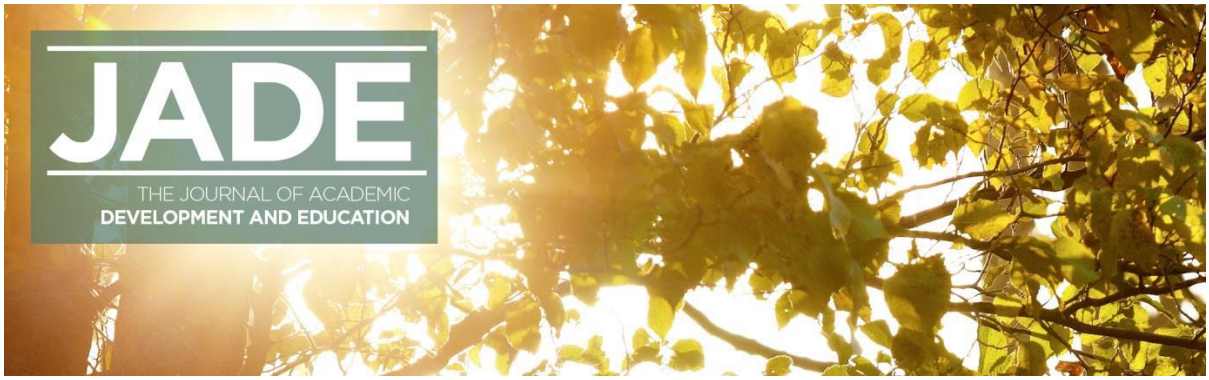

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Article:

Prioritising Diversity: Reflections from the Family Law Classroom

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Key words: Diversity; Critical Incident; Family Law; LGBTQ students.

Abstract: *Recent research has found that LGBTQ university students have lesser rates of satisfaction, because their experiences at university are not always inclusive (Grimwood, 2016). This has led to calls for university lecturers to actively identify and challenge incidents of abuse directed at LGBTQ students (Times Higher Education, 2016). This article argues that in addition to challenging abuse, university lecturers must also be prepared to address comments made by students in the classroom when discussing controversial subjects. Specifically, I consider a critical incident which occurred in my Family Law classroom, when students' anti-Same Sex Marriage sentiments caused offence to others in the room. I conclude that I should not have ignored the comments, and reflect on how I could have responded in a way that would lead to a more inclusive environment for all involved. I suggest that practices which prioritise diversity are crucial (particularly when teaching controversial subjects), as part of broader strategies to promote the satisfaction of all students at university.*

All students require an environment in which they can reach their potential at university. However, if students' diverse needs and abilities are not appropriately recognised and addressed by staff, equality of opportunity is not possible. This has recently been highlighted in research by Grimwood (2016) and in media coverage (Independent 2016; Times Higher Education, 2016) showing more needs to be done to improve the quality of experience at university for LGBTQ students. Patently, an awareness of diversity and how it impedes

equality pursuant to the Equality Act 2010 is imperative for university staff. According to the Equality and Human Rights Commission, public bodies have a duty to take steps 'not just to eliminate unlawful discrimination and harassment, but also to actively promote equality'. Thus education providers must take steps to prevent inequality in relation to the protected characteristics under the 2010 Act: age, disability, gender reassignment, sexual orientation, religion or belief (including non-belief), sex, race, pregnancy and maternity. But it is not enough to be aware of diversity; university staff must also be able to translate this into practice to create a culture of inclusion in class. In this article, I focus on a critical incident which occurred when teaching Family Law and caused me to, as Knott and Scragg (2010) put it, think and reflect as to how I missed an opportunity to create a more inclusive environment for the students in the room. I will consider how I could have responded to this incident, and will conclude that paying critical attention to similar incidents in future is key to ensuring teaching practices at university do not exclude students for any reason, and in particular, students who might otherwise feel marginalised as a result of their sexuality.

Family Law is a controversial subject because it is concerned with issues which are relatable to the students on a personal level, and debates which are often heavily politicised. As a result, some discussions can become heated if diversity in the classroom is not acknowledged and prioritised. The critical incident I wish to reflect on took place during a tutorial on same sex marriage. The discussion was centred on the legal and symbolic differences between civil partnerships and marriage for same sex couples. The tutorial followed on from a lecture where I highlighted the importance of reform for same sex couples in light of the European Convention on Human Rights. Therefore the focus of the tutorial was on equality, and how recent legislative developments (i.e. the Marriage (Same Sex Couples) Act 2013) achieved equality for same sex couples in a way that the Civil Partnership Act 2004 did not. During

these discussions, a group of three students said they were opposed to the reform because they did not think same sex couples should have the right to marry or have the same rights as opposite sex couples. One student was visibly offended by this, as she had personal connections with LGBTQ activism. I addressed this incident by emphasising that the tutorial question required an evaluation of legal and symbolic equality between heterosexual and homosexual couples, and therefore I did not invite personal opinions from students as to whether they were morally opposed to such equality.

On reflection, I could have dealt with this incident differently. Erroneously, I assumed that students would accept the need for equality between heterosexual and homosexual couples. But making assumptions like this is potentially detrimental, as Haggis (2003, 98) explains:

> People who are learners may be resisting, or unable to engage with, what higher education assumes, for reasons to do with … contrary philosophical or cultural perspective. In the new higher education, 'the learner' may be a person who is experiencing tremendous difficulty in the face of unexplained norms and values …

If Haggis is correct, the critical incident in my tutorial might have been different if I had prioritised diversity when planning for the lesson. As noted above, sexual orientation is a protected characteristic, and Hendricks et al. have warned that strong feelings on a topic such as same sex marriage 'may result in the marginalization of significant portions of a class' (2011, p. 5). As a result, when views were expressed during the tutorial which could have been considered prejudicial, I changed the subject in case further focus on these views would marginalise any LGBT students in the room. However, from Barnett's perspective this was a 'missed opportunity' for students to learn from each other, find out where prejudices originate from and increase mutual respect (2011, p. 672). Indeed, working collaboratively

with students could effectively challenge behaviour which affects the dignity and respect of students. With this in mind, it is important to consider what I could have done differently to account for diversity based on a variety of cultural and ethical perspectives.

According to Hendricks et al. (2011), encouraging productive discussion of controversial debates in a Family Law course requires planning throughout the module, instead of limiting planning to when the issues could potentially arise. The reason for this is the widely accepted view that discussions founded on respect and dignity in a diverse classroom are best achieved when there is a relationship of trust between the teacher and students (Barnett, 2011; Hendricks et al., 2011). Creating this environment could be achieved by establishing ground rules, for example clarifying at the beginning of the course that students should engage with politically charged issues in a way that engenders productive discussion, should be aware of diversity in the class and should resist personalising issues if this would cause offence to others.

Another strategy proposed by Hendricks et al. is 'shifting ground' whereby the analytical framework on which discussion is based is shifted 'away from rights and wrongs, in favour of a different approach to analysis' (2011, p. 16). In the context of the critical incident under discussion, this would mean encouraging students to focus on arguments relevant to same sex marriage rather than the perceived rights or wrongs of the issue. Whilst this was my intention at the time the critical incident occurred, I could have encouraged the students opposed to same sex marriage to depersonalise and rethink their perspectives. Changing the direction of discussion as I did could be perceived as dismissive of what Hendricks et al. refer to as 'outliers,' or students with ill-informed opinions (2011, p. 9). They have said that engaging with outliers is often important to ensure that the teacher is not viewed by students as being

unfairly biased against particular viewpoints. Indeed, it is better to *facilitate* discussion instead of hinder it, and can this be achieved by actively placing distance between the individuals and the arguments being made, so that a variety of perspectives are considered but they are not expressed in a personal or offensive way.

One way of achieving this in future could be for me to co-teach with an external speaker, and for us to represent opposing viewpoints in a lecture (Hendricks et al., 2011). This approach not only encourages students to engage with a variety of controversial debates in a respectful manner; but as Haggis puts it, engagement with a range of diverse and 'uniquely contextualised' perspectives can allow more meaningful debate to occur (2003, p. 94).

Alternatively, Barnett has suggested that the instructor could place the onus on the students to depersonalise the issue by asking questions such as 'is there a history to this view?' (2011, p. 675). This challenges students to contextualise various perspectives and think about why people hold particular views. Furthermore, by probing students' opinions on a deeper level, the instructor can help them to listen to and negotiate social difference (Barnett, 2011, p. 677). These practices, I would suggest, provide an opportunity to challenge views expressed in the classroom that may be considered offensive. Importantly, however, dismissing such views can marginalise students with protected characteristics, such as LGBTQ students (Grimwood, 2016), because offensive views are suppressed rather than challenged. On the other hand, confronting and *facilitating* diversity of opinion in the classroom ensures a range of voices are heard, and where appropriate, are also challenged. This produces a more inclusive environment for all students and facilitates a richer university experience (Times Higher Education, 2016).

In conclusion, reflecting on a critical incident has made me increasingly aware of the distinct perceptions of every student (Haggis, 2003) as a result of the diverse student population at universities across the UK. On evaluation, the best way of appreciating this diversity when teaching controversial issues is to facilitate productive discussion in the classroom through careful planning. Family Law often affects students on a personal level, and so teaching this subject requires continuous self-reflection to ensure the issues being discussed do not make students feel vulnerable or marginalised. Indeed, diversity is not confined to the characteristics protected by the Equality Act, for as Mayo notes, 'not all in a given culture, race, ethnicity, or other seemingly similar coherent group are the same;' (2009, p. 215) we all have different backgrounds and experiences, and appreciating this difference is crucial when creating an inclusive environment whereby students have equality of opportunity to reach their potential. Recent research has demonstrated the need to prioritise diversity by paying particular attention to the impact university culture has on LGBTQ students (Independent, 2016) and so considering alternative methods of dealing with potentially offensive comments made in the classroom is crucial, especially when teaching controversial subjects such as Family Law.

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