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TITLE:

**RE-ENVISIONING THE COMPLEXITIES OF INCLUSION BEYOND
CRUCIAL LEGAL OBLIGATION TO ALSO THE SENSE OF STUDENTS'
NEEDS AND PROCESS ENGAGEMENT.**

10TH EDUCATION STUDIES PGR CONFERENCE

EDUCATION: PARTICIPATION, LEARNING, AND PRACTICE

Conference Dates and Time:
Friday 21st April 2023 (1200
– 1700 GMT)
Saturday 22nd April 2023
(0900 – 1300 GMT)

Location: Online (via
Microsoft Teams)

ABSTRACT:

The paper tackles the ambiguities and complexity revolving around inclusion agenda at schools and Higher Education system in the UK's educational sector. As being one engendering themes of equality and subsequent legal obligations arising from the legislative tenets of the Equality Act 2010. The legislation is now clearly a crucial piece of document also detailing specific expectations for HE institutions, as well as the enunciated policy guidelines reiterating this position. I argue it behoves on each educational outfit to first recognise the scale of the challenges, the need for protective cover but also improvement, the practicality and peculiarity of the course and student's abilities, indexes for wellbeing as a necessary factor. And then to proceed to raise the paramount question on how to satisfy the student's outcomes for success and consciously commit to providing a credible experience in doing so.

I explore this theme by considering the relevant provisions on the PSED policy obligations, and some key arguments on how to broaden the inclusion debate. Ivan Illich would envisage credible education as going past the four walls of a school to adopting creative ways in learning, while John Dewey's theory of experience raises the argument on how truly progressive an educational system is without bring to bear a traditionalistic inkling. Contemporary research on inclusion policy in HE institution point to a cautious approach, a somewhat ticking the box exercise, and questions if there are other contriving factors and strategies to pay attention to for effectiveness and quality outcomes.

INCLUSION AGENDA



The interconnected dimensions of exploring inclusion for school improvement, at the core of it is along the three triangle lines of “creating inclusive cultures,” “producing inclusive policies,” and “evolving inclusive practices”- they argue that it is “through inclusive school cultures, that changes in policies and practices can be sustained by new staff and students.” (Booth, and Ainscow, 2002: 11-13)

"Inclusion starts from a recognition of the differences between students," and building on it, to ensure their educational experience caters for the "whole person" (Booth, and Ainscow, 2002: 8-9)

Booth T., and Ainscow M., (2002) Index for Inclusion: Developing Learning and Participation in Schools. Bristol: Centre for Studies on Inclusion Education.
<https://www.eenet.org.uk/resources/docs/Index%20English.pdf>

PSED POLICY OBLIGATIONS

Clearly outlined also on the PSED implication is:

"It has three main elements. In carrying out their functions, public bodies are required to have due regard to the need to:

1. Eliminate discrimination and other conduct that is prohibited by the Act,
2. Advance equality of opportunity between people who share a protected characteristic and people who do not share it,
3. Foster good relations across all characteristics - between people who share a protected characteristic and people who do not share it."

"Due regard" need to have "devotion" to the equality implications. (DFE- Equality Act 2010 and Schools, 2014:30-31)

EQUALITY ACT 2010

An educational institution has a responsibility to not discriminate or victimise a student in its institution and undertaking a course, by "not providing education" or "in the way it provides education for the student" (s. 91 (2) and (7) Equality Act). I argue this need for inclusion according to this legal provision, statutorily requires the duty extends to the pre-student (as well as disabled persons in subsections 3 and 8 of section 91) status in terms of the credibility of the admission process, the subsequent opportunities for learning as an admitted student in that institution undertaking a course (s. 92), and to the use of infrastructure, and not causing any "other detriment".

In S. 91 (10) institution means university, other Higher and further education; as well as 16 to 19 Academy- which caters for those school students who joins an institution for this purpose (S. 91(10)(d) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 54(1), Sch. 13 para. 20(2)(a); S.I. 2012/924, art. 2).

Of note is the exception - in relation to educational matters for equality goals in HE/FE is 94(2) "Nothing in this Chapter applies to anything done in connection with the content of the curriculum."



EQUALITY ACT 2010 (...)

Also 90 (1) states this principles does "not apply to the protected characteristic of marriage and civil partnership."

[Its arguable this is to be the case given the likelihood of it not being pleaded as a ground, in contrast to age or religious proclivities for instance.]

Similarly s. 96 (1) to (6) requires a "qualification body" (except by an "appropriate regulator" as stipulated by the Crown- s. 96(7)-(10)) in awarding or conferment of its qualification must not discriminate, victimise, harass a person in its decision to confer in the arrangements and terms for conferment; and also on who applies for it or holds it; and on whether its withdrawn or varying the terms; and also not subjecting the person to any other detrimental treatment. The duty extends to making "reasonable adjustments" (s. 96(6)).

I suggest the import of the legislative mandate under the UK's S.91-96 Equality Act 2010 for law institutions in the HE responsible for adults over 18 years old and as degree awarding institutions, is to ensure law learners are included in the learning process, in the way they're taught and aided in the course, from the start to the finish of their study, even pre-study admission process, and the aftermath in ensuring the attained value of the qualification diminished in for instance withdrawing it.

The relevant legal provisions are as follows- found in S. 149 Equality Act 2010: (Public sector equality duty)

IVAN ILLICH'S ARGUMENT

Illich argues students are schooled to "confuse teaching with learning, grade advancement with education, a diploma with competence, and fluency with the ability to say something new" (Illich, 1973: 9)

Learners motivated by the same concerns should have the space to do so collectively- "Creative, exploratory learning require peers currently puzzled about the same terms or problems." (Illich, 1973: 26-27)

He goes as far as criticising certification of teachers, that a person with a competent skill should be allowed to teach as a matter of freedom- "insisting on the certification of teachers is another way of keeping skills scarce" (Illich, 1973:91-92), though it highlights the control and regulation by the teaching body, questions remains of how to ensure professionalism is maintained, standardisation of competence and high quality delivery. This can be done at different levels, but for HE beyond the game of capital in the teaching field, the goal has to be meeting the needs of learners.

Illich, I. (1973) *Deschooling Society*. Harmondsworth: Penguin Books Ltd.



JOHN DEWEY'S THEORY OF EXPERIENCE

Rather than engage in educational debates of “ism” reacting against other “isms,” that there is need for depth to the discourse- a “constructive survey of actual needs, problems, and possibilities,” and ensuring an education is given worthy of its’ name. (Dewey, 1938: 6, 90)

The educator also has responsibilities- he argues:

“there is incumbent on the educator the duty of instituting a much more intelligent, and consequently more difficult, kind of planning. He must survey the capacities and needs of the particular set of individuals with whom he is dealing and must at the same time arrange the conditions which must provide the subject-matter or content for experiences that satisfy these needs and develop these capacities.” p.58

“The principle that development of experience comes about through interaction means that education is essentially a social process. This quality is realised in the degree in which individuals form a community group.” (Dewey, 1938: 58)

CONTEMPORARY RESEARCH ON INCLUSION POLICY IN THE INSTITUTION

Schuelka argues,

"The importance of inclusive education is defined in its positive outcomes for all children – both with and without disabilities or other disadvantages."

"Most accepted definitions of inclusive education deem it as a continuous process, and so it should not be thought of as something to be achieved."

What makes for "successful inclusion" canvassed as including five main components for education implementation:

"1. inclusive policies that promote high outcomes for all students;

2. flexible and accommodative curriculum;

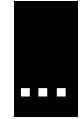
3. strong and supportive school leadership;

4. equitable distribution of resources; and

5. teachers who are trained in inclusive pedagogy and view it as their role to teach all learners in a diverse classroom." p.3-4

Dr Matthew J. Schuelka, K4D: Implementing inclusive education 29 August 2018;

https://assets.publishing.service.gov.uk/media/5c6eb77340f0b647b214c599/374_Implementing_Inclusive_Education.pdf#:~:text=Key%20factors%20in%20inclusive%20education%20implementation%20include%20school,in%20which%20inclusive%20education%20factors%2C%20such%20as%20employment. accessed March 11, 2023



Beyond pointing to relevant legislation and need for partnership with stakeholders, other recommended strategies for national governments to consider in aid on inclusive education implementation include, having regard to effective Education Management Information Systems (EMIS) so schools can have up to date data to analyse lapses in identifying and managing barriers to inclusion which put students' at risk, also need for "allowing curriculum to be modified, providing alternative forms of assessment, and allowing teachers and students to have ownership of the curriculum and learning outcomes"- it's the sense of tailoring the requirements to reflect the personal learning needs and diversity disadvantages for longer term success; and they also suggest need to recognise inclusivity extends past the four walls of the school to societal attitudes at large- "national governments can do more to support successful post-school outcomes such as inclusive employment and an accessible economy" (Schuelka, 2019: 9).

Koutsouris, Stentiford,, and Norwich, argue

"Inclusion is seen as an ethical obligation, grounded in notions of equity and social justice for all groups and at all stages of education."

They argue though notions of inclusion is complex, there is the need for universities ensure their policy framework envisage it beyond compliance of a legal obligation to a core component of education.



Inclusion as respect for individual peculiarities -"When it comes to teaching and learning, a central principle of any inclusive pedagogy appears to be treating all students with respect." (Koutsouris, Stentiford, and Norwich, 2022: 882)

They suggest what makes for inclusion differs between HE and schools-

"However, unlike school education, HE is by its nature selective, thus careful consideration is needed in terms of how inclusion can be understood in this context."

In terms of participation each institution would be unique-

"So, approaches to inclusion highlighting placement and access would most likely perceive a selective institution as exclusive; however, approaches emphasising participation (academic and/or social) would instead focus on experiences of inclusion/exclusion within a particular institution."



...

Also, the variation in meaning of inclusion from surveying several organisational policies is evident-

"Most policy documents did not offer explicit definitions of inclusion or, when they did, these definitions were opaque and ambiguous. This was either because inclusion was defined in terms of values that needed to be further defined (e.g. respect, equality, diversity), or because inclusion was defined cyclically." (Koutsouris, Stentiford, and Norwich, 2022: 884)

They appear to concede that the idea of participation is a credible theme for understanding inclusion when expressed in HE objectives- "Widening participation was also discussed in some of these policy documents as a way of removing barriers and raising aspirations, consistent with the aims of inclusion." (Koutsouris, Stentiford, and Norwich, 2022: 885)



"Some institutions reflected also on their Public Sector Equality Duty that involves eliminating discrimination, advancing equality of opportunity and fostering good relationships in their communities" (Koutsouris, Stentiford, and Norwich, 2022: 885)

"there was a seeming tension in many of the policies regarding the imperative for inclusion as an act of legal compliance (i.e. the Equality Act 2010 or other legislation) that was also expected to influence everyday relationships. The latter expectation was indicated as an attempt to develop a 'welcoming community' and a 'respectful culture' that is the responsibility of all in the institution (staff, students and guests)." (Koutsouris, Stentiford, and Norwich, 2022: 890)

"In the policy documents, inclusion was also related to excellence and meritocracy; however at the same time was seen as a way of tackling social inequalities and injustice. These ideas can be seen to be in tension; yet this tension was not acknowledged in the policy documents. Excellence, on the one hand, is about the freedom to accomplish outstanding achievements; meritocracy, on the other, is about access to socially valued positions based on individual qualities." (Koutsouris, Stentiford, and Norwich, 2022: 890-1)

LESSONS FROM KUTSOURIS & ORS

Exploring documentary evidence into the empirical research findings of the inclusion policies of UK Russell Group universities was that the approaches used were mostly managerial and legalistic, showing caution in ticking the box to meet legal obligations, and there was need to embrace the other ambiguities of the notion- "The findings of this policy analysis demonstrate how the concept of inclusion has been co-opted into this performativity agenda; ambiguities, debates and tensions were largely ignored within the policy documents, and inclusion was presented as a marketised commodity that universities might use to enhance their reputation." (Koutsouris, Stentiford, and Norwich, 2022: 892)



CONCLUSION:

TOWARDS EFFECTIVENESS AND QUALITY OUTCOMES.

- ❑ Taking as key the PSED obligation not evading it through side-lining the inclusion agenda by redefinition.
- ❑ Noting educational needs and meeting them via learning strategies, evidencing pedagogical practice.
- ❑ Active participation in learning.
- ❑ Raising more crucial questions on how to best support disadvantaged student's needs deficient of the requisite capital.