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A Feminist Analysis of Mental Health Law: Reconceptualising Rights

Claire Murray

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Most common law jurisdictions have a rights-based model of mental health law – whether procedural or substantive – and individual human rights have become the main normative element in mental health law. There is, however, a growing critical discourse on the nature of the current rights-based model of mental health law – asking not merely what rights should be protected, but whether the protection of rights enough. This book offers a fresh approach to this question as it brings feminist critiques of rights discourse to bear on discussion about re-conceptualising rights in mental health law. Modern feminist work has not engaged to any significant extent with the system or the rights-based model of mental health law. There is, however, a strong discourse within modern feminisms on the nature and role of rights. Succinctly, modern feminist theories of rights recognise the limitations of rights discourse, but also acknowledge the continuing importance of rights as a means to protect vulnerable groups in society. Against a background of the complicated history between traditional feminist theory and the operation of the mental health system, this book draws on these insights and illustrates how they can be usefully applied in the context of contemporary mental health law.

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