

WHY EQUALITY LAW AND DEAF PEOPLE DON'T GET ON: DEVELOPING DEAF LEGAL THEORY

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WHICH LAWS?

CRIMINAL
LAW

CONTRACT
LAW

WELFARE
LAW

HUMAN
RIGHTS

LAND LAW

EQUALITY
LAW

EMPLOYMENT
LAW



WHICH OF MY IDENTITIES ARE PROTECTED?



deaf
disabled
white
British
Welsh
husband
father
lawyer
lecturer
academic

protected

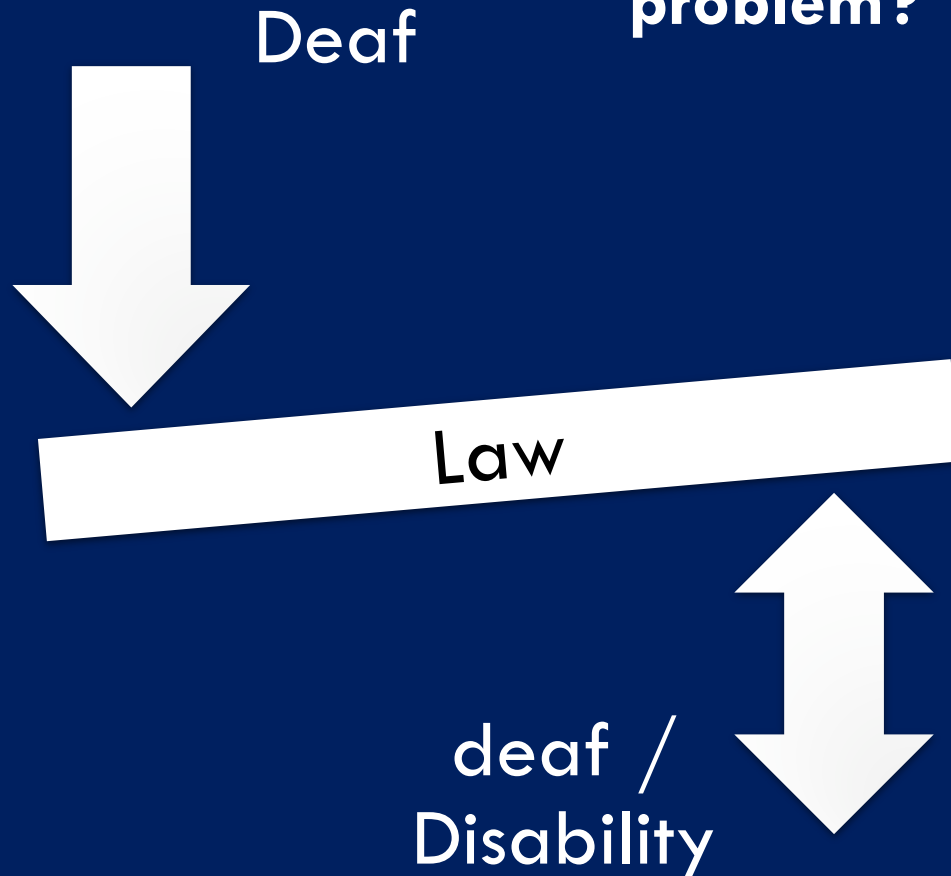
Deaf

**not
protected**

THE DEAF LEGAL DILEMMA

Most identities are covered,
except Deaf identity – **is that
why Deaf people continue to
experience inequality?**

**What is the root of the
problem?**



WHAT IS EQUALITY?

No initial agreement among scholars as to what the important questions are (Hellman and Moreau)

Different analyses of equality may be suited to different protected grounds (Vickers)

- Fraser suggests that “class inequality is best understood in terms of redistribution, and sexual orientation inequality best understood in terms of recognition“

Thus question must be: which equality analyses lend themselves more closely to the Deaf-World?





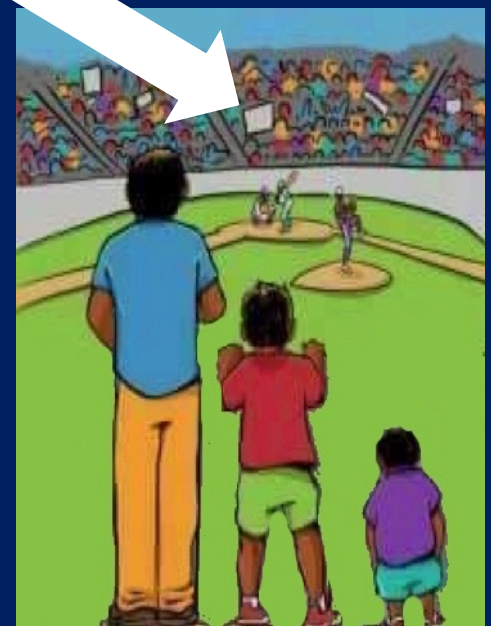
Precepts of equality
(Westen) or "emerging
rocks of certainty"
(McLachlin)



Formal



Substantive



Transformative

Formal



Equal treatment

Equality of
opportunity

Substantive



Respect of equal
worth, dignity and
identity

Equality of results and
equality of outcomes

Transformative



Social inclusion

Challenging
oppression

Full participation

A CATEGORISATION EXERCISE



Universal
Declaration of
Human Rights

FORMAL

UN Convention
on the Rights of
Persons with
Disabilities

**POTENTIALLY
TRANSFORMATIVE**



European
Convention
on Human
Rights

FORMAL

EQUALITY LAW

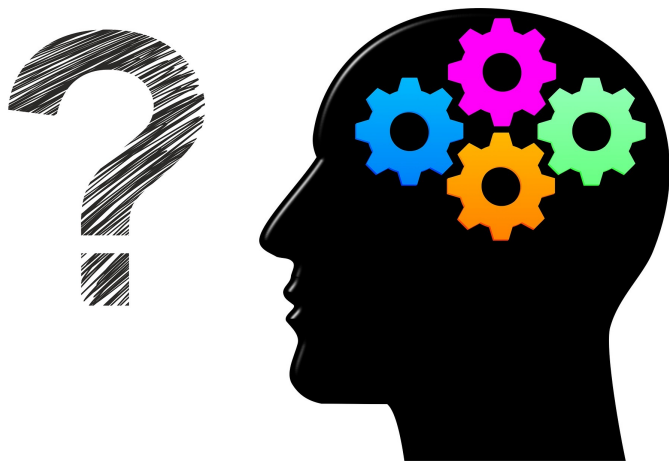


Equality Act 2010

**MIXTURE OF FORMAL,
SUBSTANTIVE AND
TRANSFORMATIVE**

British Sign
Language (Scotland)
Act 2015

**POTENTIALLY
TRANSFORMATIVE**



DEAF LEGAL THEORY

(Bryan and Emery)

Need to develop Deaf jurisprudence (the law relating to Deaf issues)

The law plays a role in Deaf people's subordinate status

Thus, current underpinnings of law are based on incomplete assumptions which need to be exposed

CONCLUSIONS

END

Relevant equality analyses to Deaf-World identified

Precepts used to identify effectiveness of equality law

- Formal and substantive equality have shortcomings
- Transformative equality is needed to achieve equality for Deaf people

In-depth exposé of equality law

Deaf jurisprudence developed to include equality law

Deaf Legal Theory developed further

THANK YOU

QUESTIONS?