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

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WHICH LAWS?
WHICH OF MY IDENTITIES ARE PROTECTED?

protected

deaf
disabled
white
British
Welsh
husband
father
lawyer
lecturer
academic

not protected

Deaf
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)
A Categorisation Exercise

**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
Universal Declaration of Human Rights
FORMAL

European Convention on Human Rights
FORMAL

UN Convention on the Rights of Persons with Disabilities
POTENTIALLY TRANSFORMATIVE

European Convention on Human Rights
FORMAL

Equality Act 2010
MIXTURE OF FORMAL, SUBSTANTIVE AND TRANSFORMATIVE

British Sign Language (Scotland) Act 2015
POTENTIALLY TRANSFORMATIVE

EQUALITY LAW
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

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?