

## Book Review

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*A New Era for Mental Health Law and Policy: Supported Decision-Making and the UN Convention on the Rights of Persons with Disabilities* by Piers Gooding (294 pp. ISBN 9781107140745). Cambridge University Press, Cambridge. 2017

In March 2018, the Irish Dáil (lower house of parliament) voted to ratify the United Nations' Convention on the Rights of Persons with Disabilities (CRPD). The purpose of the CRPD (2006) 'is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity'. Ireland's rather belated move to ratify the Convention was generally welcomed as a long overdue articulation of the rights of persons with disabilities.

There are, however, several unresolved matters relating to the Convention which need to be clarified over the coming years. In the first instance, the Convention specifies that 'persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others'. Does that include people with short-term mental illnesses? It is an inclusive rather than exclusive definition, so it is likely very broad.

The Convention states 'that the existence of a disability shall in no case justify a deprivation of liberty' and 'persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life'. Does this mean that all mental health legislation that permits involuntary treatment on the basis of mental illness – including Ireland's Mental Health Act 2001 – violates the CRPD? If so, what then? And what is the CRPD's position on substitute decision-making? Does it even have one?

While the past few years have seen a growing literature looking at these issues, it remains difficult to identify clear answers to these (and other) questions. That is undoubtedly one of the implicit purposes of the Convention: to present new challenges that force us to re-think fundamental assumptions in this area, and question received wisdom.

As a result of this situation, this field of study is now ready for a rigorous and thorough overview of the position, more than a decade since the CRPD was drafted in 2006, seeking to figure out how far we have come, how much further we need to go, and how to get there. Against this background, Piers Gooding's new book, 'A New Era for Mental Health Law and Policy: Supported Decision-Making and the UN Convention on the Rights of Persons with Disabilities', could not be more timely.

Part 1 of this rigorous, invigorating book asks a very fundamental question: 'what do human rights mean for mental health law?'. Gooding discusses the purpose and procedures of mental health law, major criticisms of mental health law, and the role of the CRPD in this context. Part 2 moves on to the 'CRPD support framework and mental health' ('new tools or new paradigm?'), 'applying the CRPD support framework in law', 'practical examples of the CRPD support framework in the mental health context' (an exceptionally useful section), and addressing concerns about the CRPD support framework.

In essence, Gooding argues that the CRPD holds the potential to help address persistent shortcomings in mental health law and policy, and to promote more transparent, principled, evidence-based practice. His arguments are compelling, his evidence convincing. In short: he is right.

Gooding's dual emphasis on law and policy is especially important. Current mental health law in most countries is certainly far from perfect and requires constant revision and improvement. And the various specific legal issues raised by the Convention in the context of mental health law will no doubt be resolved in various court rooms around the world over the coming decades.

As a result, the more urgent question the Convention raises for mental health service-users and providers is, perhaps, a different one. It is this: now that the CRPD has been around for more than a decade and is being adopted more widely, how can we use the Convention as a tool to enhance the autonomy and liberty of people with disabilities, to improve social and medical outcomes, and to create a fairer society for all?

This is the key issue. While the law is an important tool for change, it is the *use* of law in the negotiated world of resource distribution, policy change, and service delivery that matters most in the lives of people with disabilities and their families.

The CRPD presents a real opportunity to drive positive change in this area. In other words, notwithstanding the challenges and dilemmas so expertly explored by Gooding, the CRPD is still a once-in-a-generation opportunity to fight for autonomy, justice and fairness for people with disabilities.

Gooding is right. We should not let this opportunity pass.

### Conflicts of Interest

None.

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