

Ethical and Legal challenges when implementing intercultural reflection on teaching



Summary

Intercultural reflection on teaching brings higher education teachers from different institutions and countries together to share and discuss each other's teaching. Technologies enable participants to talk to each other and share information and recordings of teaching across disciplinary boundaries and national borders. This case study outlines the ethical, legal and policy context that needs to be considered, raises awareness of potential barriers to participation, and considers the ethical approval processes if data is collected for research purposes. Suggestions based on the experience of the project team, examples and critical incidents that arose are provided throughout.

Keywords

Data governance, privacy, Personal Data, GDPR legislation, institutional policies, video recordings of teaching, information and consent, equality, diversity, inclusion, UK Equality Act, research ethics

Disclaimer: *The information included in this case study does not constitute legal advice. It has been prepared to provide suggestions which may help guide readers in conducting intercultural reflection on teaching, thus is intended for general information purposes only. We recommend that prior to proceeding with any activity, you first seek independent advice to ensure all activity is undertaken lawfully and in accordance with all policies and procedures applicable to your own institution, and within your relevant jurisdiction.*



Intercultural Reflection on Teaching

A case study by the IntRef team at Durham University, UK (in no particular order)
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1. Introduction

The expansion of technical capabilities and collaborative platforms has made possible what was unthinkable only a little while ago. Through file sharing and online meetings, information is shared across the world. Video recordings in particular allow us to document and gain insight into activities which were formerly inaccessible or hidden behind closed doors. This also applies to teaching. New video technologies provide powerful ways of 'collecting, sharing, studying, presenting and archiving detailed cases of practice to support teaching, learning, and intensive study of those practices' (Derry et al., 2010, p. 4). In addition, the move from face-to-face to online teaching and learning as a result of the coronavirus pandemic has led to recordings of teaching being widely available as a matter of course rather than being exceptions.

Recording and sharing teaching is simple and easy to do. However, the process of capturing and sharing classroom interactions presents new legal, ethical and practical challenges which merit further exploration and discussion. Video based reflection in particular can be challenging because of the inherent non-anonymous nature of videos as the images and voices of the participants, being staff or students, are an essential part of the reflective activity.

This case study has arisen from our own questions. Also, academics and academic developers have approached us about what they can, and cannot, record and share, whether they should seek consent from students, and where and how to store the recordings. Once we tried to answer such questions from the perspective of our own institution, we realised that they were more complex than they appeared at first sight.

The case study maps the terrain from our perspective, explores the complexities involved and highlights specific aspects which coordinators and participants in intercultural reflection on teaching may need to be aware of. It draws on the project team's experience of facilitating intercultural reflection on teaching to illustrate issues and provide advice on ways in which these may be addressed. It explores what can, and cannot, be done and refers to current debates, norms and values. These can differ considerably in intercultural exchanges which are located in a range of local contexts.

2. Legal and institutional requirements, policies and practices

Intercultural reflection on teaching involves sharing teaching through online meetings, video recordings and written reflections between individuals who work in a range of institutions located in different countries. Using the IntRef methods involves interactions between individuals and institutions in a range of countries where laws and regulations are in place that may be different to those in your home country. Some laws in place in certain jurisdictions can in fact directly conflict with domestic law. Some laws have been adopted by multiple jurisdictions, e.g. the Data Protection regulations adopted across all EU member states, while others may only apply within the country you are operating. In addition, intercultural reflection on teaching brings together staff from institutions that will have adopted different internal policies, which should also be taken into account.

While universities may approach certain issues in similar ways, this does not necessarily have to be the case. Even if you are running IntRef sessions in your home institution only, without linking to partners in other institutions or countries, this will still involve the processing of participants' Personal Data such as that which is included or forms part of any video recordings, written descriptions, evaluations and reflections on participants' own teaching and that of others used in doing so. In all EU Member States, the law governing the processing and protection of Personal Data (as defined therein) is currently provided by the EU General Data Protection Regulation (GDPR). In the UK, this is governed under the UK General Data Protection Regulation (UK GDPR), tailored by the Data Protection Act 2018. In other countries, legislation largely unique to any particular jurisdiction is likely to apply.

Regardless of your domestic jurisdiction, it is important to ensure that any collection, handling and/or processing of Personal Data is done strictly in accordance with all relevant laws. Before collecting or sharing any Personal Data by way of recording and sharing teaching from your home institution for the purposes of IntRef, you should seek appropriate advice and guidance on how this should be done lawfully. The requirements will likely differ between institutions and countries across the world. Where sharing inter-jurisdictionally, the laws on the import and export of Personal Data may differ, or even be incompatible under certain circumstances. While we are not in a position to offer legal advice in regards to the handling of Personal Data, you should be aware of the following key principles taken from law applicable in the UK:

The need to provide participants with relevant information about Personal Data and its use.

The need to seek participants' consent.

The need to handle Personal Data carefully, in accordance with the law that is applicable in your country.

The need to use data only for the specified purpose and to delete it once it has been used.

We strongly recommend that you seek independent advice from departments or individuals in your institution who are responsible for data protection/governance and legal issues before you engage in IntRef activity.

Personal Data used during intercultural reflection on teaching

Under UK law for instance, Personal Data is essentially defined as any information that relates to an identified or identifiable individual from which it is possible to identify that individual, whether directly or indirectly. It is important to note that even information which has had identifiers removed or replaced in order to pseudonymise that data, is still Personal Data for the purposes of UK GDPR.

All methods that are used for intercultural reflection on teaching are likely to include and thus necessitate the processing of Personal Data.

These include:

- For all methods:
 - Participant information: Name, institution, discipline, programmes and taught modules etc.
- Intercultural Reflecting Team (iRT):
 - Case descriptions:
Teachers provide descriptions of cases arising from their own practice. In these case descriptions the individual teachers and their institutions are named. Information about students and colleagues tends to be anonymous.
- Intercultural Teaching Process Recall (iTPR) and intercultural Peer Observation (iPO):
 - Videos:
Teachers provide videos of teaching sessions or short excerpts from such videos which contain the teacher(s) and, in some cases, their students.
 - Written feedback:
Before, during and/or after the sessions, teachers provide each other with written comments and reflections about the videos.

The broader purpose for collecting, storing and sharing such information is professional development. Professional development through intercultural reflection on teaching involves participation in collaborative online meetings, before, during and after which the information listed above is shared and discussed with a group of higher education teachers from other institutions and countries.

Video recordings of teaching as Personal Data

Videos enable higher education teachers to document and examine teaching as it unfolds in real world lecture theatres, classrooms and online environments. It offers much more information than talking *about* teaching as it captures fine grained contextual detail. Video has the added benefit of allowing teachers and students to revisit and critically examine what has happened during a teaching session, and this is beneficial for reflection ([See case study on using video for reflection](#)). Video capture of teaching has become increasingly common in contemporary higher education as sessions are recorded and made available to students via a virtual learning environment. This has become even more common as a result of the surge in online teaching during the coronavirus pandemic since recording is easy in an online environment. However, video capture of teaching has also generated considerable opposition, due to worries about the impact on student attendance and contributions to discussions, particularly of sensitive or personal topics, and in particular its association with surveillance of staff and/or students and the protection of participants' privacy. Also, capture systems vary greatly as some show materials such as slides and audio while others include images of lecturers and (selected) students. Nordmann et al's (2019) research has examined existing arguments and evidence.

By its nature, teaching involves interactions and relationships with students. Research (e.g. Prosser & Trigwell, 2004) has highlighted that effective teaching is student-focused and more than information transmission. This has implications for who and what ought to be recorded. Video recordings which capture students as well as teachers will be particularly

useful for examining teaching effectiveness. In addition, research has demonstrated that videos are particularly useful for enhancing classroom interaction and questioning. It increases the active role of students and their speaking in class, and enquiry into students' thought processes (Brown & Kennedy, 2011; Harlin, 2014). However, this means that video recordings involve Personal Data of not only staff but also students, e.g. students' voices and video images, their questions and discussion points. This means that from a legal perspective, the method for intercultural reflection on teaching that does not involve video recordings, i.e. the intercultural Reflecting Team, is easier to implement compliantly than those that do, namely intercultural Teaching Process Recall and intercultural Peer Observation.

Providing participants with information about the use and collection of their Personal Data

While the data used in intercultural reflection on teaching are mainly of staff, students are also affected. As explained above, video recordings of teaching are likely to include students' images and contributions, and in order to support reflections on teaching effectiveness, it will be useful if they do.

When engaging in intercultural reflection on teaching, it is important in order to remain legally compliant that all participants are provided with appropriate and comprehensive information about what will happen to their Personal Data prior to collecting it. This is achieved via provision of a 'privacy notice' which should contain information about:

- the kinds of data that will be collected,
- the reasons and purpose for which any Personal Data will be collected,
- how and where such data will be stored and used,
- who such data will be shared with,
- details of how a data subject can object to the processing of their Personal Data,
- details of the person responsible for the handling of such data will be; and
- details of how long such data will be stored and when such data will be deleted.

UK universities are required by law to inform staff, students and any third party data subjects whose Personal Data they handle, about the ways in which their personal information are used, shared and stored.

In our experience, the majority of universities within the EU and the UK likely already have privacy notices and policies in place, in line with GDPR which cover most or all of the important aspects relevant to intercultural reflection on teaching. Universities may have separate privacy notices for employees and for students. Please note that these will be different in each institutional context and we therefore recommend again that you seek information and advice about your specific context as we cannot provide this.

Some university privacy notices are made available to students and staff at the beginning of their registration or employment. These may contain information about recording teaching sessions and storing them.

If you are using the reflective methods within your home institution only rather than cross-institutionally and/or transnationally, storing and sharing the necessary personal

information is likely to be relatively straightforward. At Durham University for instance, we consider our current privacy notice encompasses the kind of professional development which intercultural reflection on teaching provides, and thus data can be shared and viewed internally via existing university platforms and systems.

Using videos of teaching as part of intercultural reflection on teaching

When using the intercultural Peer Observation or intercultural Teaching Process Recall which involve videos of teaching, videos can be used in the following ways:

- a. videos which only contain images of the participating teacher but no images or names of their students,
- b. videos that contain images and/or names of their students if
 - a. The students have given consent for the videos being viewed by higher education teachers in other institutions and/or countries in the context of professional development activities, or
 - b. The personal information that could identify students has been anonymised (e.g. names removed, faces blurred).

When making recordings of teaching that include students, either by participants themselves or academic developers who organise intercultural reflection on teaching activities, we strongly recommend that they are made using university owned rather than personal devices. If they are made with a personal device, recordings should be made directly via the systems and platforms which universities make available for such recordings. Below, we share ways in which we have addressed this situation.

Informing students about recordings

We developed an information sheet and a consent form for students detailing the necessary information including their right to withdraw their consent. Once someone decided to participate in intercultural reflection on teaching and wanted to make a recording of their teaching, this was emailed to the tutor together with a PowerPoint slide (see Fig. 1) that could be used to explain the purpose of the recording. We recommended to the tutor to use the PowerPoint in a prior session to make students aware that the next session was going to be recorded and why. This gave the students advance notice and time to think about it. Tutors may also consider providing students with a more detailed information sheet outlining what data is being gathered, its purpose, secure storage

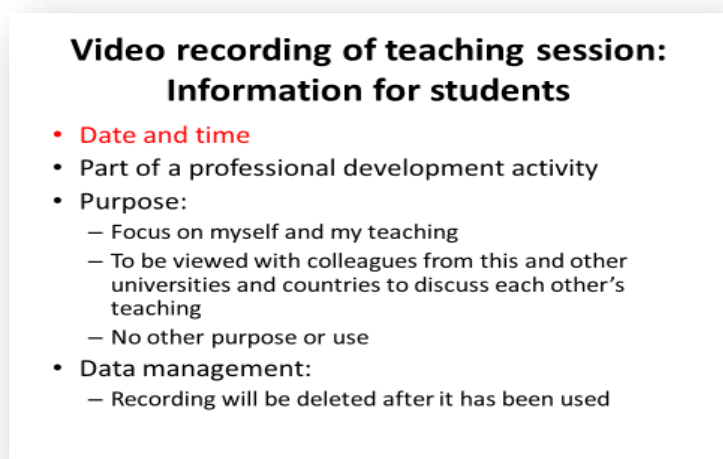


Figure 1. PowerPoint slide provided to participating academics to inform their students about the recording of the teaching session

arrangements and sharing details and ask them to sign a form asking for their explicit consent to be recorded. We strongly recommend seeking advice within your institution as to whether separate student consent for recordings of teaching is needed. ([See the Walk-through Guide and Manual for copies of the information sheet](#)).

What we did when students did not consent to be recorded

When recording teaching sessions or supporting tutors to record their own teaching, situations arose in which students did not wish to be recorded. We learnt from these incidents and as a consequence developed a range of strategies for dealing sensitively with students' and lecturers' concerns. It was important for us to take these concerns seriously and help address them in a thoughtful manner.

In the context of one recording we carried out, the lecturer informed students of the intention to record a session and gained their prior consent. However, on the day one student changed their mind and asked not to appear visually in the recording. To meet the student's wish, we considered different options and decided to place the camera at the front exclusively facing the lecturer rather than the students.

Other strategies you might consider if (some) students do not consent to being recorded:

- Asking students to change seat so that they are positioned behind the camera.
- Editing the video recording so that only those who consented appear in it.
- Choosing a different session taught by the same tutor.

Handling Personal Data

We have already stressed that it is important to handle Personal Data carefully, in accordance with the law. Personal data is information that relates to an identified or identifiable individual by including information such as the name, study programme, institution, gender, and age. Special category data includes ethnicity. Video recordings of teaching show the image and voice of individuals involved in the session which are also classified as Personal Data. Such information needs to be handled carefully and according to the law in which such data has been collected.

When coordinating and participating in intercultural reflection on teaching, two main types of Personal Data arise: text-based information that accompanies and supports the sharing and reflective dialogue about teaching practice, and video data. Figure 2 provides an example of text-based information that is generated, additional sources of such data can be found in the [Walk Through Guide and Manual](#). Video data comprises recordings of participants' teaching. It is important to collect relevant information and to keep the amount of Personal Data to an absolute minimum. Where

About yourself	
Your name	
Subject(s) taught	e.g. Modern Languages (French and Spanish), Biosciences etc.
Specific interests in relation to learning and teaching you want to share (if any)	e.g. learning in clinical practice, technology-enhanced learning, active learning etc.
About the study programme and module/unit your observation will be based on	
Title of the study programme	e.g. MSc in Psychology
Level of study	<input type="checkbox"/> Undergraduates <input type="checkbox"/> Postgraduates <input type="checkbox"/> Other:
Year of degree programme	e.g. 1st, 3 rd (-final) etc.
Title of the module/unit	e.g. Macroeconomic Principles 1
How the module/unit is taught (session format(s), teaching-learning strategies)	e.g. lecturing, student presentations, group work, experiments etc.
How the module/unit is assessed	e.g. final examination, multiple choice test, presentation etc.
Information about the session your recording focuses on	
Session topic/title	
Session format	e.g. lecture, lab, workshop, studio etc.
Approximate number of students	
Relevant information about the students	e.g. mainly international students, students with and without prior knowledge of economics etc.
Learning objective(s) for the session, i.e. what did you want students to learn	e.g. understand key aspects of ethical research and apply them to their own research projects
Main teaching-learning strategies used in the session	e.g. student presentations, group work, demonstration of experiments etc.

Figure 2. Personal data collected from participating academics

possible and applicable, keep the identities of students, colleagues and other subjects anonymous.

Completed case forms, videos feedback forms and any other personal information should be stored in a secure platform which is managed by the organising university. We recommend that they are also viewed in this place and that you take precautions so that the files cannot be copied or downloaded. The space where the data are stored should only be accessible to the team coordinating intercultural reflection on teaching and to the participants of the online meetings which facilitate such reflection. Transferring this information by email should be avoided. Once the online meeting has taken place and the information has been used, the files should be deleted.

How we stored and shared materials and what we have learnt

Two of the methods used, intercultural Teaching Process Recall and intercultural Peer Observation, involve video recordings while in the third method, intercultural Reflecting Team, participants are asked to provide a problem arising from their teaching by completing a form.

In intercultural Teaching Process Recall and Peer Observation, potential participants were briefed about the project through either email, telephone or 1-1 conversations (before Covid). This was always followed by an email with the following attachments:

- Information sheet and consent form - to be signed and returned for research purposes.
- PowerPoint slide – to be used to inform students of the intention to record a session.
- Pre-recording/observation form - to be completed and returned in order to contextualise the session that is going to be recorded (see Fig. 2).
- Link to the project website – to inform them about the project.

Completed copies of the forms were saved safely on a university password-protected computer while hard copies were locked away safely, access was restricted in both cases. At Durham University most video recordings were done using a robot (SWIVL) using the video recording and storage system (Panopto) which is linked and automatically uploaded to the university cloud for secure video data storage. At Padua University videos were saved either on the password protected hard drive in the university office of the principal investigator and once edited moved to the University secure cloud, the Padua University MediaSpace portal. In both cases, videos were then shared securely with the participants who had full ownership of the recording i.e. they were able to edit the recording or, in case they decided to withdraw, to delete it. They were provided with instructions on how to use the editing features and a link to the [Technological Toolkit](#) website which provides detailed information about how to record, store and share data. Only the project team and participants of the relevant online meetings were allowed access to the materials. Participants in the intercultural Reflecting Team (iRT) who provide cases from their own teaching practice in written format, case descriptions forms were stored safely on a university password-protected computer while hard copies were locked away safely in a team member's office at Goethe-University Frankfurt. The online intercultural Reflecting

Team meetings were facilitated via the video conferencing software Vidyo, which is hosted on local servers at Goethe-University.

As it happened, post-Covid teaching has moved online and self-recording has become far easier with academics beginning to use popular video-conferencing platforms (e.g., MS Teams, Zoom and Webex). Obtaining electronic consent from the students e.g. by converting information sheet and consent form into online forms could be a possible solution to make sure that those involved in recording are well informed and can give informed consent.

3. Access, inclusion and equal opportunities

In intercultural reflection on teaching, teaching is shared through text, audio and video data, accessed via the internet and supported by English as a lingua franca. This can result in barriers which may make participation difficult or impossible and deter participants, for instance if they have a weak internet connection, lack confidence or competence in English, are deaf or have a visual impairment. The philosophy of intercultural reflection on teaching is not only that it should be accessible to everyone, but also that the diversity of participants and multiple perspectives and experiences enhance the depth of reflection. You therefore need to think carefully about ways in which everybody can be included and barriers to participation can be eliminated or at least reduced.

Equal opportunities and anti-discrimination have been endorsed at supra-national levels, e.g. in the UN Convention on disability rights, and are enshrined in legislation. In the UK for instance, the Equality Act 2010 protects citizens from discrimination in the workplace and wider society and employers therefore have to make reasonable adjustments for employees with disabilities. This implies that the professional development opportunities that are available through intercultural reflection on teaching should also be accessible to all. The importance of equality, diversity and inclusion is also stressed by the pedagogic literature (e.g. Grace and Gravistock, 2008), and the principles that underpin inclusive learning and teaching in higher education should also be applied to professional development.

Exploring how to make the methods more inclusive

In order to reduce barriers to participating in intercultural reflection on teaching, we explored the use of captions and audio-descriptions of the video recordings. While many recording apps now automatically generate captions of what has been said (which still need to be checked and corrected as technical terms and accents are often not transcribed accurately), audio or text-based descriptions of video still require some additional input of the participants. We found that making the methods more inclusive brought benefits for all. Captions do not only include deaf participants but also those who may struggle for other reasons, e.g. because of the recording quality or the session being taught in an unfamiliar language. Written or recorded audio descriptions of video recordings are well suited to initiating the reflective process which intercultural reflection on teaching aims to support. Describing what has happened in a teaching session automatically generates interpretations and inferences which writing or talking about them make explicit. However, we also had to ask ourselves some challenging questions. We noticed that incorporating written descriptions and reflections into the activities had a tendency to increase the workload for

participants, and this seemed to affect their willingness to participate. What choices were available, and what affordances and barriers did each choice imply?

In intercultural Teaching Process Recall a short clip of a recording is used. This makes captioning and audio-describing relatively quick and easy. In contrast, in intercultural Peer Observation an entire teaching session is recorded and therefore more time and effort are required. We were mindful of increasing accessibility without increasing workload at the same time and therefore struggled with making the methods as inclusive and accessible as we had hoped. In intercultural Teaching Process Recall, asking participants to add captions and descriptions to their clip, or doing it for them, also added stages to the process, i.e. first producing the captions and descriptions, then sharing them with others and finally giving participants sufficient time for reading/listening to them. All of this made the process more complex. Many authors stress that approaches to teaching should be changed to make them inclusive **for all** rather than targeting specific groups (see Booth & Ainscow, 2011; Jordan & McGhie-Richmond, 2014). However, our attempts showed that this can be challenging in practice. It is an issue we are still thinking about and want to resolve. In the next section, one of the Durham team members provides her personal reflections on what this meant for her as a disabled academic.

Facilitating intercultural reflection: reflections by a team member

“The issue of access was of particular interest to me. As a visually impaired academic, I was not sure how I would be able to access the videos and support the reflective process. I wanted to push to ensure we addressed the issue but as noted above it was much more difficult than we had originally hoped. To ask participants to provide a full audio description for a long teaching session was not practical but at the same time not having it might limit what could be offered by me. We decided to encourage participants to provide some contextual information in written form to support their video, so for example, providing written descriptions of the teaching environment, the topic of the lesson, information about the student cohort and any other relevant environmental factors was important. Using some sentence prompts, we could encourage some contextual description from the participants but kept it manageable. The contextual descriptions could support me to get a sense of the classroom environment, the student group composition, seating arrangements and nature of the learning space which was useful in helping me think about the lesson holistically. With critical incidents, it was possible to ask for more detailed explanations of what was going on - particularly when things were silent or when work was being done on the board - audio descriptions for short clips are possible so for iTPR it can work - although it is important to decide how necessary it is. One of the things that emerged during both iPO and iTPR is sometimes not being absolutely clear about what was happening became a rich source for reflection as it necessitated asking questions about such things as what was happening during silent moments, or what the students’ facial expressions or body language was like at a particular point in time. In encouraging the reflective partners to reflect on these questions, I was in effect facilitating the reflective process itself.

What became clear as we explored issues of accessibility is that it is a process of trial and error only by experimenting with audio descriptions and captioning can you determine what and how much is needed. As technology develops automatic captioning of videos continues to improve and so in many ways, it will become the exception that videos are not captioned

rather than it being a rare occurrence. Developing a manageable system for audio description will take longer and needs more thought, I am a university teacher with 20 years of experience and potentially I need less description now as I am very familiar with lots of scenarios in relation to teaching and learning - if I were a novice teacher, I may want more than contextual descriptions and the answers to some new questions. Thus, when setting up your own iTPR or iPO, it will be important for you to think about who the participants are etc. it might be possible for example to create buddy schemes where pairs watch clips together prior to the session and the one with vision explains things to the visually impaired person. For iPO, the pairs will do this naturally and provided that the person who can't see the screen is asking questions - live audio description can be given - this could also be achieved using a talk aloud technique. This latter approach might involve some training of participants but again it might serve as a natural facilitator of reflection."

4. Researching intercultural reflection on teaching: research ethics and ethical approval

Since intercultural reflection on teaching is a tool for developing practice, information is not normally collected and shared for research purposes. However, you may wish to investigate the effectiveness of the methods and/or the issues and problems that participants discuss during the meetings. If you are intending to conduct research and collect data on participants' experiences with the methods, it is very likely that you will need to apply for ethical approval for such data collection to take place, in line with your institution's requirements for the conduct of ethical research. Depending on the nature of the research you want to conduct, you will need to seek information locally and follow the relevant processes. International guidelines for ethical conduct of research also exist, such as the Singapore Statement on Research Integrity which can be found [here](#), and many countries and disciplines have developed principles for ethical research, such as the Ethical Guidance for Research published by the British Educational Research Association which can be found [here](#). These guidelines highlight responsibilities to research participants such as consent, transparency, the right to withdraw and absence of harm. We would argue that intercultural reflection on teaching has many benefits. However, since participants disclose problems they experience when teaching and have open and frank discussions about their experiences and associated feelings, which can be extremely personal, there is a risk of harm if data such as recordings of these discussions are not treated confidentially and anonymously. Institutional ethics procedures will scrutinise the processes used in order to avoid harm, and when applying for ethical approval you need to think through any potential detriment that may arise for research participants.

What we did: seeking ethical approval, informing participants and seeking their consent

We conducted research as part of the project and this necessitated ethical approval from the departmental ethics committee of the lead university. A departmental process was followed to write and submit an application for ethical approval. Once this was gained, staff from the participating universities were invited to take part in the project on a voluntary basis. They were informed of the project objectives and aims, the nature of the data that would be collected, that participation in data collection was voluntary and the way in which

the data would be managed. They received an information sheet, could discuss and ask questions and provided their consent by signing a consent form before data were collected.

5. Conclusion

This case study has explored legal and ethical aspects of implementing methods for intercultural reflection on teaching. During the course of the project, we have become increasingly aware of the necessity to share our insights with others. It has highlighted the importance of being mindful of the rights of everyone involved in the implementation and of our responsibilities towards them. Some of these are determined by law or policies that must be adhered to, while others arise from a moral obligation to enable participation, reduce barriers and treat individuals with respect. In order to achieve this, we need to reflect on our actions, check them against legal and policy frameworks and challenge ourselves and each other whether or not we are doing the right things.

The flow chart in Figure 3 below summarises the steps that you may want to follow if you decide to implement the methods within your contexts.

Acknowledgments

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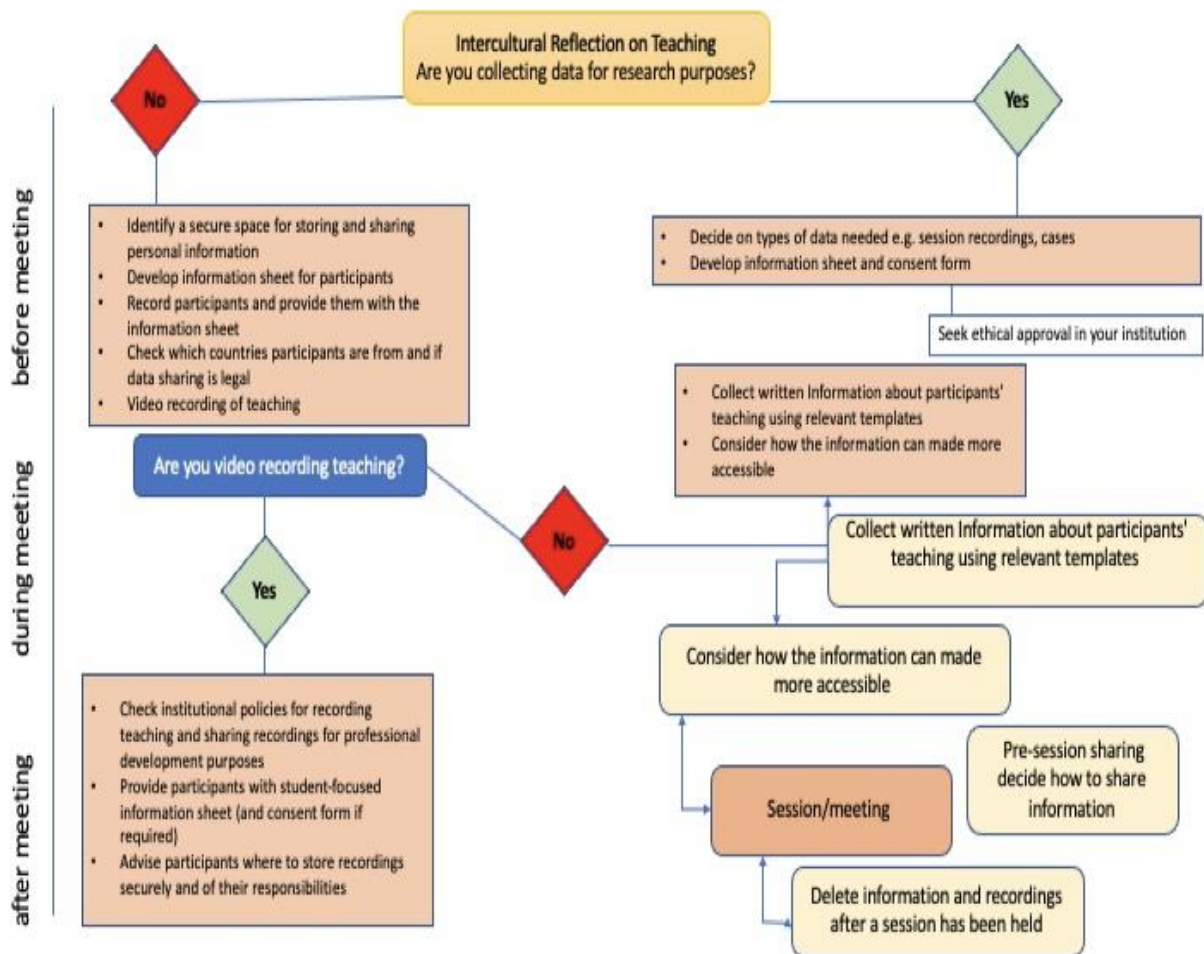


Figure 3. Collecting and storing data for conducting the IntRef reflective sessions

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