



Healthcare Decision-Making and the Law: Autonomy, Capacity and the Limits of Liberalism (Cambridge Law, Medicine and Ethics)

Mary Donnelly

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This analysis of the law's approach to healthcare decision-making critiques its liberal foundations in respect of three categories of people: adults with capacity, adults without capacity and adults who are subject to mental health legislation. Focussing primarily on the law in England and Wales, the analysis also draws on the law in the United States, legal positions in Australia, Canada, Ireland, New Zealand and Scotland and on the human rights protections provided by the ECHR and the Convention on the Rights of Persons with Disabilities. Having identified the limitations of a legal view of autonomy as primarily a principle of non-interference, Mary Donnelly questions the effectiveness of capacity as a gatekeeper for the right of autonomy and advocates both an increased role for human rights in developing the conceptual basis for the law and the grounding of future legal developments in a close empirical interrogation of the law in practice.

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