

Book Review

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Kelly BD. *Mental Illness, Human Rights and the Law* (ISBN 987 1 909726 51 2). Royal College of Psychiatrists, London, 2016

Professor Brendan Kelly's 2016 book is a thorough analysis of the mental health law of Ireland, England and Wales, Northern Ireland and Scotland. The book examines the relevant laws in each jurisdiction through the prism of human rights, with a strong call for thoughtful reform of existing law throughout. The book is divided into sections dealing with each jurisdiction, pointing out the differing themes of the various bodies of law. The style is accessible and while material is well-researched and indexed, it does not read as an academic paper – though it was first written as a PhD thesis.

The first one-third of the book sets out the historical context of mental illness and the law, the development of human rights and the variety of legislative systems which interact with each jurisdiction's domestic provisions. This section alone makes for great reading, combining history, politics, jurisprudence and philosophy. As the author points out, while the concept and articulation of human rights was developing during the 19th and 20th centuries, paradoxically, the treatment of those with mental illness was worsening around this time in comparison to the situation of the 'common man', with increasing incarceration. This gap continued to widen even as rights philosophies became more nuanced and inclusive, with factors such as absence of treatment options and lack of understanding of the biological basis for mental illness contributing to the worsening situation. Professor Kelly uses historical examples to underscore the central thesis of the book from early on – that the human rights of those with mental illness require unique legislative protection and must be proactively considered.

Somewhat alarmingly, discussion of the United Nations Convention on the rights of Persons with Disabilities and the World Health Organisation Checklist for mental health legislation, also in Chapter 1, points out that legislative provision for mental illness in Ireland and the United Kingdom does not meet minimum international standards. This is something of a surprise given that many clinicians might feel that our Mental Health Act is relatively recent and that revision has further modernised the Act.

Subsequent chapters outline the history of mental health law in each of the jurisdictions covered, leading to uncovering of the main themes of each body of law – for example, the strong priority given to public safety in the United Kingdom arising from a series of highly publicised homicides by people with mental illness, an element which was 'virtually absent' from the Irish debate on mental health legislation. Those following the Capacity Bill debate in Ireland will be interested in the section on Northern Ireland, particularly the Bamford Review Recommendations and the subsequent Mental Capacity Bill 2015, which addressed both capacity and mental health simultaneously. The Northern Ireland chapter also deals with clinical research legislation in each jurisdiction and points out the oddly persisting lacuna in Irish law in research participation for those with impaired capacity.

Chapter 4 deals in detail with the various Irish provisions, their impact on human rights, and how the law operates in reality, with important legal cases highlighted where relevant. There is an engaging section on the Mental Health Act 2008, well worth reading for those, like the reviewer, who were not yet in clinical practice at that time. The book is up-to-date with most recent important revisions and reports in all jurisdictions.

The final chapters focus on analysing the commonalities and differences between the differing legal systems and examining how these systems operate largely to the detriment of people with mental illness.

The book manages to be informative without being dense, and although not a reference text, it would be a good companion book to either Darius Whelan's 'Mental Health Law and Practice: Civil and Criminal Aspects' or general medical law texts by Madden or Mills. Sections on Irish legislation are likely to be most of interest to Irish readers, and the chapter dealing with the development and features of Irish mental health law adds a new perspective to familiar topics, as well as an opportunity to step back from our own day-to-day interactions with various sections of the Mental Health Act, 2001 to think about their purpose and effectiveness.

Psychiatry trainees in particular may be interested in the chapters dealing with other jurisdictions, if considering practice abroad. For health science students or those studying law, there is much to be gained in the introductory chapters and later analytical sections.

The book ends with a call for change in the legislative approach to mental illness and human rights and practical steps that clinicians can take to contribute to overcoming the institutionalised power imbalance

faced by people with mental illness. Perhaps a good first step in overcoming such structural violence is to educate ourselves as clinicians on the context so we can remain vigilant for situations in which the law does not adequately serve those with mental illness – reading this book is a good place to start.

Conflicts of Interest

None.

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