

Book reviews

Seminal Issues in Mental Health Law by Jill Peay

Published by Ashgate (2005), £135

This excellent resource is a collection of thirty-five essays, chapters and extracts on civil mental health law from various authors, drawn from a range of sources between 1973 and 2005 (with three-quarters of the selections dated after 1990). The texts, which are mainly academic journal articles, are reproduced with original typography, pagination and bibliographies which, whilst occasionally reduced to uncomfortably small font sizes, will be a help in research and referencing. It is indexed by name but not, unfortunately, by subject. The long introductory essay by the editor, Professor Jill Peay (London School of Economics), provides an interesting and useful commentary on the choices of material, highlights areas where the law has moved on from the positions discussed, and draws out a theme from the collection as a whole.

Whilst Peay suggests that this is a volume to be dipped into rather than read through, there is structure behind its arrangement, and I found it rewarding to read from cover to cover. The book is divided into three parts (titled respectively 'principles', 'process' and 'trends') and many essays provide a development, or a contrast, to preceding themes. In particular, the first half dozen selections in the 'principles' section, read in the order presented, serves as an excellent primer in the basic arguments at stake over the purposes of mental health law.

In her editorial introduction, Peay writes of her impression that mental health law has appeared to be in a state of flux throughout her working life. That working life spans the lifetime of England and Wales' Mental Health Act 1983: from doctoral research into Tribunal practice in the final years of the 1959 Act to participation in the expert committee originally charged by Government to consider how the 1983 Act might be subject to what was promised as "root and branch" reform. That promise has heightened the sense of shifting ground in mental health law over recent years, during which we have seen two massively detailed and universally derided draft Bills, as well as pre-legislative scrutiny procedures echoing former Royal Commissions in scale.

But this book appears as the reform process appears to have spectacularly collapsed, leaving a compromise remarkable even in comparison to the knockabout history of previous legislative change. There is to be no new Mental Health Act under this administration, but instead a slim amendment Bill to patch up those parts of the current law that are in conflict with human rights rulings, whilst also broadening the scope of professional discretion over the scope of its general powers. The cautious welcome given by mental health professional and patient groups to the dropping of the hugely unpopular draft Bill is tempered with anxiety that an amendment Bill could import some of its most worrisome aspects into current law.

Seminal Issues In Mental Health Law

Steven Vago, Steven E. Barkan



Seminal Issues In Mental Health Law:

Seminal Issues in Mental Health Law Jill Peay, 2005 In the complex and sometimes volatile area of mental health law Seminal Issues in Mental Health Law provides ready access to key articles from around the world Selected contents Introduction PRINCIPLES N Rose 1985 Unreasonable rights mental illness and the limits of the law D A Treffert 1973 Dying with their rights on P Fennell 1999 The third way in mental health policy negative rights positive rights and the convention United Nations 1991 Principles for the protection of persons with mental illness and for the improvement of mental health care T D Campbell 1994 Mental health law institutionalized discrimination D B Wexler 1992 Putting mental health into mental health law M Tansella and P Williams 1987 The Italian experience and its implications PROCESS D L Rosenhan 1973 On being sane in insane places G Kullgren et al 1996 Practices and attitudes among Swedish psychiatrists regarding the ethics of compulsory treatment J Monahan et al 1995 Coercion and commitment understanding involuntary mental hospital admission K R Jamison 1995 Flights of the mind P Bean 1986 Consent and treatment T Grisso and P S Appelbaum 1995 The MacArthur Treatment Competence Study Ill Abilities of patients to consent to psychiatric and medical treatments B G Link et al 1999 Public conceptions of mental illness labels causes dangerousness and social distance TRENDS J Dawson et al 2003 Ambivalence about community treatment orders R M Gordon 1993 Out to pasture a case for the retirement of Canadian mental health legislation G Richardson 2002 Autonomy guardianship and mental disorder R Porter 2004 Is mental illness inevitably stigmatizing P Bartlett 2003 The test of compulsion in mental health law capacity therapeutic benefit and dangerousness as possible criteria R P Bentall 2003 The boundaries of madness NAME INDEX

A New Era for Mental Health Law and Policy Piers Gooding, 2017-10-13 The Convention on the Rights of Persons with Disabilities CRPD has generated new ideas and standards in healthcare and disability law and policy In the mental health context the CRPD directs governments to ensure people with mental impairments are treated equally before the law including ensuring people have access to the resources necessary to enjoy their rights But what this means in practice remains unclear In addition current domestic laws that authorise involuntary psychiatric interventions stand at cross purposes with the CRPD which requires respect for the will preference and rights of persons with disabilities on an equal basis with others This book explores the implications of the CRPD for law policy and practice that respond to the complex issues raised by mental health impairment and disability It argues that the support framework of the CRPD holds the potential to address persistent shortcomings in mental health law and policy

Rethinking Rights-Based Mental Health Laws Bernadette McSherry, Penny Weller, 2010-08-16 Mental health laws exist in many countries to regulate the involuntary detention and treatment of individuals with serious mental illnesses Rights based legalism is a term used to describe mental health laws that refer to the rights of individuals with mental illnesses somewhere in their provisions The advent of the United Nations Convention on the Rights of Persons with Disabilities makes it timely to rethink the way in which the rights of individuals to autonomy and

liberty are balanced against state interests in protecting individuals from harm to self or others This collection addresses some of the current issues and problems arising from rights based mental health laws The chapters have been grouped in five parts as follows Historical Foundations The International Human Rights Framework and the United Nations Convention on the Rights of Persons with Disabilities Gaps Between Law and Practice Review Processes and the Role of Tribunals Access to Mental Health Services Many of the chapters in this collection emphasise the importance of moving away from the limitations of a negative rights approach to mental health laws towards more positive rights of social participation While the law may not always be the best way through which to alleviate social and personal predicaments legislation is paramount for the functioning of the mental health system The aim of this collection is to encourage the enactment of legal provisions governing treatment detention and care that are workable and conform to international human rights documents

Leading Works in Health Law and Ethics Sara Fovargue, Craig Purshouse, 2023-07-20 Health and healthcare are vitally important to all of us and academic interest in the law regulating health has over the last 50 years become an important field of academic study An analysis of the development of changes in and scope of health law and ethics to date is both timely and of interest to students and scholars alike along with an exploration of its likely future development This work brings together contributions from leading and emerging scholars in the field Each contributor has been invited to select and analyse a leading work which has for them shed light on the way that health law and ethics has developed The chapters are both autobiographical reflecting upon the works that have proved significant to contributors and also critical analyses of the current state of the field This collection also includes a specially written Introduction and Conclusion which critically reflect upon the development of health law and ethics and its likely future developments in the light of the reflections by contributors on their chosen leading works The book will be of interest to students teachers and researchers in health law and ethics as it provides critical discussions and assessments of some of the leading scholarship in the field *Public Mental Health* William W. Eaton, M. Daniele Fallin, 2019-04-03 A masterful volume that will do much to advance understanding of mental health as an essential public health challenge Journal of Sociology Social Welfare THE GROUNDBREAKING TEXTBOOK IN POPULATION LEVEL MENTAL HEALTH NOW FULLY REVISED AND UPDATED Public Mental Health equips a new generation of public health students researchers and practitioners with the most innovative social biological and behavioral science approaches to mental health challenges at the population level Incorporating insights from multiple health and science disciplines this new edition introduces novel concepts and methodologies for understanding the occurrence of mental disorders in populations worldwide Reflecting the disciplinary diversity and expertise of an internationally recognized roster of contributors its nineteen chapters include coverage of such essential topics as estimates of global prevalence based on new data from the Global Burden of Disease Study the complex way in which genes other biological factors and life stresses increase risk mental health disparities among population subgroups population level mental health consequences of

violence and natural disasters the logic and practice of prevention of mental and behavioral disorders With a perspective that will resonate from the lab to the legislature floor Public Mental Health offers a much need core text for students researchers and practitioners

The Rule of Law and the Separation of Powers Richard Bellamy,2017-07-05 The rule of law is frequently invoked in political debate yet rarely defined with any precision Some employ it as a synonym for democracy others for the subordination of the legislature to a written constitution and its judicial guardians It has been seen as obedience to the duly recognised government a form of governing through formal and general rule like laws and the rule of principle Given this diversity of view it is perhaps unsurprising that certain scholars have regarded the concept as no more than a self congratulatory rhetorical device This collection of eighteen key essays from jurists political theorists and public law political scientists aims to explore the role law plays in the political system The introduction evaluates their arguments The first eleven essays identify the standard features associated with the rule of law These are held to derive less from any characteristics of law per se than from a style of legislating and judging that gives equal consideration to all citizens The next seven essays then explore how different ways of separating and dispersing power contribute to this democratic style of rule by forcing politicians and judges alike to treat people as equals and regard none as above the law

The Criminal Justice System and Health Care Charles A. Erin,Suzanne Ost,2007-11-29 This book examines questions of medical accountability and ethics It analyses how the criminal justice system regulates health care practice and to what extent it can and should be used as a tool to resolve ethical conflict in health care For most of the twentieth century criminal courts were engaged in matters relating to medicine principally as a forum to resolve ethical controversies over the sanctity of life However the judiciary approached this function with reluctance and a marked tendency to defer to the medical profession to define what constituted ethical and thus lawful conduct However over the past 25 years criminal courts have increasingly been drawn into these types of question and the criminal law has become a major actor in the resolution of ethical conflict The trend to prosecute for aberrant professional conduct or medical malpractice and the role of the criminal process in medicine has been analytically neglected in the UK There is scant literature addressing the appropriate boundaries of the criminal process in resolving ethical conflict the theoretical legal analysis of the law s relationship with health care or the practical impact of the criminal justice system on professionals and the delivery of health care in the UK This volume addresses these issues via a combination of theoretical analyses and key case studies drawing on the experiences of other carefully selected jurisdictions It places a particular emphasis on the appropriateness of the involvement of the criminal justice system in health care the limitations of this developing trend and solutions to the problems it throws up The book takes euthanasia as a primary example of the issues raised by the intersection of health care and the criminal law and questions whether health care issues appropriately fall within the remit of the criminal justice system

Law and Morality Kenneth Einar Himma,2017-07-05 This volume collects many of the key essays exploring the possible relationships between the concepts of law and morality a

central concern of contemporary philosophizing about law It is organized around five conceptual issues classical natural law theory legal positivism s separability thesis Ronald Dworkin s constructive interpretivism inclusive legal positivism s assertion that there can be legal systems with moral criteria of legality and the relevance of morality and moral theorizing in theorizing about the concept of law and associated legal concepts Each of the essays makes an important contribution toward addressing these issues Crime, Social Control and Human Rights David Downes,Paul Rock,Christine Chinkin,Conor Gearty,2013-06-17 A book of essays in Stanley Cohen s honor that examines the main themes he has explored and developed which are crime social control and human rights *Law and Society* Steven Vago,Steven E. Barkan,2017-09-22 In the 11th edition of *Law and Society* Steven E Barkan preserves Dr Vago s voice while making this classic text more accessible for today s students Each chapter now includes an outline learning objectives key terms and chapter summaries A new epilogue chapter examines law and inequality in the United States as it moves into the third decade of this century The 11th edition reflects new developments in law and society literature as well as recent real life events with legal relevance for the United States and other nations *Law and Society* is for one semester undergraduate courses in Law and Society Sociology of Law Introduction to Law and a variety of criminal justice courses offered in departments of Sociology Criminal Justice and Political Science

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