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Lucy Series (2022)

Deprivation of Liberty in the Shadows of the Institution

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316 pp

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What do older adults (including those with degenerative neurological conditions), people with developmental disabilities, and people with acquired brain injury or neurological illness have in common? In Lucy Series's *Deprivation of Liberty in the Shadows of the Institution*, they are the main populations whose care is now regulated as 'social care detention' in the UK (p 17). Deprivation of liberty by community care arrangements is what Series called 'social care detention' (p 2). Series provides a thoughtful account of why certain living arrangements in the community are regulated as deprivation of liberty.

This book introduces readers to inhabitants of the 'post-carceral' landscape of care: people who might once have been confined (or 'incarcerated') in large institutions such as asylums and workhouses now live in a mythical space called 'the community' (p 1). After waves of de-institutionalization, a new question emerged: are some people deprived of their liberty by care arrangements in the community (p 2)? The legal cases discussed in the book describe

restrictions that older or disabled people in the community may experience, for example being subject to physical restraint and constant monitoring. An important moment in legal development is *Cheshire West*, which is a 2014 UK Supreme Court decision on the meaning of ‘deprivation of liberty’ that resulted in large numbers of older and disabled people in care homes, supported living and family homes being categorized as ‘detained’ (pp 173-178).

This book’s main argument is that contemporary structures of regulating social care detention are deeply rooted in carceral-era legal framework (‘law of institutions’); however, these became increasingly removed from its symbolic and conceptual foundations, creating paradoxical outcomes and practical difficulties (p 8). To put it differently, the law of institutions is repurposed to address certain forms of domination in contemporary social care arrangements (p 228). Series frames her discussion by highlighting the key differences between social care detention and mental health detention (chapter 2). Then the book presents the legal framework developed to regulate institutional confinement: licensing and regulatory monitoring of ‘institutions’, and ‘safeguards’ for the liberty of the individual (chapter 3). Chapters 4 and 5 then explain how ‘institutional’ and carceral practices still exist within the most progressive models of care and how human rights law recognizes social care detention. Indeed, social care detention is ‘anchored in the right to liberty’ (p 84).

The main part of the book is devoted to exploring limits and dilemmas of regulatory supervision of community care arrangements (chapters 7 to 11). A significant portion of the analysis unpacks the positions and rhetorical strategies of the parties involved in various litigations about deprivation of liberty (such as the councils involved) (for example see Chapter 8). Series argues that ‘safeguards can authorize and legitimate restrictive and coercive practices yet offer limited independent scrutiny and weak rights of challenge’ (p 205). The most original

parts of the book concern one of the most controversial outcomes of *Cheshire West*: extension of the machinery of deprivation of liberty safeguards into ‘private’ spheres of care – even potentially into family life itself (p 177). For example, there are domestic care arrangements that involve certain degree of ‘supervision and control’ but where the person concerned is positively happy with their living arrangements. These people can be categorized as deprived of their liberty (p 232). Series asks us to carefully consider the possibility that in situations where there are already tensions between local authority social services and a family, labelling – and regulating – care as a deprivation of liberty could make relations worse (p 199).

Finally, this is an accessible reference book for non-legal scholars and practitioners who are interested in the regulatory aspects of social care. The historical and legal context (chapters 3 and 4) is helpful to those who are not familiar with the various scandals and reforms, for example non-Britons such as myself. The discussion on international legal instruments such as the *Convention on the Rights of People with Disabilities* is useful for readers who want to explore social care from a disability rights perspective. The book includes background on frequently cited court decisions about social care, such as *Bournewood* (pp 151-152).

Deprivation of Liberty in the Shadows of the Institution made an important contribution to the study of social care by drawing attention to protective measures imposed on older or disabled people outside of large ‘institutions’. Not all countries regulate ‘social care detention’ like the UK but there are similar concerns in other parts of the world (pp 3-4). Although this book is in the socio-legal field, it will be of interest to care researchers and policymakers who seek a more nuanced understanding of ‘social care’, including the contradictions inherent in concepts such as ‘safeguard’ and ‘liberty’.