weddings (Heaphy *et al.* 2013).

Making mementos of the Civil Partnership event – whether photograph albums, framed photographs or framed copies of the certificate of registration is a common practice for same-sex couples (Rothblum *et al.* 2011). All of the interviews for this study took place in couple’s homes and photographs of the registration event, whether a wedding or a Civil Partnership were on display in many of those homes. Siofra and Sinéad display photos of their Civil Partnership, photographs of them with their wider family. Being just

like their ‘brothers and sisters’ is important for the couple who speak of their Civil Partnership as:

They were all there, and they all had a great day do you know it was just like any other family wedding. (Sinéad)

Sinéad uses the term ‘wedding’ to describe their ceremonial for their Civil Partnership. This makes the event and the experience of it for them and the guests, familiar and ordinary. Siofra explains why they made their event ‘something quite similar to a wedding’. Sinéad and Siofra had their Civil Partnership ceremony in their local hotel:

It is a terrible boring story like, it wasn’t on top of the Eiffel Tower or something like that [...] we said we’ll do something mad just to try and mark it so have something quite similar to a wedding so our families can understand and be involved. But something different [...] ended up being just like an ordinary wedding. We had the families, we had the band we had the meal, it was just it was brilliant *craic*. It was brilliant [...] but when it came up to the day it was very, very like a traditional ceremony itself. (Siofra)

It was in so many ways an ordinary wedding. Originally, she tells us they decided to have an event that would ‘be something mad, just to try and mark it’; this implies their intention to do something different or unusual. In fact, what they had turned into ‘something similar to a wedding’. They went for the ‘traditional’ approach she explains ‘so that our families can understand and be involved.’ So they could recognise the event as a wedding. It is what one does when one knows how to follow the script for appropriate behaviour (Goffman 1959). While they were two lesbian women getting Civil Partnered in a traditional wedding-like fashion, they were also providing a challenge to the normative gendered understanding of what a wedding is. They were doing it in a similar, familiar manner to their heterosexual brothers and sisters. Two lesbian women having their relationship recognised in a wedding is a challenge to the usual gendered norms underpinning marriage and weddings in society (Butler 2004; Calhoun 2000). Furthermore, it ‘frees institutional marriage from its symbolic sexism’ (Stoddard 1997).

As Callan's mother said describing Callan and Begley's event 'We are having a wedding with a difference.' The wedding with a difference was for many of the couples conducted in recognisable ways, so that it could be seen as equivalent to or just like 'an ordinary wedding'. The ceremony was not just wedding-like, as far as Siofra was concerned 'it was a wedding just like any other'.

Casey and Brenna separated the legal signing of the register at their Civil Partnership from the celebration party. They wanted an un-weddinglike event. They opted for an outdoor Humanist ceremony in a city park in summertime in front of more than 60 friends and family during which they made vows and did symbolic rituals including hand fastening¹⁹. What was important for Casey and Brenna '[...] was standing out in front of our friends and family and finally saying it [...]']'.

'Saying it' was about publicly declaring their love for each other and the fact of their same-sex relationship. Having decided it was not going to be a traditional ceremony, they decided it was not in particular to resemble a 'traditional marriage' as it wasn't one – 'it was a Civil Partnership', Brenna insists. They had no flowers, no cake, no traditional photographs and their dresses were not traditional. They tried to make the event un-wedding-like:

[...] I did a lot of research around [...] everything from the invitations 'cos we decided we didn't want anything white. There was no white. No white, no cream, nothing sort of girly or traditional. You know 'cos it wasn't a traditional marriage (Brenna).

While attempting to do an alternative ceremonial to show that they were not having a wedding celebration, but a Civil Partnership – they ended up, like Siofra and Sinéad, with a wedding and were pleased with it:

It was really very nice. [...] Friends of mine used to say when they'd get married [...] "you can feel the love in the room" [...]

¹⁹ Where the couple fasten their hands together at the wrist to symbolise their joining together as a couple.

But you know, you could, it was [...] tangible [...] you could feel the love in the room [...] because we were first of our friends to do it [...] there was quite a lot of emotion [...] it was extraordinary (Casey).

Their un-wedding-like wedding became an ordinary wedding which she describes as an ‘extraordinary’ experience. Even when couples attempted to make their ceremonials un-wedding-like, the event became a wedding. Casey and Brenna did not have a traditional marriage, but they had an ordinary wedding which was ‘extraordinary’.

For each of these couples, having people there celebrating the recognition of their loving relationship was in its own way recognition of them. The ceremonials are important, they are ‘[c]ritical moments where familial and personal community inclusion and the reality of the marriage could be affirmed or negated’ (Heaphy *et al.* 2103, p.13). The Civil Partnership celebration is a moment of affirmation. An experience where using ordinary and familiar practices and even when some attempt innovative and non-traditional practices, the couples experience what it feels like to belong, through their ceremonials.

The significance of the Civil Partnership ceremonial was unique for each couple, but the recognition, acceptance and sense of belonging is common to all. Ailchá and Brocc relate their Civil Partnership ‘wedding’ story, as men who had lived through the period in Ireland when being homosexual was a crime. Their Civil Partnership signified the enormity of the journey they had travelled, to deliver for them a long desired sense of belonging and acceptance. Ailchá and Brocc, older men in their mid 60’s, together for over 30 years, describe their events:

We went for a wonderful huge bash inviting neighbours [...] the actual (registration) ceremony in the town hall, was like an old-fashioned Irish wedding [...] the way my parents did it in fact [...] there we had very close family and friends (Ailchá).

Ailchá and Brocc had the initial registration of their relationship in the local town hall, with just close friends and family, followed by a meal for the small group, ‘[...] what I’d call an old fashioned Irish wedding’ Ailchá says, recalling how previous generations held a wedding breakfast after a wedding ceremony rather than the large lunches and dinners

common to many modern wedding events. This old fashioned event with twelve friends in the local town hall with the registrar was followed by ‘A real wedding breakfast’ (Ailchá). This first ceremonial was for Ailchá just like the way his parents would have been married almost a century ago. Younger couples in the UK study speak of how they were influenced by their parents being married and of wanting recognition and similar acknowledgement for their same-sex relationships (Heaphy *et al.* 2013).

Ailchá and Brocc held a second event with 250 people a month after their Civil Partnership registration:

It was a huge piece [...] a massive, mighty public statement to all, to all of your family, to friends to our neighbours [...] it was a powerful public thing [...] it was a very, very public set out [...] with regards to the neighbours we were inviting [...] I personally delivered the said invitations [...] the response was amazing. We were worried what we were going to get back. Jesus this is a relief. This is great (Ailchá).

For Ailchá, the event is a ‘mighty public statement to all’ and the size of the event was intended to be public and powerful. They wanted to have friends and neighbours present to make their statement that publicly their relationship was now recognized. Ailcha was ‘worried’ setting out to deliver the invitations, ‘worried what we were going to get back.’ He says this conveying a memory of the decades of fears these men had lived through while criminalized until 1993. Now Civil Partnership had made their relationship recognition possible. But the positive response he received to their invitations he describes as ‘a relief’, something that was ‘great’.

As the day arrived, and the event got underway, Brocc describes how exciting the event was:

It was the best day of the year, it was an incredible day and we had it in that field down there [...] the aeroplanes were nearly stopping asking what was going on [...] I was waiting for the fire alarms all that day from the road and I thought we may be killed in our beds at some stage in life but as of now it was a great thing to do [...].

The event was in his mind and in actuality such a large event that he jokes ‘the aeroplanes were nearly stopping asking what was going on’. The joking changes to a more serious

tone when he says under the excitement and joy of the day, some of their residual fears surfaced: the fears of two gay men daring to be so public in a rural townland. The image of him waiting for some crisis to take place is striking. Waiting for some emergency to happen, because this was two gay men publicly celebrating their love and the recognition of their relationship. Brocc acknowledges his own residual fear as a gay man in Ireland, that they may still be 'killed in [their] beds'. This is a shocking admission of fear. The event was 'a great thing to do' because it marked the men's own sense of freedom to be fully out and visible, moving away from the enforced closetedness of their earlier lives prior to decriminalisation. The celebration and acknowledgement of an extraordinary wedding event for these two gay men, allowed them experience acceptance and belonging after a life-time of otherness and fear.

The experiences of same-sex couples in having 'weddings' and experiencing their Civil Partnerships and their ceremonials as 'marriages' raises the question of whether same-sex relationship recognition is normalisation or assimilation of non-normative sexuality in a safe manner (Warner 1999). While commentators continue to argue the matter (Ettelbrick 2012; Rauch 1996; Sullivan 1997; Warner 1999; Adam 2004) in this study many couples entering Civil Partnership see it as the same as marriage – despite the legal differences between the two institutions in Ireland. As we saw above many couples use the terms 'marriage' and 'wedding' interchangeably. Many same-sex couples entering relationship recognition constructs, (whether Civil Partnerships or Civil or Domestic Unions) construct this experience as being 'just like a married couple in practice' (Heaphy *et al.* 2013, p.21).

Earlier studies both supporting and opposing same-sex marriage (Shipman and Smart 2007; Mitchell *et al.* 2009; Hull 2006; Jeffries 2004; Weeks *et al.* 2001; Lewin 1998) discuss such opposition and support predominantly in the context of considerations relating to marriage as a heterosexual institution. A more recent study (Heaphy *et al.* 2013) depicts a much more easeful attitude amongst Civil Partnered couples in the UK.

They tell of ‘culturally familiar stories of marriage as a key life event and as bolstering couple commitments’ (Heaphy *et al.* 2013, p.18).

This research supports Harding (2011) who found a range of views amongst the LGBT community on same-sex relationship recognition. As with Heaphy *et al.* (2013), Harding (2011) found that there was growing support for same-sex marriage in the lesbian and gay community. The narratives which the couples in this research share of their Civil Partnerships as weddings and marriages indicate likewise a growing support for same-sex relationship recognition in the LGBT community. This acceptance is supported by research evidence which showed that relationship recognition was in the top three key issues of concern to LGBT people in Ireland (NLGF 2009).

It could be argued that in celebrating the recognition of their relationships in a socially acceptable way – as monogamous and recognised by the State, lesbian and gay couples are exhibiting their knowledge of the *habitus* required to enter and display acceptable relationship recognition fields in their every-day lived lives. In doing so, they are displaying homonormative (Duggan 2003) characteristics. They are trying to be normal (Warner 1999). The desire to belong and be accepted is an overriding consideration for the couples interviewed in this study. This desire reflects similar desires by couples in other studies (Harding 2006; Mitchell *et al.* 2009; Heaphy *et al.* 2013). Findings here reflect the views of Bernstein and Taylor (2013) that same-sex relationship recognition builds bridges between ‘other’ and the dominant culture, while also challenging dominant norms and practices and in doing so calling that dominance into question. Despite the variety of the ceremonies, and each being unique in its own way – they are celebrations of acceptance and mark significant instances of negotiated belonging for each same-sex couple.

As Civil Partnered couples, all of the couples in this study support same-sex relationship recognition. As it has become available, they are taking it up and experiencing it as a

support to them, a recognition and ordinary-making experience. This in turn gives them a sense of belonging which moves them away from the experiences of shame, stigma and exclusion. Through their public wedding-like ceremonies, the couples are performing their acceptable selves (Goffman 1959). The conformity of couples in their relationship recognition ceremonials is intentional rather than mechanical. We see this in the way so many of the couples display a clear understanding of the differences between Civil Partnership and Civil Marriage and yet they plan and execute 'wedding' like ceremonials. These couples who have gained legal recognition for their relationships have each participated in some form of ceremonial or same-sex 'wedding'. As Lewin (2001) tells us, same-sex couples have been engaging in commitment ceremonies prior to legalisation of same-sex relationships for many years. Same-sex couples are exhibiting their authentic selves in their ceremonials, displaying their voluntary and intentional conformity as a mark of their need, desire and concern to belong. 'Acceptance is a prerequisite if we are to gain a sense of belonging among other people' (May 2013, p.53). In other words, many of the ceremonials described here are displays of the conscious efforts couples make to be accepted and belong.

For some same-sex couples, gaining acceptance to achieve belonging means that people who were misrecognised have now, in Civil Partnership, moved from misrecognised to belonging. Examining belonging gives us a window which allows us see social change taking place and to examine what the lived reality of the Civil Partnership experience is. Acceptance and belonging are vital for authentic self realisation and as markers of the social change occurring regarding acceptance of non-normative sexualities and same-sex relationships. But is Civil Partnership equality?

6.5. Civil Partnership: Equality or Inequality?

May (2013, p.92) summarizes the effect of belonging on people:

While a sense of belonging can lead to experiences of joy, contentment, happiness and fulfilment [...] feeling rejected by

the group can lead to anger, but also to politicisation [...] and the formation of countless social movements.

May describes belonging as having the possibility to be joyful, full of contentment, happiness and fulfilment. She also tells us how feeling rejected can lead a person to feel 'anger' and also 'politicization.' These two sets of feelings emerge amongst couples in this research exhibiting a dichotomy amongst those who have entered Civil Partnership. For those who consider Civil Partnership to be inequality, feelings of rejection and hurt emerge. For some of these people, the result is that they are moved to take action, to become politicised on the issue and push for full equality of recognition for same-sex couples.

The following interpretations of how couples experience Civil Partnership as both equality and inequality shows both the joy and rejection experienced in Civil Partnership and how the answer to the question of whether Civil Partnership is equality or not, is ambiguous.

Some of the couples interviewed in this research have chosen to enter Civil Partnership seeing it as sufficient recognition for them. For Brocc and Ailchá, older men in their late 60's, their views of Civil Partnership and Civil Marriage are clear:

I don't actually share the whole desire for it to be called marriage personally. I don't particularly relate to that but I quite understand why other people do, but for me and coming from where we come from, our age, living through decriminalisation, well [...] I totally accept the right to marriage, [...] but on a practical level, hey, Civil Partnership does it for me, plenty you know (Brocc).

Brocc acknowledges that some lesbian and gay couples want marriage; this is not something for which he shares 'the whole desire'. He says he understands why others want marriage and that for them Civil Partnership may not be enough. For Brocc and his partner Ailchá, 'coming from where we come' he says, explains why Civil Partnership is 'plenty' for them. They are both over 60 years old and have lived lives in Ireland where they have had to be closeted when non-heterosexual sexuality was

criminalised. For these two men, having lived lives when to be gay was a criminal offence, they experienced the relief of decriminalisation in 1993. This provided for the possibility of them living ordinary lives (Rose 1994). Being able to have their relationship finally recognized by the State and by their personal and social community is, he tells us, 'plenty you know'.

Ailchá further explains that he too sees their full acceptance of Civil Partnership as a matter of:

[...] an age gap [...] And yes of course I deeply would like to see full marriage in the sense which allows exactly the same and allows particularly younger people in different ways to have or recognise their children [...] something that for us has come too late.

Ailchá understands that a key difference between Civil Partnership and Civil Marriage rights lies in the gaps in parenting and family recognition rights, significant especially for younger couples. He puts this down to the 'age gap' between them and the younger couples with children who are insisting on full marriage rights and family recognition. Aware of the lack of equality that Civil Partnership provides, with its gaps on parenting matters, for this couple without children, Civil Partnership suffices.

In a study of older same-sex couples now faced with the possibility of marriage rights in Massachusetts, USA, some of them, like Brocc and Ailchá never thought they would see these rights in their lifetime (Porche and Purvin 2008).

Other couples have not felt Civil Partnership to be sufficient for them or to be equality. Clancy and Fechín, two women in their late 40's with no children, were married in the USA. By not having a Civil Partnership registration ceremony in Ireland Clancy and Fechín feel that they have not condoned Civil Partnership which they see as a compromise solution. They have been married abroad and believe that their marriage should be recognized as marriage and not just as Civil Partnership in Ireland. They understand and are knowledgeable about the differences in legal provision between

marriage and Civil Partnership (Fagan 2011). The biggest difference between the two institutions for them, despite the fact that they do not themselves have children or intend to have any, is the gap regarding the rights of children of same-sex headed families and the lack of parenting rights for same-sex couples. Clancy says:

Even though we had no intention to have children [...] it doesn't stop us from really caring about the fact that if we did have a child you know and say it was my child and we were together for 10 years and I died, the child has no relationship to Fechín [...].

Clancy expresses her concern at the inequality of treatment of same-sex couples by the absence of family recognition rights in Civil Partnership. Not having children, she really cares about this denial 'it doesn't stop us from really caring' about this omission, she says. This theme of parenting rights for same-sex couples and Civil Partnership is discussed in detail in Chapter 7.

Fechín says she didn't 'realise' the strength of her feelings on the lack of equality in Civil Partnership. She says:

To be honest I am actually sitting here thinking I am really, really glad I didn't do it in Ireland. I think I would have regrets now [...] the second class nature of it [...] Jesus Christ I treated myself as a second class citizen for long enough because I was gay [...] so to have somebody else [...] brand you with that and then agree to participate in your own sort of branding [...].

Fechín describes Civil Partnership as a 'second class' treatment of same-sex couples. Fechín affirms their decision to get married abroad and not take out a Civil Partnership in Ireland, despite the treatment of that marriage by the Irish State as a Civil Partnership. She now sees the Connecticut wedding as a statement by them as a couple in response to the unequal Irish Civil Partnership offering. Their wedding abroad was a political act which is a statement of their rejection of Civil Partnership and what it stands for. She also sees it as a badge of honour of not settling for less than what they wanted or felt entitled to for them and their relationship. Cólín and Áinle had a Civil Partnership in Belfast (Northern Ireland) in 2004. This registration was recognized as a

Civil Partnership in the Republic of Ireland following the introduction of Civil Partnership in 2011, with the commencement of the Civil Partnership and Certain Cohabitees Act (2010). ‘To all intents and purposes it was a marriage to us at the time,’ C  il  n tells us. It was only on their return to Ireland having lived in the UK for a period that they realised the differences between Civil Marriage and their Civil Partnership.

They were unaware in particular of the differences between the two jurisdictions in relation to their family recognition rights and their rights to seek to adopt or even be considered as adoptive parents. Unlike the UK legislation, only married couples, not Civil Partners, may apply to be considered as adoptive parents in Ireland. The Civil Partnership Act (2010) in Ireland recognized C  il  n and   inle’s relationship, but not their family formation rights. The full story of how Civil Partnership has affected their path to parenthood is told in Chapter 7. Their personal experience of inequality was a call to action and led to them becoming marriage equality activists to seek full relationship equality for themselves and other same-sex couples for whom Civil Partnership was not enough. Their realisation of the unequal nature of Civil Partnership for them was one of hindsight, as their Civil Partnership was to them, ‘at the time’ understood as marriage. Entering Civil Partnership was a catalyst for political mobilisation for C  il  n and   inle, ‘[...] it was only later we realised the short comings of it ... that was a big deal’, C  il  n tells us. Their realisation led them to action, realising that Civil Partnership did not grant them equality, C  il  n says ‘... then we got involved with the Marriage Equality campaign.’ Their political mobilisation for equality had begun.

Cana and Banbhan had their Civil Partnership blessed by their Quaker community. They entered Civil Partnership, but do not see it as equality:

[...] for me the whole [...] marriage issue is a question of equality and if we are equal in the law we should be allowed the choice to avail of it. Being married won’t necessarily, for me [...] make us change our relationship in any way at all. It’ll just

mean we are equal citizens in the eyes of the State, that's the only difference. It is not that I would be jumping into marriage and saying "Oh yippee we are a married couple and we'll get a picket fence" (Cana).

Cana states that being able to be married is a matter of being 'equal in the law' as citizens. He understands that being married won't necessarily change their relationship 'in any way at all' however, it would mean that they are 'equal citizens in the eyes of the State'. He is clear, that he does not share a romantic notion of marriage with its 'picket fence', but he does insist that access to marriage is the mark of equality before the law for same-sex couples and Civil Partnership does not bring this to them. For Cana wanting marriage equality is about wanting to be treated equally. It is not a celebration of the institution of marriage *per se*.

Speaking of Civil Partnership, Cana's partner Banbhan says:

[...] it's not marriage and [...] I can't understand how in a civilized society that we allow [...] government and legislators think that it's ok to bring in a law that treats people as second class. I still can't get my head around that idea that [...] we've actually legislated for discrimination [...] we enshrine into law [...] inequality. It says something [...] about [...] the way we run the country but then [...] our politicians have always chosen to follow [...] rather than to lead the crowd.

He is categorical that for him Civil Partnership is not marriage, it is not equality.

Many of the couples use the terms equality or inequality to describe their experience of Civil Partnership. Yet none of them actually gave a definition of what they understood equality or inequality to mean. A common understanding emerged, that Civil Partnership was felt by them to be something that was of less value or of lesser standing in society, at least that was their experience of it.

Other couples in this study are conflicted about their attitude towards Civil Partnership. They value the recognition and belonging it brings, while also being aware that it does not bring full equality. Siofra and Sinéad saw their Civil Partnership as 'getting married

in front our families' like any other heterosexual couple. The public event was their opportunity to show and say publicly that this was their choice of person for life:

[...] we were like any other couple getting married in front of our families, in front of the 50 people that we invited that were the closest people to us, be they family or friends. It was [...] finally saying: "look, this is the person I choose to be with for the rest of my life" and [...] they were all delighted for us [...] it was a wedding just like any other. And we've called it a wedding. Now I know other couples that have done it since and they still call it Civil Partnership, to me it's a wedding and we're married. Even though you know it's a Civil Partnership legally but [...] I'm sure we'll get the free upgrade soon enough (Sinéad).

They had family and friends to witness their declarations of love and their promises to the person with whom they intended to 'be with for the rest of' their life. For Sinéad, their Civil Partnership was their wedding and they are married, despite the fact that they know it is legally a Civil Partnership and that it does not contain all the legal rights and social standing that comes with Civil Marriage (Fagan 2011). However, they had 'a wedding just like any other'. This is very similar perspective as that taken in the study by Heaphy *et al.* (2013) in the UK. Sinéad is confident that marriage rights for same-sex couples will come in Ireland and they will get what she describes as 'the free upgrade' soon. Use of the phrase 'upgrade' indicates that she understands Civil Partnership to be unequal to marriage. Siofra expresses concerns that Civil Partnership is not equality:

I suppose that was always on my mind [...] is it [...] right to go ahead with this if it is not full marriage you know? [...] are we kind of selling out on one level because you know it's not equality and it's not right. And you know hopefully this will come about.

Siofra is more hopeful than certain that equality of relationship recognition status will be forthcoming. She has had concerns about taking up a Civil Partnership when she knows 'it is not full marriage'. She worries that in entering Civil Partnership, they might be 'selling out'. Siofra is concerned that as she is aware the Civil Partnership is not marriage and not equality, then perhaps entering Civil Partnership is 'not right'. Siofra's dilemma is a common one and echoes the views of other same-sex couples. This fear of

‘selling out’ or not waiting for full equality echoes the views of other pro-marriage equality campaigners who refused to enter or accept Civil Partnership because it is not equality (Gilligan and Zappone 2008).

Sinéad sees Civil Partnership as unequal but she accepts it and enters it. She considers full marriage equality will come, but also she sees the gaps in relation to provisions for children as a ‘big worry’:

[...] actually while the upgrade will come eventually [...] it’s good enough for me, it’s not like a Civil Partnership or whatever in another country that is suddenly recognised here [...] it’s got everything. If we had children it would be different and that is I think the big worry that the children are just left on the side [...] and that is a disgrace, but it’ll come. I’m sure it’ll come in the next year or two.

Sinéad returns to her certainty that equality will come. For now, she sees Civil Partnership as ‘good enough for me’, similar to Brocc and Ailchá above, they too are without children, Civil Partnership suits ‘it’s got everything’ she says. Like Brocc, she too acknowledges the gaps regarding children and parenting rights, ‘if we had children it would be different’ she says, describing the gap as ‘the big worry’ in Civil Partnership because it has meant that ‘the children are just left on the side’. Sinéad sees this as ‘a disgrace’ but one which she is certain will be righted soon ‘in the next year or two’ she suggests. Sinéad acknowledges that she had some misgivings about accepting Civil Partnership, as it was not full equality, but, she says:

[...] you can’t fight every single battle, but at the same time I would be still very much an advocate for full marriage you know. [...] I can understand why people say I’m not going to do it until it’s marriage. (Sinéad)

Sinéad’s ambivalence is evident. She made the judgment that she would not do battle on Civil Partnership, while she holds onto her political position as ‘very much an advocate for full marriage’. This is a common struggle for same-sex couples with a political awareness of the differences between relationship constructs (Smart 2008). She

understands, like Brocc earlier, why some couples are waiting for full marriage equality. Her awareness of the differences between the two relationship recognition institutions is obvious. They are hopeful it will just be a matter of time until Civil Marriage rights for same-sex couples are introduced in Ireland.

For Faolán and Conrí it is more straightforward. They were Civil Partnered in 2011. Conrí is clear that people know there are differences between Civil Partnership and Civil Marriage. In his view they are married and people are not interested in the legal differences:

[...] I know there are legal differences I don't think when people know us and they know we have had this event [...] They don't think of it as any different, in their eyes it's the same. We are married, they don't tend to think it is any different they are not really interested in the legalities of it (Conrí).

Both men see the day as having been a wedding and resulting in them now being seen as married, regardless of the differential in legalities involved they are certain that people see them as married – this reflects other findings in the literature where couples in Civil Partnerships see themselves and are seen as married by family and friends (Heaphy *et al.* 2013; Goodwin and Butler 2009).

Unlike Conrí and Faolán, Marcas and Malinn utterly reject that their marriage is being seen and designated as a Civil Partnership in Ireland. Marcas and Malinn are two women who were married in Canada and following their return to Ireland sought legal recognition through the Irish courts for their Canadian marriage. Both women hold that their relationship, which they had legally recognised in Canada as marriage, has been denigrated by the Irish State which has recognized their Canadian marriage as Civil Partnership in Ireland:

In an Irish context the State doesn't recognise our marriage and in a non-Irish context I do not recognize that we are civilly partnered [...] but I am not, I am not civilly partnered (Marcas).

Marcas lays out the conflict which this couple finds themselves in, whereby they entered a marriage in Canada which the Irish State will only recognise as a Civil Partnership. Marcas is categorical 'I am not, I am not civilly partnered' she says, repeating the 'I am not' to emphasize the strength of her rejection of their designation by the State as Civil Partners.

Describing their decision to take a case against the Irish Government challenging its failure to recognize their Canadian marriage, Marcas describes their court actions as:

[...] questioning the State's judgment and interpretation [...] resisting their imposition of a Civil Partnership on our life relationship (Marcas).

For Marcas, they are 'resisting the imposition' of the construct Civil Partnership by the State on their thirty year relationship. She rejects the State's right to impose such a designation on this significant 'life relationship'.

One rationale behind their resistance is that they reject what they see as the state's imposition on them of a relationship recognition construct which they have not chosen for their life-long committed relationship. Malinn explains:

I actually would question any State's right to designate a categorization of one's relationship and place that upon a relationship [...] whatever about the State taking a journey and a very compromised journey in my opinion to bring into law an institution called Civil Partnership, a separate institution, an institution that has lesser rights than marriage [...] I absolutely do not accept and I would query fundamentally, I am not Civil Partnered. I do not agree with the institution and therefore no State, but no State, has a right to impose upon me a designation in that manner.

For Malinn, it is very clear that it is not the State's right to 'designate a categorization' of their relationship and impose this on them. She describes the State's introduction of Civil Partnership as 'a very compromised journey' and one which she sees as wrong because it has created a separate institution for same-sex couples with 'lesser rights than marriage'. As they have chosen to be married, she rejects, and questions fundamentally their designation as Civil Partners. In her view, as they do not agree with the institution

of Civil Partnership, nor with the State's right to impose Civil Partnership upon them – as a couple legally married in another State.

Rejecting the imposition of Civil Partnership on them by the Irish State, the couple is rejecting Civil Partnership as a category of relationship recognition for them. However, whether they reject the recognition or not, as far as the Irish State is concerned, the law recognizes their Canadian marriage as a Civil Partnership. The couple is resisting this recognition and designation, leading the judicial challenge for the State to legislate for recognition of marriage equality in Ireland. In taking a court case they have begun a movement for marriage rights for same-sex couples in Ireland (O'Carroll and McDonnell 2012, Mullally 2014). For this couple their marriage is an act of political testimony (Heath 2013).

Criticising the Civil Partnership legislation (2010) for 'leaving families behind' Marcas says that 'it has left us behind'. By this she means that their family, a married family in her view, is not recognised by the State. It is solely recognised as a Civil Partnership without the Constitutional protection given to married families. If they were heterosexual, the Irish State would recognise their Canadian marriage in Ireland as a marriage, automatically. The ten years of struggle for their marriage recognition has not affected their tenacity and passion for their claim:

[...] say we are in the courts and one of us had died what does that mean? Well, if it were me who was left that would mean [...] with terrible grief and sadness I would muster all the energy in my spirit to continue the court case and to resist [...] Freeze my assets, let me go poor if that is what's going to happen [...] even if it destroys me financially, because we are not Civil Partners and don't acknowledge that [...] (Marcas).

Marcas here is making a declaration of the strength of her intention to continue to resist the State's designation of them as Civil Partners. Even in the supposed case of the death of Malinn, Marcas declares that 'with terrible grief and sadness' she would 'continue the court case', to resist. She says even if such action were to 'destroy' her financially, she will continue to resist being called Civil Partner. She does not acknowledge that

designation and will continue to resist it. During the interview, following the above input Malinn says in response to Marcos: ‘Well I am delighted you said that because actually we haven’t had this conversation’. The conversation that is the interview has added to the couple’s understanding of their commitment to continue to resist. Gadamer (1979, p.331) speaks of how such conversations ‘strengthen what is said by referring to the object’ . During the interview the couple engaged in dialogue which is part of their ongoing planning for how they will proceed with the case if one of them dies. Their rejection of Civil Partnership is so absolute and their determination to continue to seek recognition for their marriage is total. Surprising conversations, even for the couples, happen in the interview process (Smart 2009).

Their personal experiences has led to politicisation of them to attempt to undo the damage they see has been done to them by the State designating their marriage as a Civil Partnership. Malinn says how this felt for her:

[...] if you have a belief and you want something and you feel that something really honours and expresses your love for another and is reciprocated [...] to have achieved that and to step back into your country and to hear people [...] telling you really why you are not worthy of that [...] everyday that situation continues. The damage that is done to personal lives should not be underestimated because we humans are made of a fundamental core and we have to be very careful what we do to people [...] I feel the history of this period will be written as a compromise too far.

For Malinn, the lack of recognition is due to a view by the State that she and Marcos as a same-sex couple are not worthy of being allowed to be seen as a married couple. She sees the rationalisations offered for introducing Civil Partnership and not marriage equality as ‘a compromise too far’ and feels it is harming same-sex couples because it is telling them they are ‘not worthy’ of marriage and this she feels is harmful to same-sex couples and same-sex loving relationships. It is also harmful to the development of the self (Heidegger 1962). Her comments echo those of lawyer and philosopher, Nussbaum (2004) who says that laws which depict human beings as lesser, must be removed to

ensure that the stigma and discrimination is removed. Nussbaum (1995b) reminds us of the importance of caring and the recognition of the capacity to care and love is a human capability meeting a basic human need. 'Civil Partnership is a 'diminishing of the self' for Malinn as is her experience of being barred from marriage recognition in Ireland.

For Marcos and Malinn, Civil Partnership has not delivered equality. They both reject their designation as Civil Partners by the State. They are married and marriage matters to them and their Civil Partnership status depicts a lesser status for them and their relationship. Their resistance continues.

6.6. Conclusions

This chapter began by exploring the question of how same-sex couples seek recognition and belonging through Civil Partnership. We saw that recognition and belonging matter to same-sex couples. The significance of recognition and misrecognition (Frazer 2000) was explored and the importance of recognition of same-sex loving relationships by others seen as an important contributor to a sense of belonging and enhancement of relationship value for same-sex couples in Civil Partnerships. It explored the links between recognition and the importance of belonging for human beings and examined what a sense of belonging means for same-sex couples who have been historically socially excluded. *Dasein*'s concern of being with others is a core element in explaining why people want to belong to society and have their relationships recognized (Heidegger 1962). Civil Partnership has provided a route out of stigmatization and brought them recognition and a sense of belonging.

The meaning of same-sex ceremonials was examined, same-sex couples want to belong and conduct their Civil Partnership ceremonials in a manner that is familiar for them and their personal communities and wider society. Entering, voluntarily and intentionally into Civil Partnerships allows them live authentic lives and helps in the development of their authentic selves by publicly affirming their sexual and relational identity (Heidegger 1962). Interviews display the diversity of views on whether Civil

Partnership represents equality or not. Civil Partnership is a means for the majority of these couples to move from being other and misrecognised to recognition; and from a subordinated status to a sense of acceptance, equality and belonging. For other couples, the Civil Partnership experience brings significant glimpses and some experience of the joy of acceptance and recognition, sharing the sense of belonging. For many of the couples this is experienced as being just ordinary as they access recognition and belonging through the use of familiar practices of weddings or use familiar scripts to celebrate their relationship recognition.

All of the couples in this study, even those who are very pleased with their relationship recognition in Civil Partnership, would, if offered, take 'an upgrade' to full marriage equality. Views on equality or inequality of Civil Partnership range along a spectrum.

There can be no doubt that for many couples in this research Civil Partnership is bringing them further along the road to recognition, belonging and equality. While for others, only marriage access will bring the moment of sexual citizenship they desire (Giddens 1992).

Finally, this chapter shows how examining the introduction of new social structures such as Civil Partnership relationship recognition, through the lived experience of same-sex couples, gives us insights into the meanings these new structures have for those who experience them. It also gives us insight into how such new structures come into play in our everyday interactions and lived realities, and how same-sex couples' relationships with society are changing.

Chapter 7: Findings and Discussion: Civil Partnership, Parenting Rights and Family Recognition

7.1. Introduction

Chapter 7 examines the experience of Civil Partnership and its impact on parenting and family recognition for same-sex couples and their children. All couples interviewed were aware of the gaps for same-sex parents and their families in the Civil Partnership Act (2010). The interviewees' narratives are gathered into three sections here in which the researcher examines understandings of Civil Partnership, parenting and family rights. Firstly, we see the experiences and understandings of couples without children. Secondly, we examine the experiences of couples who are planning parenthood. Thirdly, we explore the experiences of couples with children, for whom the absence of family recognition impacts on their parenting rights and for whom it is a cause of great concern in their everyday lived family lives. In conclusion, the chapter proposes that same-sex families in Ireland, despite adult relationship recognition through Civil Partnership, are still without the right to call themselves a family, and are therefore subject to affective inequality.

7.2. Lesbian and Gay Families Not Counting as Family in Ireland

When the Colley working group published its report on partnership options for Government consideration, it stated clearly that Civil Marriage rights for same-sex couples represented the equality option (Colley 2006). However, given the fears of the committee that this option would be subject to Constitutional challenge, they suggested the introduction of Civil Partnership for same-sex couples (Pillinger and Fagan 2013).

The Colley report (2006) was published in the context of general changes taking place in family formation in Ireland which were discussed in Chapter 3. The rise in family diversity included an increase in opposite-sex cohabiting families, a rise in lone parent families, and more varied family forms arising as a result of the introduction of divorce

and remarriage in Ireland (Pillinger and Fagan 2013). Census 2006 (CSO 2007) showed that more than one in four children under 21 was living in families which did not conform to the nuclear form of a married couple in a first marriage. While the number of LGBT families in Ireland is unknown, we do know that LGBT people are parenting and an NLGF (2009) study suggests that, of those who participated in a survey of lesbian and gay issues, one fifth of women and one in fourteen men under 35 had children (NLGF 2009). This figure rose to four out of every ten women and one in six men over the age of 35. For all those surveyed, lesbian and gay parenting rights figured as a top priority for the LGBT community, followed by partnership recognition rights (NLGF 2009).

The lack of LGBT parenting rights in Ireland has been noted in various reports and studies since 2000 (Mee and Roynane 2000; ICCL 2006; O'Connell 2008; Ryan-Flood 2009; Elliot 2010; Fagan 2011; Pillinger and Fagan, 2013). The Colley report noted that, in suggesting Civil Partnership as the option for relationship recognition for same-sex couples, they were aware of the implications this had for the status and standing of same-sex families and for LGB people generally (Colley 2006). They acknowledged that this option represents less than equality and would contribute to the perception that same-sex relationships lack value and meaning and are unequal to other relationships. They also noted that Civil Partnership would fall short of full equality for same-sex couples, as it excludes same-sex-headed families from the protection given to married families in the Irish Constitution. Other families which suffer from lack of recognition in Ireland include lone parent families and cohabiting unmarried heterosexual-headed families (One Family 2014). The 2011 Irish Census shows that one fifth of children in Ireland live in one parent families, while one third of children are classified as born to unmarried parents (CSO 2012).

The matter of family recognition in Ireland is of concern to a number of families. Pillinger and Fagan (2013, p.119) call for 'government policies and state services that

reflect diversity of family life' to be introduced for all excluded families. The exclusion of same-sex headed families from family recognition is evident in their overt absence from family policy and family services provision. This raises the question of how such treatment is experienced by same-sex couples in Civil Partnerships.

Each of the couples interviewed commented on the gaps in the Civil Partnership Act (2010) pertaining to family, parenting and children's rights. The details of the gaps are the subject of two important reports: *LGB Parents in Ireland* (Pillinger and Fagan 2013) and *Missing Pieces* (Fagan 2011). For some interviewees in this study the gaps were deeply significant, for others of minor import, depending on their personal circumstances. The couples' narratives are gathered into three groups - those couples without children; couples planning parenthood, and couples with children.

7.3. *Dasein* as Care and the Importance of Being-With-Others

Because *Dasein* is essentially care (*Sorge*) s/he has concerns (*Besorgen*) and solicitude (*Fürsorge*) (Heidegger 1962). In other words, as *Dasein* we take care of and have concern for others: 'Care is always, even if only privately, concern and solicitude' (Heidegger 1962, p.194). Heidegger (1962, p.193-96) sees this concern for others as an '*a priori*' or something that is presupposed for *Dasein* '[...] in the most primordial sense'. *Dasein*'s care for another is evident in the interviews where we see the emergence of couples' desire to publicly come out and declare their relationships and have their love and care for one another recognised and accepted (Chapters Five and Six). Furthermore, we see care, which is so important for *Dasein*, emerge again clearly when interviewees examine their experiences of Civil Partnership in the light of their possibilities as parents and their desire for parental rights and parental recognition in the care of and love relationships with their children – existing or planned. We see same-sex couples exploring their possibilities of being-in-the-world as parents.

An essential aspect of *Dasein* is that of being-with-others, we see how *Dasein*'s ability to establish and maintain relations to others – including children – is a priority. Laws and public policy may prevent or support this being-with-others. Denial of a social role, a part of *Dasein*'s identity, that of parenting, can mean a denial of an aspect of an individual's self. It can mean a denial of a possibility of authentic existence for an individual. Parenting rights and support for social roles of same-sex parents are part of what concerns *Dasein*, who is always seeking to break away from concealments and disguises which bar its way to authenticity. The struggle to achieve these rights is part of the process of moving same-sex relationships into the clearing to see the reality of those relationships and their possibility of allowing *Dasein* authenticity. We shall see later in this chapter how when striving to achieve this possibility of parenthood, same-sex couples make choices in the face of the lack of formal and legal recognition of their families. They make choices which allow them live their parenting possibility as authentically as they can, in a situation where there are legal and social barriers of normativity in their way.

7.4. Experience of Civil Partnership for Those without Children: Ensuring the Best Interests of the Child

Fechín and Clancy are two women in their late 40's and early 50's who had been together 18 years when they had their Civil Partnership. They have no children and no intention of having any, but Clancy summarises her understanding of what Civil Partnership would mean to them if they did have children:

[... It ...] doesn't stop us from really caring about the fact that if we did have a child, you know, and say it was my child, and we lived together for ten years and I died, the child has no legal relationship to Fechín [...] What does that say?

Clancy draws our attention to their concern (*Besorgen*) about children. She draws our attention to the lack of provision of parental rights for non-biological parents in the Civil Partnership Act (2010). She understands that despite living together for ten years co-parenting a child, being Civil Partnered does not provide the surviving partner with

parental rights to that child on the death of the biological mother. Clancy focuses on the fact that such a child would have ‘no legal relationship’ to Fechín her partner and the proposed child’s second parent. In asking the question, ‘What does that say?’ Clancy is suggesting that the legal gap is making a comment on their situation and is saying something critical about their relationship and the lack of the possibility of their being recognized as family.

Clancy sees gaps when she considers issues related to parenting in the Civil Partnership Act (2010). In effect, it means that children in non-married families are not afforded the protections available to children in married families. This affects same-sex headed families and unmarried heterosexual headed families, but the latter do have the possibility to access Constitutional protections by entering marriage, and the former do not. Children in married families are protected as a result of the Constitutional recognition that exists for their parents’ relationship status of marriage. The children of couples in Civil Partnership have no such protection, despite the relationship recognition delivered to their parents through Civil Partnership. ‘There is a lack of consistency’ Clancy says, about how children’s rights are protected by the State in Ireland. This appears to be true.

Brenna (52) and Casey (37) are two women without children who were together for 20 years when they entered a Civil Partnership. Like Fechín and Clancy, these two women have no intention to have children, but they are concerned by the lack of parenting recognition for same-sex headed families in the Civil Partnership legislation. ‘[...] if the biological parent dies the other parent has no rights at all. [...] and it is shocking [...]’, Brenna says. She exhibits her concern (*Sorge*) at this situation (Heidegger 1962).

The Ombudsman for Children made comments expressing similar concerns as those expressed by these couples. Her comments were made when the Civil Partnership bill

was passing through the *Oireachtas* (Irish Parliament). (Ombudsman for Children, 2010, p.31) said:

It is clear therefore that the best interests of the children of civil partners were not a primary consideration in drafting the provisions of the Civil Partnership Bill that related to them. It is concerning that such an approach, so out of step with the principle set out in Article 3 of the UN Convention on the Rights of the Child [*best interests of the child*] could underpin our law making process.

The Ombudsman, in highlighting the failure of the Civil Partnership Act to make provision for children, using the principle of ‘best interests of the child’ indicates that State policy regarding children is not consistent and not always done according to the best practice.

Siofra and Sinéad are two women in their early 40s. They have no plans to have children but they recognise and are concerned with the treatment of children of same-sex couples in Civil Partnership:

If we had children it would be different and this is, I think, the big worry that the children are just left on the side like, and that is a disgrace (Sinéad).

She reflects on the gaps in Civil Partnership which leave children ‘on the side’. Children and their concerns were not considered central in the formulation of the legislation. This for Sinéad is ‘a big worry’ and she uses the term ‘disgrace’. This echoes concerns and worries noted amongst same-sex parents whose families are not recognised and who worry about not counting as family (Hicks 2005). In an Irish context, Elliot (2010) also draws attention to the worries and concerns of children in same-sex headed families, whose exclusion from Civil Partnership legislation causes them great concern. This issue reappears as a theme when we see the interviews with those parenting and those planning parenthood. Badgett (2009) suggests that same-sex relationship recognition can usually reduce minority stress that is felt by subjugated minorities, such as LGBT people. Yet we see amongst Irish couples interviewed

following their Civil Partnership experience that the absence of equal family recognition rights remains a significant concern for lesbian and gay couples.

Sinead goes on to explain how their personal circumstances, of not wanting children at their age, had influenced their agreement to enter Civil Partnership. She is not so sure they would have entered Civil Partnership with its parenting rights gaps ten years ago:

I suppose the easiest way to answer that is we are not having a family [...] but if it was 10 years ago [...] it probably would concern me [...] because if I'd met Siofra 10 years ago we definitely would have been doing something in that direction.[...] it's terrible, it's really terrible. (Sinéad)

Moving from her own concerns at the lack of parenting rights, she looks from the perspective of this lack of rights from the children's point of view. She adds:

The children are in limbo [...] I still feel that by [...] us accepting to become Civil Partners [...] it is kind of a little bit like selling out [...] (Sinead).

Describing the children of same-sex couples as being 'in limbo' depicts how those children are left in a situation where they, on the one hand, have recognition of their biological parent and on the other, have no recognition of their non-biological one. Sinéad feels sympathy for the children. She understands that she and Siofra have accepted entry into a legal construct which effectively leaves children of other Civil Partners, who have children 'in limbo.' Her use of this biblical phrase, to describe children left neither in hell nor heaven, captures clearly her understanding of the experience for both the children and the parents. The parents have legal rights to each other, but one parent is left with no rights to their non-biological children, while the children are left with rights to their biological parent only. Her own feelings on the tension this presents for those entering Civil Partnership is that it is 'a little bit like selling out'. By this she expresses an understanding that by having a Civil Partnership in the knowledge of the parenting rights gaps it can feel like settling for less than she knows is required.

Sinead and Siofra's concern at the plight of other parenting lesbian and gay couples is evidence of solidarity between lesbian and gay couples who are parenting and those who are not. Such solidarity is part of a significant source of support described by parenting couples and those planning parenting (Pillinger and Fagan 2013).

There is diversity within the LGBT community and this diversity is reflected amongst the couples participating in this research. Conrí and Faolán are two men in their mid 30s. They have no children but they acknowledge that for those who do, Civil Partnership has gaps which are problematic:

I know for some people there are issues if there are children involved but in our case clearly there aren't. We don't have kids and we are not going to have any kids so that isn't going to be an issue. (Conrí)

Accepting Civil Partnership as suitable to their needs, Conrí acknowledges the fact that they do not have nor do they plan to have children. He is clear that this is a key factor in the suitability and acceptability of Civil Partnership for them as a couple, but he sees the issues at stake for those with or planning for children are problematic.

Brocc (65) and Ailchá (62) are two men who were together thirty-two years when they entered their Civil Partnership. Reflecting further diversity in the community and the research sample, the experiences of older people in the LGBT community is much under researched in Ireland. Their invisibility in health and care research is highlighted generally (Bayliss 2000; Hughes 2009). A more recent study presents some of the key issues for older LGBT people (55+) including relationship profiles of participants (Higgins *et al.*, 2011). Almost half of those older LGBT people surveyed were single, compared to 15% of the entire over 55 population in Ireland (Higgins *et.al.* 2011, p.46).

Brocc recalls how the idea of being a gay man and a parent was inconceivable for them in their younger days, living in a time when homosexuality was criminalised:

I mean there are things in the gay world that weren't there in our time now. Like even having children, surrogacies, all that was just so unheard of in my life experience (Brocc).

Brocc speaks about things in their 'gay world' of today, that were 'unheard of' in their early lives as gay men in Ireland over three decades ago. He depicts the presumed heteronormativity of parenting in those days. He reflects on the fact that assisted human reproduction technology services like surrogacy were not available for gay men or lesbian women to become parents in Ireland 20 or 30 years ago. They did not have this possibility of being parents. They lived in a world in which they found themselves 'thrown' – a world where not all possibilities were open or available to them .

However, Brocc and Ailchá understand the enormity of the gaps in Civil Partnership for those with children: 'I quite understand other people who want to wait' for marriage, Brocc says, explaining his understanding that some lesbian and gay couples with children want to wait for access to Civil Marriage, so their children and families can be fully and equally recognised. Ailchá adds that he too can understand why some younger couples are waiting for and demanding Civil Marriage:

[...] to recognise their children. We looked a little bit at that, it was always too late, we looked at fostering and I think by the time we did [...] it was too late.'

The possibility of becoming parents, for these two gay men came 'too late'. For them decriminalisation of homosexuality came in the 1990's and relationship recognition followed in 2010, but this was too late for them to have the possibility of being parents. By the time gay men were allowed foster children, they were too old to apply, it 'came too late' for them. This is a poignant part in the interview; both men acknowledge that their path to parenthood has been blocked by time and circumstances. They acknowledge times have changed and that for younger LGBT people there are more choices. Their possibility to be parents was over and their concern now is for each other.

The stories of older LGBT people need to be told and Brocc and Ailcha's story is a significant one, reflecting the views of older LGBT people in Ireland, as they exist in a world that's not easily able to hear them' (Higgins *et al.* 2011). They understand the significance of parenting rights for other same-sex couples and the importance of the absence of those rights for couples with children. Again, here we see the solidarity within the community being expressed towards those with children, by those without.

Lesbian couple Marcas (57) and Malinn (62) have no children but they see themselves as a family. Other married couples without children are also seen as family in Ireland. Marcas and Malinn understand that legally, Constitutionally, they are not seen as 'family' by the Irish State, only the married family has that position. But Marcas counters:

We came together [...] we are actually a family and have created a home together and all that that means [...] we live and work [...] together [...] this is true of our family as it is for single parents or other family types that aren't recognised and protected. It's not just the protection [...] it's the recognition, it is the naming [...] to have taken whatever little bit of language of family we might have had to do with our home away from us in that Civil Partnership Act [...] it's like taking, robbing, denying. (Marcas)

We saw parts of this excerpt in Chapter 6 when we examined how Civil Partnership was not equality for this couple. Here, Marcas insists that she and Malinn are family. 'We came together' she says describing their marriage in Canada. 'We are actually a family' she says, naming them and their relationship as 'family'. She describes how they 'live and work' together as a family. Her description reminds us of how family is seen as something we do rather than something that is (Butler 1990). The practices that make up the care and love of family are what defines family, not the form, structure, gender or sexual orientation of the parents (Tasker and Bigner 2007; Tasker 2007, 2013; Bos *et al.* 2005; Bos 2005; Stacey and Biblarz 2001). Marcas compares the reality of their family experience as akin to other families such as lone parents or other non-Constitutionally recognised and protected families in Ireland She

emphasises that ‘It’s the recognition’ and the ‘naming’ of them as family that has been denied them in Civil Partnership, this is what matters to her.

The lack of family recognition rights for this couple are not linked to parenting and children’s rights for the couple themselves, but to the wider exclusion they feel from not being defined as family, because only opposite sex couples can marry and be considered, Constitutionally, as family in Ireland. She refers to the fact that in the Civil Partnership Act (2010) the home of Civil Partners is called ‘a shared home’ and not a ‘family’ home which is the title given to the designated home of a married family, recognised and protected in the Constitution. The Civil Partnership Act (2010) has in her view, deprived this couple of their right to call themselves and be defined as a family ‘it’s like taking, robbing, denying’ she says.

None of the above couples have children, but each of them views the gaps in provision of parenting recognition and parenting rights for same-sex headed families in Civil Partnership as problematic. Just how problematic we shall see in the following two sections. Firstly, we examine how same-sex couples planning parenthood are prevented from full participation in society by the denial of their rights to enter parenting pathways by the State. Secondly, we examine the lived reality of same-sex couples in Civil Partnerships who are parenting.

7.5. Experience of Civil Partnership for Couples Planning Parenthood: Broken Paths to Parenthood

Many of the couples we met in section 7.4. expressed a view that they were not planning to have children, yet the absence of family rights in the Civil Partnership Act (2010) was of concern to them. Now we turn to examine the issues arising for gay couples who are planning parenthood and the impact of Civil Partnership on their family plans. One of the gay male couples was planning parenthood and we examine their story here.

Áinle and Cólín's story of their broken path to parenthood was referred to in Chapter 6, when we looked at their views on whether Civil Partnership represented equality or not (see section 6.4). Their story reflects many of the issues highlighted in other LGBT parenting experiences in Ireland (Pillinger and Fagan 2013). These stories include those of ineligibility to adopt; unavailability of information and services for planned parenthood for LGBT people; and a lack of a legal framework for LGBT family recognition. The findings are similar to international studies on LGBT parenting conducted in the UK (Tasker and Golombok 1997); in Australia (Short 2007); and in the USA (Johnson and O'Connor 2002).

Having had their Civil Partnership in 2007 in Belfast (Northern Ireland), by 2008, Áinle and Cólín were discussing the possibility of having children, '[...] 2008, we first had the conversation about yes we want to have kids', Coilín says. As two gay men, the issue of how to go about having children requires planning and access to services and information. Full adoptive rights for approved gay couples was available in the UK prior to the introduction of Civil Partnership legislation there in 2004. This suited Áinle and Cólín while they lived in the UK for a period, following their Civil Partnership. They entered the adoption process there and made progress within it:

[...] after about two and a half years we were quite eager to move home because we are quite family oriented and have lots of friends and family back home (Coilín).

They realised they wanted to return home to Ireland to be closer to family and friends, and, it was then they discovered that by moving back to Ireland they could not continue on the parenthood-through-adoption journey. 'I realised that no you might not be able to, because the State stopped us', Áinle says of his thwarted parenting plans. In returning to Ireland to secure a network of family and friends to support their parenthood planning, they found they were ineligible for consideration as a gay adoptive couple. It is legal in Ireland for a single gay person to apply to be considered as an adoptive parent since 1952. They were a legally recognised couple in the

UK/Northern Ireland but could not apply to adopt as a couple in Ireland. The Irish State prevented this couple from starting a family through adoption and this made them feel:

Like a second class citizen. Like unworthy [...] it was so frustrating and it is frustrating (Áinle).

The use of the word 'unworthy' displays Áinle's understanding of what their ineligibility to apply to adopt means. Their plans for parenthood were frustrated. The ban remains in place in Ireland in 2014, though legislation is promised to change this (Children and Family Relationships Bill 2014). For this couple, the block to their path to parenting was a key downside to their Civil Partnership experience. Though legally recognised as a couple since January 2011 in Ireland, they cannot get access to the process which could allow them adopt a child:

[...We...] are legally recognised as a couple [...] a couple they are not going to give a child to in Ireland. (Áinle)

They describe the difficulty they had in getting information on what they needed to do to seek to enter the Irish adoption process:

It was hard to find out the information at first [...] I have been in contact with (*woman's name*) trying to get other people's experiences and stuff. But ultimately the adoption process is such a kind of harrowing thing [...] to go through that, I wouldn't want to be going through it when in the back of my head [... I knew ...] they were going to turn us down (Áinle).

Áinle describes their difficulty in getting information from other gay people about their experiences of adoption. They did learn that, as a process, the adoption route is 'harrowing'. They had concerns about it especially as they realised that as a non-married couple they were going to be turned down. They discovered that as they were not single (being Civil Partnered) they were not eligible as a couple to apply to enter the adoption process in Ireland. One solution to this problem would have been to

pretend one of them was single and thus attempt to gain access to the adoption process as a single person. Áinle's view on this is clear:

We wouldn't have done it because it just wouldn't have been right in principle. To have to deny us [...] yes we could have a child perhaps at the end, if you play their game and we'd have what we want, but it's not right [...].

They would have to have denied they were a couple in a UK Civil Partnership and in this way, conform to the rules of the adoption agency process. They wanted a child together. For him, it is not just about having a child. It is about family recognition. Having their family unit recognised, is what the men want. Like Malinn and Marcus above, they too want family recognition. Their desire in this regard is reflected in the views of other same-sex couples who seek relationship and family recognition rights (Badgett 2009). Áinle and Cólín are living in a 'thrown' world (Heidegger 1962), making decisions on how to live their lives. They cannot deny their relationship status, as to do so would lead to inauthentic being for them. The possibility of becoming parents is blocked for these men by regulations and laws formulated in a heteronormative society.

Neither their UK Civil Partnership, nor their subsequent recognition as Civil Partners in Ireland, allows this couple to fulfil their plans for parenthood. They are not alone in their experiences in Ireland (Pillinger and Fagan, 2013). They had to take the legal lack of parenting rights and lack of paths to parenting for LGBT couples into account when they were planning their family. The result was they could not proceed along their chosen path of parenthood by adoption:

When we thought about raising a family, we do you know, like anybody else does. You are thinking about when the bad stuff happens. And let's say, God forbid and something happened to me, then what happens the child if Cólín is not legally tied to it [...] what happens the child then? And ultimately you know we couldn't do that to a child (Áinle).

Áinle's description of how they thought about raising a family places parenthood, in Heideggerian terms, into 'a clearing' for examination and understanding of its

meaning for *Dasein*. The experience of a blocked path to parenthood reflects a disruption of everyday possibilities of parenting. In considering their otherness on the matter of parenting, as *Dasein* they become ‘concerned with, in accordance with what becomes visible through this process’ (Heidegger 1962, p.189). Áinle and Cóilín’s concerns reflect those of couples in Section 7.4., couples who had no children and no plans to have children. All of the couples interviewed share their concern at the lack of legal recognition for same-sex families in Ireland, showing evidence of the solidarity within the community for other members in diverse situations and an understanding that parenting blocks have meaning and significance for same-sex couples. Short (2007) reminds us that discriminatory parentage laws and lack of access to parenting pathways for same-sex couples, marks ‘out same-sex parented families as less acceptable or desirable than other families, or even, as not families at all’ (p.5).

Adoption is not possible for Áinle and Cóilín as offered by the Irish State. Their difference is experienced in the way they are treated in the law on adoption. Áinle asks of the adoption process that it:

[...] Turn us down if you feel something is wrong with us [...] but don’t tell us that being gay is the reason.

Áinle reasons that they be allowed enter the adoption process and be judged as suitable parents and then turned down if they do not meet the requirements or if something is ‘wrong with us’. He rejects the State’s right to refuse them entry to apply to adopt because they are a gay couple. Heterosexual married couples can apply, be assessed and accepted or rejected. It is this equal treatment which Áinle calls for here. He wants the right to be assessed as potential adoptive parents on the basis of their ability to parent, not be banned from assessment just because of their sexual identity. They are suffering from the effects of heteronormativity. One of the myriad ways in which it is encountered and ‘shapes people’s lives and emotions’ is in these differential parenting paths (Short and Riggs 2007 p.3).

The impact of the rejection was huge for this couple. Áinle says, ‘I couldn’t talk about it for a while,’ he was silenced by the experience. He was silenced by the block to his aspirations to parent, by the denial of a significant aspect of his identity. Cólín also describes how the experience affected him:

All in life all I wanted was to be a father. And being told no [...] it did me in for a bit [...] I did find it very hard to come to terms with [...] that this isn’t going to happen [...] But we still didn’t really talk about the kids issue [...].It was [...] too hard.

That ‘all I wanted was to be a father’ displays the strength of Cólín’s desire for fatherhood. It is a part of his expected identity. He was devastated by the ban. ‘It did me in for a bit’ he says, explaining how the ban affected him so that he found it ‘very hard to come to terms with’. He found it hard to grasp that being a father, a life wish for him, an everyday ambition for most men, was not now going to happen. The disappointment lingered for them as he admits they couldn’t ‘really talk about’ children – it was ‘too hard’. The denial of their parenting and family formation rights was a tough experience for this couple. It amounts to a denial of their possibility – a block to their ‘be-coming’ parents .

This couple, like the other non-normative couples ‘thrown’ into heteronormative society finds that they experience their difference in many ways – here they experience different treatment in laws regarding parenting and parenthood . LGBT parents experience their difference in their everyday world. Their identity, a minority identity, is not reflected in nor allowed for in the laws of the society in which they live. These laws, reflecting societal heteronormativity, are entities of *Dasein*’s worldhood (*weltlichkeit*) (Heidegger 1962, p.63). Laws are things invested with the values of the dominant, the normative. Lesbians and gays experience the impact of these laws in the ‘thrown’ world in which they find themselves, as *Dasein* dwells together with other *Dasein*, in the social world.

Dasein can choose how to be, even in the thrown world s/he inhabits (Heidegger 1962). We see this couple's choice of how to be on encountering their parenting path blocked. Their path to adoption was blocked and their Civil Partnership recognition did not offer them parental rights. The couple began to get involved in the Marriage Equality campaign supporting its demand that the rights of LGBT people to have their family rights vindicated through provision of equal marriage rights for same-sex couples. C  il  n tells us '[...] and then we got involved with the Marriage Equality campaign'. Their personal troubles had been a spur to political activism on LGBT relationship and parenting rights in Ireland. What was personal for them, became political. They began to see the possibility of their gaining marriage rights as a portal to gaining parenting rights. They too began to pursue marriage as an act of 'political testimony' (Heath 2013, p.286). They chose to project themselves upon a mode of existence through which their individuality attempted to find proper expression – through which they tried to be-come, trying to find a possibility of being, contrary to the given one laid down in law on parenting. In trying to alter or choosing a way of 'putting to rights' and improving this situation, they got involved in deconstructing the given, rejecting the '*das man*' dominant heteronormative conception of parenting reflected in the law and began to concern themselves with what became visible to them through this process. They used their understanding of their awareness of their otherness to 'project themselves' in their authenticity (Heidegger 1962).

These men, in Heideggerian terms, as *Dasein*, found themselves thrown-into-the world (Heidegger 1962, p.167). The world of heteronormative perceptions and practices, reflected in culture such as laws on family and parenting rights. But they find their authenticity, moving towards their own possibility of being by action, taking action which projects (*entwurf*) them towards what they want to be (Heidegger 1962, p.285). Their desire to be parents, to fully embrace their human capacity for love, requires action to overcome the '*das man*' views and laws which exclude and

highlight their otherness. They follow paths which they have to make efforts to find, they unearth the barriers which prevent them becoming parents and through this and their commitment to political action, they find their authentic selves, making the possibility of parenthood happen for them, despite prevailing '*das man*' heteronormative societal views (Heidegger 1962).

The couple, Áinle and Cólín, were accepted as foster parents. At the time of the interview they were awaiting a placement of a child with them. They were the first gay couple in their region to be accepted, after an eleven month process, by statutory fostering services. It took a lot for them to get over their disappointment regarding adoption and to go for fostering. Cólín explains:

We really had to switch something in our heads. We have space in our lives, we have room in our house and do you know, love to give [...].

Having 'space in their lives' depicts Cólín's view that they had an ambition, a part of their identity to be parents about which they were sure. They went about finding a way to fill this space by pursuing fostering. Cólín describes their decision to find a new path to parenting via fostering as 'switching something in our heads'. They took action, projecting themselves in action. They focused on the fact that they have 'love to give' to a child. In pursuing the path to fostering, 'We are allowed to look after them but not allowed to keep them' Áinle says, of the children who will be placed in their care. Here, he explains the legal difference between fostering and adoption. Many of the regional authorities who manage fostering services in Ireland assess gay couples and willingly allow gay parents to foster children. The Irish State does not allow lesbian and gay couples to adopt children, as a couple, even when one of the parents is the biological parent of the child involved.

Áinle says, 'At least we can say we tried it' speaking of how they tried the fostering route having failed to be eligible for the adoption route. Because they are a gay couple, even if they fostered a child for 10 years they could not, under current law,

adopt him/her. Only married heterosexual couples may adopt. They wish the Sstate would justify such rules: ‘At the minute there is no justice, it is cruel, it is pure cruel’ says C  il  n expressing his feelings on the current laws.

In   inle’s view ‘It’s not in the best interests of the child’. As the Ombudsman for Children (2010) reminded us earlier, the best interests of the child should be asserted in all instances of care decisions regarding a child. Such decisions should include those relating to long-term foster care situations becoming secure and final in adoption where possible, for children in the care of same-sex couples.

There is no long-term family security for this couple in fostering. Their experiences highlight the discrimination experienced by gay couples in Civil Partnerships who have had their adult relationships recognised by the State, but their parenting aspirations are denied and their family remains legally unrecognised, both parents and children without family security. The absence of clear inclusive pathways for same-sex parents is both compounded by and unchallenged by the Civil Partnership Act (2010) with its omission of overt parenting rights and family rights for same-sex couples.

The following section explores the experience of Civil Partnership for couples who are parenting and discusses these experiences as further indications of the significance of the lack of family recognition and lack of parenting rights for same-sex couples in Civil Partnerships.

7.6. Experience of Civil Partnership for Those with Children: A Rocky Road for Same-Sex Headed Families

In this section we examine the experiences of two couples who took different routes to parenthood. Firstly, Uinsean and Ailill are a gay couple married in Spain (Uinsean is Spanish) with a daughter born to them by surrogacy in California. The couple’s Spanish marriage is recognised as a Civil Partnership in Ireland. Secondly, we will examine the experiences of Cathair and Oncha, a lesbian couple whose Canadian marriage is

recognised as a Civil Partnership in Ireland. The couple have two children using known donor sperm and Assisted Human Reproduction (AHR).

7.6.1. Surrogacy Pathway Issues: Lack of Recognition, Information and Support

Though married in Spain, Uinsean and Ailill are recognised as Civil Partners in Ireland. In Spain, their marital status gives them full equal family rights, in Ireland the case is very different. The men decided to have a child using a Californian surrogacy agency. They have a daughter who was 15 months old at the time of the interview. The differences in family and parenting status for this couple in Ireland and Spain are significant:

Well, in Spanish law we are both the legal guardians of (*child's name*). But here I don't know [...] (Uinsean).

Even 15 months after the birth of their daughter, who has lived with them in Ireland during this time, the men are unsure of their legal rights and recognition of them as parents to her in Ireland. 'The birth cert says that we are both the parents', Uinsean explains. The two men are the parents of the child, as in many surrogacy regimes the commissioning parents have their names put on the birth certificate, not the birth mother. Information about her birth mother is sealed away for the child for when she is older, as agreed with the surrogacy agency.

Ailill and Uinsean had spoken about and planned starting a family prior to getting married in Spain. It was a factor in their deciding to go to Spain:

I just felt that if you were going to do it, do it right and in Spain, we were going to be getting married [...] Uinsean said Spain was recognising gay men as parents [...] that kick started us and then we started looking into it [...] So I said let's just do it in Spain. (Ailill)

The couple knew that the relationship recognition option in Spain was full marriage and also at that time Spain was beginning to award equal parenting rights to same and opposite sex couples. This knowledge 'kick started' the couple to examine how they might start planning a family.

They see Civil Partnership in Ireland as a move towards equality, a stepping stone, '[...] the skies don't fall in', Ailill says describing the incremental approach taken by Government on same-sex relationship recognition. In his view, for the Irish Government in 2010, Civil Partnership was he says 'all they could give'.

Describing their parenting journey, Uinsean tells us:

So we just contacted [...] a few agencies, had interviews with them and then decided for a woman. [...we...] found an egg donor, a surrogate mother and that was it [...] it went pretty smoothly.

The process in California was straightforward for the two men. They chose an agency which sourced an egg donor and a suitable surrogate mother. It 'went pretty smoothly' Uinsean tells us. Here, Uinsean describes an experience which is without surprises or incident for them. Speaking of their desire to have children, Uinsean says, 'Well I always wanted to have children' while for Ailill it was more complicated. Ailill describes his thoughts on the possibility of being a father, when he first came out as a gay man in Ireland:

When I came out as gay it was a non-possibility and that was it, move on! You know, don't be thinking about [...it...] but it took a while [...] to get my head around it. You close that door you know and I didn't want it to be opened, to be closed back again.

Ailill describes his earlier reluctance to consider the possibility of parenthood for himself. when he came out two decades previously in Ireland. He felt that he had to accept and 'move on' from this 'non-possibility'. He uses the image of a door closing, a door closed on him and within him years ago and he expresses his reluctance at first to re-open it. This closing of a door to parenthood reminds us of the importance of openness for Heidegger and his interest in discovering what is 'behind a door' (Heidegger 1962, p.137). For Heidegger it is being open and bringing what is behind the door into the open (*das offnende offene*) that reveals *Dasein* or human beings to themselves and to one another (Heidegger 1962, p.137). A discovery of what lies behind such doors or may be hidden in the regions of our past, allows us to discover what is of concern to *Dasein*. His experience shows us that deciding to embark on the path to parenthood is not a simple or a

straightforward decision, even when possibilities for parenting became available over time. Following the decision to enter the surrogacy process, after their marriage in Spain, the couple travelled to the USA five times during the pregnancy to visit the surrogate mother, and they were present at the birth. The baby was handed to the men seconds after she was born and within days they left the hospital with their new daughter and their names on her birth certificate. The baby travelled on an American passport and came to Ireland where she is the child of a Spanish-Irish, legally married couple, who subsequently applied for a Spanish passport/EU passport on which she now travels.

The couple are designated Civil Partners in Ireland. Their lack of status as family is problematic. They describe some of their everyday lived experiences which show us the impact of the lack of family rights for them in Ireland. They were worried about getting into Ireland from the USA with their daughter at the Dublin airport immigration:

[...] they asked a lot of questions, this and that, and we told them straight off [...] he just asked can I see the birth cert [...] we were through in five minutes' (Ailill).

Finally, they used Uinsean's Spanish nationality and their Spanish marriage to get an EU passport for their daughter.

Their everyday experiences of parenting is another space in which they discover, again and again, their otherness (see detailed discussed below in section 7.7). Family recognition issues loom large for these two men. A barrier or concern for them, both as prospective and actual same-sex parents, was and is, the lack of legal advice available to them regarding their legal situation in Ireland:

The things that solicitors here don't know [...] there's no experts really here (Uinsean).

He speaks about the lack of legal information available to them regarding their family situation in Ireland. This lack of information and legal advice adds to their concerns and does not support prospective same-sex headed families in their family formation choices.

This issue reflects Áinle and Cóilín's situation discussed above when we examined their difficulties in planning parenthood as a same-sex couple.

7.6.2. Assisted Human Reproduction (AHR) Pathway Issues: Lack of Recognition

Oncha and Cathair are two lesbian women in their mid 40s who live in Dublin with their two children aged 6 and 3 years at the time of interview. Cathair is the non-biological mother and she and Oncha are together 11 years and were married in Canada in 2004 prior to Civil Partnership recognition for their marriage in Ireland in 2011. Their decision to marry was prompted by plans they were making regarding starting a family:

We were already thinking about a family as well though. [...] So there was that sense of that commitment that you had faith in each other (Cathair).

For Cathair 'thinking about a family' was part of their life planning and a consideration influencing their decision to marry. In attempting to follow their desire to be married, they had to go abroad to fulfil this desire. Their experience of exclusion is discussed in detail in Chapters 5 and 6 when we examined the importance of relationship recognition for same-sex couples (see 5.4 and 6.3). Following the birth of their children, using AHR and known donors, the women began to experience same-sex headed family parenting issues. Cathair and Oncha describe the day to day realities of how they live as a same-sex headed family with two children, without State recognition of them as parents:

[...] legally, financially we are taken care of. I'll get Cathair's share of her pension if she drops off and all that kind of stuff [...] but for those [...] who have kids or want to have kids [...] the law is not going to recognise the right of those kids [...] (Oncha).

With the advent of Civil Partnership, they have some recognition as a couple. But their difference is clearly marked in their lack of equal parenting rights. Oncha sees Civil Partnership as providing legal and financial security to them as an adult couple. She will achieve financial continuity in their relationship and she acknowledges the importance of

financial and legal benefits which Civil Partnership brings to same-sex couples. Having it, was, ‘really, really important’ she says. However, the fact that Civil Partnership does not provide recognition for children in same-sex headed families is a major concern to them. The experiences of Cathair and Oncha are similar to those of Ailill and Uinsean, despite taking different pathways to parenting. They too find themselves in a void of non-recognition where the role and status of one of the same-sex parents is ‘equivalent to non-recognition of the reality of a child’s family structure’ (Short 2007, p.10).

The following section outlines some of these day to day experiences of living in that void for same-sex parents in Civil Partnerships. The day to day experiences of parenting for same-sex couples and their families remind them daily of their difference. Parenting for them is subject to the normative rules laid down by society – these rule are both gendered and heteronormative and reflect back to them their difference and otherness impacting on their everyday lived lives being-in-the-world as parents.

7.7. Day-to-Day Parenting Experiences for Same-Sex Couples in Civil Partnerships: The Dominance of Heteronormativity and Gender Binaries

As parents, Uinsean and Ailill, Cathair and Oncha are constantly coming out and in doing so are contributing to a normalising of non-normative parenting in Ireland. This coming out feature of same-sex Civil Partnership relationships is discussed in Chapter 5. Being male parents and parenting a young daughter, as two gay men, has meant that Ailill and Uinsean are continuously coming out through their parenting status and the visibility of their non-normative parenting situation as two men, without a woman, rearing a child. The ‘where is the mother?’ question which is often asked of them is discussed below. Their situation exemplifies both heterosexist (gender normative practices) and heteronormative (heterosexual as norm) practices which operate around parenting in society (Walby 1990, Calhoun 2000, Harding 2011). The men describe how heteronormative society does not hear or see anything but heteronormative parenting.

Below they outline some of their experiences and how they cope with the effects of living in a society with dominant heteronormative views of parenting. According to such views parents are opposite sex couples and heterosexual. As men parenting Ailill and Uinsean's fatherhood status is relegated to by society and buried under gendered assumptions about motherhood and fatherhood, which leads to stigmatization for gay fathers (Rootes 2013, Herek 1990, Herek and Garnet 2007). They live under heterosexist gender role strain (Schacher 2002) which affects in particular gay men who become fathers via surrogacy (Mallon 2004). Yet they seem to cope by devising strategies to overcome the attitudes and legal gaps they experience as two gay men parenting. Ailill describes their experiences as gay fathers whose difference is reflected back to them daily:

We haven't had any real problems [...] We know we get "Where's the mother?" and you go "there's no mother" and they don't hear it you know? We had that at the doctor's, at the ER, twice. They don't hear, they have it in their mind [...] when people straight away ask who is the biological father we don't get upset, some gay couples do [...] I am not here to fight or [...] battle all the time, if you did you'd be just in constant conflict, you could be taking offence all the time you know? [...] We could end up in these mini fights the whole time, it is just not worth it [...].

While Ailill explains that they have not had had any 'real problems' in their day to day parenting life, he goes on to describe a number of everyday situations where their difference as gay men parenting is reflected back to them. This reminds us of Ailill's experience of being a gay father in his youth as one of being a 'non-possibility'. Heteronormative parenting is what people 'have in their mind' he says. It is the dominant discourse on parenting and it makes same-sex parenting invisible. The couple's strategy to cope with these situations is not to fight with or enter into battle on the issue each time it happens. This discomfort is a common experience of rainbow families who come up against heteronormative logics (Hanssen, 2012). Many same-

sex headed families devise strategies to conceal or challenge such logic. Uinsean's strategy is to ignore what others might take as an offence:

You can't get offended when it is not meant to offend. You have to accept that it is normal, that you are the exception. So I take no offence whatsoever.

In deciding not to take offence, Uinsean highlights the choice they make as a couple. He chooses to make the assumption that the offence is not meant. He sees that as the non-normative parents, they must accept their exceptional status. Uinsean's remarks remind us of the efforts which those who are not 'normal' must go to, in order to live their everyday lives. They are not demands made on the normative. Warner's (1999) criticism of attempting to live according to societal rules of normality – including hetero-normality – means that for these gay men who are parenting in a non-normative fashion, their decision not to take offence is a strategy for living their everyday lives being-in-the-world as parents. As questions are asked regarding the absence of a mother or the presence of two men fathering, the men are not constantly fighting or arguing for recognition of their reality. But they are called on to explain their family. They experience discrimination and stigmatisation because they are not 'normal'. Such questions and comments mean that their otherness as parents is constantly being reflected back to them by the heteronormative society in which they live. The non-normative nature of their family is an equality issue on the grounds of sexual orientation, but it is also a gender issue. These men, in parenting without a woman are, like women parenting without a male partner, are challenging the 'boundaries of parenthood' (Ryan-Flood 2009). They are 'inhabiting parenting norms' differently (Ryan-Flood 2009, p.3). When parenting norms are challenged by lesbian and gay parents, in a predominantly heteronormative and gendered society, the impact on the daily lives of such families is remarkable. Heidegger (1962) speaks of the taken-for-granted nature of daily lived realities – for these lesbian and gay parents the everyday taken-for-granted way of being parents is disrupted for them. They have reflected back

to them their difference. They cannot experience the taken-for-granted life experienced by *Dasein* who are part of the heteronormative and gendered normative order laid down by the ‘they’ (Heidegger 1962).

Our second parenting couple Oncha and Cathair share their day-to-day lived realities as a same-sex headed lesbian family with two children. They also relate stories of their GP (doctor) and ER (hospital emergency) experiences. They speak of childcare and schooling issues, and in doing so, show us, like Uinseann and Ailill, the dominant heteronormative and gendered concept of parenting that prevails in society. They show us how these families, in ‘doing’ family differently, are challenging such heterosexist and gendered hegemonies (Weston 1991). Whether they challenge, just by their visibility, or decide to ignore the normative, in negotiating their every-day lives they are bringing greater visibility to and normalising the non-normative parent and family. Oncha and Cathair’s lives are about negotiating marginal mainstream identities (as lesbian mothers) while living a most revered mainstream identity of motherhood (Hequembourg and Farrell 1999). These parents, lesbian and gay, are living unscripted parenting lives as they negotiate ‘incompletely institutionalised’ family relationships (Hequembourg 2004, p.739).

Cathair tells the story of how she and Oncha and their children have a very supportive GP. Finding supportive medical and legal professionals is a strategy for overcoming stigma and discrimination by lesbian mothers and gay fathers (Hequembourg 2004). Strictly speaking, Oncha, as the biological mother, is the mother and legal guardian of their two children. Cathair, as the non-biological parent, has no legal rights to the children, nor do they to her. Issues arise for their family in medical scenarios:

Our GP [...] is a highly educated woman. I took the children a year ago, I had one of them over [...] for something, I can’t remember what. He was going to need something and I said “I’ll get Oncha to come over and approve that” and she said “What are you talking about?” and I said “You could be in trouble. I can’t legally give consent”. [...] She was terribly

shocked and her parting words were “If you ever need someone to say you are that child’s parent I’ll do it” (Cathair).

Cathair describes their GP as a ‘highly educated woman’ who did not know that legally Cathair has no legal guardianship rights to her children, including the right to give permission for medical treatment, as she is not the biological parent. The GP validates Oncha’s parenting status by offering to bear witness to the fact that she is ‘that child’s parent’ if ever they need her to do so. It is by the goodwill of this GP that they do not have to get the biological mother to sign and approve all medical treatment. This presence of goodwill by healthcare professionals is a common positive experience of LGBT parents (Pillinger and Fagan 2013). However, it is not a replacement for legal recognition. There is no legal entitlement for recognition of the non-biological mother to her children in Ireland. Oncha tells us that one result of this positive relationship with their GP is the fact that the couple are reluctant to call an out-of-hours doctor service. She explains why:

[...] even down to things like there is a certain reluctance on our part that if one of the kids are ill and you have to take them to the out of hours doctor, you’d never ring [...] because they start off by saying to you are you the child’s parent (Oncha).

The couple fear doing this ordinary everyday medical action, in case the question of legal guardianship arises and the biological mother may not be at home to give permission.

The fear and worry of the couple is palpable in the interview. They have developed strategies to try to ‘pass’ as a family. Maintaining a relationship with a sympathetic GP is one strategy they have devised. Like Uinsean and Ailill, the surrogate gay fathers, they too try to avoid direct challenge and conflict over the facts of their lack of legal status as a family and in particular the lack of legal rights for the non-biological parent. Pillinger and Fagan (2013) acknowledge such fears and concerns as common to LGBT parents in Ireland, similar to other jurisdictions (Short 2007).

Of concern to Ailill and Uinsean, the surrogate fathers, are their fears about the precarious legal nature of their family situation in Ireland. Without family status and recognition they feel vulnerable. They understand that if the Spanish father (Uinseann) was to die or something happens to him (perhaps a separation by them as a couple), the Irish one (Ailill) would not have the same rights in Ireland as a same-sex family does in Spain. Ailill explains:

We joke about that [...] as if something happened to him I'd be on the first plane to Spain [...] as an Irish person I have more rights over my daughter in Spain [...] if he went off to Spain with her I would still have rights, I would have more rights in Spain than here.

Ailill is concerned about their lack of family rights in Ireland. Their 'joke' that he would get a plane to Spain quickly if something happened to Uinseann is not really a joke. It is a sign of the worry the couple have at their lack of family rights. It is an indication of the lack of recognition as parents they have in Ireland. Ailill would flee to Spain if something happened between them, as he has more rights there as a parent, if a crisis arose for them. The use of humour by Ailill in this part of the interview is an example of humour relief. It is seen as a way to relieve tension on a serious matter by making a joke or making fun of it (Meyer 2000). Having to flee his home country to gain security for his family is not funny, but his use of humour indicates the unease and insecurity he feels about his lack of family recognition rights in Ireland.

Assisted Human Reproduction (AHR) is becoming more common in Ireland, with many heterosexual couples using it to have children. Surrogacy parenting is more unusual. Surrogacy, like AHR, remains unregulated. Ailill reflects that in particular, same-sex parenting by men is unusual:

It is not the usual. It is not normal [...] it is not the regular thing, especially it's not regular for gay men [...].

He calls same-sex parenting by men 'not the regular thing', referring to the heteronormativity of parenting generally and also the expected gendered nature of

parenting (Bergman *et al.* 2010). Women in society are seen to predominately play the mothering/parent role, even where lone parenting occurs, the vast majority are female. Ailill acknowledges that even amongst the gay community, lesbian women are more regularly seen as parents, while in society at large, it is women who predominantly are engaged in caring duties (Lynch *et al.* 2009). In their situation, as married men with a surrogate child, and family recognition in Spain, Ailill says:

[...] we have more rights than two lesbian women with children
[...in Ireland...] because one of them has no legal right, none
whatsoever, whereas we both have rights, in Spain.

Oncha and Cathair's situation exemplifies Ailill's point. The lived reality for lesbian and gay parents is often one of fear and hoping they are not challenged or that they are not prevented from exercising their parenting roles with their children, due to a lack of legal frameworks or of recognition of foreign rights in Ireland. The heteronormative and gendered view of parenting is reflected in the law (Civil Partnership, adoption rights, guardianship rights) and creates situations of exclusion for non-normative parents which causes concern and worry for their families (Elliot 2010, Pawelski *et al.* 2006). For the non-biological father, the non-Spanish partner, Ailill, the fears are palpable. The rights he enjoys in Ireland are those which arise from his Spanish marriage and the American birth certificate of his daughter on which his name is seen – neither of which have an acceptable regulatory framework in which they can be exercised or vindicated in Ireland. For Ailill, the situation is precarious:

I think I have rights, I think I have legal rights [...] I have a
sneaking suspicion that because in Spain we are the legal
guardians of (*name of daughter*) under that ruling they would
have to recognise me there.

Ailill's assertion of his rights, is more of an assertion than a certain statement of fact. 'I think I have rights' he repeats, showing his uncertainty on the matter. Surrogacy is not recognised or regulated in Ireland and neither is his Spanish marriage recognised in Ireland, except as a Civil Partnership, which excludes family recognition rights for

same-sex Civil Partnered couples. Uinsean describes their current situation in Ireland as ‘a legal limbo’. This reflects the use of the same term by Oncha and Cathair (see 7.4), who use it to describe their family situation, subsequent to the achievement of Civil Partnership recognition of their adult relationships.

Pillinger and Fagan’s (2013, p.87) study informs us of the legal rights and changes required to improve the lives of LGBT parents in Ireland:

The top ranking legal change that would have an impact on LGBT parents, identified in both the anonymous survey and the in-depth interviews, is civil marriage. This is followed by the rights of a child to have legal relationship with their parents/carers, and the right for civil partners to have guardianship and custody rights of their children’.

Despite the advent of Civil Partnership with its relationship recognition for same-sex couples, the lack of parenting and family rights for same-sex headed families, even those with a Civil Partnership status, is of major concern and requires urgent legal change. The impacts of the heteronormative and heterosexist legal and social views of parenting on the day to day lives of same-sex headed families are depicted in the following section.

7.8. Strategies for Coping as Non-Normative Parents in a Heteronormative Society

Oncha and Cathair have devised a strategy for managing the crèche their daughter attends. Cathair is accepted by the crèche for signing off on administering drugs and signing off on injuries if the child needs it. In the crèche ‘[e]verybody knows us’ Cathair says, explaining that ‘[...] the crèche will take my signature for administering Calpol, or signing off on injuries and stuff’. But this treatment by the crèche is not what they are entitled to in law. They do not have joint guardianship or equal legal rights to their children.

Oncha and Cathair did not tell the crèche immediately that they were lesbian parents. Like Uinseann and Ailill they strategically decide when to come out about their lesbian headed family identity:

I was kind of figuring out that in (crèche name) there probably weren't an awful lot of lesbian couples in the crèche or had been in the crèche. I didn't want to ... it wouldn't be my thing to be political in that way about it. It would be more let them get to know us, let them establish a relationship with us (Oncha).

Their strategy was one of establishing a relationship over time, rather than announcing their same-sex headed family on arrival at the crèche.

As women, who according to established norms are associated with parenting they can 'pass' as a normative family more easily. Lesbian mothers are both resisters and accommodators of gender norms (Lewin 1993; Hequembourg and Farrell 1999). They resist by being lesbian women, as this means they challenge heteronormative concepts of motherhood/family which lay down opposite-sex norms. As women with children, they also fulfil and seem to accommodate gendered norms by being mothers, as motherhood is a gendered prescribed role in society (Lewin 1993).

Another innovative strategy which Onchair and Cathair devised, to attempt to allow the family 'pass' in society, is that they have changed all of their names by deed poll. In this way, both the women and the children have the same double-barrelled surname. Cathair tells us:

We did that so (son's name) could have both our names [...] we changed our names by deed poll a month before he was born so that we could have both surnames on the birth cert (Cathair).

Cathair calls this 'flying under the radar'. She means that questions are asked less often of them because the children and both women-parents have the same surnames. Also, it means that the children's names on their birth certificates are the double-barrelled surname, that helps with passports and foreign travel too. Sexist and heteronormative parenting binaries shape the general notion of who makes up

parenting couples. In this instance, that helps this lesbian headed family to ‘pass’ as family. Here we see the women seeking a taken-for-granted experience – they want to ‘pass’ in their everyday lives with their children as parents. This particular strategy means that they are perhaps at times taken as sisters travelling on passports with children in the same family.

In jurisdictions where same-sex marriage is available their passports seem to indicate they are a married family. In an Irish context this particular strategy means they ‘pass’ by effectively pretending to be sisters – the same name presents this assumption of their identity. These women, in an effort to make their family day-to-day lives unproblematic for travel and identification have chosen a strategy which potentially downgrades their relationship or at a minimum hides its reality allowing them to operate ‘under the radar’. In effect it makes their lesbian family invisible. In trying to live a taken-for-granted life as parents, they have had to make choices of how they live that life. They have chosen to live in ways that are a response to their experience of parenting.

Ailill and Uinseann’s daughter is still young, so they have not yet had to face issues of child-care and schooling. Cathair and Oncha, as a same-sex headed family with older children have had to deal with the question of how to cope with their treatment by the local Catholic primary school with its Catholic ethos which promotes a heteronormative concept of family (see Chapter 3). Like Uinseann and Ailill, rather than make their situation overtly visible, they have tended to ‘just go with the flow’ Cathair says. She describes their approach of saying little and seeing what happens. They have not made demands on their childcare service or school regarding family diversity policy and practices. Oncha notes that the school:

[h]aven’t done any of the representing the different family forms on the pictorial, they haven’t done that kind of stuff at all (Oncha).

Being same-sex parents and wanting their family reflected in school policy and practice will mean coming out to the school even when the parents want to keep a low profile. However, Oncha and Cathair's experience in their local primary school has been mostly positive. Oncha tells us of her experience of speaking to her son's teacher about their family situation:

[...] I went off and talked to his teacher [...] I said to her I don't know if you know but (*son's name*) is from a family where [...] it's two women. And she said "yeah, I know that from your admissions form". And I said to her, [...] you know I don't know how comfortable you would be about talking about his family being different (Oncha).

In coming out to her son's teacher in this way, she discovers that the teacher already knows from the information provided by them on the child's admission form that they are a same-sex headed family. Having their children at the local Catholic primary school raises concerns for them, as the school is managed with a Catholic ethos (see discussion of same in Chapter 3). However, the teacher seems supportive and understanding. Oncha tells us what the teacher's response is:

[...] she said "I would always [...] try to use language to be really inclusive because there are kids in the class who come from all kinds of family set ups. So, there's one-parent [...families...]. There's children who live with grandparents, there's children who are living with aunties." [...I said...] I would like him to feel that he could talk about his mummies. She [...said...] she would encourage that where it was possible to do so [...].

The teacher's response shows clearly that she is aware of and tries to deal with family diversity in her classroom. There are a variety of family types and her comment that she would 'encourage' their son to 'speak about his mummies' in class 'where possible' calms their fear that he might not have space to speak about his family.

Oncha knows the school does not have a diversity policy in place, at least as a Catholic managed primary school, not a diversity policy that includes recognition of their same-sex headed family, but she feels happy with the teacher's response. The response

of the teacher is down to her personal decision to treat the children and their same-sex headed family in a positive manner. It is not in the best interests of the children that they might be prevented from openly speaking about and affirming their family format in school. To contend that ‘maintaining [...] discriminatory family-related laws is in children’s best interests is incorrect’ (Short 2007, p.13). In fact it is suggested that states need to operate policies of parental support, regardless of legal status of parents to ensure good outcomes for the children of these families (Garrett and Lantos 2013).

It is clear from the stories of Cathair and Oncha and Ailill and Uinsean, that their lack of legal recognition for their families in Ireland, makes them at times fearful, mostly invisible and often ill at ease. This is a common experience amongst LGBT parents in Ireland (Pillinger and Fagan 2013).

Oncha and Cathair’s children have relationships with their biological fathers. In the crèche on Mother’s and Father’s Day, Oncha and Cathair like to see the children engaged in appropriate activities, with the other children:

In the crèche on Mother’s Day we got two mother’s day cards home. We had to say to them we’d like you to do stuff with them around Father’s Day. Because they weren’t going there [...] (Oncha).

Showing the diversity which exists within gay and lesbian families, Oncha and Cathair want their children to be involved in making Father’s Day cards. There is a presumption in the school that because they are lesbian mothers, the children do not have involvement with their fathers. The lesbian parents have to devise different strategies to ensure that they and their children are treated as a family, part of a wider diversity of family type, one which, in the absence of legal recognition, they have to personally assert. Pillinger and Fagan (2013) summarise the experiences of other LGBT parents in their survey on the issue of LGBT parents dealing with schools and childcare. They (2013, p.70) say:

The education system and syllabus was not seen to reflect diverse families and this was a barrier to schools in responding to the needs of LGBT headed families.

Managing and coping strategies devised by couples in non-normative family situations are evidence that couples are trying to live family life – being-in-the-world as parents, without the recognition and protection as provided by the state for normative families. The education system and the school syllabus should reflect diverse families and this would help to reduce the vulnerability of LGBT families and enhance their visibility and family security. Oncha describes how this lived reality of parenting without family recognition lessens the positive impact of Civil Partnership relationship recognition for them:

It doesn't feel [...] like Civil Partnership has had any impact on our lives as they currently are. [...] for us it is all about the [...] fact that Cathair's relationship with the kids isn't legally recognised, that's the big thing. That's the [...] stuff that [...] we need to have changed on a daily basis. Because [...] if not weekly [...] something comes up that you are conscious of. Like, if I had been [...] out of the country or away training or something like that at the time of (*daughter's*) operation she couldn't have had her operation 'cause you couldn't have signed, they wouldn't have accepted (Oncha).

Oncha is speaking of how it feels being-in-the-world as same-sex parents. For them they have 'daily' or 'weekly' reminders that Cathair's 'relationship with the kids isn't legally recognised'

Their experience is echoed by LGBT parents in Taylor's (2009) UK research on lesbian and gay parenting. Oncha and Cathair took their 'personal troubles' (Wright Mills 1959) to the Irish Children's Ombudsman's office. She is responsible for vindicating children's rights in Ireland. They told her about the problematic nature of the then proposed Civil Partnership Bill for families such as theirs. They wrote submissions, letters and met with the Ombudsman to discuss their family situation as a lesbian couple, in a foreign marriage with two children. They described to her how the lack of provisions for parental rights in the proposed Civil Partnership Bill would be detrimental to their children's rights, they

became political, like Ainle and C  il  n and Marcus and Malinn. They went to see the Ombudsman:

Before the Civil Partnership Act was introduced, because of the impact on children or the failure to address children [...] the bottom line was [...we said the Act as it was meant...] you were creating a new class of illegitimate children (Cathair).

Cathair in effect considers the Civil Partnership Act has made children in same-sex families ‘illegitimate’ as they do not have a right to both their parents. She feels the Act should have made provision for the rights of children in same-sex families. Their advocacy, along with other couples and advocacy groups did impact on the Ombudsman for Children, who published an opinion stating that children in same-sex headed families were being made vulnerable if the Bill did not recognise them and give their parents proper parental rights (Ombudsman, 2010). Her opinion was not acknowledged was the Civil Partnership Act (2010) amended to include her views.

For Cathair, the reality is that families like theirs already exist and not legislating to protect them, will not make them disappear. She believes allowing same-sex couples to marry is one strategy that will offer full protection to her family:

It is not like children are not going to happen. If we say yes to marriage, they’re here already [...] It was like [...those who oppose same-sex families were saying...] if we don’t include them [in the legislation] then they won’t happen (Cathair).

She sees that their family rights will come and one of the possible routes is when their relationship recognition gives them equality with other families. Through marriage rights for same-sex couples her family would gain the rights and recognition they currently do not have in Civil Partnership. Access to marriage is the most popular legal change called for by LGBT parents in recent research (Garrett and Lantos 2013; Pillinger and Fagan 2013) and it is the legal change being advocated for by organisations seeking to introduce

relationship recognition equality in Ireland (Marriage Equality, Irish Council for Civil Liberties, GLEN, 2014). The positive impacts of legal, parental and family recognition rights for same-sex couples and their families is well documented (Pawelski *et al.*, 2006; Short 2007; Badgett 2009; Garrett and Lantos 2013).

In exploring the choices these lesbian and gay couples who are parents have made, we can see how *Dasein* in attempting to be-come it's self, makes choices in a thrown world where *Dasein* (Heidegger 1962, p.278), with a lesbian or gay identify is made to feel 'not-at-home' This 'not-at-homeness' is felt as otherness by the stigmatised self. The knowledge that their parenting and family life is treated as non-normative and unacceptable means that these couples have had to make choices to be parents in this thrown world – some choices are to challenge the norms of '*das man*' by making their families visible and present in the world of schooling or education. Other choices are about deciding for the ease of their family life to remain 'under the radar' as non-normative families or 'pass' as acceptable families.

We can see from the experiences of our interviewees that, paradoxically, gendered care orders (Lynch *et al.* 2009) are both deconstructed and upheld by the Civil Partnership Act (2010). On the one hand, they are deconstructed by the impact of same-sex couples having their loving adult relationships recognised in law, in a predominantly heteronormative society. Chapters Five and Six showed the transformative nature of this recognition in laws of adult same-sex relationships for the couples, their families, friends and wider society. The gender binary of male and female is challenged in the recognition in law, of love and care relationships between same-sex couples in Civil Partnerships. On the other hand, the heteronormative care order is upheld by the failure of the Civil Partnership Act to provide for and recognise the care relationships central to family recognition for same-sex families.

Heidegger (1962) tells us that those who are mired in ‘the they-self’ do not act out of a conscience, do not make choices which show their individual response to the thrown-ness of the world they find themselves in. For Heidegger (1962), having a conscience brings to bear on those who break free of ‘the they’ a call to make choices and in answering that call those choices mean *Dasein* takes responsibility for what he/she is, for attempting to reach the possibility of their identified self. This be-coming self by *Dasein* is evidenced in the making of choices, those who respond to the call of their conscience – a voice from within - moving towards ‘an authentic ability to be it Self’ (Heidegger 1962, p.186).

The choices made by lesbian and gay parents, arising from their thrownness in a heteronormative and heterosexist world are examples of *Dasein* struggling for authenticity to allow them live lives congruent with their sense of self – on an ongoing journey to be-come. Here we see the choices being made by *Dasein* being-in-the-world as parents and the concern which *Dasein* displays because of the importance to him/her of being-with-others in the world (as discussed in Section 7.3.).

We see how *Dasein*, finding his or her self in a thrown predominantly heteronormative and heterosexist world, navigates a path as a being for whom care and being-with-others is so important. The choices and strategies devised by same-sex parents living in a world in which they are not-at-home can be seen. They indicate how *Dasein* responds to the call of conscience to live an authentic life, taking responsibility for the choices made as they strive for the possibility of being-in-the-world as parents. They are living in a society where for same-sex couples heteronormative laws and attitudes act as barriers to *Dasein*’s be-coming its true self and *Dasein*’s response is to act from conscience and live life as a parent in the thrown world, to the best of their capacity.

7.9. Conclusions

Chapter Seven examined Civil Partnership and its impact on parenting rights and family recognition for same-sex couples and their children. All couples interviewed were seen to be aware of the significance of the gaps for same-sex parents and their

families in the Civil Partnership Act (2010). The interviewees' narratives were gathered into three groupings. Firstly, the experiences and views of couples without children were analysed. For these couples, some without personal experience or a lack of desire to parent, the gaps in provision of rights for same-sex headed families were seen as problematic. Secondly, the experiences of those couples who were planning parenthood were examined and it was found that despite the growing number of parenting paths available to same-sex couples, Civil Partnership did not contribute to the realisation of their aspirations for family formation. Rather, it was seen to contribute to the blocks facing non-normative family formation. Thirdly, the experiences of couples with children were analysed and it was seen that for them, the absence of family recognition and the failure to provide parenting rights is deeply worrying. These families described the lived realities of living unrecognised family lives and shared narratives of the strategies and coping mechanisms they devised to help them manage childcare, schooling and social life for their families in a world in which they as parents they are othered. Their experiences show clearly the impacts of the dominance of heteronormativity and heterosexism on parenting norms. Same-sex couples parenting in Civil Partnerships have rights to each other as adults, but without legal recognition to their children and without family security.

The implications of the omissions of parenting rights from the Civil Partnership Act (2010), the lived experiences of Civil Partners of this omission and the lack of recognition for same-sex families is significant for same-sex couples in Civil Partnerships, whether or not they are parents or are planning parenthood. In this study, for those for whom being a parent has not been a possibility or life choice, the lack of parenting rights and lack of family recognition in the Act is felt as a significant gap.

The omission of parenting rights from the Act indicates a core resistance to the acceptance of same-sex relationship equality. In particular, it represents a resistance regarding equality of family and same-sex parenting rights. It is a resistance that is steeped in and fuelled by a wish to maintain 'heterosexual privilege' (Calhoun 2000, p.47). The nuclear family, predicated on sexual relations between one woman and one man – termed 'reprosexuality' (Warner 1991, p.9), is the quintessential site of heteronormative ideology and practice (Kentlyn 2007).

Acknowledging the emergence of new family forms in modern times, the resistance to a widening or broadening of family rights of non-normative families can be clearly seen when we explored the heteronormative and heterosexist lens which has been applied to parenting and family recognition studies of same-sex families (see Chapter 3). These studies indicate how heterosexual privilege and heteronormativity prevails in thinking about same-sex families. This perspective explains the origins and influences on both the Constitutional provision regarding married families in Ireland and the omission of family rights for same-sex couples from the Civil Partnership and Certain Cohabitants Act (2010).

In effect, Civil Partnership has failed to create the necessary equality of condition for affective relationships of same-sex people, in particular same-sex couples and their children. Establishing equality of condition would bring affective equality to same-sex couples and their loving relationships would require a change of structures and institutions, those 'that systematically impede peoples' opportunities to develop such relationships' (Lynch *et al.*, 2009, p.2). In an Irish context this will require inclusive legislation for all children and parents and the introduction of Civil Marriage rights for same-sex couples, given that, constitutionally, marriage defines family in Irish law. Or rather, the married family is what family is legally defined as in Ireland. Civil

Partnership provides a milestone towards equality for same-sex adult relationship recognition. It fails to provide for the full range of affective equality necessary for non-heterosexuals to have relational equality. Same-sex families in Ireland, despite adult relationship recognition through Civil Partnership, are still without the right to call themselves family and remain subject to affective inequality.

Chapter 8. Conclusions and Recommendations

8.1. Overview: Concluding the Journey

The study has explored the experiences of same-sex couples in Civil Partnerships in Ireland and has examined the meanings and understandings given to those experiences by same-sex couples. In this way the study has been able to offer an interpretation of those meanings to the reader. The research has taken the reader on a journey of discovery, an uncovering of the value of relationship recognition for same-sex couples and has provided insights into the meanings of recognition for relationships which have been experienced as hidden, invisible and denied.

Applying a phenomenological lens, in particular using the philosophy of Heidegger (1969) and Gadamer (1979) the study focused on the experiences of lesbian and gay Dasein living in the *welt/world*. Being-in-the-world Heidegger (1962, p.276) tells us entails experiences of human beings/*Dasein* who are ‘thrown-into’ existence and our being-in-the-world (Heidegger, 1962, p.15) which is always in relation-to something. We saw that people’s meaning-making or sense-making of their experiences is central to phenomenological inquiry and central to understanding what the experience of Civil Partnership has been for same-sex couples.

Gadamer’s (1979) view of language and understanding as inseparable, showed us that understanding occurs through interpretation; it is a dialogue and the dialogue is a fusion of many horizons. Using interviews to capture the experiences of same-sex couples in Civil Partnership, the lived lives of people with their love, their need for recognition and their wish for equal treatment emerged as for analysis in the research (Smart 2009).

Applying the hermeneutic circle approach to interpretation meant that questions were asked of the interviewees, the extant literature and the emerging data. This approach required the research to always remain open to what was emerging. Moving back and forth from experiences to theory and philosophy and back to experiences again increased

the depth of engagement and understanding of the meaning of Civil Partnership. This process has allowed the meanings and understandings that these same-sex couples give to Civil Partnership to emerge.

8.2. Summary of Findings

8.2.1. Civil Partnership as (Be)-coming Out

In Chapter Five, firstly, we saw how same-sex couples live lives that are both in and out of the closet (Mosher 2001). Civil Partnership as a coming out allows a clearing to emerge, a space where the invisible relationship become visible and named. Using the clearing, same-sex couples, through Civil Partnership come out to partners, family, friends, workplaces and wider society. For these lesbian and gay human beings, coming out in Civil Partnership allowed them as *Dasein*, to move towards their authentic self, so that they have a greater sense of their own truth, of their sexual identity, generating a unity with self. They now know themselves with a knowledge absolutely certain of itself (Heidegger 1969).

Secondly, Chapter Five examined how couples used Civil Partnership as a coming out tool to family. Various narratives provided a fusion of horizons (Gadamer 1979) and evidence of how Civil Partnership supports the development of a more positive '*habitus*' (Bourdieu 1984) about same-sex relationships in Ireland. The disclosure through Civil Partnership allowed us hear about the keeping and breaking the silences of closetedness (Sedgwick 2008) and the ending of disguises to un-conceal truths (Heidegger 1969).

Thirdly, it explored how couples use Civil Partnership as a coming out tool in the workplace and how such spaces may be safe or unsafe. We saw how, using Civil Partnership same-sex couples strategically managed their identity disclosure (Orne 2011). Strategic decisions to suspend sharing of information or knowledge occurred in spaces where knowledge about non-normative sexuality was subjugated (Hurtado 1996). Heidegger's concept of the authentic Being enabled us to show how individuals come to a sense of their true selves when they come out in the workplace, using Civil Partnership .

Civil Partnership was experienced as part of coming out, an ongoing, never ending process, a part of the Be-coming of *Dasein* .

We also saw how couples understood the meaning of Civil Partnership as they came out to wider society, disclosing their sexual identity. Service providers' responses were evidence of a developing, if not always positive *habitus*, regarding a growing acceptance of same-sex relationships. Civil Partnership as an event of appropriation for *Dasein* and a turning for *Dasein* is exemplified. Through Civil Partnership '*das man*' disapproval of same-sex relationships is rejected . Fears of disapproval re-emerged as Civil Partnership touches on overt celebrations of same-sex sexual expression which became evident in dancing and kissing at celebratory events. This residual fear showed how Ireland is not a post gay society. Being lesbian or gay is still an issue (Seidman 2002).

A notable feature of the interviews was that so many of the couples used Civil Partnership as a means to formally announce their sexual identity for the first time, be it to their immediate family or in their workplaces. Civil Partnership provided state recognition and accorded social and legal status to couples (GLEN 2010b) and it is seen as an acceptable way to manage sexual identity disclosure in Ireland. It is a strategic outness tool (Orne 2011) identified and used by the couples in this research.

8.2.2. Civil Partnership as Recognition, Belonging and the Dichotomy of Equality or Inequality

In Chapter Six we explored the question of how same-sex couples seek recognition and belonging through Civil Partnership. We saw that recognition and belonging matter to same-sex couples. The significance of recognition and misrecognition (Frazer 2000) was explored and the importance of recognition of same-sex loving relationships by others was seen as an important contributor to a sense of belonging and enhancement of relationship value for same-sex couples in Civil Partnerships. Recognition of their relationships in Civil Partnership made it possible for same-sex relationships to become

visible and to vindicate the legal and associated social rights which are given in Civil Partnership for same-sex couples in their everyday lived lives.

The chapter explored the links between recognition and the importance of belonging for human beings, it examined what a sense of belonging means for same-sex couples who have been historically socially excluded. *Dasein*'s concern of being-with-others is a core element in explaining why people want to belong to society and have their relationships recognized. The narratives of how Civil Partnership has brought a sense of joy and belonging for couples, painted a powerful picture of the greater sense of belonging Civil Partnership has given them. Couples feel their relationship recognition enables them to belong to family, to the State, and to society. For many of the couples interviewed in this research, Civil Partnership provided a route out of stigmatization and brought them recognition and a sense of belonging.

Same-sex ceremonies were examined and their legal recognition were seen to 'trouble' the gendered institutions of relationship recognition. Same-sex couples want to belong and conduct their Civil Partnership ceremonials in a manner that is familiar for them and their personal communities and wider society. Many couples see their Civil Partnerships the same as marriage. They are entering, voluntarily and intentionally into Civil Partnerships, which allowed them live authentic lives and helped in the development of their authentic selves by publicly affirming their sexual and relational identity. Their ceremonials and the sense of belonging they bring are markers of social change and they represent and invite greater acceptance of non-normative relationships.

Civil Partnership was seen as a means for the majority of these couples to move from being other and misrecognised to being recognised, and to move from a subordinated status towards a sense of acceptance, equality and belonging. For some couples, the Civil Partnership experience brought significant glimpses and some experience of the joy of acceptance and recognition, sharing the sense of belonging, with family, friends

and wider social networks. For many of the couples this was experienced as a way of being just ordinary – where they accessed recognition and belonging through the use of familiar practices from weddings or used familiar scripts to celebrate their relationship recognition.

We saw that all of the couples in this study, even those who were very pleased with their relationship recognition in Civil Partnership, would, if offered an opportunity, take ‘an upgrade’ to full marriage equality. The divergent and convergent views on whether Civil Partnership represented equality were examined. The continued exclusion of same-sex couples from full relationship recognition equality meant that they continued to be devalued in society, and their exclusion from institutions of value, such as marriage, meant they are still deemed ‘unworthy of respect or esteem’ (Frazer 2000, p.7). Or in the case of Civil Partnership – they are worthy of some respect and some esteem. There can be no doubt that for many couples in this research Civil Partnership has brought them further along the road to recognition, belonging and equality. While for others, only marriage access will bring the moment of sexual citizenship they desire (Giddens 1992). The continued subordination of non-normative sexualities, evident in the lack of equality brought by Civil Partnership, is a residual form of institutionalised subordination.

8.2.3. Civil Partnership, Parenting Rights and Family Recognition

Chapter Seven examined Civil Partnership and its impact on parenting rights and family recognition for same-sex couples and their children. All couples interviewed were seen to be aware of the gaps for same-sex parents and their families in the Civil Partnership Act (2010). The interviewees’ narratives were gathered and analysed in three classifications: couples without children; couples planning to have children, and couples who were parenting. Each set of couples described the lived realities of living unrecognised family lives. Those with children, shared narratives of the strategies and coping mechanisms they devised to help them manage childcare, schooling and social life in a world in which they are mostly invisible and othered. Their experiences

showed clearly the impacts of the dominance of heteronormativity and heterosexism on parenting norms. Same-sex couples in Civil Partnerships who are parenting have rights to each other as adults certainly, but are without legal recognition to their children and without family security.

We examined the implications of the omission of parenting rights from the Civil Partnership Act (2010) when we explored the lived experiences of Civil Partners. The lack of recognition for same-sex families was seen as significant for same-sex couples in Civil Partnerships whether or not they were parents or planning parenthood. For those for whom being a parent had not been a possibility or life choice, the lack of parenting rights and lack of family recognition in the Act was still felt as a significant gap. The omission of parenting rights from the Act indicates a core resistance to the acceptance of same-sex relationship equality. In particular, it represents a resistance regarding equality of family and same-sex parenting rights. It is a resistance that is steeped in and fuelled by a wish to maintain 'heterosexual privilege' (Calhoun 2000, p.47).

This chapter identified the resistance that exists to widen or broaden family rights for non-normative families which became obvious when we explored the heteronormative and heterosexist lens which is often applied to parenting and family recognition studies of same-sex families (see Chapter 3). These studies indicated how heterosexual privilege and heteronormativity prevailed in thinking and practices on same-sex families. This perspective explained the origins and influences on both the Constitutional provision regarding married families in Ireland and the omission of family rights for same-sex couples from the Civil Partnership and Certain Cohabitants Act (2010).

Chapters Five and Six showed the transformative nature of relationship recognition in Civil Partnership for adult same-sex relationships, for the couples, their families, friends

and wider society. The gender binary of male and female was challenged in the recognition in law, of love and care relationships between same-sex couples in Civil Partnerships. Chapter Seven showed how the heteronormative care order was upheld by the failure of the Civil Partnership Act to provide for, value and recognise the care relationships central to family recognition for same-sex families.

In effect, we saw that Civil Partnership had failed to create the necessary equality of condition for affective relationships of same-sex people, in particular same-sex couples and their children. The equality of condition for affective equality would require a changing of structures and institutions ‘that systematically impede peoples’ opportunities to develop such relationships’ (Lynch *et al.*, 2009, p.2). In an Irish context, this would require inclusive legislation for all children and parents, and the introduction of Civil Marriage rights for same-sex couples given that constitutionally marriage defines family in Irish law. Or rather, the married family is what family is legally defined as in Ireland, according to the Constitution.

Civil Partnership provided a milestone towards equality for same-sex adult relationship recognition. It failed to provide for the full range of affective equality necessary for non-heterosexuals to have relational equality. Same-sex families in Ireland, despite adult relationship recognition through Civil Partnership, are still without the right to call themselves family and remain therefore subject to affective inequality.

8.3. Conclusions Arising from the Study

8.3.1. Progressive Reform

In exploring the meaning of Civil Partnership for same-sex couples one major conclusion is that Civil Partnership, undoubtedly, constitutes progressive reform for same-sex couples in Ireland. This study showed the significant impact that relationship recognition, in Civil Partnership, has had on same-sex couples. Moving from lives of invisibility and exclusion to lives of visibility and inclusion, we saw evidence of the powerful effect of

inclusion, and the importance of recognition and belonging, which Civil Partnership brought for same-sex couples.

The impact of Civil Partnership on the gay and lesbian individuals in this study is significant. Being able to be open and visible about themselves and their same-sex relationships has impacted on their sense of well-being of self, their ability to live authentic lives, moving towards freedom from closetedness (Sedgwick 2011). It has impacted positively on both their relationship and wider society, as they gain State and personal status as a recognised couple. The wider recognition and acceptance experience, whether from family, friends, in workplaces or wider society shows how the palpable differences matter to same-sex couples. Belonging and having one's loving relationship capacities (Nussbaum 2013) recognised in society is of huge significance to all people, and, for those who have lived with stigmatised identities (Goffman 1959), it is of particular significance.

Civil Partnership has allowed some couples feel a sense of greater sharedness between them in their relationship, for instance in financial matters. Other couples, in describing their celebrations, emphasise the enhanced sense of togetherness they feel having celebrated publicly their relationships. Civil Partnership has significant impacts on the relationship between couples.

This research shows that the differences in recognition for same-sex relationships between jurisdictions matters and affects significantly the rights and entitlements, and status of couples in their everyday lives. We see how differential rights and status recognition, including those of family rights for same-sex couples, impacts on couples and their families, causing fears, worries and uncertainty. The importance of moving to harmonise these cross-jurisdictional anomalies regarding same-sex relationships, including providing access to Civil Marriage, would greatly enhance the experience of

social recognition for couples and their families. While the Civil Partnership experience has been very positive for couples, it has been an experience of partial equality.

8.3.2. Consequences of Partial Equality

Many of the couples celebrated their Civil Partnerships with wedding-like events, but all couples were aware that Civil Partnership was not an equal institution to civil marriage. The influence of heteronormativity in so many aspects of same-sex couples' lives meant that even in Civil Partnership couples were faced with their otherness every day. The medical system, the legal system and the education systems all operate with hegemonic heteronormativity as their default – nowhere is this more evident than in the area of parenthood and family recognition.

Both the gendered binaries and heteronormative basis of parenthood and family combine to ensure that the legislation which provided same-sex couples with relationship recognition has delivered an institution which effectively excludes these couples and their children from recognition as family. Allied to this exclusion were the barriers which same-sex couples experienced as they attempted to find pathways to parenthood. The lack of suitable information, lack of legal routes to parenting and the absence of positive policy, lack of regulation and a dearth of information provision on same-sex parenting meant that these families remained outside the possibility of equal recognition with their heterosexual counterparts.

The multiplicity of strategies devised by these parents so that they either became visible as non-normative families or 'passed' as 'normal families' were indicators that Civil Partnership, while bringing great joy and relief to many couples who entered it, had failed to deliver the equality of recognition required by same-sex headed families. That adoption, guardianship, assisted human reproduction parenting recognition and second-parent recognition for non-biological parents were not available to these couples had lessened the joy of Civil Partnership for those couples who were planning for or were

actually parenting. The strategies for coping demonstrated by these couples were testament to the ingenuity of these families.

The Irish Government has stated that it hopes to introduce some of the family equality legislation identified as missing from Civil Partnership in 2015. The passage of that legislation (Children and Family Relationships Bill 2014), and the successful passage of a Constitutional amendment to allow same-sex couples access Civil Marriage, would bring same-sex couples and their families to the point of having options to gain access to full relationship equality, for both the adults and the children in same-sex headed families.

8.3.3. Identity and the Spectrum of Outness

Non-normative sexual identities require a level of outness, a level of statement or declaration, a declaration that shows difference from the normative, the heterosexual. There is a spectrum of outness evident in the experiences of same-sex couples. Whether within family, workplace or wider society, each couple (and each individual in each couple) is constantly making decisions and adopting strategies about being out or even to whom a declaration may be made. This is one of the ways in which having a non-normative sexual identity differs to other identities. Being heterosexual in a heteronormative society means that there is no need to declare one's sexual identity. There are assumptions protected and promoted through all layers of society which ensure that heteronormative behaviour and heteronormative identities are reproduced and are rewarded as normative behaviour (Warner 1999; Sedgwick 2008; Calhoun 2000).

Civil Partnership was used as a relatively safe means to declare non-normative sexual identity. This was a recurring element in this study. In highlighting the ways in which same-sex couples had to strategically manage their coming out, the study highlights that heterosexuals do not have to strategically manage their sexual identity. There is an unspoken assumption that the closer couples could make their ceremonies and celebrations to normative weddings, the easier it was for mainstream society to

understand, recognise and accept that these same-sex couples belonged and that their relationships were deserving of recognition and acceptance.

8.4. Future Research Identified

As the study delved into the meanings of Civil Partnership for same-sex couples, other areas of research to be undertaken were identified. The need for further studies on the relationship experiences of lesbian and gay people in Ireland was identified as most important. There is a lack of research on same-sex relationships in Ireland and on the lives and experiences of LGBT individuals who are not in relationships. Studies which narrate and explore both the joyful lives and the lives lived less joyfully by lesbian and gay people would go some way to supporting the normalising of same-sex relationships, especially for younger LGBT people in the hope that they do not have to live through the silences and invisibility of previous generations of LGBT people in Ireland.

There are four key further areas of research that are identified from this research study each of which might include an inter-generational perspective:

Firstly, a study is required to conduct research on public displays of affection amongst non-normative couples in the context of emerging relationship recognition structures. This study would examine the links between sexual expression and desire in public spaces. The concerns some couples expressed about public displays of affections at their own ceremonials suggest that this theme warrants further research and exploration.

Secondly, a study is suggested that would conduct research on the impact of the advent of Civil Partnership on same-sex oriented individuals who are not in relationships. To what extent, and in what ways, have the lives of single LGBT persons been affected by Civil Partnership and the proposed Civil Marriage discussions for same-sex couples? The study would examine how the new institution recognising same-sex relationships, impacts on the lived realities of 'single' LGBT people in Ireland.

Thirdly, despite the presence of anti-discrimination legislation, different workplaces deal with non-normative sexualities differently. A research study would examine the impact of such legislation on policy and practice in workplaces and would explore the experience of safe and unsafe workplaces for LGBTQ people would and particularly in the employment fields of education, healthcare and youth work.

Fourthly, a further research study could examine the impact of the Children and Family Relations Bill (2014), as enacted in 2015. The study would explore the impact of this legislation on same-sex headed families, both the parents and children, to ascertain the extent to which the legislation has achieved its stated aim to bring equality of treatment for all children under Irish family law, including those in same-sex headed families.

8.5. Strengths of this Study

The fact that twelve couples (twenty-four individual lesbian and gay people) participated in this study provided a rich data set for an interpretive study. The honesty, trust and willingness with which couples shared their stories – some with laughter and some with tears – gives an authenticity to the research, which I hope I have been able to do justice to, in the interpretations of those experiences. The depth of material contained in the interviews has allowed this researcher to access a wealth of experience that contributes to a rich and vibrant understanding of the phenomenon of Civil Partnership.

Despite being an activist on same-sex relationship rights only one of the couples was personally known to me (see section 4.3.5). It emerged in ‘conversations’ during the interviews that none of the other interviewees was aware of my activism as Chairwoman of Marriage Equality. Consciously choosing participants who in effect were self-selecting gives a degree of independence to the study which adds to its claims for rigour. My analysis and immersion in the data was extensive and regular sharing of my analysis with my co-supervisors ensured that the study has internal validity and reliability.

The use of a research journal and diary supported reflexivity in this study. Whitehead (2004) tells us how being open to and aware of prejudices is crucial to sound interpretive research. Exploring my own personal views of Civil Partnership through a transcribed interview conducted by a supervisor allowed me to see that at the outset I had not considered the transformative effect of relationship recognition which the data set unearthed. Also, as a supporter of Marriage Equality from the outset I was acutely conscious to listen for and be aware of views of interviewees that were contrary to my own. Writing of these matters in my research journal allowed me space to reflect on them and ensure that I challenged myself to remain open to emerging, new horizons. In this manner I believe I have complied with Whitehead's (2004) advice and in doing so strengthened the validity of the findings.

At this time in Ireland, when political moves are afoot to extend full relationship rights to same-sex couples through a referendum in May 2015, these are timely narratives to be shared in this study which conveys the significance of relationship recognition for lesbian and gay people and for all of Irish society. This study contributes significantly to the creation of a body of knowledge on same-sex relationship recognition in Ireland. The findings of this study will inform political and social movement toward full equality for lesbian and gay people.

8.6. Limits of the Study

As a researcher-activist on same-sex relationship rights, I am aware of the issue of positionality of the researcher. I acknowledge that knowledge is never value-free. I accept the Heideggerian principle that attempting to bracket one's understandings or fore-knowledge is not possible. I used the reflexive practice of a research journal to bring an awareness of my own views and experiences to the fore-front of analysis, so that I could analyse the data in full awareness of this position and thus avoid intentional bias.

Using the fusion of horizons (Gadamer 1979), of the interviewees, the philosophical texts of Heidegger (1962) and Gadamer (1979) and extant literature from the field of same-sex

relationships recognition, the analysis is ultimately mediated through my own lens as the researcher. The findings and discussions in the study are limited by geographical, temporal, cultural and linguistic constraints. The work is as rigorous as possible given this context.

Although the interviews in this study provided rich data for analysis from a set of same-sex couples who were enthusiastic to share their experiences of relationship recognition, the study essentially contributes to local knowledge of Civil Partnership and same-sex relationship recognition. The meaning of Civil Partnership produced in this study is 'meaning for the moment' (Lavery 2003, p.9). It cannot make universal claims to represent all same-sex couples. It is non-generalisable. However, I would argue that it generates insights into the importance of legal relationship recognition among same-sex couples in a period of intense social and political change which speaks to LGBT communities generally.

8.7. Ireland: A Changing Place for Gay and Lesbian People

Some of the younger couples interviewed in this study have had very positive and unremarkable responses to their coming out to family while others, especially older people, have not had such positive experiences and have been reluctant to come out to family or in workplaces. Civil Partnership has made the coming out process easier for those who have entered it. Seidman's (2002) suggestion that we live in a post-gay society is not universally applicable. In Ireland, sexuality and all matters sexual have been under the scrutiny and control of state much influenced by the Catholic Church. Despite growing secularisation and the declining capacity of the Church to exercise its authority (Malesevic 2010), non-heterosexual sexual identity remains problematic (Pillinger and Fagan 2013; Ferriter 2009; NicGhiolla Phadraig 1995). Kilfeather (2005) reminds us that the regulation of sexuality by the Catholic Church was a primary objective during the foundation of the Irish State and its consolidation. Recent research on mental health of LGBT people in Ireland (Maycock *et al.* 2009) and the experiences of older lesbian and

gay people (Higgins 2011) and research conducted on the mental health requirements of young LGBT people in Ireland (BelongTo 2009) all suggest that Ireland is not yet a post-gay society and that relationship recognition is both symbolically and legally significant.

With the advent of equality legislation in 2004 and 2008 and the more recent same-sex relationship recognition of Civil Partnership in 2011, it is possible to suggest that Ireland may be *on its way* to being a post-gay society (Seidman 2002). However, in the absence of Civil Marriage equality, adoption rights for same-sex couples and the continuing presence of Section 37.1. (Employment Equality Act, 1988) which allows for workplace discrimination against LGBT people, and the lack of gender recognition for transgendered persons, Ireland is still in the throes of establishing equality before the law for LGBT people. It still matters very much whether one is lesbian, gay, bisexual, transgendered, intersex or heterosexual in Ireland.

This thesis began with the words of Polish poet Wistawa Szymborska in which she speaks about the denial of the existence of love, a denial she suggests that is perpetrated perhaps by those who never experience such love themselves. She tells us that this denial makes it easier 'for them to live and die' (Szymborska 1998 p.141). This study represents a rebuttal to the denial of the love that exists between same-sex couples. It speaks about the existence of these loving relationships, it bears witness to the importance of their recognition in Irish society.

In the excerpt from a poem by Irish poet Michael Murphy we saw how he wrote about the occasion of his Civil Partnership following the introduction of the law allowing him and his partner to be Civil Partnered. Here, he continues to speak about that day:

On that laughing summer's day
The wind was cheering and the leaves on the trees
were waving
As we processed towards our future through O'Connell
Street

Side by side we laid our bouquets of roses out at the
GPO
Acknowledged those who gave their lives so we could
be cherished equally
Proclaimed ourselves free
and free to become
(*Epithalamion: A Poem for Terry*, Murphy 2013, p.107)

In a Heideggerian sense, being free to become is an essential part of the essence of *Dasein*/human beings (Heidegger 1969). Civil Partnership has provided same-sex couples, as citizens of the Irish Republic the possibility to be free, equal citizens, to be themselves and be authentic, moving towards full equal treatment which is the right of all citizens and the duty of all republics to provide for its citizens.

This study has provided me, as an activist-researcher, with insights into same-sex relationship recognition through the lived experiences of same-sex couples who love each other and want to have recognition for their relationships. Their stories have firstly, deeply moved me as the couples spoke honestly, joyfully and poignantly of their move towards equality. Secondly, the narratives have greatly deepened my personal understanding of the significance of relationship recognition, especially in the area of family rights and social standing of same-sex couples. In this deepening understanding I want to salute all those pioneers who have entered Civil Partnership and those who are progressing on their own journey, 'Free to become'.

Finally, the journey of the study itself has brought me in my activism to the brink of the realisation of full relationship recognition rights for same-sex couples in Ireland, should the referendum in May 2015 be passed by the people. This study, regardless of the outcome of that referendum, is my contribution to enhancing the understanding of the significance of same-sex relationship recognition through Civil Partnership.

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ZAPPONE Vs Revenue Commissioners [2006] IEHC 404.

Appendix 1

Dublin City University
Ollscoil Chathair Bhaile Átha Cliath



Mr. Jean-Philippe Imbert
SALIS

30th April 2012

REC Reference: DCUREC/2012/074

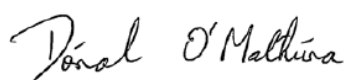
Proposal Title: Exploring the Meaning of Civil Partnership for Same-Sex Couples in Ireland

Applicants: Mr. Jean-Philippe Imbert, Dr. Mel Duffy, Ms. Grainne Healy

Dear Jean-Philippe,

Further to expedited review, the DCU Research Ethics Committee approves this research proposal. Materials used to recruit participants should note that ethical approval for this project has been obtained from the Dublin City University Research Ethics Committee. Should substantial modifications to the research protocol be required at a later stage, a further submission should be made to the REC.

Yours sincerely,

A handwritten signature in dark ink, reading 'Donal O'Mathuna'.

Dr. Donal O'Mathuna
Chairperson
DCU Research Ethics Committee



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Appendix 2

Informed Consent Form for Participants

Research Study Title: Exploring the Meaning of Civil Partnership for Same-Sex Couples in Ireland

Research by Grainne Healy, School of Applied Language and Intercultural Studies (SALIS)
grainne.healy23@dcu.mail.ie

Co-supervisors: Mr. Jean-Philippe Imbert (jean-philippe.imbert@dcu.ie) & Dr Mel Duffy (mel.duffy@dcu.ie)

The purpose of this doctoral research study is to explore the experiences of lesbian and gay couples who have been Civil Partnered in Ireland since January 1, 2011. The research will use hour-long (approximately) interviews with same-sex couples to explore their experiences of Civil Partnership.

Participants – please complete the following (Circle Yes or No for each question)

Have you read or had read to you the Plain Language Statement? **Yes/No**

Do you understand the information provided? **Yes/No**

Have you had an opportunity to ask questions and discuss this study? **Yes/No**

Have you received satisfactory answers to all your questions? **Yes/No**

I understand that I can withdraw from the interview, or at any part of this research study, at any time.

Every effort will be made to ensure both anonymity and confidentiality within the research process. For instance all transcripts will be returned to participants for comment and editing. Each participant will be given a pseudonym and there will be no identifying markers in the work.

Audio tapes will be destroyed one year following completion of the study.

I have read and understood the information in this form. My questions and concerns have been answered, and I have a copy of this consent form. Therefore, I consent to take part in this research project.

Participant's Signature _____

Name in Block Capitals _____

Witness: _____

Date: _____

Appendix 3

Plain Language Statement

Study: Exploring the Meaning of Civil Partnership for Same-Sex Couples in Ireland.

Research by Grainne Healy, School of Applied Language and Intercultural Studies (SALIS)
grainne.healy23@dcu.mail.ie

Co-supervisors: Mr. Jean-Philippe Imbert (jean-philippe.imbert@dcu.ie) & Dr Mel Duffy (mel.duffy@dcu.ie)

The aim of this research is to explore the experiences of lesbian and gay couples who have been Civil Partnered in Ireland since January 1, 2011. Being involved in the study will involve the couple taking part in an hour-long (approximately) interview. The interview schedule will consist of one statement, which will invite the participants to reflect on their experiences of being Civil Partnered:

‘Can you please talk about your experience of being Civil Partnered?’

1. The research is undertaken with the aim of investigating the experiences of same-sex couples of Civil Partnership.
2. The interviews will be audio-tape recorded and then transcribed.
3. All interview transcripts will be returned to participants for comment and editing.
4. Each interviewee will be given a pseudonym.
5. There will be no identifying markers in the work, such as names of town, place names, family or relative names.
6. One year subsequent to the completion of the study, the tape recordings of interviews will be destroyed.

Please note that these arrangements will be put in place to protect confidentiality, but this protection is subject to legal limitations.

Involvement in the study may lead to a deeper understanding of the lives of lesbian and gay people and may also inform social policy changes regarding the rights of lesbian and gay people in Ireland.

Participation in this research study is voluntary and participants may leave the study at any time. There will be no penalty for withdrawing before all stages of the research study have been completed.

If participants have concerns about this study and wish to contact an independent person, please contact:

The Secretary, Dublin City University Research Ethics Committee, c/o Office of the Vice President for Research, Dublin City University, Dublin 9. Tel -01-xxxxxxx

Appendix 4

Recruitment Advertisement

Have you and your partner registered as Civil Partners in Ireland?

Would you both like to take part in a research study on what it means to be in a same-sex Civil Partnership?

Please contact me, Grainne Healy (researcher) at the confidential telephone number xxxxxxxxxx for more information. The study will require you both to take part in an hour-long (approximately) recorded interview, at a venue of your choice and at a time suitable for you.

By participating in this study you are making a contribution to the understanding of lesbian and gay relationships.

All replies confidential.

To find out more, call Grainne on xxxxxxxxxxxx.

Appendix 5

Letter to GCN

Dear GCN readers,

Are you in a Civil Partnership?

Would you both like to take part in a research study on what it means to be in a Civil Partnership?

I am currently conducting a PhD research project at Dublin City University and I am seeking couples who have registered a Civil Partnership in Ireland since the enactment of the legislation in January 2011.

The purpose of the study is to better understand lesbian and gay relationships and in particular to understand what being Civil Partnered means to lesbian and gay couples.

Please contact me, Grainne Healy (researcher) at the confidential telephone number xxxxxxxxxx for more information. The study will require you to take part in an hour-long (approximately) recorded interview, at a time and venue suitable for you.

By participating in this study you are making a contribution to the understanding of lesbian and gay relationships.

All replies confidential.

To find out more, call Grainne on xxxxxxxxxxxx

Appendix 6

Table 1. Countries Where Same-Sex Marriage/Civil Partnership/Civil Unions are provided for (2001 - June 2014).

2001 - Netherlands (First country in the world to legalise marriage equality, includes the right to adoption)
2001 – Germany (Registered Life Partnerships)
2002 – Finland (Registered partnerships, can adopt biological child of partner)
2003 - Belgium (Marriage equality, followed by law allowing adoption in 2006)
2005 – Andorra (Registered cohabitation)
2005 - Canada (Marriage equality, Includes adoption rights)
2005 - Spain (Marriage equality, includes adoption rights)
2006 – Czechoslovakia Republic (Registered Partnerships)
2006 – Slovenia (Civil Partnership, no adoption rights)
2006 – South Africa (First African country to legalise marriage equality)
2007 – Colombia (<i>de facto</i> unions)
2007 – Switzerland (Registered Partnership)
2008 – Nepal (Marriage equality)
2009 – Ecuador – (Civil unions, no adoption rights)
2009 – Norway (Marriage equality, includes adoption and artificial insemination rights for lesbians)
2009 - Sweden (Marriage equality, including adoption, registered partnerships since 1995)
2010 – Argentina (Marriage equality, first Latin American country to legalise same-sex marriage, includes adoption)
2010 - Austria (Civil unions, following de-facto unions in 2003, adoption of step-children in 2013)
2010 - Iceland (Marriage equality, adoption rights included)
2010 – Ireland (Civil Partnership, adoption rights not included)
2010 - Portugal (Marriage equality, excludes right to adoption)
2011 – Gibraltar (Civil partnership with adoption rights)

2011 – Isle of Man (Civil Partnership)

2011 – Jersey (Civil Partnership)

2011 – Lichtenstein (Registered Partnership)

2013 – Brazil (Marriage equality, not including adoption)

2013 – Denmark (Marriage equality - first to recognise same-sex relationships in 1981)

2013 – France (Marriage equality – had *Pacte Civil de Solidarité* since 1999)

2013 - New Zealand (Marriage equality, following civil unions in 2004)

2013 – Uruguay (Marriage equality, including adoption rights)

2014 – Luxembourg (Marriage equality, following registered partnerships in 2004, no joint adoption)

2014 – Malta (Marriage equality, with adoption rights)

2014 – Scotland (Marriage equality)

2014 - UK (Marriage equality, England and Wales, excluding N. Ireland, following Civil Partnerships in 2004)

Appendix 7

Table 2. Gay and Lesbian Legislative Table of Progress in Ireland 1980s-2010s

1981	<i>Dudgeon V UK</i> (case on right to privacy)
1989	Law on <i>Prohibition against Incitement to Hatred Act</i> (includes homosexuality)
1991	<i>Norris V Ireland</i> (case on right to privacy)
1993	Homosexuality decriminalised ROI
	Extension of <i>Unfair Dismissals Act from Employment</i> to include Sexual Orientation
1996	<i>Refugee Act</i> extends state protection on sexual orientation grounds, excluding family reunification
1998	<i>Employment Equality Acts</i> – included ban on discrimination on sexual orientation from employment, recruitment, training, pay etc. (allowed some exceptions to protect religious ethos of employers (S.37.1) affects gay men and lesbians)
2000	<i>Equal Status Act</i> – included ban on discrimination in relation to supply or sale of goods and services (but allowed different treatment in relation to pensions and insurance policies)
2010	<i>Civil Partnership and Certain Rights and Obligations of Cohabitants Act</i>

Appendix 8

Table 3. Milestone Developments Regarding Same-Sex Relationship Recognition 1999-2010

Table: Critical Milestones (adapted from Walls 2010)

1999	Establishment of Equality Authority
2002	Equality Authority Report calls for equal access to civil marriage
2004	Fine Gael Partnership policy document calls for partnership structures open to opposite sex and same-sex couples
2004	David Norris' Private Members Bill on Partnership Rights for same- sex couples
2005	Joint <i>Oireachtas</i> Committee on the Constitution recommends Civil Partnership for same-sex couples
2004 & 2006	<i>Law Reform Commission</i> Reports propose equality in schemes
2006	Colley Report (Working Group on Domestic Partnerships) equality option was Civil Marriage access, but in light of constitutional challenge fears, Civil Partnership proposed
2006	Green Party/ <i>An Comhaontas Glas</i> publish Civil Marriage policy
2006	Zappone/Gilligan High Court Case begins
2007	Labour Party publishes Civil Unions Bill
2008	Government publishes Heads of Bill on Civil Partnership
2009	Civil Partnership Bill published
2010	Civil Partnership and Certain Cohabitants Act Passed
2011	Civil Partnership Act enacted

Appendix 9

Table 4. Interview Participants

Name	phonetic pronunciation	Sex	Children	Age	Years together when entered Civil Partnership	Nationality	Civil Partnered /Married
Clancy	KLAN-cee	Female	No	46	18	English	Married (Conn.USA)
Fechín	FECK-een	Female	No	52	18	Irish	Married (Conn.USA)
Áinle	An-lee	Male	No	34	14	Irish	CP (N.Irl)
Cóilín	CO-leen	Male	No	36	14	Irish	CP (N.Irl)
Conrí	KON-ree	Male	No	34	10	Irish	CP
Faolán	Ph-way-lawn	Male	No	35	10	Irish	CP
Ailill	AL-yil	Male	1 child	39	7	Irish	Married (Spain)
Uinsean	On-chun	Male	1 child	37	7	Spanish	Married (Spain)
Casey	Kay-cee	Female	No	37	20	Irish	CP
Brenna	Bren-nah	Female	No	52	20	Irish	CP
Begley	BEG-lee	Female	No	47	7.5	Irish	CP
Callan	KA-laan	Female	No	49	7.5	Irish	CP
Cathair	KA-heer	Female	2 children	46	11	Irish	Married (Canada)
Onchair	Unk-er	Female	2 children	45	11	Irish	Married (Canada)
Neamhain	Nay-vawn	Female	No	56	30	Irish	CP
Fallon	Phal-oon	Female	No	57	30	Irish	CP
Marcas	Mark-us	Female	No	57	31	American/Irish	Married (Canada)
Malinn	MAWL-in	Female	No	62	31	Irish	Married (Canada)
Brocc	Brokk	Male	No	65	32	Irish	CP
Ailchá	Oil-ka	Male	No	62	32	Irish	CP
Banbhan	BON-von	Male	No	53	20	Irish	CP
Cana	KAY-na	Male	No	54	20	Irish	CP
Siofra	SHI-fra	Female	No	43	2	Irish	CP
Sinéad	shi-NAYD	Female	No	43	2	Irish	CP

Appendix 10

Glossary of Commonly Used Terms

Heterosexuality – is a sexuality, sexual identity or orientation in which persons are attracted to those of the opposite sex, romantically and sexually (Kraft-Ebbing, 1999).

Non-heterosexuality – is any sexual identity that is not heterosexual (Weeks et al. 2001). The term is used to ensure non-erasure of bisexuality and other sexual identities that differ from heterosexual.

Homosexuality – is a sexuality, sexual identity or orientation in which persons are attracted to those of the same-sex, romantically and sexually. (Kraft-Ebbing, 1999)

Heteronormativity - A term coined by Warner (1991) to describe a belief that people fall into distinct and complementary genders (man and woman) with associated set social roles which match their sex. It is a belief or a presumption that everyone is straight or heterosexual.

Homonormativity - Duggan (2002) describes this belief that gay people want to be like straight people. It involves a politics that does not contest heteronormative assumptions but rather upholds and sustains them. Hormonormalised (Seidman 2002) refers to progressive normalisation of same-sex sexualities.

Heterosexism – a system of attitudes, bias and discrimination in favour of opposite-sex sexuality and relationships (Jung and Smith, 1993).

Homophobia - Encompasses a range of negative attitudes, beliefs and behaviours towards homosexuality. First coined by Weinberg (1973) .

Homonegativity – Used to explain an intellectual disapproval of homosexuality (Hudson & Ricketts, 1980), leaving homophobia to describe the attitudes and beliefs.

Equality/Inequality – Lynch and Baker (2005) outline the five conditions of equality necessary to enable people to live a good life. These include resources; respect and recognition; love, care and

solidarity, power and the opportunity to work and learn. In this study same-sex relationship recognition comes under their respect and recognition heading, but is also part of the love, care and solidarity with an emphasis on affective equality. While the interviewees in this study did not articulate a common definition of equality/inequality, their stories of how they experienced civil partnership allowed the research to draw together the sense of equality/inequality as a lived experience.