

Human Rights Day 2021

Intersectional Diversity

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Unpacking Diversity

- Interrogating our assumptions
 - Notion of a community
 - A community of communities and individuals
 - Notion of identity
 - subjective or objective?
 - Mosaic and hybrid – intersectional
 - Boundary between religion and culture
 - Notion of equality – treating people the same or as equals?

Relevance?

- reference points
- authority
- how we see and interpret the world
- what value we place on factors
- how we make decisions

Integration or assimilation

- Should we expect people to subscribe to ‘British norms and values’
 - How are we defining these? Who decides?
 - Assimilation, integration, multiculturalism and community cohesion

Cultural intelligence in practice



What does the law require? Human Rights Act 1998

- Human Rights Act 1998 - positive rights
- S.9: Freedom of thought, conscience and religion
 - **Subsection 2**

Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

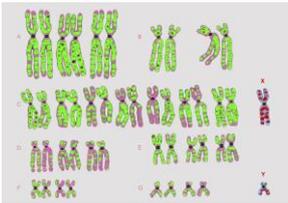
- S.14: Prohibition of discrimination

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

What does the law require? Equality Act 2010

- 9 protected characteristics
 - Age,
 - Disability,
 - Pregnancy and Maternity,
 - Religion and Belief,
 - Race,
 - Sex,
 - Sexual Orientation,
 - Gender Reassignment, Marriage and Civil Partnerships (just for the aim of the duty)
- Public Sector Equality Duty – S.149 – in the exercise of their functions public bodies must give due regard to three needs:
 - Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 - Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - Foster good relations between people who share a protected characteristic and those who do not.

Sex, Gender, Sexuality

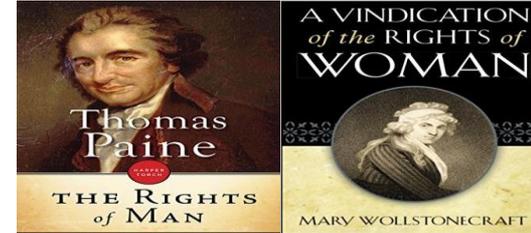


- **Sex**: A biological definition based on genitalia, internal sexual organs and chromosomes. Typically divided into male/female/ intersex
- **Gender**: The performance of roles, identities, and behaviors associated with masculine, feminine, or neutral traits. Example: man, woman, transgender, non-binary. Meanings and associations of gender have changed over time and space
- **Sexuality/ sexual orientation**: Refers to a person's sexual/ romantic patterns of attraction (or lack thereof). Example: heterosexual/ homosexual/ bisexual/ asexual





Feminism



- **First wave:** 1848-1920. Originated in the UK and the US. Focus on women's **political equality**, most notably the right to vote (**suffragettes**). This was achieved in the UK in 1918, and the US in 1920. [In reality mostly white middle/upper class women were granted the right or the option to vote].
- **Second Wave:** 60s'-80's. Focused **on social and economic** justice, and the more systemic discrimination of women in all spheres of life – **“the personal is political”**. Betty Friedan's *The Feminine Mystique* and Simon de Beauvoir's *The Second Sex*. The movement's most significant achievements include the US rulings of equal pay and equal right to education, as well as reproductive rights (birth control and access to abortions).
- **Third Wave:** 90's- ?. **Intersectionality:** the interconnected structure of society that includes race, class, gender, sexual orientation, religion, and other defining characteristics. A continuation of, and reaction against, second wave feminism, and its white, middle-class focus. A much deeper engagement with **queer and post-colonial theories**.*
 - **Fourth Wave?:** Similar to third wave, but with greater emphasis on social media and the internet as arenas for public participation. Ex: #metoo.



More than eliminating unlawful discrimination ...

- **Advancing equality**
 - Remove or minimise disadvantages suffered by people with protected characteristics due to having that characteristic
 - Take steps to meet the needs of people with protected characteristics that are different from those without the protected characteristic
 - Encourage protected groups to participate in public life and in any other activity where their participation is low
- **Fostering good relations**
 - Tackle prejudice
 - Promote understanding

UNCHR and domestic legislation

- United Nations Convention Rights of the Child sets out 4 articles setting out “General Principles”. They are:
 - 1.Non-discrimination (article 2)
 - 2.Best interest of the child (article 3)
 - 3.Right to life survival and development (article 6)
 - 4.Right to be heard (article 12)
- Incorporated in Children Act 1989
- Welfare assessment; harm assessment; safeguarding assessment

Case study: R (Begum) v Governors of Denbigh High School (2006) UKHL 15

- She believed she was required to wear the jilbab as prescribed by religious canon (shariah)
- *note beware of generalising and stereotyping. Not all Muslims take the position that the jilbab is mandatory
- School uniform policy did not allow such garb
- School suspended her until she complied with the school uniform policy
- She refused and sought accommodation relying on, inter alia, art. 9 of the Human Rights Act 1998 (note art 9 is a qualified right)
- Case went all the way to the House of Lords (now Supreme Court)
- Polarised views emerged including among Muslims and judges
- HoLs overruled decision by Court of Appeal

- Questions to consider:
 - Do we need to re-negotiate everything at all times so we end up with law as a constant process of re-negotiation?
 - Given everything is up for negotiation how do we make decisions?
 - Where and on what basis do we draw limits and boundaries when it comes to accommodation?