

EDITORIAL

This issue of the International Journal of Mental Health and Capacity Law may be relatively slim, but it contains multitudes. First, there is a concise overview by Giles Newton-Howes, Leah Kininmouth and Sarah Gordon of the debates about coercive practices in psychiatry prompted by the UN Convention on the Rights of Persons with Disabilities ('UNCRPD'). The authors are all based at the University of Otago, New Zealand, and two are part of the World of Difference service user research group at Otago's Department of Psychological Medicine. The overview provides a sure-footed guide to those new to the area.

Building on these foundations, the next two contributions reflect – we can say without disrespect – the cumulative wisdom of well over a century of hard thinking about how to reform the law relating to those with cognitive impairments.

The first of these contributions is a lecture delivered by Adrian D Ward MBE, a retired Scottish solicitor, at an event entitled "Adrian Ward at 75" at the Centre for Mental Health and Capacity Law, Edinburgh Napier University, on 13th November 2019. In it, he reflects upon nearly half a century of working to reform the law in Scotland – and further afield – in the context of those with cognitive impairments. The lecture serves as a history lesson on the course of reform in Scotland, reform in which he has been instrumental, and an agenda for further action. It also sets out a sustained critical engagement with the UNCRPD, an engagement all the more valuable for the fact that, in many cases, the work that Ward was doing can be seen as implementation of the UNCRPD *avant la lettre*.

George Szmukler, Emeritus Professor of Psychiatry and Society, Institute of Psychiatry, Psychology and Neuroscience, King's College London, United Kingdom, has been at the forefront of proposals to develop a fusion law to replace standalone mental health legislation. In this paper, he tackles an aspect of fusion law that has long posed apparent conceptual and practical problems – i.e. how to address the position of offenders with a mental impairment. The difficulties of addressing their position is tellingly illustrated by the extremely complex way in which the Mental Capacity Act (Northern Ireland) 2016 seeks to deal with the position of such offenders within what is otherwise intended to be a fully-fused system. In his paper, Szmukler argues that within the parameters of a fusion law, unfair discrimination towards those with a mental impairment placed on treatment orders by a court - as exists presently in nearly all jurisdictions - can be avoided while at the same time providing satisfactory public protection. Szmukler's proposals pose their own challenges, which he frankly accepts, but, as with his previous work, they represent a sustained and rigorous attempt to produce a legal system which does not discriminate against those with a mental impairment.

Read together, the papers by Ward and Szmukler stand as an important corrective to the impression that is sometimes given that serious thinking about

reform in relation to those with mental impairments was non-existent prior to the conclusion of the UNCRPD. They also provide detailed and 'operational' attempts to answer some of the difficult questions that that the Convention poses, answers of relevance far beyond the two jurisdictions (Scotland and England) within which the two authors work. In the specific context of psychiatric practice, this then brings us helpfully full circle to the overview in Newton-Howes et al of some of the approaches that may start to help us to unlock the dilemmas.

As usual, we wish to thank our peer reviewers, whose input assured better quality outputs, and the authors for using the Journal as a way to contribute to the debate on these important topics.

Alex Ruck Keene

(for the editorial team for this issue, Carole Burrell, Kris Gledhill, Catherine Penny and Alex Ruck Keene)