LANGUAGE POLICY AND SOCIAL JUSTICE:

THE CASE OF BSL

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SYNOPSIS

The research is about the application of social justice and language planning as policy approaches and mechanisms which may help to change the beleaguered status of BSL and the continued lack of understanding in some policy circles of its status as a language with its own culture and patrimony. A realist approach is utilised, recognising the importance of situated knowledge and utilising an action approach and catalytic validity.

The research discusses the political philosophy of distributive consensus-based social justice, the importance of a collectivist capabilities approach to policy making in this arena, and the need and functions of language policy to safeguard language justice and linguistic human rights for Sign Language Peoples. These approaches resonate with the Deaf community's aspirations for legal recognition of BSL and attainment of linguistic rights. Deaf Calls for sign bilingual education, control of their own organisations, and the teaching of BSL in all schools is grounded in rich empirical expression.

Although international legal instruments for minority language protection do not hold out much hope of sign languages, the UN *Convention on the rights of persons with disabilities* (1998) offers some prospect of advancing the status of BSL and its recognition. In addition, the forthcoming *BSL Bill* in Scotland is rooted in equal opportunities legislation and also proffers a potential route for policy change.

 The recent change in UK government offers both a threat and an opportunity to Deaf people: an opportunity as policies are currently being formulated at the time of writing, and a threat as the public spending squeeze imperils both existing activities and new initiatives to support the development and protection of BSL due to the perceived financial cost. The research argues that there is an urgent need for Deaf people to re-group and reform to argue and lobby the policy world from a position of strength.

ACKNOWLEDGEMENTS

DECLARATION

I declare that the work in this dissertation was carried out in accordance with the regulations of the University of Bristol. The work is original except where indicated by special reference in the text, and no part of the dissertation has been submitted for any other degree.

Any views expressed in the dissertation are those of the author and in not way represent those of the University of Bristol.

The dissertation has not been presented to any other University for examination either in the United Kingdom or overseas.

Signed _____ Date: 13/09/10

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CHAPTER 1

OBJECTIVES AND STRUCTURE OF THE RESEARCH

"The newly released report "Deaf People and Human Rights" shows that few Deaf people are able to truly enjoy even basic human rights. Relatively few countries deny Deaf people access to education, government services or equal citizenship on the basis of deafness alone. But lack of recognition of sign language, lack of bilingual education, limited availability of sign language interpreting services and widespread lack of awareness and knowledge about the situation of Deaf people deprive most Deaf people of access to large sections of society" (Haualand and Allen 2009 opening statement)

1.1 Introduction: key issues

This project emerges from my longstanding research interests in policy studies, language planning (Tollefson 1991, Kaplan & Baldauf (1997), Fairclough 1998, May 2001), social justice (Habermas 1971, Corson 1993), and development studies (Sen 1981, 1999).

The title "Social justice and language policy: the case of British Sign Language (BSL)" foregrounds language policy and social justice as policy approaches and mechanisms which may help to change the beleaguered status of BSL and the continued lack of understanding in some policy circles of its status as a language with its own culture and patrimony. In what follows we will see how the recent change in UK government offers both a threat and an opportunity to Deaf people: an opportunity as policies are currently being formulated at the time of writing, and a threat as the public spending squeeze imperils both existing activities and new initiatives to support the development and protection of BSL due to the perceived financial cost.

The research is grounded in a conceptual framework drawing on three main elements: social justice, capability theory, and language policy. This introduces notions of the need

for distributive justice building on Deaf[1] people's capabilities and their stated wish for entitlements to language access. Language policy, it is argued, is the policy mechanism to deliver social and language justice for Deaf people and this needs to be done in the first instance through the legal recognition of sign language. In addition, the research shows how the Deaf community's campaign for BSL recognition has lost drive and momentum and at a time of fiscal cutbacks and greater competition for scare resources there is a real need for a Deaf-owned caucus to be re-formed to allow for effective lobbying to achieve the Deaf community's desired policy outcomes. This is especially pressing given the recent ratification of the UN Convention on the Rights of Persons with Disabilities (the Convention) (2008) by the UK government in June 2008. This has, for the first time, placed the rights of sign language users firmly within the policy agenda and offers a potential route to secure policies and actions that may deliver bilingual education and the legal recognition of BSL. However should Deaf people not able to articulate their wishes at the time in which policies and measures are being formulated they risk being excluded. At the same time, consultations are currently taking place on a private members bill for a BSL Act in Scotland. There are consequently two sources of optimism in what has been hitherto a rather pessimistic outlook.

The research is shaped by an overtly realist epistemology utilising an action orientation (Lewin 1947) and catalytic validity (Cohen et al 2007) to create a situation in which change may be seeded in the minds of policy makers and among the Deaf community. The research argues that it is paramount that Deaf people regain control of the policy momentum themselves given their epistemic privilege (Harding 1991, Mohanty 2000) embedded in their experience of exclusion and their understanding of the real needs they have for better distributive language justice.

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[1] The convention of describing culturally deaf people who use BSL as 'Deaf' and audiologically deaf and deafened people as 'deaf' is used throughout

1.2 Key issues and concepts used in the research

Social Justice is, as Harvey (2009) points out, a normative concept, one which unashamedly seeks to redistribute benefits and allocate burdens in accordance with criteria of need, contribution to the common good, and merit (Harvey 2009, p.101). Deaf calls for an enhanced policy status of BSL sits well within this context in a number of policy domains: education, access to medical services, and to civil justice to name but a few. The Deaf community and their allies (Wilks 2007, Jones 2007, Bryan interview 2010, Wolfe 2006, Bruce interview 2010) have argued that a BSL Act would formalise a policy perspective which meets the needs of Deaf people, building on their capabilities and meeting their entitlement to language justice.

In addition Sen (1989, 1991) and Nussbaum (2003) have advocated a capability perspective which locates entitlements within collective groups of peoples. If this concept is applied to the collective rights of Sign Language People for language justice[2] it states for collective policies which recognise that languages live within communities and cannot be addressed as a matter of individual choice (Corson 1993). With this in mind I began this research journey to identify the current status of BSL in the UK policy world and the extent to which its status and policy treatment accords with the expressed collective wishes of the Deaf community. There has been an enormous gulf between what the policy world has been prepared to offer and what the Deaf World would like. This was encapsulated in Haualand and Allen's statement "Deaf People are not able to enjoy human rights"(2009).[3]

In addition to a shift in policy philosophy to encompass social justice and capability perspectives, Language planning is also aimed at enabling change aimed at 'solving complex social problems' (Kaplan and Baldauf 1997, p.3). Language planning by

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[2] the right to have a first language to think in, to be educated in that language, and to have access through language to the key civic functions of the state (thanks to Julia for articulating the first part of this footnote to me)

[3] the title of their article on the World Federation of the Deaf report on Deaf people and Human rights.

governments is known as language policy: it is a mechanism but it is also governed by social forces determining the status and power of dominant and subordinate groups and their struggle to achieve hegemony in language use (Tollefson 1991, Fairclough 1989, Turner 2009). The Deaf community uniquely exemplifies *resilience* in maintaining signed language irrespective of all previous attempts to eradicate it. Today we look to policy makers to utilise language policy as a tool to safeguard minority languages as repositories of culture, knowledge and valued diversity and to deliver linguistic human rights (Skutnabb-Kangas forthcoming).

The principle of social justice combined with the mechanism of language policy could therefore be used to advocate change in the status of BSL in the UK and to open up access for the Deaf community to a range of civic functions which are considered basic rights to most non-Deaf people. The possible Scottish BSL Act and the obligation on the UK government to deliver sign language rights in accordance with the Convention (1998) are the triggers needed to start this process. Overlying the Deaf community's call to engage policy thinking with principles of social justice and language policy is the fundamental civic value of *equity* – that one autochthonous minority language in the UK should be treated much like another, and that rights of access should be the same for all peoples.

1.3 The UK policy context

Recent far-reaching changes in the UK policy context since May 2010 (fiscal cuts, emergence of a coalition government, recession) make the instigation of policy initiatives subject to hard-nosed selection criteria around scale of impact, evidence of need, and lobby power of affected groups. This makes access to policy change a harder to reach objective for the Deaf community in the absence of an effective lobby, strong Deaf leaders, and of united engaged activists (interviews 2010 - see appendix 1, Wolfe 2006). It is found there is what might be termed a Deaf *intelligentsia* with roots in campaigning and activism, but

the critical mass has not been there to sustain the campaigning lobby for the long term. Many Deaf people speak of activists being "ASLEEP" while others have been talking for a while for the need for "community repair" (Wolfe 2006).

1.4 Aims and Objectives

This project aims to determine what has happened since DWP accepted that BSL was a language in 2003 with a view to assessing the policy options for supporting the Deaf community to achieve greater social justice (and language justice) (Habermas 1971, Corson 1993). Habermas (1971) has observed that social arrangements are just only when all parties agree to them. This requires language equality to allow equal access to debate and to enable consensus to emerge. His 'consensus theory of justice' is interesting when we consider the current situation of Sign Language Peoples (SLPs) (Batterbury et al 2007) excluded from the policy making world by discourse barriers (Ladd 2003, Bourdieu 1998).

Firstly, the research will situate policy thinking about BSL in the social justice context. Secondly it aims to engage with Deaf leaders and activists who have the capability to formulate a Deaf-led strategy for achieving realistic policy change that will make a real difference for Deaf lives. An objective of the research is to capture Deaf knowledge and thinking around their policy priorities. The research offers a distillation of the Deaf perspective in the hope that policy makers will be able to access the strength of feeling and real need among Deaf Sign language users. Thirdly, the research also seeks to illuminate the current policy *impasse* surrounding effective policy making for BSL and assesses the extent to which existing legal instruments and forthcoming legislation may provide an opportunity for change. Existing legal instruments focused on minority language rights do not offer much hope. The arena of disability legislation is more promising, even though this is outside the Deaf community's preferred *minority language* policy remedy. The

Convention (1998) requires UK government to deliver some linguistic rights – measures which have yet to be fully implemented.

1.5 Research Questions

The research aims to answer the following key research questions:

1) What policy initiatives have taken place since 2003?
   o To what extent have these policies engaged with the expressed needs of Sign language peoples or engaged with members of the Deaf communities?
   o To what extent has the Deaf community been able to benefit directly from these actions?
2) To what extent are policy makers amenable to delivering language justice for Deaf people? Are they able to understand or engage with the collective community ethos of the Deaf community?
3) What do Deaf people want and how are Deaf activists seeking to achieve this?
4) What is the best achievable compromise between the perspectives of the Deaf community and those held in the policy world?

The research offers conceptual, methodological and empirical insights intended to as far as possible provide original insights to advance Deaf Studies as a discipline whilst simultaneously offering a distillation of knowledge which may be of use to Deaf campaigners as well as open minded policy makers. The conceptual insights on social justice and capability consensus theory demonstrate the potential for a policy paradigm shift to more egalitarian polity especially in the light of the need to comply with the Convention (UN 2008). Methodological insights involve some personal reflection around researching in this bilingual politicised context. Finally empirical findings which demonstrate the need for the Deaf community to re-form a Deaf *caucus* if it is to have any authority to push through its ideas without being forced to rely on external advocates. As such it is hoped that the work is original and provides new knowledge along these dimensions.

1.6 Summary of chapters

In what follows Chapter 2 outlines the methodology used including an explanation of the overarching realist epistemology. Chapter 3 explains in some detail the conceptual framework illustrated with information drawn from the empirical research. Chapter 4 provides a detailed analysis of the interview findings with Sign Language Peoples and allies. Chapter 5 details the policy context and potential legislative solutions. Chapter 6 is the conclusion summarising the key findings and ways forward.

CHAPTER 2

METHODOLOGY

2.1 Epistemological influences

The research is grounded in a realist epistemology that argues that there is an underlying 'reality' which exists irrespectively of what we know about it. It is, as Bhaskar (2002, p.8) has written, reality is more encompassing than the actual (patterns of events) and the empirical (patterns of events that we apprehend) and can see and understand. The situation of Deaf people as a linguistically marginalised group exists irrespective of whether policy makers and hearing educators, for example, acknowledge this or are aware of it. Mohanty (2000) has argued that marginalised and oppressed groups have epistemic privilege – that is their experiences and their understanding of those experiences draw on social constructed patterns which are generated by real causal factors in the social world.

Bhaskar (2002) has written extensively on critical realism and integral to his philosophy is the statement that we need to accept the limitations of the past before we can move on the break free of its constraints on our thought and behaviour. The research is shaped further by the feminist epistemology of *situated knowledge*. Feminist writers such as Haraway (1991) have pointed out that knowledge is not objective, it is situated in the particular contexts in which it develops. The position of the researcher consequently has a direct bearing on the research findings and ultimately its authority (Sayer 2000). Reflection on my own preconceptions and aspirations are a critical and integral part of the research methodology.

This is particularly relevant given my own *positionality* as a hearing person whose first language is English not BSL. While my identity and cultural roots are drawn from the hearing world, I am married to a Deaf person and able to cross into the Deaf world at times through either choice or invitation, and at other times find myself catapulted there by the juxtaposition of hearing people's incomprehension expressed to me when Deaf people try to engage with them. For me this is constant lived experience - a daily reminder of the inequalities and marginalisation faced by Deaf people, the damage done by decades of oralist teaching (therapy), and the frustration faced by Deaf people as they engage with hearing people. As a hearing person myself I am also uniquely positioned to understand the way hearing people think when meeting a Deaf person, the reasons behind their incomprehension of the Deaf perspective, their frustrations with Deaf people's seeming contradictory claims to be simultaneously disabled and not disabled, and for some hearing people a genuine willingness to learn about Deaf people and their languages.

While the situated knowledge perspective acknowledges the contextual determinant on knowledge, it does not equate to adopting a relativistic position but rather a pro-active focus on the need for critical enquiry to advance our understanding of the world. (Harding 1991). Sayer (2000) and Harding (1991) write

> "It is generally argued that the dominated and marginalized – those in subaltern positions- have certain advantages in terms of understanding society, in that they are able to see things that are invisible to the dominant groups" (Sayer 2000, p.52).

 Mohanty also writes in a similar vein about epistemic privilege in which the experience of oppressed groups "has a draw on personal experiences and histories [which helps] to deepen our knowledge of society" (2000, p.43). The situated nature of knowledge means that I have given space and time to see and hear Deaf people's concerns, and in my analysis try to locate a middle ground where hearing policy perspectives may be able to meet with and engage with views of SLPs.

For this reason, a realist epistemology and ontology are indicated here. It is also the case that the power inequalities that define the situation of SLPs as a marginalised group are not merely socially constructed but are grounded in underlying structures - causal social dynamics and social relations.

2.2 Action Orientation

> "the possibility of interpreting our world accurately depends
> fundamentally on our coming to know what it would take to change it, on
> our identifying the central relations of power and privilege that sustain it
> and make the world what it is. And we learn to identify these relations
> through our various attempts to change the world, not merely to
> contemplate it as it is" (Mohanty, 2000 para. 15)

As explained in Chapter 1, the research aims not only to provide a contribution to the knowledge of Deaf Studies but also to provide insights which may have a *catalytic* value for the Deaf community and for open-minded policy makers. As such the methodology utilises an action orientation. Drawing on previous research by Lewin (1947) the research does not aim to be objective but rather overtly create opportunities for change. This is described elsewhere as Catalytic Validity (Cohen et al 2007) who write "the agenda for catalytic validity is to help participants understand their world in order to transform them" (Cohen et al 2007, p.139). However, the approach I take distances itself from the view that it is the research that controls the direction of change – it is designed, rather, to respond to the stated needs and wishes of the Deaf community. Consequently, the research has iterated between documentary review and empirical data collection aimed at gauging the range of views held by Deaf activists and their desired content a BSL Act. Given the geographical distribution of the Deaf community throughout the UK (as opposed to in a territorially defined location as applies to other autochthonous minority UK languages) I have set out to collect Deaf feedback from different locations in the UK. While it has not

been possible to cover every area, interviews have been carried out with Deaf activists and their hearing allies in Scotland, Wales, and England (the NW, NE and London). In addition, I acknowledge numerous informal conversations with Deaf colleagues in Bristol (SW) which have helped me explore and refine my ideas and interpretation of the data.[4]

2.3 Data Collection

Documentary review has been undertaken focusing on legal instruments in the form of European and UN Conventions and Charters of relevance (Council of Europe 1992, 1993, United Nations 2008 among others). In addition, some time has been invested in scrutinising the FDP back issues of "*The Voice*" and "Information bulletins" as well as Deaf blogs "Grumpy Old Deafies". Further internet sites for the Welsh and Gaelic language boards have been examined to identify what would be possible if BSL were to receive a similar status and level of government recognition. Documents and web-pages have been scrutinised for about previous and current programmes to support BSL and the Deaf community (since 2003), and the current Scottish Parliament Cross Party Group on Deafness, Long And Winding Road web pages (Scottish Government 2009 and no date). Finally I also include a number of Deaf-authored images throughout the work: a demonstration of the powerful testimony these give to Deaf people's views on this issue of BSL recognition (see Appendix 2 for list of permissions and sources).

Semi-structured interviews have been the collection method for primary data. Interviewees were offered a choice of communications face to face interviews, telephone / interpreted telephone interviews or interview by email. The choice was made by the interviewees. Telephone and interpreted interview were the most successful as email interviews tended to be very polished and yield less thick data. The same applied to face to face BSL interviews as my level of confidence in working with video recording and BSL made

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[4] especial thanks to Steve Emery for this.

probing and engagement more difficult. Interviews have been conducted with six members of the Deaf community, four by email, one by interpreter telephone interview and one face to face interview in BSL recorded on DVD. Hearing allies have also been interviewed by telephone and by email correspondence. Informal email conversations have been undertaken with officials for DfE and from the Scottish government as they were not able to comment on forthcoming legislation that I wished to elicit in more formal interviews. Furthermore a telephone interview has been undertaken with the MP Malcolm Bruce who has a special interest in Deaf Affairs. A full list of interviews is included in Appendix 1. All interviewees were give the choice of how they wished to undertake the interview resulting in the range of communication methods and tools utilised.

One paradox has emerged, although the research is about greater equality and language justice for BSL users, the Deaf interviewees have been without exception a group of activists and Deaf leaders and those with have functional literacy and often their own businesses. I describe this group as the Deaf *intelligentsia*. They have arguably the greatest potential to lobby and make change happen for the broader Deaf community but currently are not working together as a Deaf caucus - united and engaged. Trotsky, drawing on Adler,[5] describes intelligentsia as "not an order bound by a historic vow, but a social stratum which embraces all kinds of 'brain work' occupations" (1974 p.3). Although Trosky's (1974) specific vision of the European intelligentsia is one which is remote from the struggle of the masses this need not be the case for the Deaf intelligentsia who share a common experience of oppression with their Deaf colleagues and are uniquely in a position to mobilise for the collective good.

 The selection of interviewees was purposeful snowball sampling was used to identify Deaf activists with a remit for policy negotiation and change in the arena of BSL recognition.

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[5] He does not give a full reference for this

Some have connections with the future Scottish BSL Act or have been involved with campaigning in the past. The sample is not representative but does give a picture of considerable agreement around a number of points – largely Deaf aspirations for greater BSL access as well as some differences due to the geographical variation.

In addition, interviews were also undertaken with policy makers and politicians campaigning for the BSL Act and implementing the existing recognition provisions (Scottish Government DfE, Malcolm Bruce). Given the current state of policy flux (new green paper forthcoming in Education), the consultation for the BSL Act in Scotland, it has been difficult to persuade civil servants to talk about emerging policies not yet finalised. They have given some facts and statements on the position and stance of the previous government however in informal email conversations. My initial fear that care would need be taken in these interviews to avoid creating a defensive polity has not materialised as policy makers are not willing to discuss policies which have not yet been agreed and in some instances they appear uncertain of the new government's approach.

The write up of interviews has in all cases been shared with participants to ensure accuracy and opportunity for them to change their statements if they should wish to do so. One interviewee decided they would prefer to remain anonymous once they read the write up of the interview.

The collection of data through empirical research and documentary review was undertaken by inductive research and purposeful qualitative sampling using a snowball method. This involves inviting participants to suggest names of people they recommended I should speak to who are knowledgeable about the topic. Purposeful sampling was used to ensure the scale of the empirical research was manageable within the timeframe. Research began

with self-evident sources and a recommended contact from a colleague[6] and was used to initiate the process.

2.4 Analysis

Analysis has been undertaken of this qualitative data using a matrix to identify points of similarity and difference between interviewee statements and to compare the policy perspective with that of the Deaf perspective (see chapters 4 and 5). Grey (policy) literature was also be scrutinized as well as Deaf-owned documentary and electronic sources outlined above. A final version of the dissertation will be made available to participants.

In addition, comparative research has been utilised between the content of collective Deaf aspirations the current policy situation and the legal prospects for policy change. Comparative research methodologies (Ragin 1987) have also been utilised to compare the aspirations and desired outcomes of the Deaf community with those of the policy constituency.

Analysis has utilised a process of progressive focusing (Parlett and Hamilton 1977). This entails a circuitous process of dialogue between the empirical data collected and the development of emerging concepts and hypotheses which explain the findings. Parlett and Hamilton note that this "permits unique and unpredicted phenomena to be given due weight. It reduces the problem of data overload, and prevents the accumulation of a mass of unanalysed material." (1977, p.14). In accordance with this, the questions asked of each interviewee were adapted to expand questions to include emerging ideas and concepts and to reflect their demographic and geographical characteristics. The process of adapting

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[6] Thanks to Dr S Emery for this

interview templates is time consuming but is responsive and rewards with focused data

addressing the key issues as they emerge.

CHAPTER 3

SOCIAL JUSTICE, CAPABILITY THEORY, AND

LANGUAGE POLICY

The research draws on three main concepts and approaches drawn from social and political theory – social justice, capability theory and language policy. These help to define what kind expectations may legitimately be placed on the policy world in the context of social justice and language justice by SLPs: while research on language planning identifies tools for language policy which are available to policy makers. Debates around equity, entitlements, capabilities and quality of life are salient to the kind of policy making framework and outcomes which SLPs may be able to call for from the policy world.

In what follows each of these three approaches is discussed in turn and comparison is made with the results of the empirical research and the actual situation for BSL and for SLPs. The bringing together of these three concepts as a conceptual framework has not been done before. Turner (2009) draws on theories of language planning but there have been no attempts to utilise these approaches jointly in the field of BSL policies. It is therefore hoped that the importing of these concepts in this way will add to the knowledge of the discipline of Deaf Studies.

3.1 Social Justice and BSL

There are numerous different interpretations of the meaning of the term social justice. As Clayton and Williams say "[p]hilosophical discussions of social justice proceed at differing levels of generality" (2004, p.11). It is often used to refer to an obligation on the state to redress inequalities and promote equality. In policy terms this may include combating

poverty, ensuring all groups have equal *access* to information and services. This maybe broadly referred to as "distributive justice" and has its roots in Rawl's (2005) seminal text[7] which suggests that agents (i.e. governments) are responsible for ensuring principles of equality are maintained. He calls this 'democratic equality' which together with the basic liberty principle (right to associate, right to vote etc) provides the basis of his conception of social justice. Other authors prefer to define social justice in terms of entitlements and capabilities (Nozick 2004, Sen 1990). Dworkin (2004) instead examines social justice in terms of equality of resources. Developing and critiquing the work of Rawls (2005) Cohen suggests that "all decisions with profound distributive effects fall within the purview of social justice" (2004, p.13) this includes not only the actions of the state but also behavioural decisions taken by individuals about resource allocation.

The root of the difficulty in defining social justice is the political philosophy which shapes the approach taken by the different authors. While governments may be responsible to re-distribute, in so doing they take resources away from one group to give to another. Likewise judgements have to be made around who is responsible for the redistribution, whether this lies with individuals, should be collectively managed, or ultimately is the responsibility of the state (Craig et al 2008). In the messy world of policy decision making this is rendered more complex by conflicting interest of different groups making straight forward decisions about re-distributing resources to eradicate poverty and allow educational access vexed and contentious. Currently, for example, billions of pounds are invested in the cochlear implant programme and Access to Work[8] while policies to support BSL are negligible by comparison. This is indicative of a hearing based philosophy of Deafness as a disability rather than recognising BSL as a cultural and linguistic capital of non-territorially located SLPs. The power differential between Deaf campaigners and the world of scientific cures has been such as to skew the distribution of resources in this

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[7] Originally published in 1972

[8] payment of interpreters, note takers, equipment etc

way – it never the less remains contested (interviews 2010, Alker 2002, Bryan 2000, 2003, Ladd 2003).

Policies to support BSL (including a BSL Act) would be intended to help increase access for Deaf people to information, health care, civil justice, education, and to help regenerate and rebuild their community, history and cultural-artistic patrimony. There is an obvious need to redistribute resources by central government to achieve this aim as each of these carries a cost implication. Bruce (interview 2010) is of the opinion that most ordinary members of the public would accept around £15 million p.a. being invested in BSL support measures – commensurate with expenditure on the safeguarding and protecting the Gaelic language or even providing written translations of local authority leaflets and health care information into the languages of recent migrant populations to the UK.

 In terms of the locus of redistributive competence, at the level of the individual, donations to the Deaf cause are mainly delivered through charitable donations to the RNID – an organisation which covers all deafened people as well as sign language users in its remit, and where consequently the impact of such donations of securing BSL access for SLPs is small. The Deaf community has pioneered a number of community-led grass-roots initiatives (e.g. Deaf Access Wales, Becoming Visible among others) to increase BSL access to information, however this collective locus is not able to deliver the level of justice required to give deaf children and Deaf adults the full access they crave. The national Deaf-owned not-for-profit organisation, the BDA, has not been able to sustain initiatives which deliver language justice to its members. The locus for engineering social and language justice for Deaf people is optimally at the level of the state primarily through legal recognition of BSL (Bruce interview 2010). It remains to be seen the extent to which the Convention (UN 1998) and/or the hoped for Scottish BSL Act will be able to prompt the UK government into taking action for sign language users across the UK as a whole.

Officials from the DfE have confirmed that until now they have followed a policy of individual choice for communication strategies for deaf children. This effectively means that parents can decide or reject the use of BSL for their deaf children (Interviews 2010). One commentator has described this as 'a cop out' as most parents are hearing, wanting their child to be hearing also (anonymous interview 2010). A number of sign language users are calling for linguistic rights of the deaf child to be recognised (interviews 2010). This would effectively mean giving a deaf child the right to a first language to think in – i.e. sign not spoken language (Julia interview 2010). This is obviously a tension with the more individualist notions of education theory and for policy makers.

3.2 Consensus Theory of Social Justice

As Corson states there is a clear policy fault line between individualist accounts of social justice (i.e. social justice as natural rights, as welfare and mutual advantage or as fairness and impartiality) and collectivist accounts of social justice: (i.e. social justice as consensus in discourse focusing on the needs of social groups) (Corson 1993, p.p. 28-39). The Deaf community is seeking a collectivist approach to social justice – one which places BSL at the heart of the need for increased equity and which moves towards a situation of consensus for greater collective language justice.

Corson's (1993) analysis of the situation for minority language users reveals the difficulty of achieving this language equity for low status marginalised and oppressed groups.

> "using Bourdieu's analogy, those groups with capital that is different
> from that given high status in the school often provide accounts of their
> own behaviour and of their own intentions in relation to the world that
> are very different from dominant groups accounts and which may seem
> inscrutable as the result" (1993 p.44-45).

In a realm of contested resources (aggravated by recession and an emerging policy of austerity) the 'inscrutability' of Deaf discourse to hearing people has proven till now a major stumbling block in winning government concessions and ultimately in entitlements and resources for language justice. Corson also asserts that collectivist accounts of social justice and language are essential as language is about "communicative interaction between social groups of two or more people" (1993, p.28).

In his work on Social justice, Habermas (1971) talks of the need to recognise group values to support language minorities in his consensus theory of justice. He places the needs of different *groups* at the centre of his social justice theory. Probably to the dismay of SLPs, Habermas finds that social institutions are intrinsically dysfunctional and act to "defend a rigid uniformity of behaviour" (Corson 1993, p.35). Despite this pessimistic finding, Habermas (1971) advocates a pluralism of values which would allow for the emergence of an informed consensus where conflicting and incompatible interests are addressed through compromise. He argues for the recognition of group values, and the valuing and supporting of the group character of language and learning.

Kymlicka has written of the "challenge to find models of inclusiveness for ethnocultural groups" (1998 p.91). His work on multi-culturalism hints at some of Habermas's views that pluri-value systems are needed to allow minority language groups the right to achieve social justice. For Kymlicka however, the objectives are more modest: he writes merely of the "aim of political mobilization [for Deaf people] is not to primarily to gain access to the mainstream society, but to protect and enhance their separate institutions" (1998 p.102). The research presented here suggests otherwise: the Deaf people interviewed for this research are very clear that they want equal access through linguistic rights enabling them to use BSL in education, health care, and other settings and for hearing people to be able to learn BSL at school (interviews 2010). The aim is not a separatist one but primarily one of

achieving access (Jones, Lawson, Julia, Angela, Sarah, interviews 2010). May (2001) argues that recognition and accommodation of "cultural and linguistic group-based rights may well extend [democratic principles]" (2001, p.17). He is concerned to prevent ethnic conflict that can result from marginalisation of minority language groups; in the case of Deaf people the concern would be more to avoid un-civic and undemocratic relegation of Deaf people as permanent excluded 4th world people.

3.3 Capability theory

Sen,[9] famously identified lack of *entitlement* as a reason for famines in areas where adequate food resources existed (1981). He also claimed that individuals have capabilities which need to be enabled for the public good (Sen 1999). Writing about health equity, Sen comments that any conception of social justice is one predicated on equity and the need for "fair distribution as well as efficient formation of human capabilities" (Sen 2004, p.23). Sen argues that the capabilities approach is superior to questions of utility, resources, social contract or human rights. Sen and Nussbaum talk of the capabilities approach embracing the notion of the "ways in which people are actually able to function" (Nussbaum & Sen 2002 p.3) in determining quality of life rather than focusing on resources ('opulence or utility' - Nussbaum & Sen 2002 p.3). Furthermore, for Nussbaum (2003) this needs to be supplemented with prioritising which are the most important capabilities to protect. If we apply this to the Deaf policy arena it is clear that in order to deliver SLPs entitlement to equality and language justice, a better understanding of their capabilities is needed. This entails policies that work with Deaf people's capabilities rather than starting with the disability premise of what they cannot do. Preliminary evidence emerging from Nottingham (Gulliver & Allsop 2010) suggests that in some parts of the UK there is a currently and emerging *lacunae* – removal of disability funding without replacing it with policies aimed to support Deaf people's capabilities. Potentially the result

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[9] a seminal writer in the field of development studies and Nobel Prize winner

is an increase in unemployment and underemployment for Deaf people as well as ongoing marginalisation from access to information in education, health and civil justice. Similarly the DfE has, until now recognised that Deaf children can use BSL but only if their parents choose it. This completely ignores the Deaf communities call for deaf children to be accorded linguistic rights in education.

SLPs claims to entitlements to Language Justice (education through BSL, access to medical services through BSL, access to civic justice through BSL and access to use BSL to engage as full citizens of the UK) are a claim to be recognised for their capabilities and to access their entitlements. In 2010 none of these key functions of social justice are available to Deaf people, who have a 4th world status (Batterbury et al 2006).

3.4 Language policy

Language planning is carried out by government agencies, education agencies, NGOs (including language agencies and other organisations (Kaplan & Baldauf 1997, p.6). BSL currently is not supported in a meaningful way (other than as a matter of individual choice) by either of the first two of these groups in the UK. This is one of the main reasons BSL and other sign languages struggle in the absence of official legal BSL recognition especially as BSL is not offered in any meaningful way as a medium for instruction in British schools, and sign bilingualism (with either written or spoken English) is not an accepted policy. Language planning generally involves actions to support (or at time to oppress) minority languages either to prevent language death or to ensure continued linguistic standardization.[10]

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[10] the *Académie française* is a good example of a non-governmental advisory body whose role is to publish an official dictionary for the French language and maintain its so called 'linguistic purity'

Language planning and its specific use by governments to engineer change in language status is known as language policy. Language policy involves actions by governments to protect minority languages. This is often accomplished, as in the case of Welsh and Gaelic, by the setting up of a national language board, by enabling its use in education and by ensuring it has a television channel broad-casting in that language. Language policy is predicated around different policy notions for the function and status of language – bilingualism (e.g. Gaelic and English, use only as a communication tool (sign languages), use as a written language for immigrant communities (translated leaflets from local councils and health authorities). We know that the legal recognition of sign languages in countries like Sweden, Finland and New Zealand has been well received. Data from Sweden suggests that where students have been enabled to attend Swedish Sign Language medium schooling they have done better in higher education with interpreters and note takers than deafened students struggling to lip read without full access (Bruce interview 2010).

It is well acknowledged that language planning is intrinsically linked into questions of power (Fairclough 1989, Toullefson 1991, Mac Giolla Chríost 2003, May 2001, Corson 1993). As Kaplan & Baldauf write "language is a powerful marker of identity and as such forms an important element in the nation-state model for language teaching and learning (1997, p.210). Turner is more explicit about the power dynamics, noting that the impact of language planning "depends upon a framework that acknowledges the existence of competing interests and the exercise of power to decide amongst these interests and to sanction targeted behaviours" (2009, p.245).

Sadly, however, as Turner writes

> "While immense changes in sign language prospects have evidently taken place worldwide over the last half-century, it can be seen that the power balance remains precarious and that major forces continue to align to

ensure that sign language planning remains at best an uphill struggle"
(2009, p.243)

Language policy for BSL in any guise is notable for its near invisibility in UK government polity (Turner 2003). Seven years since the Department for Work and Pensions (DWP) recognised BSL as a language in March 2003, it is still hard to find examples of direct policy change resulting from this declaration. The Department for Education's (DfE) BSL pilot project *I-Sign* is currently the most prominent example of a central government-funded programme linked to BSL, but this lacks the necessary focus and targeting and is coloured by the ethos of freedom of choice for individuals and families rather than the collective Deaf-led BSL imperative (direct observation 2010, informal conversation with DfE official 2010) which would be required to bring about a measure of language justice. As a project focused on training, it is not aimed at meeting Deaf aspirations for a BSL Act. Local initiatives appear to have been more successful using the DWP BSL 'recognition' as a tool to influence some local councils in England. In Scotland, the Scottish Government has moved towards accepting BSL as a language through a concerted investment programme.

> "Scotland has not formally recognised BSL as a language in the way the other countries of the UK have done. However, BSL has always had a high political profile since the start of the Scottish Parliament and the Equality Unit which has responsibility for this policy area has always treated BSL as a language". (informal conversation with a Scottish official, Hazel, 2010)

However, there are really no policies yet at any level of governance in the UK which embrace the culturo-linguistic patrimony of the Deaf community (Wilks 2007, Jones 2007, Turner 2003). The situation for BSL is consequently in stark contrast to that of other UK minority languages: both Scottish Gaelic and Welsh have nationally financed language boards to safeguard these languages and promote their use and elevate their status as well as millions of pounds being invested by the BBC in Welsh and Gaelic medium television

channels. The inequality of treatment with other UK minority autochtonous languages is compounded by the exclusion of Sign Languages from the European Charter (Council of Europe 1992).

3.5 Summary

Ultimately the Deaf community's capacity to achieve social and language justice depends on the power and authority they are able to muster. Currently as we will see in Chapter 4 this is in retreat and so there needs to be a concerted effort to re-group recharge and re-build. The UK government has access to language policy as a tool to help support BSL through its explicit legal recognition which should enable Deaf individuals to call for their rights in terms of equal access to a sign language television channel, BSL medium schools, the offering of a GCSE in BSL to hearing students in secondary schools, the right to use BSL to access public services and health care appointments among others. All of this, as Bruce has said (interview 2010), is predicated on first achieving legal recognition which would put in place the legal basis for ensuring the delivery of social and language justice for SLPs. However, as Alker (interview 2010) points out, legal recognition on its own may not be enough; some degree of community ownership is also required with the emergence of Deaf leaders prepared to lead by example. Wolfe (2006) talks rather of community repair but it is clear that what is needed is both legal recognition AND a re-grouping of Deaf citizens.

CHAPTER 4

THE DEAF PERSPECTIVE

4.1 Introduction

The chapter covers a number of concerns and issues expressed by Deaf interviewees –
there has been a remarkable similarity in the statements of those interviewed although the
findings cannot be read as exhaustive or representative of the views of all Deaf people.
However, in lines with established qualitative methodologies, data saturation[11]
demonstrates a consistency of theme and adds weight to the Deaf testimony presented here.
Images[12] included[13] in this chapter have been chosen to offer a striking visual
representation of the Deaf perspective especially as visual depictions are of real
significance to the Deaf community and bring alive to all people the Deaf message in a
striking visual way.

The chapter covers a number of distinct areas: the need for sign bilingualism in schools,
the need for deaf organisations to be run by and steered by Deaf rather than hearing people
(who are better able to respect and understand Deaf issues), the need to re-group the Deaf
lobby and its current absence as an effective force in the policy scene, the importance of
local activism in keeping alive the Deaf dream and effectuating local level policy changes,
hopes and aspirations for the forthcoming Scottish BSL bill, and the need for central
government to start effective language policy and planning despite a degree of concern of
the impact of the austerity period at the time of writing.

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[11] repetition of similar comments emerging repeatedly in interviews
[12] see Appendix 2 for a list of images, sources and permissions.
[13] The research in the chapter is based on documentary review of Deaf sources - publications and blogs, and
interviews with Deaf and hearing allies. In writing this chapter the aim has been to ensure space for the Deaf
perspective to be fully represented and quotations of key statements presented (rather than summaries which
would make for a shorter exposition).

It is clear that achievement of social justice, language justice, and capability based consensus language policy would be fully supported by Deaf people and needs a concentrated Deaf effort to push this message into the policy domain.

4.2 The need for sign bilingualism

Education is one of the main areas of concern for the Deaf community. The education profession is rightly blamed for decades of failing to educate deaf children by rigidly sticking to a policy of oralism where deaf children were forced to speak (Ladd 2003, Branson & Miller 2002). [14] The result was several generations of school leavers with functional illiteracy (Conrad et al 1979). As Alker has written:

> The Federation of Deaf People believes that the current practice of effectively withholding information from deaf children until they manage, if ever, to learn to hear and speak is an abuse of their human rights. The consistently low educational attainment of deaf children is unacceptable" (Alker 2002, p.1)

Since the Warnock Report (Department for Education and Science 1978), education policy has shifted to mainstreaming deaf children wherever possible. Deaf schools have been closing and deaf children find themselves throughout their education at school with peers they cannot communicate with. Research by Knights (2010a) has shown the serious impact this has on a child's confidence and self esteem, and provides testimony of the shocking expectations placed on deaf children to work out strategies for coping with this situation without any adult support.

Strategies for deaf education have not worked. Even now the NDCS has demonstrated a significant attainment gap between deaf children and their hearing peers and this has lead Deaf people to insist that there should be a policy of sign bilingualism[15] in schools to give

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[14] the film *Mandy* shown in the 1970s summed up the ethos of this approach
[15] use of BSL with either written English or spoken English as appropriate to the child

deaf children access to the information essential to their learning. Deaf people also feel that

linguistic rights are fundamental i.e. that a deaf child has the right to have a first language

even if parents choose oralist approaches for their child (Julia, Alker, Lawson interviews

2010). Such an approach would build on deaf children's capabilities and deliver their

linguistic entitlements. It would therefore in theory help to reduce the attainment gap and

deliver better language justice.

Deaf people spoken to blame educational professionals and policy makers for creating a

closed shop in education with the result that efforts have to be focused instead on

rehabilitation of school leavers.

> The route to everything is education, but policy makers won't touch it:
> the rest of us focus on rehabilitation for school leavers – such a mess. The
> education profession is powerful and have an iron grip on the field – and
> they have made it impossible to get into this field and attack groups who
> try (Alker interview 2010).

The seeming immutability of education policy and the defensive routines of the

education profession would appear to confirm Habermas's (19971) statement that

social institutions try to "act to defend a rigid uniformity of behaviour" (Corson

1993, p.35). Those involved in deaf education) also have a vested interest in

maintaining the *status quo* as most have poor signing skills and rely on

Communication Support Workers who also have poor signing skills.[16]

> Organizations display what can be thought of as "learning
> disabilities,"or what Argyris might call "defensive routines" that get in
> the way of the kind of second-order learning that may be needed in
> today's turbulent world (Argyris and Schon 1996). (quoted in Schein
> 1996, p.235)

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[16] Research by three students from the Centre for Deaf studies on placements in three different Deaf schools and a further education college demonstrated examples of teachers of the Deaf sitting separately from Deaf teaching assistants in classrooms, teachers speaking about deaf children in front of them to the hearing placement students, and Teachers of the Deaf asking undergraduate unqualified Deaf studies students to interpret for them as they felt their signing skills less good than those of the students (Devlin 2010, Knights 2010b, Sharpe 2010, Ping 2010)

It is difficult to see prospects for change occurring within the education system, although the I-Sign project supported by DfE is currently working towards an up-skilling of Educational Communication Support Workers (to Level 3). More dramatic change will be by force of argument, lobbying, and as Bruce says by legal recognition, forcing change to meet actionable rights (Bruce interview 2010). One possible outcome of the recent change in government has been the setting up of the Free Schools initiative which allows

> "teachers, charities and parents to set up new schools – Free Schools – in response to parental demand. Free Schools are independent state schools run by teachers not bureaucrats or politicians and accountable to parents" (Department for Education 2010).

This loosens the education profession's strangle hold on schooling and although it would not be easy, is one step closer to allowing the creation of a 'Model Deaf School' (FDP 2002) as advocated by the FDP's education campaign in 2002.

4.3 Decisions about Deaf affairs need to be made by Deaf people and not by hearing-led deaf organisations

There is a very strong feeling among the Deaf people spoken to that deaf organisations (largely hearing-led) are not able to represent or understand the interests of Deaf people and that they block or water down policies to support BSL (Jones, Alker, Angela, Julia, interviews 2010). Figure 1 overleaf provides a visual representation of the strength of some feeling about this issue.

Figure 1: "Deaf Activists Flypost RNId's London HQ"

Showing the strength of feeling about the RNID's hearing leadership - their offices in Featherstone street were fly-posted with signs "DEAF CHAIR NOW"
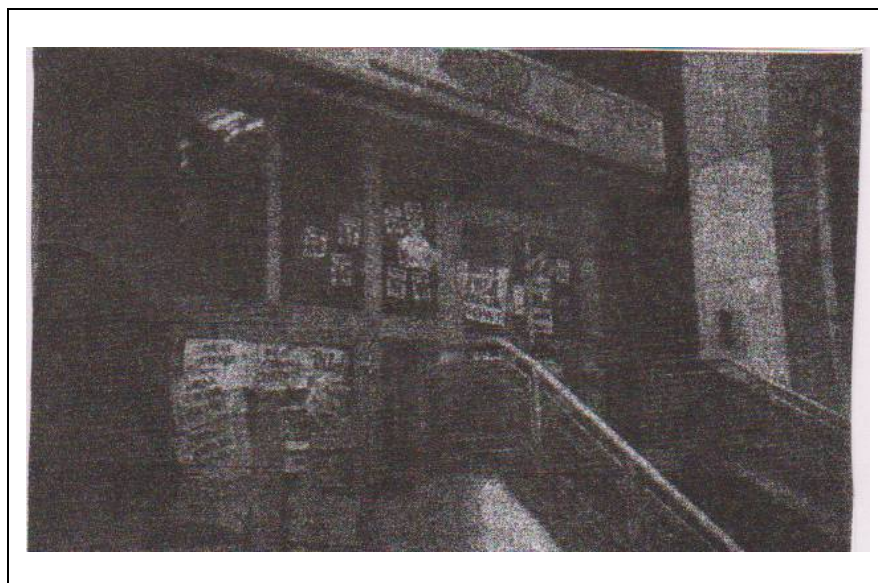
Photograph Reproduced with permission from the FDP (from FDP information bulletin, Vol 4 no 5 no date)

In 2002 the RNID claimed to have "a deaf president, a deaf chief executive, deaf trustees, deaf members and deaf staff" (Strachan 2002, p.4) but as the Editor of T*he Voice* wrote:

> Come off it lad! – How many of these "deaf president, a deaf chief executive, deaf trustees, deaf members, and deaf members of staff" are BSL users? … Most are unlikely to get past the finger spelling stage if at that. …. You ARE, as Andrew Thomson states, run by those who are effectively hearing" (editor 2010, p.4).

It is felt that project funding (DWP and DfE) has been expropriated by the larger deaf organisations and largely used to fund interpreter development rather than the BSL tutor training or the BSL promotion that Deaf people actually want (Bryan interview 2010, Jones interview 2010, Alker interview 2010). The fact that I-Sign actually does at least provide BSL tutor training does not alter the feeling that activists have that deaf organisations do not operate in the interest of Deaf people. Underlying this is the equally strong feeling that Deaf people themselves have been excluded from the decision making process. (Alker, Bryan, Lawson, Jones, Sarah, interviews 2010).

> "The agenda is clouded with deaf organisations' interest, rather than the interest of deaf people; and with it a massive conflict of interest" (Bryan interview 2010)

The period leading up to the DWP recognising that BSL was a language in 2003 was said to be 'hi-jacked' by the large deaf organisations who were not involved in the marching but nevertheless became recipients of project funding and claimed leadership of the recognition process (Bryan interview 2010). Figure 2, overleaf, provides a graphic representation of the perceived hi-jacking and 'theft' of resources intended for BSL recognition by some of the large deaf organisations.[17].

> "they are in a world of their own, there is no such room for inclusion unless you're one of the 'big boys', the real users have been excluded (Sarah interview 2010)

The dominance of deaf organisations was also compounded by a lack of effective publicity within the Deaf community and confusion about whether recognition could achieve anything (Bryan, Sarah interviews 2010). The hegemony of hearing influence of deaf organisations is unhelpful. It effectively works against deaf capabilities suggesting that somehow they need hearing people to front up their organisations. Bourdieu and Eagleton (1994), Ladd (2003) and Delamont (2003) have all drawn our attention to the distorting impact of hegemonic discourse that legitimises some forms of knowledge while completely ignoring others. Vested interests also operate making challenging the discourse of hearing bosses difficult – to do so is often dismissed as 'eccentric'. A re-grouping of the Deaf lobby is fundamental to any prospect of achieving change in the balance of power. Persuading the policy world towards a more pluri-value system as advocated by

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[17] Furthermore the smaller Deaf organisations are said to have been bought off and therefore did not mount any opposition to the hearing agenda of paying for interpreter development. The British Deaf Association, which is Deaf led, is said by some not to have been strong enough (Alker interview 2010).

Habermas (1971) requires a presence within policy circles to find a home for Deaf discourse and an understanding of the significance of BSL for SLPs.

Figure 2: cover page "The Great £1m Robbery"

The Great £1m Robbery

RNId   CACDP
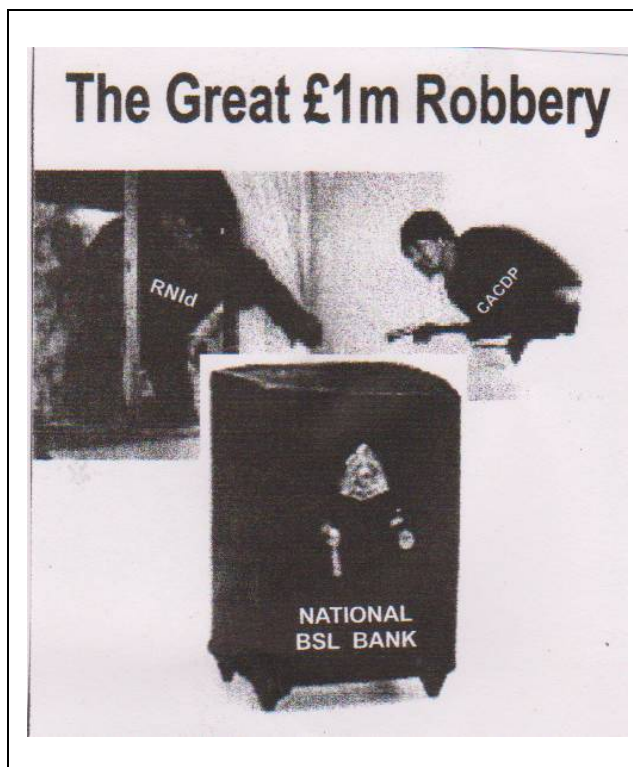
NATIONAL
BSL BANK

Drawing by Doug Alker (2002) reproduced with permission

A graphic depiction of the outrage felt by Deaf campaigners that, after Deaf organised and Deaf led marches, hearing led organisations took money for BSL recognition and used it for interpreter training rather than supporting and promoting BSL

4.4 Absence of a Deaf Lobby post 2003

"Many key activists were burned out and there was no longer ownership campaign-wise: this is the major reason why little activism has been done in the area of BSL recognition since 2003. It has nothing to do with we think BSL has been recognised (far from it), there is much more to do with a lack of ownership and respect of our issues" (Bryan interview 2010)

Figure 3 overleaf contains two photographs of a banner taken at the July BSL march following BSL 'recognition' by the DWP in March 2003. These were posted by Dodds five years after the march. After reminding people that they are still needed she writes in frustration of the lack of Deaf activism "that was back in the days when we cared enough to do such things." (Dodds 2008, no page number). Dodds' (2008) posting is testament to a feeling of frustration by campaigners that the momentum of the Deaf campaign appears to have fizzled out. Some Deaf activists also express frustration with grass roots Deaf people as being willing to follow but not stand up and lead. Deaf people are said to be being bribed with benefits and therefore not able to stand up and campaign for change (Alker interview 2010).

Although the Deaf campaign has been in retrenchment, there is nevertheless a Deaf intelligentsia, but they largely appear to be currently working on promoting their own businesses rather than uniting for policy change and continuing to offer leadership (Bryan interview 2010). Several interviewees have referred to Deaf leaders as either being ASLEEP or having burned out or moved away to set up their own businesses (Jones, Bryan 2010).

> "you have to get good leaders . In the NW leaders burned out / were paid off there is no replacement anywhere" (Alker interview 2010).

> "There is no lack of will Deaf community wise, they want something to happen, just political leaders went off the radar" (Bryan interview 2010)

A further issue has been a lack of effective publicity for the recognition campaign. A Deaf interviewee from London has said

> "who is leading on recognition of BSL – BDA/ RNID? Anyone at all?"… Where have the deaf campaigns taken place – have I missed something?" (Sarah interview 2010)

She goes on to say that the loss of momentum for the BSL recognition campaign has created a "feeling of general dismay at where this BSL recognition campaign has been left high and dry – it's been put on the shelf for too long" (Sarah interview 2010)

Consequently, there are currently no Deaf leaders and no effective Deaf lobby that means Deaf people are weak in the eyes of policy which is not a good position to be in especially at the moment with austerity measures being pushed through. Lobbying is being done by deaf organisations but not by Deaf activists/ campaign groups at the moment[18] and this serves to perpetuate the imbalance in policy influence that SLPs complain about.

After years of marginalisation the Deaf lobby is in disarray and needs to re-group to push forward an effective Deaf-owned Deaf-led campaign. The case needs to be made to policy makers and evidenced to them that Deaf people have capabilities and effective organisations and leadership (Bryan 2000). This requires an effective lobby group to reinforce the need to move towards a pluri-value polity that champions diversity. In many ways this is a precursor to the achievement of distributive justice and to the delivery of Deaf entitlements to language justice.

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[18] Lawson (interview 2010) states that the "Scottish Council on Deafness (SCOD) and other deaf organisations have lobbied the Scottish parliament, the Scottish government, Local Authorities, for BSL and linguistic access".

Figure 3: Banner from the BSL March July 2003 following DWP's "recognition of

BSL"

And on the back, it wisely said...

Did we? Umm, no.
I've said it before and I'll say it again - we British Deaf NEED to get off our arses and do something useful without squabbling or saying "oh, he's doing it, you don't need me."

We do need you. More than ever before!

4.5 Using local activism to roll out policy change

> "locally policies embrace BSL as a language and things have been moving. During this period of Deaf apathy since 2003 the local areas and regions (& possibly Scotland) have nourished and cherished the Deaf dream while centrally across the UK there has been no action" (Alker interview 2010)

The Deaf-led BSL recognition campaign retrenched in 2003 following the statement by DWP that they recognised BSL was a language and made available £1.5 million for ten projects. There were no legal or policy implications arising from this 'recognition'. The involvement of organisations such as RNID and UKCoD in the recognition process created a situation where Deaf campaigners felt excluded and marginalised, burn out took place, and others crossed over to take project funding from DWP. None of those interviewed feet that this investment has paid off as no policies to promote BSL resulted..

Some of the campaigners focused instead on the local areas as DWP recognition was useful at least as a tool to persuade local authorities to be more proactive in their own stance for BSL. The BDA put together a BSL charter which was used to lobby local councils. [19] Councils including Bristol City Council, Blackburn, Nottingham and Devon have been singled out by interviewees as having made significant changes. In London, Islington are said to be ahead while "all other local authorities are 'running away' from their responsibilities" (Sarah interview 2010).

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[19] The BDA's BSL charter sets out five pledges in the fields of:
  – bilingual education for Deaf children,
  – standards in BSL teaching,
  – consultation with the Deaf community,
  – minimum BSL standards for staff working in Deaf affairs, and
  – improvement in services for Deaf people.

The result is that there is now, across the UK, a patchwork of councils who are open to BSL and have set up equality and diversity officers, Deaf forums and other measures. [20] There are other local councils where nothing has been done and Deaf access lags behind. There is no real change to the underlying English-medium school system however, neither local education authorities nor the DfE have so far been prepared to go further than stating that communication is a matter for individual choice (informal interview with DfE officials - Simon and Margaret 2010). Although Deaf leaders and activists have been able to bring some influence to bear on some Local Authorities, the achievement of language justice appears to require a central government shift in thinking to deliver UK-wide language justice through legal recognition.

Evidence from the local authority campaign shows that the SLPs have the potential and capabilities to action change but that, in the absence of legal recognition of BSL, they are excluded from influencing the practices of Local Education Authorities, the education profession, the media among others and are not able to reach all Deaf people across the UK.

4.6 Hopes for a Scottish BSL Act

The situation in Scotland differs markedly from that elsewhere in the UK. Investment in BSL in Scotland has equalled that by DWP for the UK as a whole. As Duncan states:

> The relatively greater commitment shown by the Scottish Government over the UK Government is shown by one simple statistic. When the UK Government 'recognised' BSL in 2003, the immediate outcome was the DWP funding of 10 different projects to the tune of £1.5 millions. The Scottish Government is investing £1.5 millions in the *Building Bridges* project alone (Duncan interview 2010).

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[20]. Deaf forums in London are described as a "moaning shop which is usually to attack certain departments in the council, rather than incorporate a policy which could be adopted with consistency across the London boroughs" and BSL recognition itself has no significant profile (Sarah interview 2010).

The situation in Scotland is discussed in more detail in Chapter 5. Deaf interviewees and hearing allies express the hope that if the Scottish bill becomes a BSL Act it will help move the situation of BSL in Scotland closer towards that of other autochtonous UK languages (Duncan interview 2010). Some feel it may help lever policy change at the UK level (Jones interview 2010) but in the light of the current fiscal cuts there is some uncertainty over this (Bryan and Alker interviews 2010). Impetus from outside the UK from the Convention (UN 1998) may provide the impetus needed if SLPs can unite to push for change.

4.7 The need for an effective language plan

Interviewees felt that DWP recognition in 2003 was undertaken in the absence of proper language plan (Bryan 2010, Jones 2010).

> "The government should have engaged with the British Deaf Association and other Deaf community organisations to create a plan and an infrastructure that would have led to parity and equality for BSL with other languages of the British Isles, such as Welsh and Gaelic". (Duncan interview 2010)

A proper plan involves a clear statement of the status of BSL, its function (bilingualism on a par with Welsh and Gaelic, a communication tool, or a minority language of a similar status to other migrant languages in the UK). This happened with the Welsh language as Bryan has written,

> "When the campaign for Welsh happened there were 3 options: i) equal validity, ii) necessity, iii) bilingualism… The Hughes Parry Committee (that researched into Welsh) recommended equal validity" (2003, p;.22-23).

The absence of such a declaration on the exact nature of the status of BSL means that it is treated differently across the UK and in different domains (e.g. in education it is a communication tool whereas in some local authorities and in Scotland it is treated as a

language meriting bilingual status with English). Bryan fears that the cost implications mean that the current government will not reach out to Deaf people and recognise their language, and that Deaf people will become caught up with trying to save jobs in an overcrowded job market (Bryan interview 2010). Bruce however is more optimistic: policy advantages for Deaf people can be secured in an environment of cut backs as it is may be seen a cheaper option allowing central government to seem magnanimous to groups with needs (Bruce interview 2010).

Turner has written dismissively of those who assert change must be done for Deaf people by language planners

> "sign languages have long been treated as requiring planning. In short either the language or its users, or both, have commonly been seen as inadequate for effective social intercourse" (2009, p.245).

He goes on to point out that

> "armed with an array of scientific evidence as to the legitimacy of natural, signed languages – and in an era of greater tolerance of social diversity, signing communities in many countries have found greater self-assurance and made some significant advances (ibid).

It is to be hoped that this will also take place in the UK the first step towards this will be to get the Deaf message across to policy makers in a non-threatening way that opens hearts and minds to resolving the language justice and access issues. Appendix 3 lists Deaf aspirations that might form the basis of a national BSL Plan.

4.8 Summary

This chapter has been quite long as it provides a distillation of the Deaf perspective and space has been deliberately given to allowing the Deaf voice to come through in the form

of direct quotations. In relation to the conceptual framework in Chapter 3, it is the case

that Deaf aspirations for greater equality of access require language policy which respects

BSL as any other language, according it bilingual status alongside spoken/written English.

This would require a policy shift to deliver distributive social justice which focuses on

providing the resources enabling the setting up of a BSL Language Board, with strategies

to enhance acquisition, status, usage and corpus planning for the language. Although the

Deaf community and Deaf activists are able to articulate their views via interviews and

Deaf publications and blogs – this message is not filtering through to those with decision

making powers who tend to talk only to deaf organisations rather than Deaf activists

(Bryan, Bruce interviews 2010). For this situation to change there is a need for the

regrouping of a Deaf caucus who can provide a voice for the Deaf perspective and a locus

for consultation. Additional legislative changes are also crucial and will be discussed in

Chapter 5.

CHAPTER 5

LEGAL AND POLICY CONTEXT

5.1 Introduction

This chapter is in three parts. First it explains the key legal instruments and international treaties available to protect minority languages at the European and United Nations levels. Policies drawn from the minority language perspective are discussed before examining those rooted in the disability perspective. Second, it analyses what is currently happening at the UK Government level before thirdly detailing initiatives in Scotland from the devolved Scottish Government.

Chapters 3 and 4 demonstrate that a capability collective entitlement approach to language policy is what SLPs would actually like – anchored in equality of treatment with other autochtonous languages such as Welsh and Gaelic; but as a dispersed non-territorially located language. However, as we will see in what follows, initiatives in international law which might push the government into passing a BSL Act have so far proved unsuccessful. The more recent UN Convention of Rights of Disabled persons (UN 2008) offers a greater prospect of change, not least as the UK government has ratified this in 2008 and is now under a responsibility to demonstrate that it is delivering measures which include 'education in the most appropriate language for the individidual' and recognition of Sign Language (UN 2008, Article 24). Should the proposed BSL bill in Scotland be passed to become an Act then there is also the prospect on pressure being brought to bear at the UK level to deliver the same level of language justice and linguistic rights to SLPs in the rest of the UK. It is likely that the responsibilities of the Convention will assist them in this process

5.2 Legal and Policy Context: Europe and beyond

Prior to the Convention (UN 2008), there have been a series of policy initiatives to recognise sign languages by the UN and the Council of Europe. The European Parliament, for example, agreed to recognise sign languages in 1988 (and again in 1998), however, the Member States of did not respond to this initiative. Several countries - Finland, Portugal, and Greece have made progress towards partial recognition of Sign Languages following the European Parliament's resolutions (EUD 2001, 2003). Bruce (interview 2010) has commented on the successful outcomes that the Swedish Sign Language recognition has brought especially in the educational field.

In what follows some of these conventions and declarations will be examined. However it is clear that, despite the will to legislate for linguistic human rights (Skutnabb-Kangas and Phillipson 1994), nothing which gives either collective rights or individual rights has so far been achieved for sign languages. Skutnabb-Kangas (2008) talks of the excessive use of "vague formulations" with many "opt-outs, modifications and claw-backs" (2008 p.109) that render the instruments weak and give power to the states to decide not to accord linguistic human rights to its minority language speakers.

In the following subsections, the cases of the European Charter on Regional and Minority Languages (hereafter referred to as 'the Charter') (Council of Europe 1992), the Framework Convention for the Protection of National Minorities (hereafter referred to as 'the Framework Convention')(Council of Europe1995), the Universal Declaration of Linguistic Rights (referred to as 'the Declaration') (WCLR 1996) and the UN Convention on the Rights of Persons with Disabilities ('the Convention') (UN 2008) will be

discussed.[21] Unfortunately, all these initiatives except for the UN Convention can best be described as lacklustre: failing to provide the necessary legal backing to enforce a wish to promote and support sign languages. Information on the Charter, Framework Convention and Declaration are included as these are all international instruments aimed at improving the rights of minority language users. Given the SLP aspiration for language-based rather than disability solutions to achieving language justice it is important that the limitations of these language-based instruments are explored before moving on to discuss what the Convention is able to offer.

5.2.1 Charter for Regional and Minority Languages (1992)

In 1992, the Council of Europe set up the *Charter for Regional or Minority Languages* (Council of Europe 1992). However, according to Skutnabb- Kangas

> "The European Charter is supposed to be an inclusive, positive language rights instrument. Still, it excludes many more languages in Europe than it includes. It excludes explicitly immigrant languages and 'dialects' of languages. Covertly, it has also excluded all sign languages, using completely false argumentation." (Skutnabb-Kangas 2008, p.113)

Article 1 of the Charter offers a definition of a non-territorial minority language which could easily be applied to sign languages:

> "non-territorial languages" means languages used by nationals of the State which differ from the language or languages used by the rest of the State's population but which, although traditionally used within the territory of the State, cannot be identified with a particular area thereof." (Council of Europe 1992, article 1.c)

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[21] In addition there are a number of other conventions and declarations which are relevant but space does not permit a detailed examination of all: convention on the rights of the child (UN - 1989), conventions on the rights of migrant workers (UN and Council of Europe), and UN declarations on the rights of indigenous peoples (1993), and of persons belonging to national or ethnic religious and linguistic minorities (1992) There are also recommendations to UNESCO for action plans on the safeguarding of endangered languages (2003).

However, Article 2 notes that signatories have agreed to apply it to "all the regional or minority languages spoken within its territory and which comply with the definition in Article 1" (2008, p.13). Thus the use of the term "spoken" automatically excludes sign languages.

The Charter offers minority and regional languages a number of important rights which would conform with Deaf wishes outlined in Chapter 4, The right to education in that language where there are sufficient numbers to allow this (preschool, primary , secondary, vocational and technical, university, continuing education) and provisions for the teaching of the history of the language. In addition the languages may be used in courts for civil, criminal and administrative matters, by administrative authorities and public services, by the media (at least one TV channel and radio channel to be set up) for cultural activities and facilities, in economic and social life and provision is also to be made for trans-frontier exchanges between similar languages.. However, despite the impressive list of rights as Skutnabb-Kangas points out:

> In Council of Europe's **European Charter for Regional or Minority Languages** (1998), a state can choose which paragraphs or subparagraphs it wishes to apply (a minimum of 35 is required). The education Article, 8, includes a range of modifications, including 'as far as possible', 'relevant', 'appropriate', 'where necessary', 'pupils who so wish in a number considered sufficient', 'if the number of users of a regional or minority language justifies it', as well as a number of alternatives, as in 'to allow, encourage **or** provide teaching in **or** of the regional or minority language at all the appropriate stages of education' (emphases added). (2008, p.109)

An anonymous author in *The Voice* has also written,

> "On a purely personal note as a Deaf person, I have problems with the Charter big time. The first time I read it, I found no fewer than 63 loopholes where it is possible that BSL could fall straight through the net) (anonymous 2001, p.19)

If these provisions applied to sign languages, many of the Deaf communities aspirations would be met in full, a national plan would need to be established to ensure that it could be implemented. It follows that language policy requires strong and clear legal instruments at the outset for language policy to be set up. As indicated in Chapter 4, this should also require joint working with Deaf representatives who can provide testimony about what would be needed and welcomed by SLPs.

However, the omission of sign languages has meant that they have the lowest status of all the minority and regional language without any international lever from the Council of Europe to even persuade governments to take action. In the UK, this has meant that there is a patchwork provision (described in Chapter 4) with some local councils reaching out to include BSL as a language, while others persist in seeing it as a disability crutch and communication tool.

5.2.2 European Charter - Sign language protocol (2003)

The Parliamentary Assembly of the Council of Europe advocated that European Sign Languages finally be granted the same legal protection as the other regional or minority languages covered by the Charter (Bruce 2002) through the addition of a Protocol. Skutnabb- Kangas (forthcoming) has written

> "no state has ratified the European Charter for any Sign languages, only for spoken languages, even if the definitions of "regional or minority languages" for the purposes of the Charter would have allowed it. This is fatal for the Deaf, even if there might be a specific Charter on its way for them;" (forthcoming p.222)

However, as Bruce has said that the Committee of Ministers refused to pass the protocol on signed languages even though it had been passed by the Council of Europe and endorsed

by them. This explains the seven-year gap between events in 2003 and now, 2010. Bruce

has said "I think this is still a campaign to run" (interview 2010).

5.2.3. The Framework Convention for the Protection of National Minorities (1995)

The Framework Convention for the Protection of National Minorities (Council of Europe

1995) is another Council of Europe legal instrument which makes reference to minority

languages. A perusal of the Framework Convention reveals that reference to minority

languages is made in at least 5 distinct articles as shown in Appendix 4. The Framework

Convention calls for members of minorities to be allowed to freedom of expression in their

own languages, the right to "receive and impart information and ideas in the minority

language" (Article 9), the right to use that language in criminal justice, and the right to

learn the minority language.

As with the Charter (1992), Skutnabb-Kangas (forthcoming) is equally dismissive of the

value of the Framework Convention as an instrument for guaranteeing these rights. She

laments the use of vague formulations in the Framework convention (1995) "such as "in

substantial numbers" or "pupils who so wish in a number considered sufficient" or "if the

number of users of a regional or minority language justifies it"" (2008, p.219). Moreover

she cites legal authorities as condemning the drafting of the Framework Convention -

citing Thornberry as saying:

> "Despite the presumed good intentions, the provision represents a low
> point in drafting a minority right; there is just enough substance in the
> formulation to prevent it becoming completely vacuous."(Thornberry,
> 1997, p. 356-357 in Skutnabb-Kangas 2008 p.110)

5.2.4 Universal Declaration of Linguistic Rights, (WCLR 1996)

The Universal Declaration of Linguistic Rights followed on from this in 1996. In theory,
(at least by it grandiose sounding name) it should offer something to sure up language
justice that the Deaf community are calling for. The Declaration was presented to
UNESCO in 1996 with a statement that the next step aimed to be a UN Convention – this
convention has not materialised. The extensive list of signatories does not include one
organisation representing any sign languages.

Although no explicit mention is made of sign languages perhaps it is not necessary there is
only one reference to 'oral and written language' in the whole Declaration so signed
languages are not excluded. The Declaration would appear to cover linguistic rights for all
peoples irrespective of the language they speak. The Declaration does allow for both
individual and collective rights to be interdependent and notes that "the exercise of
individual linguistic rights can only be made effective if equal respect is granted to the
collective rights of all language communities and groups" (WCLR 1996 information
page).[22]

The wording used in the opening paragraphs of the Declaration resonate well with the
writings of key Deafhood theorists notably Ladd (2003) who has written extensively
about the processes of colonisation and hegemony which have oppressed SLPs.

> Considering that invasion, colonization, occupation and other instances
> of political, economic or social subordination often involve the direct
> imposition of a foreign language or, at the very least, distort perceptions

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[22] Sign languages would easily fit in the definition of the Declaration which refers explicitly to Language
communities which can be in geographically dispersed locations. In addition to a number of individual
rights it also calls for collective rights of language communities. Including the right to education in their
own language, to "an equitable presence of their language and culture in the communications media" and
article 19 calls for "Representative Assemblies must have as their official language(s) the language(s)
historically spoken in the territory they represent" this applies to territorially dispersed language
communities as well and would help redress Deaf people's complaints that organisations purporting to
represent them are run by largely hearing non-BSL users.

of the value of languages and give rise to hierarchical linguistic attitudes which undermine the language loyalty of speakers (1996, opening paragraphs)

However, no Deaf lobby appears to have been involved with the process of drawing up of the Declaration in 1996. Furthermore in the past 14 years the UN has not drawn on the Declaration to issue a Convention on Linguistic Rights so the hopes for this happening seem remote. The Declaration is overly ambitious given power differentials between minority and majority languages (Fairclough 1998) and the reluctance of States to empower language communities.

5.2.5 UN Convention on the Rights of Persons with Disabilities (UN 2008)

These Language-based legal instruments for the rights of minority languages have clearly not delivered in the case of sign languages (nor very much either for spoken minority languages). However, the UN Convention on the Rights of Persons with Disabilities (UN 2008) is an international treaty which was ratified by the UK Government on the 8 June 2009 (ODI 2010). Despite its focus on disabled people it is essentially a human rights treaty so not focused on what disabled people cannot do but on their rights and what states need to do to ensure these are respected.

The Convention imposes responsibilities on states who have ratified the Convention to take "all appropriate measures" to ensure that people with disabilities can have: access, freedom of expression and access to information, education and participation in cultural life, recreation, leisure and sport. This is to be achieved by states setting up policy mechanisms and measures as set out in Appendix 5.

The Convention provides for education in the language 'appropriate to the individual', equal citizenship and access to all areas of society, and recognition of sign languages.

Ironically for an instrument whose focus is on disabilities the Convention comes closer to delivering the Deaf agenda set out in Chapter 4 than any of the previous legal instruments outlined above. Also unlike the previous legal instruments outlined above, the clauses relating to Deaf people and sign languages were advocated by the World Federation of Deaf People (Bryan 2009a). This is a step forward in so far as consultation with a Deaf organisation has actually taken place at the drafting stage. Bryan (2009b) has pointed out the need for the Deaf community to come together to offer representative organisations of Deaf people to ensure Deaf participation in the monitoring of the Convention.

The UK government's Office for Disability Issues (ODI) has said that

> "Policymakers in the UK government should therefore be guided by the rights described in the Convention. This framework will be used by the UN – and others - to judge whether governments have ensured that disabled people have them."

Consequently, if Deaf people are able to unite to provide an effective caucus and lobby of government, at last, there may now an opportunity for policy changes which do provide a measure of social and language justice for Deaf people. However, as always through the disability route.

5.3 Policy Context: UK

The Department for Work and Pension (DWP) recognised that BSL was a language on 18 March 2003.[23] This was an important step forward marking a break with political obfuscation around whether a language could be in fact be recognised at all. However there has been no legislation to convert this into statutory and practical concrete points of action.

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[23] Furthermore, in spite of recognising BSL, the UK government did not include it in the list of languages accorded *protected language* status - granted to six other indigenous UK languages including Welsh, Scots, Ulster Scots, Scottish and Irish Gaelic and most recently Cornish (Sunday Telegraph 2002, Office of the Deputy Prime Minister 2003, BBC 2003). Failure to include BSL in this list has had financial, educational, and resource implications for BSL and for the continued social exclusion of Deaf people from education, employment, and social, economic and civic opportunities.

In 2005, Eagle (then responsible for the recognition at the DWP) claimed that the existing Welsh Language Act was flawed and would not serve as an adequate basis for a BSL Act (Eagle 2005). However, the government has not commissioned any research to find alternative policy solutions. With the ratification of the Convention (2006) this should change.

Following BSL recognition the Government announced £1.5 million pounds to be made available for BSL projects linked to the act of recognition. Organisations were invited to bid of this money – the majority of which was invested in interpreter training with 10% of funding going to Deaf-led organisations (Alker interview 2010). Since then DfE has provided £800,000 for the I-Sign project which aims to up-skill up a small number of BSL tutors, interpreters, parents of Deaf children. As Bryan has said

> "Project funding ensures no long term security of BSL and secondly doesn't even begin to address the legal status of the language" (interview 2010)

Although central government has made available in the region of £3 million pounds, policy initiatives have not been coordinated around a clear language policy. For Alker the money also went to the wrong people at the wrong time" (interview 2010). The result would appear to be a scatter gun approach to policy making – responding to the articulated needs of the Deaf community in a fairly random manner which a specific focus on meeting the needs of service providers most of whom are in fact hearing (interpreters, Teachers of the Deaf and support workers, parents of deaf children).

Informal interviews with DfE officials (Simon and Margaret 2010) confirm that the perception that BSL is a matter of choice for families to opt into, does not come close to recognising linguistic rights of the Deaf child or delivering language justice in education as we have seen. In the absence of BSL recognition any BSL strategy is difficult to realise without a changed ethos in favour of social justice for Deaf people and a recognition that

BSL is a language entitlement. The DfE's individualist perspective is at odds with the collective group value required of language policy as languages are inevitably shared and vested in communities. It is also at odds with the notion of social justice which is shaped by a principle of shared communication and consensus justice: a collectivist ethos.

Despite the ratification of the Convention in 2009, BSL has not yet been legally recognised by the UK Government. Preliminary evidence is emerging that in some parts of the country (Nottingham) that the 2003 DWP recognition is being used as a rationale for closing BSL training courses – no longer eligible for disability funding and therefore requiring money from a smaller budget to support language development (Gulliver & Allsop 2010). Cut backs are having an impact now and consequently there is a pressing need for Deaf people to lobby the UK government to implement their rights under the Convention (2006). Fiscal cutbacks beginning in 2009 have adversely effected Deaf education at all levels and BSL teaching as well There is a groundswell of opinion against this (Save Deaf studies 2010a 2010b).

In 2002 Eagle, the Minister for Disabled People said "I can consider these issues and issue a decree but I have to take other people in the government forward. You can help with pressure from outside" (2002, p.9). As we have seen in Chapter 4, this pressure fizzled out and needs to be re-activated to exploit the opportunities of the Convention and forthcoming BSL bill.

5.4 The policy context, Scotland

> "The Scottish Government has long recognised that Deaf people face a number of barriers to becoming full and equal members of Scottish society. In 2000, the Government set up the BSL and Linguistic Access Working Group. The working group consists of representatives from D/deaf organisations and government officials." (SCOD 2010, the Current Position)

This BSL and Linguistic Access working group (BSL& LAWG) aimed to improve linguistic access, raise awareness and support education and training. Its work culminated in the report "The Long and Winding Road – A Roadmap to British Sign Language & Linguistic Access in Scotland." (2009), the working group will continue to support the implementation of the road map till 2011. The report advocates a range of measures in the areas of health and safety, education, interpreters and BSL teachers among others. It notes that:

> "The repositioning of BSL as an indigenous language within government structures is seen by the BSL& LAWG as a critical step in moving policy forward and achieving equality for Deaf people who use BSL. The roadmap highlights the working group's belief that the single most important step forward would be to introduce BSL as a curriculum subject in schools. This is a good illustration of a BSL issue which is difficult to address whilst it remains outside of language policy and debates." (BSL& LAWG, section 8.1)

The Scottish Council on Deafness is currently supporting consultation for a Private Members Bill on British Sign Language (BSL). This was launched this July 2010 by MSP Cathie Craigie. (Scottish Council on Deafness - SCOD 2010). The stated objectives of the proposed bill are to

> "secure BSL as one of Scotland's official languages, commanding equal respect with English and Gaelic; to have better awareness of information needs and services for BSL users; to protect the linguistic integrity of the language; and to promote the cultural aspects of BSL and the Deaf community as part of Scottish heritage." (Scottish Parliamentary Cross Party Group on Deafness CPGD 2010).

There are questions as to whether the Scottish Government can legislate in the field of human rights (a reserved power for the UK government), but Craigie writes that this can be achieved using the Scotland Act (1998) which "gave the Scottish Parliament power to encourage equal opportunities, particularly the observing of the equal opportunities requirements" (SCOD 2010, no page). Language is included in the definition of equal opportunities. It also has power to impose duties on Scottish public authorities and cross border public bodies operating in Scotland". The Scottish Government would therefore be able to compel each service provider to the Deaf community (education, health, civic functions and so on) in Scotland to give Deaf people the same rights as other minority language users.

The Bill will be drafted once the consultation period ends on 29 October 2010. Interestingly the original working group (SCOD, BDA and NDCS and the MP's research assistant) was reduced in membership when the NDCS left after the first meeting (Lawson interview 2010). Nine drafts of the consultation document were produced with the NDCS contributing to one section. The tenth draft was approved by CPGD and is now available on line in BSL and English for consultation with the Deaf community. Unlike previous "consultations" on BSL recognition in the UK, this time Deaf people are able to film their responses and submit them in BSL.

Those involved in the BSL bill have indicated their hopes that the bill will be modelled on the New Zealand Sign Language Act or on the Gaelic Language Act. The Gaelic Language Act has led to the setting up of a Gaelic Language Board which encourages collaborative relations with Irish Gaelic speakers to increase lobby power, an online dictionary, policy (national plan) to support 1) language acquisition, 2) language usage 3) language status and 4) corpus planning, plus a *national strategy for Gaelic education* (with targets to increase Gaelic medium education) and a Gaelic arts fund, In addition the Scottish Government funds the national Gaelic language television channel, a Gaelic college, a national

education strategy of Gaelic to be taught in schools and Gaelic medium schooling to be available in areas of sufficient demand. From 2008-9 £24 million was invested in this with the greatest sum going to the Gaelic digital service (Gaelic Media Service/ MG Alba). There are approximately 60,000 Gaelic language speakers which approximates to the size of the Deaf community across the UK. Most Deaf related expenditure goes into Access to Work and special education. These disability benefits do not enhance or safeguard the status of BSL however.

As there is no Deaf lobby group currently there is therefore also no formation of strategic links to enhance lobby power. The Gaelic language board have set up *Colmicille* – with money from N Ireland, Irish republic and Scottish government to promote "the use of the Gaelic languages -Irish and Scottish Gaelic-in and between Ireland and Scotland. Raising awareness of the shared Gaelic heritage -language and culture- of Northern Ireland, Scotland and the Republic of Ireland." (Bord na Gaidhlig 2010) . Sadly at the moment there are no strategic alliances in the UK Deaf world with other UK minority language groups. This may be difficult to achieve in practice but anything which increases lobby power would be useful.

5.5 Conclusion

In this chapter we have seen how various legal instruments from the UN and the Council of Europe have failed to support sign languages and indeed struggle to do much for minority spoken languages. At the UK level there has been little to no movement in recognising BSL or in delivering capability based policies for social and language justice for Deaf people. In some departments the language used still suggests that BSL is somehow 'a choice' which completely ignores the repeated statements by the Deaf community that BSL is essential for learning and access. It would be nice to see the addition of a protocol

to the European Charter of Regional and Minority Languages that would give equality to spoken and signed languages however but this does not appear likely to take place soon.

However despite this the UN Convention (1996) appears to offer prospects for recognition and potentially for bilingual education so the disability door is open and if used strategically by the UK Deaf community might enable progress ultimately down the minority language route. In addition the moves towards a BSL Act in Scotland using an equal opportunities legal framework offer an alternative legal route to language justice and linguistic human rights although limited to Scotland at the moment. One thing is clear Deaf people need to mount a continuous and on-going lobby to secure rights and policies to support BSL.

CHAPTER 6

CONCLUSIONS

6.1 Overview of the Research

The research has presented four main chapters. The first of these introduces the realist approach utilises which recognises the importance of situated knowledge and aims to deliver engaged action oriented research. In addition to these epistemological considerations, the chapter also discusses the action approach and catalytic validity utilised as well as the data collection and analysis utilised.

Second, the dissertation discusses the political philosophy of distributive consensus-based social justice, the importance of a collectivist capabilities approach to policy making in this arena, and the need and functions of language policy to safeguard language justice and linguistic human rights for SLPs. The chapter shows how these approaches resonate with the Deaf community's aspirations for legal recognition of BSL and attainment of linguistic rights.

Third, the dissertation presents a review of the Deaf perspective which is seldom engaged with by policy makers drawing on semi-structured interviews with Deaf people and hearing allies and on Deaf owned publications and blogs. As such Deaf Calls for sign bilingual education, control of their own organisations, and the teaching of BSL in all schools is grounded in rich empirical expression. The chapter also details the current state of the Deaf lobby – in disarray following the debacle of DWP funding for "BSL recognition" in 2003 and posits the urgent need for Deaf people to re-group and reform to argue and lobby the policy world from a position of strength.

Fourth, it has presented a detailed analysis of a number of international legal instruments demonstrating that the preferred option of minority language rooted legal incentives to change are not likely to provide the necessary impetus to persuade the UK government to redirect resources to protect and develop BSL. However the UN Convention on the Rights of Persons with Disabilities (2008) imposes a responsibility on the government to deliver an number of entitlements to Deaf people including an obligation to recognise BSL and Deaf culture, and to ensure that deaf children are educated in the "the most appropriate languages and modes and means of communication for the individual" (article 24).

6.2 Key Conceptual Findings

Three main findings have been presented based around the application of the concepts of distributive justice and capability theory to the expressed wishes of the Deaf community and an overview of the legal instruments available to assist the UK government deliver this vision

Firstly it has been shown that Deaf people collectively hold shared aspirations to achieve social justice and language justice which will enable them to access their entitlements to full civic engagement and to information commensurate with hearing people. While this may seem self evident, it is not obvious to policy makers who have hitherto assumed that Deaf people can some how get by without full access by using a combination of signing, lip-reading and equipment to assist them live as disabled individuals within broader society. Kymlicka surprisingly also noted that Deaf people's main aim was to "protect and enhance their separate institutions" (1998 p.102). So among both policy makers and academics misconceptions abound about what Deaf people want. Bryan (interview 2010) has pointed out that this is in part due to the tendency of policy makers and politicians to consult only with deaf organisations which are hearing led and never with Deaf people

themselves. Moreover the disability model presupposes a situation of inequality: this is why non-Deaf policy people have not been able to engage with ideas of full access as there is an expectation (dressed in sympathy) that it 'must be difficult to be Deaf'. The research has consequently sought to provide empirical evidence to redress this apparent acceptance of inequality as normal, demonstrating that a vision of social justice which offers language justice and linguistic human right for SLPs can be predicated on distributive social justice at a collective consensus level (Corson 1993, Habermas 1971) and that this concurs with the Deaf community's stated wishes.

Secondly, the collective Deaf dream for equal access through minority language status calls the policy world to utilise capability approaches to deliver focused policies that work. This is founded on Sen (1999) and Nussbaum's (2002) approaches that focus on capabilities – "ways in which people are actually able to function" (Nussbaum & Sen 2002 p.3) in other words what people can do. Sen's message is directed at policy makers as it points out that not only does this approach deliver equity in resource distribution but also maximises the "efficient formation of human capabilities" (Sen 2004, p.23). Habermas talks the need for pluralism of values where conflicting and incompatible interests are addressed through compromise (1971). This also speaks directly to the policy world in that it argues in favour of social justice through compromise and respect of diversity. The proposed Scottish BSL bill drawing on the Scottish Parliament's powers to encourage equal opportunities arguably is rooted in this perspective.

Thirdly in the light of the responsibilities placed on the UK government by the UN Convention (2008), there is a stronger case to be made (by the Deaf community) that BSL should be recognised legally and a language policy needs to be designed to deliver distributive social and language justice for Deaf people so they can take their place as full citizens alongside hearing people. Languages are always located in a contested political

space where power struggles between vested interests, dominant and subordinate language groups predominate (Corson 1993, Fairclough 1998). However, language policy provides governments with a mechanism for language planning to redress as far as possible this imbalance to ensure linguistic human rights and language justice. This requires key decisions about the *status* of BSL to be taken and made public.

6.3 Summary of the Empirical Findings

In addition the conceptual finding set out in the previous section a number of empirical findings have emerged from the research. These are listed below:

1) There are currently no Deaf leaders and no effective Deaf lobby which means Deaf people are weak in the eyes of policy which is not a good position to be in especially at the moment. There is a Deaf intelligentsia, but they largely appear to be working promoting their own businesses rather than uniting for policy change;

2) Some Deaf activists feel that Deaf people are being bribed with benefits and therefore not able to stand up and campaign for change;

3) Deaf people blame educational professionals and policy for creating a closed shop on education and meaning efforts have to be focused on rehabilitation of school leavers;

4) Deaf people also believe that linguistic rights are fundamental i.e. that a deaf child has the right to have a first language;

5) During the period since 2003 some local areas and Scotland have nourished and cherished the Deaf dream while centrally across the UK there has been no action.

This has produced a patchwork effect in terms of status and recognition of BSL and the linguistic rights for Deaf people;

6) As there is no Deaf lobby group currently, there is therefore also no formation of strategic links with other UK minority language groups to enhance lobby power;

7) External friends and allies are important to move things forward as has been seen in Scotland;[24]

8) Locally Deaf-driven initiatives in the NE ('*Becoming Visible*') and NW (BSL marches leading to successful local policy changes) either by-passed the policy world completely or have succeeded in persuading local councils to deliver on equality. Devolved government and local activism have consequently been the locus of Deaf activism in the absence of a centrally driven UK impetus;

9) Central government (DfE) believes that communication is an individual choice (by parents);

10) DWP recognition that BSL is a language (2003) has not led to the championing of a BSL Act at the UK level, (nor to other policy imperatives to enhance the linguistic capital of the Deaf Community in the policy arena.

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[24] "with Cathie Craigie's support the bill has made a good way forward" (Angela interview 2010)

6.4 Final Comments

The treatment and status of BSL in the policy world varies across the UK and that the policy ethos (collectivist favouring social justice – or individualist – favouring freedom of choice for disabled persons) governs the reach and nature of policies achievable. The draft BSL bill out for consultation in Scotland offers the prospect of capability-based collectivist approaches to delivering language justice for Deaf people in Scotland. Furthermore, the Convention on the Rights of Persons with Disabilities calls on states to recognise sign languages, provide interpreters, and provide equal citizenship and linguistic access. It can also be interpreted as calling for states to offer sign bilingual education (UN 2008).

Skutnabb-Kangas describes the exclusion of sign languages from the European Charter as "fatal" for the Deaf community (forthcoming p.222). The exclusion of sign languages from the European Charter has meant that it has been easier for the UK Government not to act in an area they find problematic and difficult to engage with. However, given recent changes in the policy arena with fiscal cutbacks and pervasive uncertainty to policy direction, the policy system is in flux. Education policy is not yet been formalised as we await the Green paper on SEND in the Autumn 2010, similarly the Scottish BSL Bill is under a process of consultation and does not yet exist in draft form. The Convention was ratified by the government in 2009 so still bedding into the UK policy system.

Areas for future investigation would include a more hands on approach to action research – setting up *Delphi* and focus groups to provoke policy change and provide and opportunity for the re-establishment of a Deaf caucus. This would be a much bigger project than permitted by time constraints and budget permitted here.

Looking back, Ladd's (2000) comments below are as real today as when they were written in 2000, perhaps more so in view of the retrenchment of the Deaf campaign and absent policy lobby group.

> "any fight to win something from governments is never smooth. It's a long hard road. The only way to win is to keep going and never give up. They WANT you to get stressed, fed up and tired. They want you to start fighting with each other. Because, that way you will give up. Then they win" (Ladd 2000, p.16)

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List of interviews

Name	date	Status	Type of interview
Julia	12/07/2010	Hearing ally from Scotland	Telephone interview
Lilian Lawson	22 /07/2010	Member of Scottish Deaf community leading on Scottish BSL Bill	Written interview by email
Bob Duncan	25/07/2010	Hearing ally from NE	Written interview by email
Doug Alker	02/08/2010	Member of the Deaf community and Deaf activist based in NW	Interpreted telephone interview
Angela	05/08/10	Member of the Deaf community from BDA	Written interview by email
Alison Bryan	06/08/2010	Member of the Deaf Community and Deaf activist, Wales	Written interview by email
Margaret	06/08/2010	Official from Department for Education	Informal email chat
Malcolm Bruce	12 /08/2010	Hearing Ally, MP with special interest in BSL, language planning and the Deaf Community	Telephone interview
Sarah	16/08/2010	Member of the Deaf community , London	Written interview by email
Hazel	20/08/2010	Scottish Executive: BSL Bill. Civil servants not able to talk about forthcoming legislation	Brief factual information by email. Interview declined.
Richard Jones	20/08/2010	Member of Deaf community, Wales and Deaf activist	Face to face interview in BSL
Simon	24/08/2010	Official from the Department for Education Policy still being formulated	Informal email chat, formal interview declined

Face to face interviews and telephone interviews were written up and notes sent back to interviewees for validation / accuracy checks. Anonymity has been respected except where interviewees have chosen not to remain anonymous. One interviewee changed their mind from wishing to be named and subsequently asked to be anonymous. In all instances the interviewees' right to decide has been respected.

Appendix 2

Images

Figure 1: "Deaf Activists Flypost RNId's London HQ"	"Deaf Activists Flypost RNId's London HQ" photograph published in the FDP's Information Bulletin, Vol 4 no 5	Permission to reproduce image obtained from FDP (26/08/10)	p.34
Figure 2: cover page "The Great £1m Robbery"	Drawing by Doug Alker, published in *The Voice*. Vol 6, Issue 2 June 2003	Permission to reproduce image obtained from Doug Alker 20/08/2010	p.36
Figure 3: Banner from the BSL March July 2003 following DWP's "recognition of BSL"	Posted at http://www.grumpyoldeafies.com/2008/03/the_5th_anniversary_of_apathy.html March 18 2008 Photographs taken at the BSL Act March – London July 2003	permission to reproduce image obtained from Jen Dodds 26/08/2010	p.39

Appendix 3

Deaf Aspirations

Hearing people often ask "What do Deaf people want?". The following is a list of things Deaf people have highlighted in the interviews as important. It is not an exhaustive list but does show where priorities fall. All of these things would be achievable if BSL were to have a similar status to Gaelic and Welsh with a language board, a national education strategy, and operational funding:

Box 1: What Deaf people would like

1) BSL to be used in education, ideally in BSL medium schooling providing access to information and services. BSL should be a right of every deaf child. Early years education of BSL to be expanded (Jones and Alker, Angela interviews 2010).

2) More Deaf teachers in schools (Julia, Duncan interviews 2010)

3) GCSE in BSL should be taught in all schools at primary and secondary level to both deaf and hearing children. The hope is that children will leave school with some BSL skills resulting in much wider access to health care, education and a reduction in dependency on interpreters (Lawson, Jones Alker interviews 2010)

4) Existing funding support should focus on increasing the numbers of BSL tutors rather than investing funds in interpreter development (Jones and Alker interviews 2010).

5) Policies that put BSL and the support of BSL 'at their heart' including promotion and publicity of BSL as a language (Alker interviews 2010)

6) Free access to BSL classes for parents of deaf children (Angela interview 2010)

7) Deaf people to be at the heart of decision making not deaf organisations led by hearing people (Bryan, Alker interview 2010)

8) A BSL TV channel

Appendix 4

Individual Language Rights envisaged by the Framework Convention

(1995)

Article 5	"national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage"
Article 9	"The right to freedom of expression including freedom to hold opinions and to receive and impart information and ideas in the minority language".
Article 10	"right to be informed promptly, in a language which he or she understands, of the reasons for his or her arrest, and of the nature and cause of any accusation against him or her, and to defend himself or herself in this language, if necessary with the free assistance of an interpreter".
Article 14	"every person belonging to a national minority has the right to learn his or her minority language", and that (with numerous caveats)… "persons belonging to those minorities have adequate opportunities for being taught the minority language or for receiving instruction in this language."

Text drawn directly from the Framework Convention (1995)

Appendix 5

Showing the key articles and mechanisms in relation to sign languages in the UN Convention (1998)

Article	Mechanisms
Article 2, Definitions	""Language" includes spoken and signed languages and other forms of non spoken languages"
Article 9, Accessibility	"Provide forms of live assistance and intermediaries, including guides, readers and professional sign language interpreters, to facilitate accessibility to buildings and other facilities open to the public"
Article 21, Freedom of expression and opinion, and access to information	"Accepting and facilitating the use of sign languages, Braille, augmentative and alternative communication, and all other accessible means, modes and formats of communication of their choice by persons with disabilities in official interactions"
Article 24, Education	"(b) Facilitating the learning of sign language and the promotion of the linguistic identity of the deaf community; (c) Ensuring that the education of persons, and in particular children, who are blind, deaf or deafblind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development. 4. In order to help ensure the realization of this right, States Parties shall take appropriate measures to employ teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and to train professionals and staff who work at all levels of education. Such training shall incorporate disability awareness and the use of appropriate augmentative and alternative modes, means and formats of communication, educational techniques and materials to support persons with disabilities."
Article 30 Participation in cultural life, recreation, leisure and sport	4. Persons with disabilities shall be entitled, on an equal basis with others, to recognition and support of their specific cultural and linguistic identity, including sign languages and deaf culture.

Text drawn directly from the Convention (UN 2008)