

## REPRODUCTIVE RIGHTS OF MENTALLY RETARDED PERSONS

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### SUMMARY

*Mental retardation denotes sub-average intellectual functioning, based on IQ, i.e. the inability of normal learning, accompanied by behavioral and developmental disorders. Persons with impairments (cognitive, motor, sensory or psychiatric) have often been, both through human history and today victims of discrimination and deprived of their basic human rights, both in the public and the private life spheres.*

*Since the end of the 20<sup>th</sup> century, throughout the developed world, many disabled persons can accomplish their dreams and rights. However, the issue of sexuality is still an obstacle in realizing oneself as a whole person, of course in accordance with personal psychophysical abilities. The greatest problem is present in persons with severe disablement, considered not apt enough for information on sexuality and for expressing themselves as persons with their own sexual needs. Thus it is desirable to observe each disabled person individually and flexibly enough in order to establish parameters for the functioning of an intimate affair on the level of understanding and consent. The legal system must protect the most vulnerable and ensure for them the right of choice and consent, as well as the possibility of fulfilling their sexual needs, so that they could love and be loved. Naturally, the system must be built on foundations that satisfy the needs of its users, but also of persons engaged in work with them. Sex education should contain information regarding biological, socio-cultural and spiritual dimensions of sexuality, including cognitive, affective and behavioral domains. Unfortunately, very few educational programs with such aims provide sex education, not only for the disabled young population but also for the healthy.*

*This review article is based on international investigations and Croatian legislative postulates. Its aim is to focus the attention of both professionals and non-professionals on this delicate problem.*

**Key words:** mental retardation – ethics – reproductive rights – sex education – legislation

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### INTRODUCTION

Psychological development presents the constant process of adaptation to biologically stipulated changes in growth, of achieving sexual and general identity, personality individualization, ability to chose life goals, activities and career, readiness and capability to accept ethic norms and behaviors typical for certain culture and society in its entirety (Droopulić 2002). Mental retardation denotes sub-average intellectual functioning, based on IQ, i.e. the inability of normal learning, along with behavior and developmental disorders. The prevalence of mental retardation in general population is 1-3% (Not 2008). Distinguished are: mild mental retardation, moderate mental retardation, severe mental retardation, profound mental retardation and mental retardation of non-specified degree. Among them approx. 87% of cases have mild mental retardation. These children are able to achieve academic status up to the 6<sup>th</sup> grade of elementary school and with little help can provide independent life for themselves. Severe mental retardation is found in 1-2% of cases (DSM IV; Doersey et al. 1998). The cause of occurrence may be genetic (congenital metabolic failures, chromosomal aberrations), psychosocial (chronic lack of intellectual stimulation) and secondary as the sequel of disease or trauma (Kaplan & Sadock 1998, Durkin et al. 2000). Throughout the history of mankind, persons with

disabilities (cognitive, motor, sensory or psychiatric) have often been victims of intentional or irrational discrimination, and deprived from their basic civil rights, in both the public and private spheres of life.

### THE SPHERES OF SEXUALITY IN MENTALLY RETARDED PERSONS THROUGH HISTORY

The diagnosis of mental retardation was mentioned for the first time in 1614. The cause was cited as "complete devotion to sexual pleasure". Such an attitude, along with total neglect of sexual rights of the mentally retarded, has been maintained until the 40-ies of the 20<sup>th</sup> century.

One of the legal types of discrimination was compulsory sterilization of persons characterized as "sexual pervers" or "habitual criminals". It was considered that they are inclined to criminal behavior and sexual promiscuity. The execution of sterilization, i.e. the eugenics movement, stems from the belief that mentally retarded persons are not able to give informed consent, and had the aim of preventing genetic transfer of retardation. From 1907 till 1957 about 60,000 people in the USA were sterilized without consent. Furthermore, disabled persons were usually confined to institutions characterized by the lack of any privacy.

# Rights Of Mentally Retarded Persons

**UN. General Assembly (26th sess. :  
1971)**



## **Rights Of Mentally Retarded Persons:**

*Rights of the Mentally Disabled* American Psychiatric Association, American Psychiatric Association Staff, Kernberg, 1984-03-01 The rights of the mental disabled are highlighted in the book The Rights of Mentally Retarded Persons Paul R. Friedman, 1976 The Human Rights of Persons with Intellectual Disabilities Stanley S. Herr, Lawrence Ogalthorpe Gostin, Harold Hongju Koh, 2003 Inequality Marcia H Rioux **Key Resolutions of the United Nations General Assembly 1946-1996** Dietrich Rauschnig, Katja Wiesbrock, Martin Lailach, 1997-08-28 Key resolutions from the first fifty years of the United Nations General Assembly **United Nations and the Rights of Disabled Persons** G. N. Karna, 1999 *Rights of Mentally Retarded Persons* Maine. Department of Mental Health and Mental Retardation, 1986

**Civil Rights of the Institutionalized** United States. Congress. Senate. Committee on the Judiciary. Subcommittee on the Constitution, 1979 **Civil Rights of Institutionalized Persons** United States. Congress. Senate. Committee on the Judiciary. Subcommittee on the Constitution, 1977 **Encyclopedia of Human Rights** Edward H. Lawson, 1996 Preface to the first edition *The Withdrawal of Rights* O. Ezra, 2013-06-29 Like most discussions within the tradition of rights talk this study is motivated by the desire to promote the idea that rights are moral assets that people should acquire in the course of their membership within social and political frameworks However while most participants in rights talk concentrate on the safety and protection constraints required for a successful exercising of rights the present study inquires into the circumstances under which people s rights lose their validity The author believes that if we want to prevent the erosion of the role of rights within society and to encourage their obligatory status we should prevent their misuse or their unjustified or excessive use Those who have interests in rights and are concerned about their withdrawal or denial will find a unique and inventive way of dealing both with the use as well as the abuse of rights *Declaration on the Rights of Mentally Retarded Persons* UN. General Assembly (26th sess. : 1971), 2002 **The Legal Rights of Citizens with Mental Retardation** Lawrence A. Kane, Phyllis Brown, Julius S. Cohen, 1988-10-20 This book is the formal presentation of the issues discussed at the Second National Conference on the Legal Rights of Citizens with Mental Retardation A relationship between the community and its citizens with mental retardation is discussed extensively in the first section of the book Other sections of the book are devoted to key litigation and legislation for the rights of citizens with mental retardation law as it pertains to newborns with severe handicaps advances in education and rehabilitation and future strategies for advocacy A few of the noted contributors include Carl R Halpern Dean of the CUNY Law School Professor Robert A Burt of Yale University and Professor Robert H Mnookin of Stanford University This book is designed as a basic reference for advocates and others concerned with the mentally retarded **Rights of Mentally Retarded Persons** American Association on Mental Deficiency, 1973 Moral Issues in Mental Retardation Ronald S. Laura, Adrian F. Ashman, 2018-09-03 First published in 1985 Despite the vast number of books available on mental handicap there had been little published about moral

philosophical or ethical issues Yet such issues must be faced and indeed answered either explicitly or implicitly before any system of education or care for mentally handicapped people can be put into practice This book reviews a number of issues in this field Key topics addressed include respect for retarded people the notion of equal rights terminating the lives of severely handicapped infants and genetic engineering With the current emphasis on recognising the rights and needs of the handicapped as individuals this book should represent an important review and be of interest to all concerned with mentally handicapped people

**The United Nations Convention on the Rights of Persons with Disabilities** Valentina Della Fina, Rachele Cera, Giuseppe Palmisano, 2017-01-20 This Commentary provides the first comprehensive legal article by article analysis of the provisions of the Convention on the Rights of Persons with Disabilities CRPD The Convention is the key international human rights instrument exclusively devoted to persons with disabilities and the centerpiece of international efforts to address inequalities and barriers they encounter to the full enjoyment of human rights The book discusses the Convention's position within existing international human rights law and within the framework of the United Nations measures to protect the rights of people with disabilities Starting with the background of all the Convention's articles including the travaux préparatoires this Commentary examines each provision's substance and interpretation and explores the significance of each right its legal scope and relationship with other international legal norms and principles A unique contribution also analyzes the Optional Protocol to the Convention In addition to enriching academic studies of international human rights law the book provides insights into the practical operation of the Convention's provisions by assessing the practice of the CRPD Committee the activities of relevant international and regional human rights bodies in enforcing the rights of persons with disabilities and the contracting parties' implementation practices Relevant European Court of Human Rights the Court of Justice of the European Union and if appropriate other regional jurisdictions case law as well as the jurisprudence of domestic courts are taken into consideration Contributions from leading scholars and international experts make this book an indispensable resource for lawyers academics students journalists international organizations NGOs and other stakeholders wanting to better understand the rights of people with disabilities Furthermore it makes a valuable contribution to appraising the impact of the Convention in the legal orders of contracting parties and to charting the way forward in the protection of the rights of persons with disabilities

**Encyclopedia of Human Rights Issues Since 1945** Winston Langley, 2013-04-03 This comprehensive and up to date encyclopedia on human rights issues from 1945 to the present includes more than 400 entries on incidents and violations instruments and initiatives countries and human rights activities Its scope is global and its purpose is both to sum up the accomplishments in human rights in our time and also to point out and describe the violations that continue to be perpetrated around the world Entries cover major issues incidents and violations concepts and terms activists organizations and human rights instruments Entries cover more than 50 countries from Afghanistan to Yugoslavia Entries conclude with suggestions for further readings and a timeline of significant dates

since 1945 and the text of the Universal Declaration of Human Rights are also included *Developmental Neuropsychiatry* James C. Harris, 1998 James Harris's two volume work on developmental neuropsychiatry sets the agenda for this emerging clinical specialty Written by an individual with the developmental expertise of a pediatrician the behavioral sophistication of an adult and child psychiatrist and a deep appreciation of neuroscience these two books offer an integrated yet comprehensive approach to developmental neuropsychiatry Grounded in neuroscience but enriched by clinical realities Volume II provides a comprehensive review of the developmental neuropsychiatric disorders Throughout the text current DSM IV diagnostic criteria are provided Part I outlines the diagnostic process and the genetic history provides details on the conduct of neuropsychological testing and offers a detailed review of brain imaging techniques moving from CT and MRI scanning to the most recent developments in functional MRI and PET scanning Part II discusses mental retardation cerebral palsy the learning disorders the pervasive developmental disorders and traumatic brain injury Part III describes behavioral phenotypes in cytogenetic and other genetic disorders genetic metabolic disorders and disorders that result from gestational substance abuse Part IV is devoted to developmental psychopathology and includes Attention Deficit Hyperactivity disorder schizophrenia Tourette's disorder sleep disorders and the syndromes of aggression and self injury primarily occurring in mentally retarded persons Part V covers treatment and includes detailed descriptions of psychotherapy behavior therapy pharmacological interventions genetic counseling and gene therapy Finally Part VI deals with legal and ethical issues as they pertain to developmentally disabled persons MR United States. President's Committee on Mental Retardation, 1967

*National Human Rights Institutions in the Asia Pacific Region* Brian Burdekin, 2007 The purpose of this book is to provide a consolidated collection of materials to facilitate comparison of the various national human rights institutions NHRIs already established in the Asia Pacific region against a background of selected international materials and with the assistance of several comparative tables The latter are not intended to be exhaustive but are designed to assist in identifying and considering the strengths and weaknesses inherent in the legislative mandates of each national institution While the collection is primarily intended for teaching purposes it should also be useful to countries considering establishing a national human rights commission or for those which have already done so strengthening its mandate For this reason several sections have been included outlining the relationship which should exist between NHRIs the Executive the Legislature the Judiciary and other related institutions and a short section on the importance of the process which should precede their establishment

*Health Services and Health Revenue Sharing, Hearings Before the Subcommittee on Public Health and Environment of ...*, 93-2 ... United States. Congress. House. Interstate and Foreign Commerce Committee, 1974

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