

## THE IDEA OF CHANGING PLACES IN INTERCULTURAL COMMUNICATION

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### ABSTRACT

*This article explores the idea of "changing places" in intercultural communication within the context of the class room and the courts in our communities. The authors argue that in order to address the legacy of colonial and apartheid inspired communication, new approaches grounded in introspection, self-criticism and evaluation are helpful. Changing places with those who are different from ourselves facilitates diversity literacy. Operating first at the cognitive level, it requires us to gain information about the Other in order to move beyond our comfort zones and to disrupt the ease of our ignorance. Secondly, it requires us to empathically and imaginatively extend ourselves to a level of feeling or experiencing the reality of the Other.*

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## INTRODUCTION

*Greetings! I am pleased to see that we are different. May we together become greater than the sum of both of us.*

- Vulcan greeting from Star Trek

The principle of changing places is the core dynamic in the process of becoming literate about diversity. In order to figuratively "change places" with another, we must undertake two conceptual activities. The first operates at a cognitive level where we gather information about others to gain knowledge of how they are situated in the world. The second is empathic and imaginative, in which we extend ourselves to experience the feeling of the reality in which the Other lives.

The first level at which diversity literacy begins to operate is internal. It is a personal and self-regulated process of becoming sensitive to issues of diversity as we encounter them in our lives - in the classroom or courtroom, at social gatherings, in the media and in legal materials. For law teachers, there is the additional responsibility of assisting students to become sensitive to diversity. If we have not individually done the work of becoming literate in diversity, it follows that we will not be able to facilitate the process in our classrooms.

For legal decision-makers, diversity literacy is (or should be) at the core of their commitment to justice. Judicial officers who are illiterate about diversity stand in daily danger of making decisions based on ignorance, stereotyping and other forms of unconscious bias.

The cognitive aspect of the principle of changing places is based on the theory that a negative response to difference is rooted in ignorance. Becoming literate in diversity therefore requires us to work against the ease of ignorance about the other, to take active steps out of the comfort zone of the familiar.

Most of us rely on "common sense" and other cultural assumptions in our responses to the unknown. When we abandon the hollow repositories upon which we have relied, we engage in a process of self-reflection. We ask "how much do I really know about this?" We make the first brave attempt to dive beneath the surface.

## ON KNOWING OTHERS

There are only so many life experiences each of us has had, only so many exposures to ways of thinking and being that are truly divergent from our own. Even when our gaze is open and sympathetic, what we

see of another person's life is never the full picture. We form impressions from mere glances: the aged face, the wheelchair, the fez, the leather pants and earring, the wedding ring, the pregnant belly. But in the absence of real intimacy we cannot know the meaning people give to their own experiences.

As we begin to move from fixed ideas and impressions to inquiry into the lives of others, something shifts. A slow process of understanding gathers force. We first doubt and then actively stop assuming that our values and experiences are the norm. We develop a little humility.

The norm in South African law, as in so much else, has been and continues to be male. In addition, the norm or dominant "reality" tends to be white, middle-class, Christian, dualistic, and rational in the sense that a particular style of affectless thinking and engagement with the world is valorised (Fedler & Olickers 2001: 97ff.).

Consider for a moment what knowledge a group of white, middle-class, Christian males might have about African ancestral thanksgivings; being deaf; Jewish circumcision rituals; gay culture; pregnancy; or the festival of Eid.

Sealed in the insular chambers of our selves and our limited experience, we may not know, for example that it is against the Muslim religion to charge interest, or that many women suffer from post-natal depression.

It may be beyond any stretch of our imaginations to know what it must be like to be a gay teenager in a fundamentalist family.

For particular students, parties to a case, or colleagues, these may be self-defining experiences or conditions and may exert a profound influence on their experience of studying law or being involved in a lawsuit. Knowledge of how others live adds texture and nuance to the way we engage with the world, enriching the capacity to teach and take legal decisions and extending our understanding of why different people react to certain phenomena in unexpected ways. For example, we may be more sympathetic to a woman who is unable to leave an abusive marriage if we know that divorce is regarded as a form of social death in some religions and that it is difficult for a Jewish woman to get a religious divorce.

Knowledge of an individual's socio-economic circumstances, geographic location or religious beliefs may shed light on why he does not pitch up to court on a particular day. If we know that Muslim

students attend mosque at lunchtime on Fridays and Jewish students attend synagogue on Friday evenings or Saturday mornings, we will not set exams at those times.

Because most of us are often ignorant about the lives, cultures and circumstances of the Other, gathering information requires effort on our part. We may have to read up about Islamic culture. We may decide to visit a gay club. We may need to search the Internet for information about cystic fibrosis. We may have to abandon our legal texts in favour of psychology journals for a while to gain understanding of manic depression. There are many methods for gaining knowledge but they require us to move outside our comfort zones.

Failure to gather information about the lives of others will often result in decisions steeped in ignorance, based on personal beliefs and out of touch with the broader reality. This has been an ongoing criticism of both the Bench and academics who are often seen to be remote from the social mainstream, protected residents of the proverbial Ivory Tower.

## **WORKING WITH DIVERSITY**

One of the most effective ways to develop diversity literacy is to work with the diversity within the classroom or courtroom. There will be many opportunities for law teachers and legal decision makers to encounter students, colleagues and parties to cases whose cultures, histories, values and socio-economic circumstances differ from their own. For both the teacher and decision maker, the imperative to be diversity literate is pressing, because both stand in a relationship of power over students and parties to a case. In some situations this will be compounded by race, gender and class disparities.

Students and parties to cases are vulnerable in ways that teachers and magistrates can predict to some extent, provided they have a degree of diversity literacy. While we cannot know the unique individual circumstances impacting on the lives of our students and parties to a case, we do know that they will be differently affected by what they see and hear in the courtroom or classroom according to how they are situated in the world in terms of sex, race, class, sexual orientation and so on.

At the same time, the sex, race and class of the teacher or magistrate will also impact on how and what is taught in particular courses, or

the kind of decision that is ultimately reached. It is also important to be conscious of the fact that students and parties to a case will also tend to have preconceived and unarticulated ideas and face-value perceptions about teachers and magistrates, and these too will impact on the learning and decision-making processes.

How might this kind of approach work in practice? A teacher working contextually in a criminal law lecture would notice and bring to his students' attention that half the class is female. In teaching the case of *S v J* 1998 (2) SA 984 (SCA), in which the Constitutional Court revised the cautionary rule in rape cases, he might wonder whether any of his female students had been raped. He might wonder whether any of his male students had raped or attempted rape. He might make these concerns explicit before discussing the case.

In order to deepen his understanding of rape, he might read a book by a survivor, or interview a police officer at the charge office. He might explore feminist critiques of why the legal system fails women. He might chat to his wife, daughter, sister, mother or friends about their fears of rape. He might make an effort to trace the latest rape statistics for South Africa and distribute them in class before dealing with the facts of Jackson.

In teaching the Credits Agreement Act 75 of 1980, a teacher trying to work with diversity would be aware of the probability that black and white students and students from different class backgrounds would have had very different personal experiences with hire-purchase. In all likelihood, few white students and students from upper-class backgrounds would have encountered the concept in any practical way, whereas black and working-class students might have had to witness the indignity of repossession of furniture bought on hire-purchase by their parents.

When teachers lack information about a particular situation or experience, they can call in guest lecturers. A psychotherapist might be asked to discuss why certain men rape, for instance. An actuarial scientist might be asked to explain how the quantum of damages is assessed in particular cases. A shop steward could be asked to explain the process of collective bargaining. In addition, immersion experiences for the class can be arranged, such as a visit to an HIV ward, a squatter camp or a maintenance court.

Judges or magistrates in similar situations can call expert witnesses. In the recent defamation case of *Holtzhauzen v Roodt* 1997 (4) SA 766

W, an alleged rapist sued the victim for telling people he had raped her. Justice Satchwell accepted the evidence given by a counsellor on "Rape Trauma Syndrome" and noted (at 778 H-I):

I acknowledge that the ability of a judicial officer such as myself to fully comprehend the kaleidoscope of emotion and experience of both rapist and rape survivor is extremely limited. In such circumstances, I am of the view that it would be unwise and it would be irresponsible for myself as a judicial officer, who is lacking in special knowledge and skill, to attempt to draw inferences from facts which have been established by evidence, without welcoming the opportunity to learn and to receive guidance from an expert who is better qualified than myself to draw the inferences which I am required myself to draw.

Working with diversity in the classroom also means drawing on students' knowledge of their own lives. Once made explicit, the varying backgrounds and life experiences of students can greatly enrich class discussions. The first level of this kind of engagement is with visible difference in the class: men and women, black and white students, locals and foreigners, old and young. As people get to know each other and trust develops, it is possible to engage with more hidden levels of diversity, such as gay and "straight" students, particular religious orientations, and groups in the class who may be single parents or orphans or survivors of sexual abuse. Attention to facilitation skills should enable the teacher to elicit responses to legal issues that reveal this kind of rich diversity within the classroom. At the very least, understanding that diversity runs deep must mitigate the unwanted acontextual approach to teaching and legal decision making.

### **AFRICAN VALUES**

Much has been made in South Africa of the differences between Western and African systems of thought, partly as a way for Africans to reclaim the beauty of their heritage in the wake of the brutalities, distortions and diminishment of apartheid. To the extent that it is possible to generalise, we offer a few of the differences between African and Western cultures.

The basic unit in Western culture is the nuclear family, in which the independence of individuals is stressed. By contrast, the extended family with strong communal ties forms the basis of African culture.

Whereas the Western value system endorses an individualist approach to law, in which individuals are regarded as rights bearers and separated from all other beings, African values reflect a more communitarian jurisprudential approach, in which individuals are seen in relationship to others.

While the Western orientation in the world tends to focus on work towards the future, much of African tradition is about reverence for the ancestral spirits of the past. African tradition is deeply oral, while the West favours the written word. African culture honours the dream and intuition as repositories of wisdom, whereas in Western culture it is mostly acquired knowledge that commands respect.

Speaking loudly in public may be regarded as bad manners in Western culture, whereas it is expected in African culture in order to assure all listeners that no gossip is taking place. Similarly, African people who enter a house or office will usually sit down without being asked. Westerners might regard this as bad manners but in African culture it is rude to stand in someone else's space. Sitting is a sign of respect.

An African student or witness might not look a lecturer or magistrate in the eye. If the lecturer or magistrate is not African herself, she might regard the student or witness as "shifty". In African culture, however, it is bad manners to look directly into the face of a person to whom one owes respect.

### **WALKING IN THE SHOES OF THE OTHER**

Native Americans have a saying: you cannot judge another person until you have walked a day in his moccasins. This is diversity literacy at its most meaningful. To reach the level of empathy implicit in the principle of changing places, we must walk in the shoes of the Other. Beyond, or perhaps through the gathering of information about others, we move into a place of feeling. This is where we have to go in order to change places with another so that we are transformed.

Even if we have "never sniffed teargas", we need to be able to "weep all the same". Schaffer and Cochran (1994: v) refer to humanist psychologist Carl Rogers, known particularly for his focus on empathy and compassionate listening, who coined the phrase "unconditional positive regard" as part of a technique he called client-centred therapy. Rogers (in Schaffer & Cochran *ibid.*) says: "To be of assistance to you I will put aside myself ... and enter into your world of perception as completely as I am able. I will become, in a sense,

another self for you, a safe opportunity for you to discern yourself more clearly, to experience yourself more truly and deeply, to choose more significantly.”

There is obviously a difference of degree in the empathy necessary for therapeutic and communication encounters and that appropriate to other settings. However, in terms of the formalist approach to law for example, any degree of empathy is rejected on the basis that it is not a legitimate “legal” response. Indeed, empathy tends to be regarded as both irrelevant and obstructive to legal understanding. Thus, as Lynne Henderson notes (1987: 1579):

The ideological structures of legal discourse and cognition block affective and phenomenological argument: the “normal” discourse of law disallows the language of emotion and experience. The avoidance of emotion, affect and experiential understanding reflects an impoverished view of reason and understanding - one that focuses on cognition in its most reductionist sense. This impoverished view stems from a belief that reason and emotion are separate, that reason can and must restrain emotion and that law-as-reason can and must order, rationalise and control.

Henderson (*ibid.*) goes on to argue that far from being foreign to legal understanding, empathy is itself a form of understanding, integral to the process of decision making. She describes empathy as encompassing three basic phenomena:

- feeling the emotion of another;
- understanding the experience or situation of another, both affectively and cognitively, often by imagining oneself to be in the position of the other; and
- action brought about by experiencing the distress of another (a form of sympathy).

In fact, the notion of empathy is not foreign to our current South African legal consciousness. The African concept of ubuntu, that each individual's humanity is co-dependent upon the humanity of others, is a fundamental value of the Constitution and our new legal framework. Indeed, the very notion of human rights depends on an empathic identification with the Other.

However, there is also a kind of empathy that can be problematic, particularly when it is unconscious or invisible. This aim of this kind

of empathy is to become conscious of our own inarticulate premises or undeclared attitudes (and those that are systemic). Once we become aware of an empathic response to particular individuals, we can begin to explore whether that empathy is based on identification with the familiar (eg. a female magistrate may identify with a female plaintiff) or whether it is a “legitimate” response to the experiences of another (eg. a lecturer with a blind mother may respond warmly to a request for help from a blind student).

Cultivating the capacity to empathise with others is an expansive commitment: it means becoming more aware of self and others; it means noticing prejudicial attitudes within and around us; it means extending our ability to feel sympathy to those unlike ourselves as well as those who are near and dear. Taken to its extreme, commitment to empathy becomes the biblical command to “love thy enemy”.

Working with empathy is not a simple matter, however. Because we naturally empathise with those who are similar to ourselves, we will not be able to empathise equally with everyone (cf. Massaro 1989: 2109-10).

## **THE CALL TO CONTEXT**

Empathy itself feeds into a larger academic movement characterised by the term “a call to context”. Proponents of this new way of thinking argue for the need to enable the hearing of individual “voices”, the telling of individual “stories”, particularly those that have been marginalised or silenced. Massaro notes (1989: 2105-6):

Storytelling is part of an overall “call to context” which is directed at jurisprudential and normative ends. Those who encourage legal storytelling and those who favour empathic decision making seem to share at least two concerns. One concern is that legal theory and legal discourse often are too removed from individual experience. Academics, judges and lawyers often juggle concepts and spar with abstractions, without consulting the human concerns actually at issue in their deliberations. Stories can shock them back into sensation, into life as it is versus how we talk about it. Stories are one way to bring law down to life, to the people, “to the ground”. This reflects, I believe, a broader suspicion of traditional jurisprudence's emphasis on acontextual rules and about the way that Western epistemology tends to describe or interpret experience and understanding.

The second shared concern of at least some of the legal storytelling advocates is normative ... [in favour of] bringing things down to context, to individual storytellers and their unique experience. This view implies that all voices are equal, and that diversity of voices should be a paramount political value. Human dignity - each storyteller is an end, not a means - seems to be an implicit normative principle of the legal storytelling approach.

## CONCLUSION

Enabling people's voices to be heard can be taken very literally in the classroom. It is easy for teachers to identify who speaks, and who does not speak, and to seek ways to encourage the silent into voice. There are many exercises and techniques that can be used to encourage people to speak in class, to voice their opinions and share their experiences. A few of these exercises are provided below (cf. Rooth 1995).

As Samovar and Porter (1994) would suggest, by increasing our knowledge of the lives of those who are unlike ourselves and by listening empathically to what they say about their circumstances, we enlarge the universe of understanding and enhance the discourse of intercultural communication.

### Class exercises

#### 1. *Walking in the shoes of the other*

Ask students to come to the centre of the class, take off their shoes and put them in a big pile. Then ask each student to choose the pair of shoes least similar to their own, to put them on and walk around the class in them. After they have done this for a few minutes, students can put their own shoes back on. Ask students to discuss the following questions in small groups.

- What did it feel like to walk in shoes so different from your own?
- What thoughts did you have about the "kind of person" who wears these shoes?
- Did you get a sense of the person's personality, life experiences, daily routine by walking in his or her shoes?
- How do these imagined experiences differ from your own?

It is the role of the facilitator to link the experiential aspect of the exercise to the range of feelings, discomforts and resistances involved in developing true empathy for others.

## 2. *Perception of danger*

This exercise can be used in criminal law or delict subjects in which the concept of reasonableness is being explored. Specifically, it illustrates an example of a mistake of fact, or putative self-defence.

Janet, a hairdresser, is closing up her shop in the late afternoon. She is alone in the shop. A man knocks on the door and asks her if it is possible for her to cut his hair quickly, as he has a meeting in the morning and wants to look presentable. Janet lets him in and seats him in front of a mirror. She covers him with a plastic drape and goes into the backroom to fetch her scissors. From the backroom, she sees him in the mirror and notices his hands making jerking motions underneath the plastic drape. She picks up a bottle, walks quietly up behind the man and knocks him out by breaking the bottle over his head. She then calls the police. When the police arrive and remove the plastic drape, it is found that the man was cleaning his glasses underneath the plastic drape. Possible questions to be answered are:

- What did Janet think the man was doing under the plastic drape that made her react by hitting him over the head with a bottle?
- Though she was mistaken, was her perception of harm reasonable?
- If Janet had been a man, would you expect him to react in the same way?
- What factors made Janet believe she was potentially in danger?
- What factors would, in Janet's eyes, have minimised her perception that she was in danger?

## 3. *Stereotype literacy*

- Invite a lecturer from the communication department to come and explain how the phenomenon of stereotyping occurs and develop exercises to illustrate it.
- Facilitate discussions around the issue of discrimination. Let students tell of their own experiences of discrimination.
- Encourage cross-cultural understanding through events, parties, attendance at different cultural activities, and acknowledge the full spectrum of cultural and religious holidays (ensure that everyone in the class knows and understands the relevance of Eid, Chanukah, Easter, Ramadan etc.).

#### 4. *Diversity literacy*

Arrange a cultural open space: participants select issues they want to discuss and facilitators assist the group to do this.

- Arrange for an input by a communicologist to explain how language and culture work together.
- Arrange for “speak outs” from experts in NGOs in relation to social issues such as rape, domestic violence, HIV, disability etc.
- Arrange “immersion activities”: put together a programme of events and activities exposing students to different realities such as visits to prisons, shelters for homeless people, township events, or debates in Parliament and the provincial legislatures.
- Include exercises in class that encourage the development of a range of life-skills, including listening and counselling skills.
- Use role-plays in the classroom to facilitate experiential learning about certain situations, such as the trauma of giving evidence about sexual offences, “coming out” as a gay person, or living with HIV/AIDS.

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