



How to educate our future lawyers about LGBTI rights

Law schools around Australia need to move education away from assumptions of heterosexuality and gender normativity and encourage students to grapple with legal issues related to sexual orientation and gender identity. Paula Gerber explains.

There are 36 law schools within Australian universities. How many of these do you think offer subjects relating to LGBTI rights, sexual orientation or gender identity? Half? A quarter?

Alas, on the most generous count, it is only eight: Monash University, Southern Cross University, Griffith University, University of Technology, Sydney (UTS), Australian National University, Macquarie University, University of Western Australia, and University of Wollongong.

While this is a disappointingly low number, and a poor geographic spread – with no offerings in South Australia, Tasmania or the Northern Territory, and only one in Victoria – it is a big improvement on just five years ago. In 2010, only three law schools offered LGBTI-related subjects.

Is it a problem that the majority of law schools are not offering students the opportunity to study how the law impacts LGBTI people in positive and negative ways? The answer is a resounding yes.

The law has traditionally been a very heteronormative institution. To this day, the senior members of the legal profession are overwhelmingly white heterosexual men, as are the politicians who make our laws and the judges who interpret and apply them. Given this environment, it is essential that law schools, as the bodies responsible for training future generations of lawyers, equip our students with the knowledge, skills and understanding to represent a diverse range of clients and effectively respond to legal issues unique to the LGBTI community.

Offering subjects dealing with LGBTI rights and issues is also likely to have a positive effect on LGBTI students by lessening any sense of isolation they may feel.

So what do the current array of LGBTI-related subjects look like? A common thread is that the subjects tend to be interdisciplinary. That is, the law relating to sexual orientation and gender identity has to be considered in context, and thus topics covered include history of the gay rights movement and queer theory.

Only a couple of the subjects focus exclusively on LGBTI rights and issues. The majority consider sexuality and gender more broadly, including *Pleasure and Danger: Sex and the Law* at Macquarie and *Gender, Law and Sexuality* at UTS.

Monash is the latest university to offer law students the opportunity to learn more about LGBTI rights and issues. Its subject *Sexual and Gender Minorities and Human Rights Law* is the only one to critique sexual orientation and gender identity from a human

rights perspective. Students examine a diverse range of topics, including: same-sex marriage/relationship recognition, same-sex parent families (access to fertility services including surrogacy), criminalisation of homosexuality, anti-discrimination laws, hate-based violence, "gay propaganda" prohibitions, regulation of bodies and gender, LGBTI refugees.

While the slow and steady increase in the number of law schools offering LGBTI-related subject is welcome, these are always elective units that will only be chosen by students already interested in this area. Law schools also need to engage in a "queering" of the overall curriculum. Students should be exposed to diversity throughout their studies.

For example, in property law, the hypothetical examples that lecturers use could involve land owned by Mary and Peta, rather than Mary and Peter, in criminal law students could discuss the unequal age of consent laws in Queensland (16 years for heterosexual sex and 18 years for homosexual sex) and in family law the need for law reform so that a married transgender person does not have to divorce their spouse in order to have their gender legally recognised.

Such initiatives would help to move legal education away from assumptions of heterosexuality and gender normativity and encourage students to grapple with legal issues related to sexual orientation and gender identity throughout their course.

We can't expect the legal profession to become more accepting of diverse sexualities and genders if law schools are not educating the future lawyers about these issues. Hopefully, more and more law schools will come to recognise the need to include LGBTI rights and issues not only in elective subjects, but also in their core curriculum.

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