

A person with long curly hair, wearing a blue beanie, sunglasses, and a dark jacket, is holding a large white sign that reads "EQUALITY FOR ALL" in bold, black, sans-serif capital letters. The sign is held high above their head. The background shows a city street with multi-story buildings under a clear blue sky. The person is also wearing black gloves. The sign has several small, colorful circular stickers on it, each featuring a smiling face.

EQUALITY FOR ALL

Making equality law work for Deaf people

Dr Rob Wilks

The Hearing-, Disabled- and Deaf-World



Hearing-World



Disabled-World

Medical or individual model
Social model of disability
Minority group model
Cultural model



Deaf-World

A culturo-linguistic group
Sign Language Peoples
An ethnic group

Which of my identities are protected?



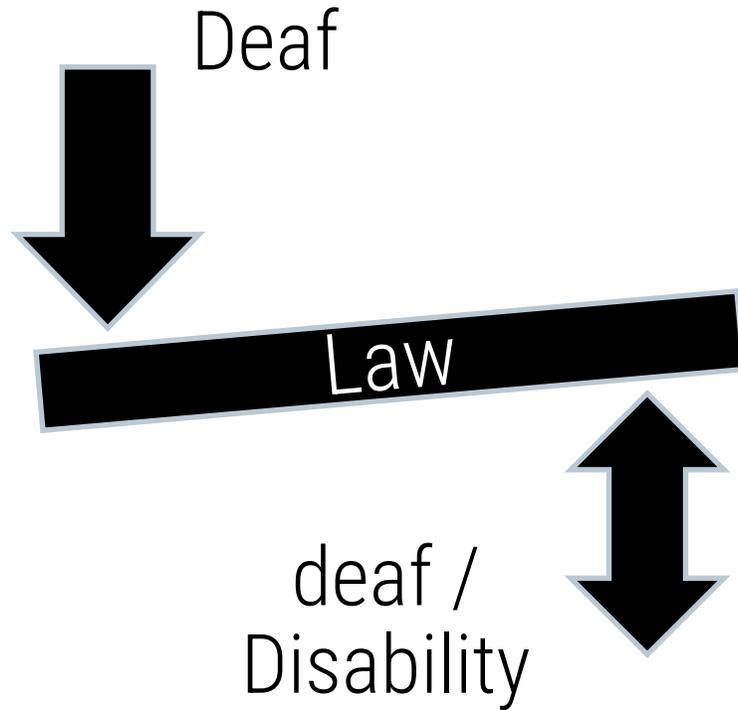
protected

- deaf equality (disability)
- disabled equality (disability)
- white equality (race)
- British equality (race)
- Welsh equality (race)
- husband equality (marital)
- father employment (paternity, social welfare)
- lawyer employment
- lecturer employment
- academic employment

not protected

Deaf

The Deaf Legal Dilemma



- Most identities are covered, except Deaf identity.
- The law tends to regard Deaf people as 'disabled' and enact laws to 'protect' or 'provide for' them as such
- Deaf people can only challenge inequality or receive 'help' if they accept the disability label
- The disability label doesn't recognise Deaf people's language, culture, heritage, not wanting to be cured
- Is that why Deaf people continue to experience inequality?

CRIMINAL
LAW

Which laws?

CONTRACT
LAW

Welfare
Law

EQUALITY
LAW



EQUITY

HUMAN
RIGHTS
LAW



LAND
LAW

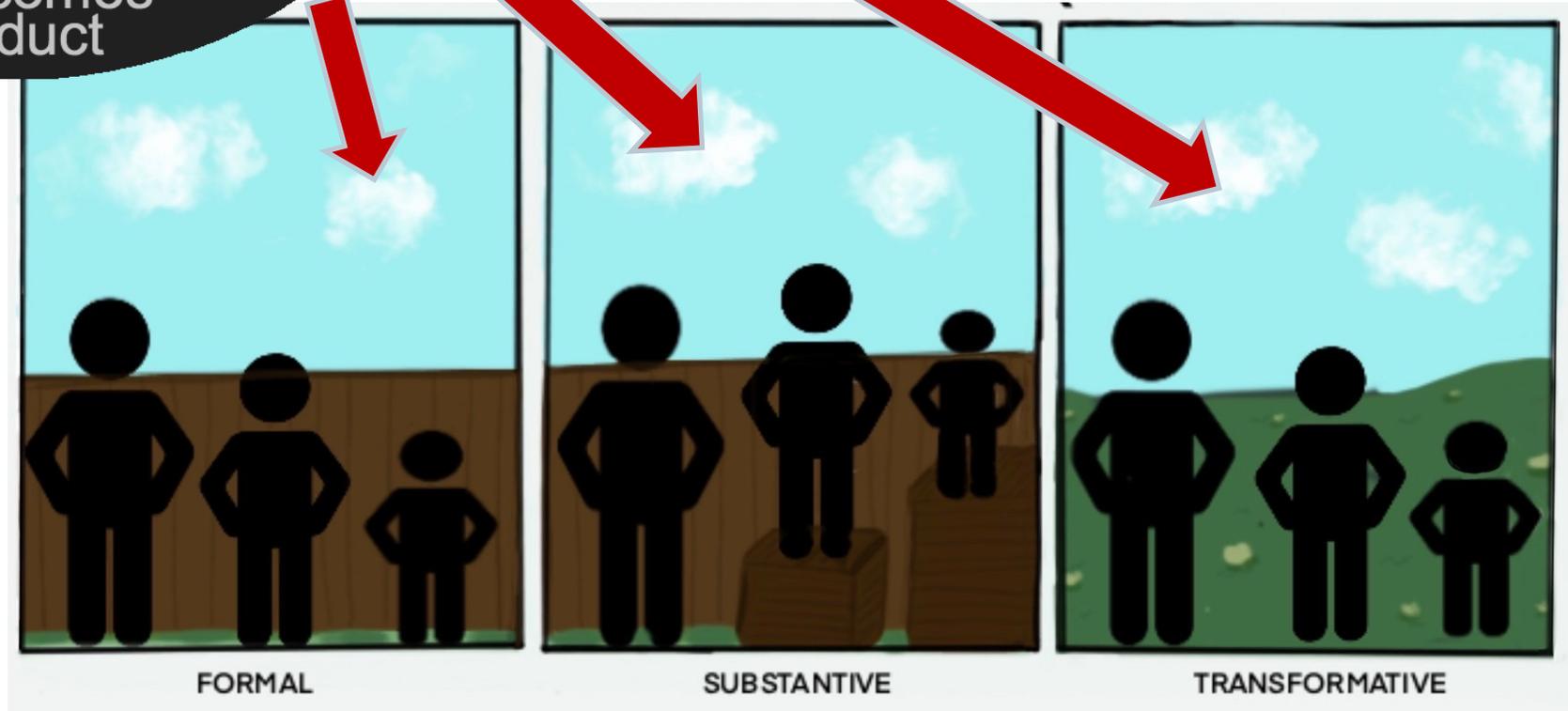
What is equality?

- 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 (Western)
or "emerging rocks of certainty"
(McLachlin)



FORMAL

SUBSTANTIVE

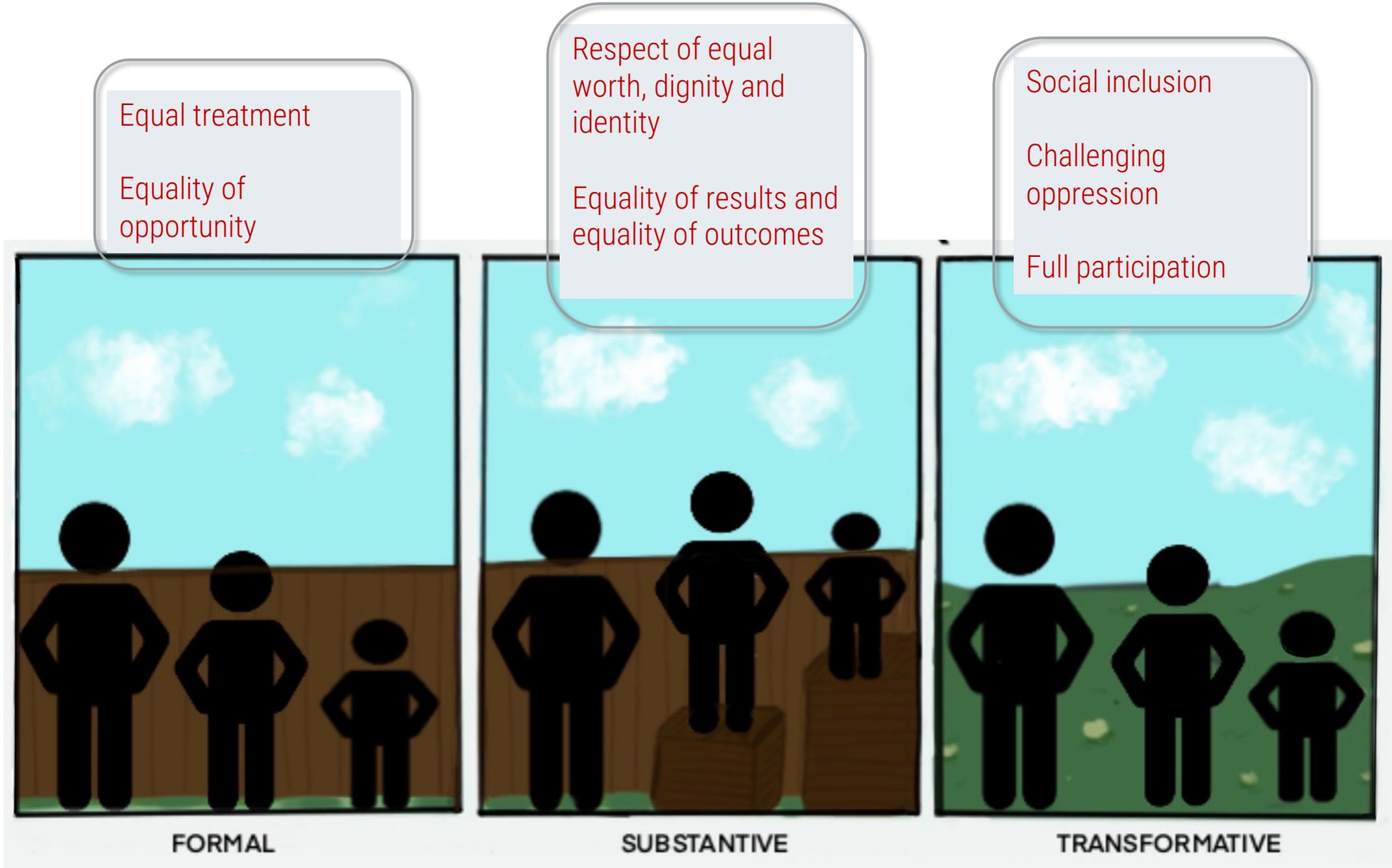
TRANSFORMATIVE

Which equality concepts lend themselves to the Deaf-World?



- Readings in the field of Deaf Studies focus on:
 - dignity (Lane, Hoffmeister and Bahan)
 - social inclusion (Batterbury Magill)
 - challenge to oppression (audism) (Bauman).
- Equality of opportunity is considered to be popular among academics (Schaar)
- Therefore, the following concepts of equality are relevant:
 - equal worth and dignity
 - equality of opportunity
 - social inclusion
 - challenge to oppression

The Deaf Equality Concepts



How equality law works for Deaf people

European Convention on Human Rights



FORMAL (DIGNITY AND EQUAL WORTH)

- Extremely relevant as gives Deaf people various rights, e.g. right to life, right to fair trial, expression
- 4 cases involving Deaf people
- Article 14: protection from discrimination
- Limited right, means that only enforceable when other rights are breached
- Enforcement difficulties (individual enforcement model)

Equality Act 2010



MIXTURE OF FORMAL, SUBSTANTIVE AND TRANSFORMATIVE (EQUALITY OF OPPORTUNITY AND SOCIAL INCLUSION)

- Reasonable adjustments
 - Single, one-off adjustments more likely to be reasonable than recurrent ones
 - Deaf people tend to need recurrent adjustments
- Public sector equality duty
 - Can effect positive change

Convention on the Rights of Persons with Disabilities



POTENTIALLY TRANSFORMATIVE (DIGNITY AND EQUAL WORTH)

- Refers to national sign languages
- Have to exhaust domestic means of redress (individual enforcement model)
- Only 19 complaints received to date, 3 related to Deaf people

Is sign language recognition the solution?



Scotland

Received Royal Assent
 22 October 2015
 National plans
 10 long term goals
 Local plans
 Public sector equality
 duty
 Early stages



New Zealand

Received Royal Assent 10
 April 2006
 Official language of NZ
 Use of NZSL in legal
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 Competency standards
 State departments to
 promote and use NZSL
 Reviewed September 2011
 Deaf community has
 more pride and
 confidence
 Increased interest
 Lack of awareness
 Sporadic inclusion at
 official events
 Negligible information
 provided by Government
 departments



Finland

Leader in sign language
 rights
 First European country to
 mention sign language in
 constitution
 Legislation
 Confers rights of
 individuals in education,
 health care, social care,
 the judiciary and
 broadcasting
 Primary legislation
 focuses on authorities'
 duties



Ireland

2017
 11 sections including
 right to use it, ISL
 users' statutory rights
 to access public
 services, the setting up
 of an accreditation and
 registration scheme for
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 ISL in legal proceedings
 Review of Act within
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TRANSFORMATIVE

The (Conservative) Government has no appetite to legally recognise BSL as a minority language

British Deaf Association, 'Government reluctant to legally recognise BSL, says disability minister' (10 July 2015)

Conclusions

- Deaf people have to identify as disabled in order to access their rights = Deaf Legal Dilemma
- The relevant equality analyses to the Deaf-World have been identified
- Precepts of equality are used to identify the effectiveness of equality law
- Formal and substantive equality have shortcomings
- Transformative equality is needed to achieve equality for Deaf people
- There has been an in-depth exposé of equality law
- Sign language recognition is *transformative* equality
- Need more empirical research on impact of sign language recognition to prove thesis further
 - Scotland – impact on education (with Rachel O’Neill at University of Edinburgh)
 - Ireland
 - Brazil (Libertas)
 - Mass Observation Study in Scotland, New Zealand and Ireland

THANKS!

Do you have any questions?
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