

Linguistic rights of the deaf: struggling against disabling pedagogy in education

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This paper examines human rights and disability conventions and the extent to which they protect the linguistic rights of the deaf. It is argued that disability conventions do not adequately address the general absence of native sign languages in the education of the deaf, a central concern among the deaf. Conventions protecting the rights of disabled people do little to address the linguistic needs of deaf children or protect them from the systematic denial of Australian Sign Language (Auslan). The linguistic rights of the deaf in Australia are being breached by educational policy and practice that denies or marginalises their native language.

Under achievement of deaf students: disabled students or disabling pedagogy?

Poor outcomes in deaf education are propelling a debate among researchers about language practices and pedagogy. There is constant reference in the literature to the low educational level and poor literacy achievement of most deaf school leavers. A study by Walker¹ found that profoundly, prelingually deaf school leavers (15 years and over) in Victoria were reading at an average level of Grade 6. The explanation for this under achievement is contentious among researchers and educators who express either of two viewpoints. One points to the failure of deaf children in education as the result of deafness, and strives to overcome this barrier as best it can with educational and medical intervention. The other view emphasises the way in which deaf students have been educated, claiming that disabling pedagogy, rather than any disability in the child, causes the failure in deaf education. Walker based her study of the reading comprehension levels of deaf students on the assumption that deafness

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1 Walker L M *An evaluation of the reading comprehension of students in Victoria who are profoundly, prelingually deaf and an intervention programme to improve their inferential reading comprehension skills* (unpublished doctoral thesis, University of Melbourne, 1995).

affects language acquisition. In the introduction to her thesis, she stated: 'A hearing loss affects the child's acquisition of both receptive and expressive language — with speech production problems, he or she may find it difficult to engage in conversation, thus not building up a rich language experience'.² In a preliminary report of her study, Walker and Rickards³ supported the conclusion reached by another researcher almost two decades earlier: 'Power was right in concluding that congenital deafness is a great barrier to learning'. In more recent publications, Power has maintained his view that deafness affects language development, literacy learning and educational achievement.⁴ In 1996, for example, he said:

It is widely recognised that it is exceptionally difficult for someone born significantly deaf or becoming so at an early age to develop the normal speech and language of the hearing/speaking community around them, or to reach normal standards of achievement in school (especially in subjects based mainly on language).⁵

The suggestion that deafness is the barrier to learning confuses *language* with *speech*. The statements made by Walker, Power and others are only correct if we assume communication, language and normality mean speech. These assumptions ignore the legitimacy of Auslan and indicate the way in which native sign languages and therefore deaf people are rendered invisible. The linguistic ability of deaf people who acquire native sign languages without delay is ignored.

Rather than blaming deafness, an alternate view is that a barrier to learning has been created by keeping native sign languages out of the classroom or assigning them a subordinate role: 'School settings put learners at risk by erecting barriers to learning'.⁶ Critical of teachers' practices, Lane⁷ calls these practices 'audist' (that is, anti-deaf):

It is common for special educators to place blame for the academic underachievement of the

2 Walker, above, note 1, p 6.

3 Walker L M and Rickards F W 'Reading comprehension levels of profoundly, prelingually deaf students in Victoria' (1992) 32 *The Australian Teacher of the Deaf* 32.

4 Power D 'Deaf and hard of hearing children' in Ashman A and Elkins J (eds) *Educating Children with Special Needs* (Prentice Hall, 1994) p 413.

5 Power D *Language, Culture and Community: Deaf People and Sign Language in Australia* (Griffith University Press, 1996).

6 Cambourne B 'Beyond the deficit theory: a 1990s perspective on literacy failure' (1990) 13 *Australian Journal of Reading* 291.

7 Lane H 'Deaf-centred education and empowerment' paper presented at the National Deafness Conference, Hobart, 22-26 May 1996.

Deaf child on the child and not on the school, as if the audist practices of the teacher and policies of the school could not themselves be the primary reason for academic underachievement. The school, indeed the profession, insists that they are engaged simply in benevolent humanitarian practices in the face of overwhelming difficulties presented by the catastrophe of early childhood deafness.

From a socio-cultural perspective, the reason for poor outcomes in deaf education is disabling pedagogy rather than disabled students:

Many minorities, especially children, are in fact prevented from fully acquiring majority resources, especially the majority languages, by disabling educational structures, when their instruction is organised through the medium of the majority languages in ways which contradict most scientific evidence.⁸

Viewing deaf children as members of a cultural and linguistic minority explains the underachievement of the deaf. Like other minority groups, the denial of their native language and instruction through a second language reduces the support that a strong first language offers. It also takes away the central aspect of their cultural identity. A parallel has been drawn between the underachievement of deaf students and Aboriginal children in Australia (see Branson and Miller).⁹ Branson and Miller consider the deaf are in a similar situation of social, cultural and linguistic deprivation. Both groups have traditionally been taught by teachers who are linguistically and culturally different from them. They argue, however, that lack of access to spoken information places deaf people at a further disadvantage when their native language is denied in education. Australian deaf educator and researcher, Breda Carty, cited in Vialle and Paterson,¹⁰ equates the removal of indigenous children from their homes and placement in white foster families to the integration of deaf children in mainstream education. Integration, she says, threatens a deaf child's opportunity to develop a deaf identity and their ensuing search corresponds to the search by Aboriginal people for their lost identities.

The success of minority students depends on how schools reflect or counteract the power relations found in the wider community.¹¹ Deaf students deprived of a native sign

8 Skutnabb-Kangas T and Phillipson R 'Linguistic human rights, past and present' in Skutnabb-Kangas T and Phillipson R (eds) *Linguistic Human Rights: Overcoming Linguistic Discrimination* (M de Gruyter, 1994) p 106.

9 Branson J and Miller D 'Language and identity in the Australian Deaf community: Australian Sign Language and language policy. An issue of social justice' (1991) 8 *Australian Review of Applied Linguistics* 135.

10 Vialle W and Paterson J 'Fighting for recognition: appropriate educational approaches to nurture the intellectual potential of deaf people' (paper presented at the National Deafness Conference, Hobart, 22-26 May 1996).

11 Cummins J 'The discourse of disinformation: the debate on bilingual education and language rights in the United States' in Skutnabb-Kangas T and Phillipson R (eds), above, note 8, pp 159.

language are denied normal linguistic development. The system of education for the deaf is dominated by, and suited to, the needs of hearing educators who maintain control over the deaf through language policy and practices. Carver states: 'the results of the efforts of educators have not been exactly impressive. Enough is enough; it is time for the deaf to regain control of their own language'.¹² Lane also points to the way in which deaf students are disempowered by a system structured to advantage hearing teachers:¹³

If deaf education has evolved across the decades into a structure that is centered on the hearing teachers, it is no accident. This arrangement minimises what the teacher has to learn; the burden is not the teacher's to study the language of the students, nor to become familiar with their cultural and historical context. Moreover, students submerged in an alien language environment are submissive rather than autonomous; they recognise that their world and language have no place in the school and correctly assume that they are not valued.

A view of the deaf as minority language bilinguals explains their failure in education. This term was adopted by Grosjean¹⁴ who called for deaf people to be educated with native sign language as their primary language and the majority language (particularly in written form) as their second language. Grosjean¹⁵ urges deaf people to realise they are bilingual and to take pride in it.

Deaf education needs to take into account the language, culture and minority status of its students. This approach forms the basis of bilingual deaf education. In a study of the politics of language practices in deaf education,¹⁶ I questioned the extent to which the exclusion of Auslan from deaf education was a deliberate denial of a minority group's language or whether other factors block its introduction. I identified personal and structural barriers to change, not least of which is a lack of teachers who are deaf themselves (hearing teachers of the deaf make up 97.4 per cent of the profession) and the general inability of hearing teachers to use Auslan.

12 Carver RJ 'ASL in writing: a counterpoint' (1992) 18 ACEHI/ACEDA at 57.

13 Lane H 'Deaf-centered education and empowerment' paper presented at the National Deafness Conference, Hobart, 22-26 May 1996.

14 Grosjean F 'The bilingual and the bicultural person in the hearing and in the deaf world' (1992) 77 *Sign Language Studies* 307.

15 Grosjean F 'Living with two languages and two cultures' in Paransis I (ed), *Cultural and Language Diversity and the Deaf Experience* (Cambridge University Press, 1996) p 20.

16 Komesaroff L *The Politics of Language Practices in Deaf Education* (unpublished doctoral thesis, Deakin University, Geelong, 1998).

Oppression often exists in the absence of overt discrimination. In Young's¹⁷ view, oppression exists if one or more of five conditions exist: exploitation, marginalisation, powerlessness, cultural imperialism and violence. The deaf are often marginalised, held powerless, and their experiences fit with Young's definition of victims of cultural imperialism:

Those living under cultural imperialism find themselves defined from the outside, positioned, and placed by a system of dominant meanings they experience as arising from elsewhere, from those with whom they do not identify and who do not identify with them. The dominant culture's stereotyped, marked, and inferiorised images of the group must be internalized by group members at least to the degree that they are forced to react to behaviours of others that express or are influenced by those images.¹⁸

Deaf writers Carol Padden and Tom Humphries¹⁹ made a significant contribution to the understanding of Deaf culture with their celebrated book *Deaf in America: Voice from a Culture*. They described Deaf culture as a 'powerful testimony to both the profound needs and the profound possibilities of human beings' and warned that deaf children, denied connections to deaf people and prevented from acquiring sign language, 'lose access to a history of solutions created for them by other people like themselves'.²⁰ In a later publication, Padden continued to advance our understanding of Deaf culture:²¹

To invoke the labels of DEAF and HEARING is to call up a web of relationships between what is central and what is peripheral, what is known and what is not known, and what is familiar and what is foreign. To talk of these terms is to offer a counterbalance between two large and imposing presences in Deaf people's lives — their own community and the community within which they must live, among hearing people.

Positioned by a hearing majority, deaf people have been constructed as the 'other'. Carol-lee Aquiline, a deaf leader and currently the General Secretary of the World Federation of the Deaf interviewed in my study,²² was critical of the way in which hearing people dominate deaf education and impose hearing values on the deaf:

17 Young I M 'Five faces of oppression' in Wartenberg T E (ed) *Rethinking Power* (State University of New York Press, 1992) p 174.

18 Above, note 17, p 192.

19 Padden C and Humphries T *Deaf in America: Voices from a Culture* (Harvard University Press, 1998).

20 Above, note 19, p 120.

21 Padden C 'From the cultural to the bilingual: the modern Deaf community' in Parasnis, above, note 15, p 89.

22 Note that participants interviewed in this study (see above note 16) have been cited throughout this paper.

With a hearing teacher, no matter how much they care, they still never fully understand what it feels like to be deaf. So they'll never have the full ability to fully educate a deaf child in everything they need. They don't know what it is like to cut off their sense of hearing and experience the world visually. It is important for deaf children to have that — very, very few hearing teachers mix with the Deaf enough to become fluent in Auslan and communicate comfortably.

By their ability to hear, hearing teachers cannot provide deaf students with a fully positive model of deafness. Deaf students internalise the inferior status inscribed on them by a hearing, English-speaking world in which their language is largely ignored. In 1994, Carol-lee visited schools talking to deaf children about the lives and achievements of deaf people: 'We are in the forefront and showing Deaf people, showing Deaf role models. We are going into schools and saying to kids hey, I'm here; I'm Deaf and it's good! Look at what I'm doing travelling the world and so on. I think the role-modelling thing is very important'. She noticed a puzzled expression on the face of a young boy after telling a group of children about members of the Deaf community who have become professionals or excelled in their fields of endeavour (a lawyer, an Olympic athlete and so on). So she asked him what sort of work he wanted to do in the future:

He thought for a bit and then said, 'Maybe a panel beater or something like that'. And I said, 'you mean you love cars?' and he said, 'no, not really — the teacher told me that's all I can do'. He actually said that 'the teacher told me that's all I can do!' I just felt churned up inside. Where's education going wrong! It's supposed to open doors, not slam them shut and lock them behind.

There is a fable-like quality to this story with its binary images of a deaf child versus a hearing adult; manual labour versus professional activity, an open door versus one that is slammed shut and locked.

Disability rights or linguistic human rights: constructions of deafness

The construction of deafness as a disability pervades government policy, legislation and educational practice. For the deaf, the dichotomy between being recognised as a disability group or linguistic minority is evident. Liisa Kauppinen, President of the World Federation of the Deaf, explains that many deaf people do not consider themselves to be disabled and yet for political and financial reasons some reject a socio-cultural perspective of deafness: 'If the Deaf are not regarded as disabled, they lose all the opportunities, benefits, and rights associated with disability'.²³ 'The

23 Kauppinen L 'Are deaf people disabled?' (1999) 12 (2) *WFD News: Magazine of the World Federation of the Deaf* 11.

problem of deafness is more a problem of the hearing community than of the Deaf community. Those in the Deaf community accept themselves — it is the hearing community which consistently refuses to accept the Deaf community'.²⁴

It is useful to determine the extent of the opportunities, benefits and rights for deaf people associated with disability rights legislation. The *Disability Discrimination Act 1992* (Cth)²⁵ is intended to protect against direct or indirect discrimination of people with a disability. This Act gained prominence in the Deaf community with a successful case against the telecommunications organisation, Telstra. In 1996, the complaint resulted in all deaf consumers being provided with vouchers to purchase a telephone typewriter. Groups of parents in at least two States have lodged complaints under the Act claiming that their children have been discriminated against by schools or systems of education that deny or limit access to Auslan.

A significant deficiency of the current complaints-based mechanism, however, is the inadequacy of individual complaints to address systemic discrimination. Michael Agostino of the Human Rights Branch of the Civil Law Division of the Attorney-General's Department recognised four limitations of individual complaints: delays, power imbalance between complainants and respondents, 'burn out' of complainants, and uncertainty because conciliated settlements do not establish binding precedents.²⁶ Agostino suggested that human rights education in addition to the development of disability standards may be the sort of 'systemic solution' required for 'systemic problems'. The limitations identified by Agostino are just those experienced by Victorian parents, complainants in a case under the *Disability Discrimination Act*. Their complaint lodged in 1995 against a school for the deaf and the Victoria Department of Education is yet to go to hearing. Formal attempts to reach agreement through conciliation did not begin until almost two years after the complaint was lodged. Their complaint followed years of dissatisfaction and frustration about the way in which their deaf children were being educated. They objected to teachers' use of Signed English (a contrived sign system) and called for Auslan, their home language to be taught and used for instruction.

24 Crittenden J B 'The culture and identity of deafness' in Paul P V and Jackson D W (eds) *Towards a Psychology of Deafness: Theoretical and Empirical Perspectives* (Alynn and Bacon Publishers, 1993) p 230.

25 *Disability Discrimination Act 1992* (Cth).

26 Agostino M 'Development of Disability Standards in Education' paper presented at the Human Rights, Disability and Education Conference, Sydney, 17 September 1999. See also Jones M and Marks L A 'The Limitations on the Use of Law to Promote Rights: An Assessment of the *Disability Discrimination Act 1992*', in Hauritz M, Sampford C and Blencowe S (eds) *Justice for People with Disabilities* (Federation Press, 1998) pp 69-94.

An earlier complaint lodged by a statewide parent support group in 1993 against the NSW Department of School Education (DSE, as it was known at the time) was withdrawn after the parties reached agreement in early 1997. According to the editor of the Parent Council's newsletter, by 1998, a satisfactory outcome had not been achieved: 'we are a long way from achieving a workable outcome given the policies and bureaucracy that is found in a large Government Department such as the DSE'.²⁷ It is unlikely that individual cases, even representative complaints, will provide the changes to educational policy these parents are seeking.

A significant document addressing the rights of disabled people is *The Standard Rules on the Equalization of Opportunities for Persons with Disabilities*²⁸ (hereafter referred to as the Standard Rules). They are intended to enable disabled people equal opportunity and full participation in society. Recommendations only, the Standard Rules are intended to inform legislation and form the basis of plans of action for governments and organisations.²⁹ In addressing deaf education, the following statement is made: 'Consideration should be given to the use of sign language in the education of deaf children, in their families and communities'. A survey on government action following the introduction of the Standard Rules by the United Nations identified differing perceptions between member states and non-government organisations. From 31 ordinary members of the World Federation of the Deaf (national federations of the deaf), 11 said sign language was recognised as the official language of deaf people and only four said it was being used as the first language in education. The Australian Government claimed that sign language was both recognised as the official language of the deaf in Australia and used as the first language in education; the Australian Association of the Deaf said it was officially recognised but made no reference to education. A possible explanation for this inconsistency comes from the use of the term 'sign language'. To the deaf (and those unfamiliar with the language debate in deaf education) 'sign language' is generally understood to mean their language, that is, *native* sign language. Since the development of contrived sign systems, however, the term has become blurred. Sign systems, largely fashioned by hearing educators, take from native sign languages, change and add to these signs, in an effort to produce a manual representation of spoken language. By producing signs that follow the word order of spoken language,

27 Parent Council for Deaf Education 'Disability Discrimination Action between Parent Council for Deaf Education and the Department of School Education' (1998) 26 (1) *Sound News* 5.

28 United Nations General Assembly Resolution 48/96, adopted at the 48th session of the General Assembly on 20 December 1993: <www.independentliving.org>.

29 Alverson B 'Standing firm on the Standard Rules: An interview with Bengt Lindqvist, United Nations Special Rapporteur on Disability' (1999) 12(2) *WFD News: Magazine of the World Federation of the Deaf* 6.

the grammar of the native sign language is lost. With heightened criticism of these systems over recent years, it has become common for teachers to describe their methods of communication as 'signing' or 'sign language', avoiding the need to identify the *language* being used. 'Native sign language' or Auslan (in the case of the Australian deaf community) identifies the language of deaf people and distinguishes it from Signed English, the most prevalent form of manual communication used by teachers of the deaf. In the wording of the Standard Rules, 'consideration of sign language' is neither a statement of obligation nor a clear identification of the language to be used in the instruction of the deaf.

A resolution that strengthens the Standard Rules as a human rights instrument is the United Nations Commission on Human Rights Resolution 1998/31. It recognises violation of the rights of the disabled as an infringement of human rights. It encourages governments to develop appropriate education policies and practices for people with disabilities. It will be up to deaf communities or their advocates to argue for what they consider to be the 'most appropriate' education policies and practices. As it is not spelt out in the Standard Rules, they will need to begin by identifying the language that should be used to instruct the deaf.

This distinction between native sign language and contrived systems is made clear in the Salamanca Statement,³⁰ a Report of the World Conference on Special Needs Education held in Spain in 1994 which addresses the needs of disabled students. Item 21 states:

Educational policies should take full account of individual differences and situations. The importance of sign language as the medium of communication among the deaf, for example, should be recognized and provision made to ensure that all deaf persons have access to education in *their national sign language*. Owing to the particular communication needs of deaf and deaf/blind persons, their education may be more suitably provided in special schools or special classes and units in mainstream schools. [emphasis added]

The intended meaning of the term 'sign language' is clarified by the reference (in the second instance) to the '*national sign language*' of the deaf. The Salamanca Statement also called for action to be taken in the recruitment and training of staff with special needs to redress the general lack of role models for disabled students. Educational staff with disabilities should be recruited and successful individuals with disabilities involved in the school program. Item 47 called for people with disabilities to be

30 UNESCO *Salamanca Statement and Framework for Action on Special Needs Education*, report of the World Conference on Special Needs Education: Access and Quality, Spain, 7-10 June 1994.

actively involved in research and training 'to ensure that their perspectives are taken fully into account'. Item 4 of the Statement called upon and urged all governments to 'encourage and facilitate the participation of parents, communities and organisations of persons with disabilities in the planning and decision-making processes concerning provision for special educational needs'.

The denial of Auslan as the language of instruction in the education of most deaf students in Australia goes against the actions called for by the Salamanca Statement. Organisations of and representing Deaf people have made their position clear in their policies on the education of the deaf. The Australian Association of the Deaf,³¹ for example, calls for access to Auslan in education, the goal of bilingualism, an increase in the number of deaf professionals, and changes to teacher education. Addressing the issue of access to language, the Australian Association of the Deaf policy states:

Auslan is the only viable first language for Deaf people, by virtue of giving a visual understanding of the world. Therefore for effective access to education, access to Auslan is essential. A first language is vital for effective access and competence in a second language — since only a minority of Deaf people have access to Auslan as a first language from Deaf parents, first language acquisition of Auslan must be provided right through the education system. Therefore all Deaf children should have access to Auslan as a first language.

Concerning teacher training, the policy states:

Teachers should be trained to use Auslan to a level of competence before being permitted to teach Deaf children. Training programs should also include compulsory courses in Deaf Studies so that teachers can understand the cultural background of the Deaf children they teach.

The difficulty with resolutions, statements and conventions addressing the needs of disabled people is that the issue of *language* rights is often absent. Until the issue of language use is broached, conventions and legislation protecting the rights of disabled people offer little to the deaf in their struggle for bilingual education. The deaf have more in common with linguistic minorities than disability groups and can be better served by legislation and human rights instruments that address their linguistic needs.

31 Australian Association of the Deaf *Policy on the Education of People who are Deaf* (unpublished policy document, no date).

Human and linguistic rights

The linguistic rights of the deaf are more adequately protected by international human rights documents that address the concerns of linguistic minorities than those currently protecting the rights of disabled persons. The linguistic needs and rights of the deaf, generally absent in documents protecting the rights of the disabled, can be argued on the basis of their minority language status.

Article 27 of the *International Covenant on Civil and Political Rights*,³² for example, provides for people belonging to linguistic and other minorities to have access to their native language and culture: '[they] shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language'. Article 4(3) of the *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*³³ recommends: 'States should take appropriate measures so that, wherever possible, persons belonging to minorities may have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue'. Article 5(1) of the *Framework Convention for the Protection of National Minorities*³⁴ states that parties should 'undertake to promote the conditions necessary for persons belonging to 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 14(1) states that 'every person belonging to a national minority has the right to learn his or her minority language'.

The importance of education in preserving and deepening the identities of linguistic minorities was also recognised in the *Hague Recommendations Regarding the Education Rights of National Minorities*.³⁵ The recommendations identify that the right of minorities to maintain their identity 'can only be fully realised if they acquire a proper knowledge of their mother tongue during the educational process'.³⁶ The minority language is to be used in education both as a subject and language of instruction:

The medium of teaching at pre-school and kindergarten levels should ideally be the child's language — the curriculum should ideally be taught in the minority language. The minority language should be taught as a subject on a regular basis. The official State language should

32 General Assembly Resolution 2200 A (XXI) on 16 December 1966.

33 General Assembly Resolution 47/135 on 18 December 1992.

34 Council of Europe, *European Treaties*, 1995.

35 Foundation on Inter-Ethnic Relations, 1996.

36 Above, note 35, at 2.

also be taught as a subject on a regular basis preferably by bilingual teachers who have a good understanding of the children's cultural and linguistic background.³⁷

These ideals have been articulated by deaf leaders and bilingual educators who call for Auslan (or the native sign languages of other countries) to be used as the first language and language of instruction and for the majority language to be taught as a second language, largely through reading and writing.

Considering the strengths of the *Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities*, De Varennes stated: 'everything comes down to whether or not in the end the measure or conduct is "reasonable", "arbitrary", or "fair". Non-discrimination can only be invoked successfully where there is a sufficiently large or concentrated number of individuals affected in relation to the type of state service or activity, such as public education in a particular language'.³⁸ It would seem, on this basis, that the practice of instructing deaf students through English and denying the use of Auslan breaches the obligations articulated in several international documents. It is both 'reasonable' and 'fair' to expect teachers, qualified to work in a specialist field, adopt the language of the linguistic minority they serve.

The importance of teachers learning the native sign language of the deaf cannot be underestimated. Teachers' lack of native sign language skills is central to their rejection of bilingual education. Harlan Lane, an international researcher and author interviewed in my study, concluded that hearing teachers with little understanding of a native sign language could not appreciate the benefits of bilingual education:

I've met many, many hearing professionals who don't take seriously the idea of Deaf culture and empowerment of Deaf people and the whole cultural approach. I've met many such people, but I've never met one like that who could communicate in sign language. I think as soon as you learn to communicate in sign language, you stop looking down on it because you glimpse at least, even if you haven't mastered it, what an enormously powerful and rich language it is. I think it is a sure road to empathic connection with deaf children and the world they come from to know some sign language.

Consistent with Lane's views, I found that all participants in my study who opposed the use of Auslan in education (most of whom were teachers of the deaf) had no knowledge

37 Foundation on Inter-Ethnic Relations, above, note 35 at 3.

38 De Varennes F 'To speak or not to speak: the rights of persons belonging to linguistic minorities', working paper prepared for the UN Sub-Committee on the rights of minorities, Murdoch University, Perth, 1997 p 5.

of Auslan. Oral educators (supporting the use of spoken English only) rejected the use of Auslan in education. Those who instructed through Signed English and supported what is known as a 'total communication' approach marginalised it for use as a specialist subject (but not to be used as the language of instruction).

Teachers gave many reasons for their rejection or marginalisation of Auslan. Foremost in the argument put by oral educators was their belief that they were serving parents wishes and enabling deaf students to gain access to the wider community. A retired principal of an oral school, for instance, believed that deaf children of hearing parents (accounting for 90 per cent of the deaf population) could not be considered culturally and linguistically deaf. She stated: 'it is desirable for children to learn the language of their culture and to me for a deaf child in a hearing family, the Deaf community is not their culture'. This participant went on to say:

I think the culture of a baby is their family — I don't believe there is any other culture where we expect a family to bring their child up in a culture that they don't share any values with at all. I think that placing the expectation that this deaf baby belongs to this Deaf community and you learn that community's language to teach the child, to share a culture that you don't know anything about is just an impossible situation.

Many teachers considered it unrealistic to expect them or hearing parents to learn another language. Indeed, for teachers working in oral settings, there is no place for the use of sign language and hence deaf people. Asked about the possibility of education being conducted through Auslan or run by Deaf teachers one day, the co-ordinator of an oral facility said:

All deaf educators? Well, you won't see it here. So you wouldn't see it in a setting like this which is a normally hearing school. I wouldn't think so and the reason that I say that is much of the time that we're in the class we have to be the ears for the kids. So if you've got somebody who's deaf and trying to support a deaf student in a classroom it wouldn't work.

As a member of the dominant group, imposing hearing values, this teacher sees little need to redefine her relationship with deaf students or between the school and the Deaf community. Her self-defined role as 'the ears for the kids' excludes the possibility that deaf people can be employed at the school and protects the position of hearing educators. Their jobs could be put at risk if teachers, fluent in Auslan, were required in education, favouring the employment of Deaf people and conferring power and status on the members of a minority group. She considered learning Auslan unnecessary and a waste of time: 'I really do think it's a beautiful language and I would love to be able to use it. I could go and learn and I would love to, but I would soon lose it because there's no call for me to use it here so it would be a waste of time'.

The inclusion of Auslan as a Language other than English (LOTE) has brought increased access to Auslan for many deaf students. In Victoria, Auslan is also offered as a subject in the Victorian Certificate of Education. However, the inclusion of Auslan for an hour or two a week does little to redress the systemic denial of a language. Deaf students in these schools are often exposed to Auslan only when they enter these specialist classes taken by deaf staff, qualified LOTE teachers. Outside the confines of these classes, students often return to instruction through Signed English by predominantly hearing teachers unable to use Auslan. There is a strict line drawn between students' LOTE language and the language of instruction in the classroom and many teachers have no intention of considering Auslan as the language of instruction. The principal of a school for the deaf that introduced Auslan as a LOTE subject in 1997 believed the move threatened some teachers and raised their fear that Auslan would take over as the language of instruction. He told me the teachers' fears were without basis as English would continue being used in the classroom. He said he had not considered bilingual education because the parents and teachers had not requested it. He responded to the teachers' fears by suggesting the approach to take if a child used Auslan in their classes: '[you say] oh, I'm sorry but that's Auslan; [in] Signed English we use that sign for *giraffe* — that's the sign we use in this classroom'. He went on to say:

I try to see Auslan as a language other than English and I think it's recognised as such. I think students who are learning Mandarin don't come to the classroom and start talking to their teacher who can't, doesn't speak a word in Mandarin — You say, 'Sorry, that's for your LOTE subject. When we're in this classroom we use English as our means of communication'.

I can't see at this stage that we'd go past using it as a LOTE. We certainly don't intend using it as a means of communication in the foreseeable future — certainly for the length of this [school] charter, probably the length of my time as principal ... I can't see any Auslan being used for anything else other than a LOTE at our school unless, of course, it became a directive of the Education Department and I can't see that ever happening.

The power and privilege of this teacher's position allows him, a hearing person, to determine the extent to which deaf children have access to Auslan. He believed that students are in a position to make an informed choice about entering the Deaf community if they are given an *awareness* of this community: 'we are doing them a disservice if we don't at least let them know that there is another world out there that they can belong to'. The success of bilingual education requires teachers to have a positive attitude to deaf people and their language and culture, not only an ability to communicate with them. It also

requires 'an attitude of acceptance not just tolerating the existence of this other language, but embracing it, taking full advantage of it'.³⁹

A model of education that meets the linguistic needs of the deaf

Recognition of native sign languages has buoyed support for bilingual education, providing a new direction to deaf education. In 1993 the *World Federation of the Deaf Report on the Status of Sign Language*⁴⁰ identified 11 countries using native sign languages in the classroom, depending on school policy. The number of countries using native sign languages in deaf education continues to grow.

A large body of research and commentary supports the use of native sign languages as the first language and language of instruction for deaf children. A review of the international literature on bilingual education and the effects of native sign languages on language acquisition undertaken for the Ontario Ministry of Education⁴¹ identified the following characteristics of most bilingual programs for deaf children:

- Native sign language is used as the first language and language of instruction.
- The majority language is introduced when students begin to acquire native sign language.
- Deaf culture and deaf role models are an important part of the educational program.
- Parents are introduced to the culture and community of deaf people and supported in their learning of native sign language.

The use of native sign languages in the education of the deaf has proven successful. In Sweden, children involved in the first research project in which deaf children from hearing families were brought in contact with deaf adults and deaf peers left school in 1991. They were described by Swedish researcher, Kristina Svartholm as literate, confident bilinguals.⁴² A Swedish study of 40 subjects found that students with early

39 Davies S 'Attributes for success: attitudes and practices that facilitate the transition toward bilingualism in the education of deaf children' in Ahlgren I and Hyltenstam K (eds) *Bilingualism in Deaf Education: Proceedings of the International Conference on Bilingualism in Deaf Education, Stockholm, Sweden* (Signum Press, 1994) p 112.

40 World Federation of the Deaf, *World Federation of the Deaf Report on the Status of Sign Language* (World Federation of the Deaf Publications, 1993).

41 Israelite N, Ewoldt C and Hoffmeister R *Bilingual/Bicultural Education for Deaf and Hard-of-Hearing Students: A Review of the Literature on the Effects of Native Sign Language on Majority Language Acquisition* (Ontario Ministry of Education, 1992).

42 Svartholm K 'Bilingual education for the deaf: evaluation of the Swedish model' paper presented at the 12th World Congress of the World Federation of the Deaf: Towards Human Rights, Vienna, Austria, 6-15 July 1995.

access to Swedish Sign Language performed better on tests in Swedish.⁴³ Reflecting on the gains made in deaf education in Sweden, Svartholm stated:

The bilingual model for teaching deaf children has clearly turned out to be successful. The outcome of it is a group of confident, literate young people — confident not only in their first language, Sign Language, but also in their second language, Swedish. To characterise them, the word 'normal' is what first comes into my mind. There are virtually no differences between them and any other young people of the same age, except for the language they use. I hope that all other deaf children will be given the opportunity to grow up and be just as normal as these are.⁴⁴

Svartholm⁴⁵ believes that the success of bilingual education results from the acceptance of native sign language and the positive view of deaf people it engenders. The acceptance of other languages in Sweden, reflected in government policy, enabled the Deaf community to argue for consideration like other minorities.⁴⁶

In Australia, Tasmania was the first State to establish a bilingual program for deaf students. Bilingual education is endorsed by the State educational authority for use in all programs operating in Tasmania in the State government sector.⁴⁷ Felicity Gifford, the State co-ordinator of services for deaf and hearing-impaired students in Tasmania, reflecting on the initial project to establish a bilingual program said: 'it was increasingly apparent to those involved in the project that deaf students' educational and cultural rights could not be fully attained without a significant philosophical shift'.⁴⁸ She talked about teachers having 'relinquished ownership of the deaf' and that 'being treated equally does not imply that deaf and hearing students should receive the same treatment, when they clearly have different needs'.⁴⁹ New South Wales was the next State to introduce bilingual education although access to Auslan could only be gained through the private school sector. After unsuccessfully lobbying the State educational authority, parents and members of the Deaf community turned to a private institution, the Royal New South Wales Institute for Deaf and Blind Children, to provide bilingual education

43 Heiling K 'A comparison of academic achievement levels in deaf eight-graders from two decades' paper presented at the International Congress on Education of the Deaf, Tel Aviv, 16-20 July 1995.

44 Svartholm K 'Second language learning in the deaf' in Ahlgren I and Hylténstam K, above, note 39, p 61.

45 Svartholm K 'Bilingual education for the deaf: evaluation of the Swedish model' (unpublished paper, 1995).

46 Svartholm K 'Bilingual education for the deaf in Sweden' (1993) 81 *Sign Language Studies* 291.

47 Gifford F, personal communication, 14 May 1998.

48 Gifford F 'The Claremont Project: bilingual education in an integrated setting' in Australian Association of the Deaf *National Deafness Conference Proceedings* (1996) p 2.

49 Above, note 48, p 8.

for deaf children. A private pre-school, the Roberta Reid Centre, was opened in 1992, followed a year later by the Thomas Pattison School, a private bilingual primary school. Frustrated by the unwillingness of the State to provide bilingual education, a parent group went on to lodge a complaint under the *Disability Discrimination Act 1992* (Cth), mentioned earlier in this paper.

In addition to the examples already given, bilingual programs also exist in Victoria, South Australia and Western Australia. In these States, there are a small but growing number of bilingual programs being established. The educational authorities in these States generally consider these programs to be providing parents with a choice of educational setting for their child. They exist alongside (sometimes within the same school) oral or Total Communication programs. With the education of the deaf left to the States to determine, differences in policy within Australia emerge. Furthermore, within some States the decision over the language of instruction is left to schools and their staff to determine.

National legislation removing the barriers

In the development of linguistic rights for the deaf, it is useful to look to countries that have achieved systemic change in the education of deaf people. The best examples of legislative action to ensure deaf children have access to a native sign language both as a first language and language of instruction are found in the Nordic countries. Swedish Sign Language was recognised and bilingual education established in schools for the deaf as a result of the activism of the National Federation of the Deaf, the Association of Parents of Deaf Children and linguists at the University of Stockholm. In 1981, the Swedish Parliament passed a bill that gave recognition to Swedish Sign Language as the first language for deaf children:

[It declared] that the profoundly deaf to function among themselves and in society have to be bilingual. Bilingualism ... means that they have to be fluent in their visual/gestural Sign Language and be fluent in the language that society surround them with: Swedish.⁵⁰

A supplement to the national curriculum in 1983 called for the development of bilingualism as an educational goal for deaf children. A new curriculum in 1995 strengthened the requirements for deaf students to leave school bilingual and required schools to provide the equivalent of the regular school curriculum.⁵¹

50 Bergman Band Wallin L 'Sign language research and the Deaf community' in Prillwitz S and Vollhaber T (eds) *Sign Language Research and Application: Proceedings of the International Congress* (Signum Press, 1990) p 176.

51 Svartholm K, above, note 45.

In other Nordic countries, the linguistic rights of the deaf in education are similarly protected. In Denmark, the Ministry of Education ordered the teaching of Danish Sign Language in all public schools and classes for deaf students in 1992; in Norway, Norwegian Sign Language is recognised by law for use in compulsory schooling; and in Finland, Finnish Sign Language is protected by law and recognised in the national school curriculum as a mother tongue.⁵²

For the deaf to succeed in education, it is vital that teachers and educational authorities recognise their status as minority bilinguals and afford them the rights expected (for other linguistic minorities) under international human rights law. If systemic change is to occur, national legislation is needed to enact these conventions with regard to the deaf. There are few countries at the present time which have done so.

Australia has recognised the legitimacy of Auslan as a community language⁵³ and the Deaf community as a cultural and linguistic minority in government policy.⁵⁴ The inclusion of Auslan is broached in *Australia's Language: The Australian Language and Literacy Policy* but the document backs away from the issue of using Auslan as the method of instruction, claiming that such a view is controversial because most deaf children come from English-speaking families. Instead, the policy calls for deaf people to have complete access to 'a first language' without stating what language this should be. The statement on the inclusion of Auslan in schools is weak, merely suggesting education systems should consider the benefits of teaching Auslan to deaf and hearing students.

A major barrier to the development of bilingual deaf education is the lack of deaf staff and general inability of most teachers of the deaf to use Auslan. These are systemic barriers that require a response at the state and national level. Left up to the universities training teachers of the deaf, the amount of instruction in Auslan for pre-service teachers remains inadequate. And left to schools, redressing the native sign language deficiencies of teachers of the deaf are beyond the scope of their professional development funds. There may also be an unwillingness among teachers to consider such significant changes to their practices.

52 Jokinen M 'Bilingualism and sign language in the education of the deaf' (paper presented at the XV Congress FEPAL, Galicia, Spain, 1-3 July, 1999).

53 Lo Bianco J *National Policy on Languages* (Australian Government Publishing Service, 1987).

54 Department of Employment, Education and Training *Australia's Language: the Australian Language and Literacy Policy* (Department of Employment, Education and Training, 1991).

In Sweden, legislative action imposed changes to language policy and practice when Parliament endorsed the goal of bilingualism for the deaf. Ahlgren⁵⁵ reported in 1990 that Swedish parents, students and the Deaf community were demanding a level of sign language proficiency that teachers lacked:

The parents are extremely critical when they realise that there is a basic communication problem and that their child is not getting the kind of instruction he is entitled to and they of course blame the teachers. The teachers were put in a situation where the curriculum, the parents and the pupils (and the deaf association) demanded a proficiency in sign language that the traditional teacher training never offered them.

Further, education in Swedish Sign Language was established with time release for teachers of the deaf to acquire proficiency in a native sign language.

Support for teachers is vital if substantial change is to be introduced. Fullan⁵⁶ has warned that systems do not usually change at the top and that new skills, understanding and commitment cannot be mandated. Until now, bilingual deaf education in Australia has resulted from the actions of individuals who, in Fullan's words, have *taken action themselves* to initiate changes to their language policies and practices. These changes have not been imposed on them by policy makers at the state or national level. As a positive approach to educational change, teachers of the deaf in bilingual programs have remained at the centre of the reform process. There is a risk, however, that change may be blocked by individual teachers, teacher educators or policy-makers. Many teachers are reluctant to embrace the introduction of native sign languages in deaf education and resist the establishment of bilingual programs. These teachers continue to support majority-language values and deny the existence of a power relationship between themselves and deaf people, serving to maintain the status quo. It is therefore necessary to recognise the political factors that block change and identify how to *effect* change in the wider profession. I take the view of Lisa Delpit,⁵⁷ a black educator, that when it comes to political change towards diversity it cannot be effected from the 'bottom up'. To effect change, educators must become aware of the discriminatory practices within their schools and their own teaching.

55 Ahlgren I 'Swedish conditions: sign language in deaf education' in Prillwitz S and Vollhaber T (eds) *Sign Language Research and Application: Proceedings of the International Congress* (Signum Press, 1990) p 91.

56 Fullan M *Change Forces and Educational Reform: An Introduction*, No 33 (Incorporated Association of Registered Teachers of Victoria, 1993).

57 Delpit L 'The silenced dialogue: power and pedagogy in educating other people's children' (1988) 58 *Harvard Educational Review* 280.

Changes to curriculum, teacher education and registration requirements are needed to address the current structural barriers against the use of Auslan in education. Claims of choice existing in deaf education in most States of Australia are merely rhetoric. The control of hearing educators and the dominance of English in the education of the deaf are perpetuated through the general absence of Auslan from teacher education, professional development programs and educational policy. It is crucial that educators of the deaf become aware of the human and linguistic rights afforded to linguistic minorities and recognise the deaf as belonging to a linguistic minority. Raising the awareness of human rights advocates to the linguistic needs of the deaf may also result in explicit statements of support for the use of Auslan in deaf education. Ultimately, legislation will be needed to ensure deaf children's linguistic rights are met. ●