

Special Section:  
Introducing Deaf Legal Studies, edited by Rob  
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**EDITORIAL**

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[A] INTRODUCTION

Law has long failed to understand deaf people. When law does see us,<sup>1</sup> it does so narrowly, most often through the lens of disability, while ignoring other ways of framing deaf experience as a language minority, a culturo-linguistic group, an ethnic group and an Indigenous group (Wilks 2019; in press). This misrecognition can have profound consequences: deaf people are either made invisible in legal frameworks or offered only symbolic rights and minimal adjustments. Such responses do little to challenge structural barriers or the deeper hearing bias built into law (Wilks 2025).

In this Special Section, “deaf” is used to describe all kinds of deaf persons, and “Deaf” is used to refer to sociocultural entities or established theoretical concepts such as “Deaf culture” (Kusters & Ors 2015). It introduces Deaf Legal Studies (DLS), an emerging field that seeks not only to critique how hearing-centred assumptions shape participation, authority and justice across the diversity of deaf experience, but also to advance a positive project grounded in deaf epistemologies, lived experience and co-produced research. Drawing on these perspectives, DLS invites wider jurisprudential reflection. In this sense, the questions raised by deaf experience are not confined to deaf communities, but speak to how law recognizes and validates knowledge more generally.

The timing is significant. Globally, campaigns for sign language law, the incorporation of disability rights instruments, and intersectional approaches to deaf lives are gathering momentum. Significantly, in July 2025, at the 24th International Congress on the Education of the Deaf in Rome, a Joint Declaration issued by leading global deaf organizations called on deaf educators to renounce the 1880 Milan resolutions. Adopted at an earlier International Congress, the Milan resolutions endorsed oralism and led to the systematic exclusion of sign languages from

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<sup>1</sup> Note the author is a deaf BSL signer.

deaf education worldwide, shaping educational policy and professional practice for more than a century. The Declaration affirms sign languages as full and natural languages and advocates their legal recognition and early access for deaf children (World Federation of the Deaf 2025).

Similarly, a cultural shift is underway in the United Kingdom. This shift is unfolding alongside wider cultural and institutional changes, including increased public visibility of British Sign Language (BSL), sustained advocacy by the British Deaf Association and other deaf organizations, the enactment of BSL legislation across the UK's four nations, and emerging debates within deaf education about the value of sign language and the continuing influence of medicalized approaches (O'Neill & Ors 2025; Wilks & O'Neill 2025). This evolving context confirms the continuing relevance of DLS.

The contributions to this Special Section reflect these shifts: from the incorporation of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) in Northern Ireland, with attention to provisions on sign language (Byrne), to the implementation of the Dutch Sign Language Recognition Act (Oyserman), a legal mapping method for analysing deaf rights in Brazil (Beer) and the protection of deaf survivors of domestic abuse in England (Gorman).

These contributions show that DLS is more than a critique: it is the foundation of a new field, one that challenges how law misrepresents deaf people and offers new ways of imagining justice, rights and participation, aligned with Deaf Gain perspectives that recognize the value of deaf ways of being to hearing society (Bauman & Murray 2014).

## [B] DEAF LEGAL STUDIES

Since the late nineteenth century, a substantial number of scholars have carried out deaf legal research. It is not possible to catalogue this literature fully in an editorial of this kind, with at least 80 relevant publications identified. Instead, a thematic approach is adopted to introduce a selection of key contributions, which date from 1857 to the present day.

### From legal status to legal systems

Early deaf legal research focused on questions of legal status, capacity, and responsibility, treating deaf people as subjects whose competence required legal classification and regulation (Peet 1857). Comparative and doctrinal work at the turn of the twentieth century examined how deafness affected legal personhood across different legal systems (Gaw

1906; 1907). Mid-twentieth-century scholarship continued to explore whether deaf people could hold rights, bear duties, or be held legally responsible, often within explicitly medicalized frameworks (Myers 1967; 1970). Later work shifted attention away from abstract questions of status towards the operation of legal systems and institutions (Goldberg 1980), including how justice is administered in practice (Brennan & Brown 1997). More recent scholarship has examined this shift as part of a broader move towards analysing the systemic structures that shape deaf people's encounters with law (Wilks 2024; in press).

## Procedural justice as a long-running spine

Procedural justice forms a persistent concern across deaf legal research, with repeated attention to whether deaf people are able to participate meaningfully in legal processes (Berko 1992; Brennan & Brown 1997). This body of work has examined a wide range of procedural settings, including police interviews (Vernon & Ors 2001), courtroom proceedings (LaVigne & Vernon 2003; Pravda & Mosier 2011), jury service (Napier & Spencer 2008), access to legal advice (Kyle & Ors 2012), and pre-trial decision-making (Vernon & Ors 2001), consistently identifying barriers linked to communication, understanding, and evidential fairness. Related scholarship has extended this analysis beyond the courtroom to consider imprisonment and detention, showing that procedural failures often persist after conviction and continue to shape deaf people's experiences of custody and punishment (McCulloch 2012; Kelly 2017). Comparative and cross-jurisdictional research further suggests that these difficulties are not isolated or context-specific, but reflect broader systemic features of criminal justice systems (Olsen & Kermit 2015).

## Interpreters: from solution to problem

A recurring theme in deaf legal research concerns the role of interpreters and translation within legal settings. Earlier scholarship often treated interpreting as the primary mechanism through which deaf people could access legal processes, assuming that communication barriers could be resolved through professional mediation (LaVigne & Vernon 2003; Brunson 2008). More recent work has challenged this assumption, showing that the presence of an interpreter does not necessarily secure fairness, understanding, or equality, and may introduce new risks, distortions, and power imbalances within hearing-centred legal systems (Kermit & Ors 2011; Roberson & Ors 2011). This has led to a broader reframing of interpreting, from a technical solution to a structural feature

of legal processes requiring critical scrutiny (Napier & Banna 2016; Wilks 2022).

## From courts to everyday life

While early deaf legal research focused largely on courts and criminal justice, later scholarship increasingly examined how law shapes deaf people's experiences beyond formal legal proceedings such as making decisions for deaf children regarding cochlear implants (Brusky 1995). This work extends into everyday domains such as healthcare (Steinberg & Ors 2006; Schwartz 2008; Arrowsmith 2013; SignHealth 2014; Kuenburg & Ors 2016; Laur 2018; Royal National Institute for Deaf People & SignHealth 2025), education (Fernandez-Viader 2004; Snoddon 2009), employment (Barnes 2017; Action on Hearing Loss 2018; Rahman & Ors 2021; Lindsay & Ors 2023), and equality, showing how legal rules and obligations operate in routine interactions with public services rather than only at moments of litigation (Steinberg & Ors 2006; Snoddon 2009). Research in these areas highlights how legal frameworks governing health, work, and social participation continue to structure deaf people's opportunities and exclusions in daily life (Barnes 2017; Rahman & Ors 2021; Lindsay & Ors 2023).

## Recognition of sign languages

From the mid-2010s onwards, the legal recognition of sign languages has emerged as a prominent strand within deaf legal scholarship (Wheatley & Pabsch 2012; Batterbury-Magill 2014). This literature examines the forms recognition takes, its legal consequences, and its limitations across different legal contexts (De Meulder & Ors 2019; Tupi 2019; Wilks & Venade de Sousa 2025). While often framed as progress, recognition is frequently shown to be symbolic, weakly enforced, and unevenly implemented (Snoddon & Wilkinson 2019; Busatta 2022; Bloxs 2025; Wilks 2026).

## From national to comparative and international perspectives

Earlier deaf legal research tended to focus on domestic legal systems, particularly within Anglo-American contexts (Gaw 1906; 1907). Over time, the literature has become increasingly comparative and international, examining deaf people's legal experiences across jurisdictions and legal traditions (Sabatello 2005; Olsen & Kermit 2015). This shift has also brought greater engagement with broader human rights frameworks

and regional or international legal contexts (Haricharan & Ors 2013; Tupi 2019; Venade de Sousa 2019). More recent work continues this direction through further comparative and cross-jurisdictional analysis, reinforcing the limits of purely national approaches to systemic exclusion and legal inequality (Ferri & Ors 2024; Roy & Ors 2024; Wilks & Venade de Sousa 2025).

## Increasingly empirical and interdisciplinary approaches

Finally, the literature shows a clear movement towards empirical and interdisciplinary approaches over time (Steinberg & Ors 2006; Battersby & Ors 2008). While doctrinal analysis remains important, later work increasingly draws on qualitative research (Kermit & Ors 2011), mixed methods (Haricharan & Ors 2013), and policy analysis (Engelman & Deardorff 2016), alongside insights from linguistics, sociology, disability studies, and translation studies. This methodological diversification has enabled closer examination of how sign language can function as a working legal language (Stone & Mirus 2018), developed Deaf Legal Theory (Bryan & Emery 2014; Wilks 2022; 2025), examined the experiences of First Nations deaf people (Elder & Ors 2024), and considered whether a code of practice is needed for teachers of the deaf (O'Neill & Ors 2025).

It is immediately clear from the preceding discussion that deaf legal research has been undertaken for at least 140 years. While this work has not previously been described in these terms, it is argued here that, taken together, these and others not cited here constitute a distinct body of DLS.

## [C] METHODOLOGIES

To be clear, it is possible to utilize any research methodologies for DLS research. Given that DLS is predominantly about the law and legal systems, it goes without saying that the law and legal concepts (Hutchinson & Duncan 2012), that is, the traditional black-letter law approach, should be employed in some shape or form. However, modern scholars, most notably Cotterrell (1998), argue that true legal scholarship entails a sociological understanding of law. Indeed, law cannot be separated from social, political, and economic issues (Scarman 1968), and Singhal and Malik (2012) warn against relying solely on doctrinal research for this reason.

To achieve this sociological understanding of law, the socio-legal methodology is of particular use. Socio-legal methodology aims to examine legal systems, legal institutions, legal actors, and legal processes, seeking to uncover the underlying social dynamics that influence the production, interpretation, and application of law (Cownie & Bradney 2017; Creutzfeldt & Ors 2019; Wheeler & Thomas 2000; Socio-Legal Studies Association 2021). By understanding how law interacts with society, socio-legal research can inform legal reform, promote social justice, and enhance our understanding of the human condition (Feenan 2013).

Socio-legal scholars employ various methods, including content analysis—analysing the content of textual, visual, or audio information (Krippendorff 2022)—and empirical research (Webley 2019), which can involve systematic investigation through direct observation or experimentation, gathering and analysing data to test hypotheses and answer research questions (Blackham 2022). Case studies (Argyrou 2017; Simons 2025), historical analysis (Seal & Neale 2019), theoretical critiques (Cotterrell 2017; 2023) such as Deaf Legal Theory (Wilks 2022; 2025), and autoethnography—“a form of self-narrative that places the self within a social context” (Reed-Danahay 2020: 9)—can also be used.

Another often utilized legal research methodology is that of comparative legal research, conventionally understood as the study of differences and similarities between distinct legal systems across jurisdictions (Zweigert & Kötz 1998). This can assist understanding as to how law functions in context, to identify best practice, and to inform legal reform (Örücü 2012).

There is a plethora of research methodologies available, and the beauty of legal research is that DLS researchers are not constrained to legal research methodologies only. Given the multidisciplinary and interdisciplinary nature of socio-legal research in particular, it is possible to “borrow” methodologies from other disciplines, including sociology, anthropology, criminology, linguistics, translation studies, disability studies, education, and the health and social sciences.

## [D] THIS SPECIAL SECTION

This Special Section brings together four articles that examine deaf people’s encounters with law across different jurisdictions, legal domains, and methodological traditions. Taken together, they demonstrate the breadth of contemporary deaf legal research and illustrate how law continues to shape deaf people’s lives through a combination of formal recognition, institutional practice, and regulatory design.

The first article, by Bronagh Byrne, examines the incorporation of the UNCRPD in Northern Ireland, with particular attention to the legal status of sign language and its implications for access to justice. The article situates sign language within international human rights law while remaining attentive to the domestic constitutional and political context in which incorporation operates. Rather than treating incorporation as an end in itself, the analysis highlights both its potential and its limitations, demonstrating how international legal instruments may offer leverage for reform while remaining dependent on national implementation and institutional will.

Joni Oyserman's contribution turns to the Netherlands and provides a detailed examination of the implementation of the *Wet Erkenning Nederlandse Gebarentaal* (Dutch Sign Language Recognition Act). Drawing on empirical data, the article interrogates the gap between legislative recognition and lived legal experience, showing how formal acknowledgment of sign language does not automatically translate into meaningful change.

The third article, by Hanna Beer, offers a detailed legal mapping of how Brazilian federal legislation regulates linguistic rights and linguistic duties related to Brazilian Sign Language (Libras). Grounded in the field of *Direito Linguístico* (Linguistic Law), the article analyses legislation as a form of translation governance, examining how the state structures and administers linguistic access through dispersed regulatory instruments. By tracing how linguistic obligations are embedded within accessibility frameworks, the article provides a systematic account of how language is regulated across legal domains, contributing a comparative and Global South perspective to the Special Section.

Finally, Abigail Gorman's article focuses on deaf survivors of domestic abuse in England. It examines how legal and support systems intended to protect victims may instead produce exclusion and harm when communication needs are inadequately addressed. Through its analysis of institutional responses and professional practices, the article highlights the ways in which law operates not only through formal rules but through everyday systems of access, interpretation, and decision-making.

Across the four articles, several common themes emerge. Each contribution highlights the limits of formal legal recognition when it is not accompanied by effective implementation, enforcement, or institutional change. All four demonstrate that deaf people's exclusion from law often arises not from the absence of legal norms, but from the ways in which those norms are operationalized within legal systems and public institutions.

Methodologically, the articles reflect the interdisciplinary character of deaf legal research, combining doctrinal analysis, empirical methods, legal mapping, and policy critique. Collectively, they illustrate how DLS can be used to interrogate the relationship between law, language, and power across diverse legal contexts, while remaining attentive to deaf people's lived legal realities.

## [E] CONCLUSION

This Special Section is not offered as a definitive account of DLS, nor as a fixed or closed framework. Instead, it reflects an open and developmental approach, inviting scholars to apply, adapt, and critique DLS across diverse legal contexts. Its significance lies less in resolving debate than in creating space for further engagement—through empirical research, doctrinal analysis, policy work, and collaboration with deaf communities—to rethink how law engages with deaf people's lived realities.

In this spirit, the establishment of the [Deaf Legal Studies Association](#) (DLSA) provides a practical space for collaboration, critical debate, and collective development, offering a forum through which DLS can continue to evolve in response to the real-world legal challenges faced by deaf people. Readers are invited to engage with and contribute to this developing field.

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