



## Mental Retardation: Law, Policy and Administration

by S.C. Hayes and R. Hayes.

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Can any group of Australians be denied their right to live? Can any be denied the right to procreate? Can it be assumed that some Australians are less deserving of freedom than others? To what extent am I a *real* citizen and you or your child not, solely because someone has pinned the label "mentally retarded" on you? These are some of the questions addressed in this well-researched, well-written, eminently useful publication. Complementing these issues are some of the critical areas of concern currently facing our various governments, administrators and policy-makers.

The late Marc Gold said that mental retardation refers to "a level of functioning which requires from *society*, significantly above-average training procedures and superior assets in adaptive behaviour on the part of *society*, manifested throughout the life of both society and the individual". Our legal system, is of course a reflection of societal adaptive behaviour since it is in many ways a complex articulation of the ways in which we Australians live together. It represents at best, a consensus of agreed-upon values distilled over the years. "But the law as one of society's institutions" (as Mr. Justice Kirby remarked in the Foreword to the book) "tends to speak to each generation in the language and of the values of previous generations". A reasonably clear picture emerges from this text, that the law as it relates to retarded people both in Australia and Great Britain appears to have remained largely hidebound since the Victorian era. The public can have an incredible patience with the abuse and neglect of those who have been made dependent on public help as a result of public policy. It is often believed that justice will

happen of its own accord, or that the specially selected people placed in charge of programmes "do the best they can". In North America, however, the public became angry and vocal over twenty years ago. At that time shame and the public outcry which resulted from exposures of the shocking state of human services was so strong that it gradually led to a wide-spread enlightened societal reorientation in perspectives on the treatment of handicapped people. The author throughout the text constantly compare the state of human service legislation in Australia with that in North America and there seems to be a world of difference between the two continents.

Many professionals and parents of people with special developmental needs in our country have long felt that they and/or their children have been and are being excluded from the benefits society provides most people. Benefits that they are helping to pay for. They usually find barriers instead of bridges when trying to obtain basic services.

The authors of this publication hold values which strongly permeate its 13 chapters. They believe that normalization (only this year redesignated the "Principle of Social Role Valorization" by Dr. Wolfensberger) and social integration are desirable principles. They believe that handicapped persons are *people* first and should be seen and treated as handicapped second. They believe and declare that the position of retarded people in Australian society needs to be vastly improved if our society is to act consistently with the values it proclaims. And as important, they provide solid recommendations on how these improvements can be brought about.

The book is packed from cover to cover with highly stimulating and useful information on the current state of the law and its practice on such issues as the right to life, consent to treatment, eugenics, sterilization, educational practice, guardianship, compensation for injury, access to justice and criminal law as it affects retarded people. It is in my opinion a veritable treasure trove of useful information and breaks a great deal of new ground by elucidating (in easily understood terms) our time-hallowed system of complex precedent that holds for many little more than mystery and frustration.

In my opinion a copy of this parti-

cular book should be in the personal or professional library of *every* Australian, who is concerned with the legal status and rights of mentally retarded people, whether he or she is a medical practitioner, public servant, educator, psychologist, social worker, administrator, nurse, parent, friend or citizen advocate. I would hope to see the book adopted as a text in those University, College and Public Service courses which prepare people to work in the human services. It would also make a useful addition to the Reference section of any public library. This is not a typical book about mental retardation. As the first endeavour of its kind in Australia, it presents a clear statement that provides a starting point for work towards national and state human services reform. Part of its appeal lies in the authors' willingness to call "a spade a spade" and to address hard-to-resolve issues. In light of its broad socio-political perspective, the text might even perhaps be characterized as an "alternative" book on change-agency. The Hayes have succeeded in producing an eminently readable publication that informs as well as raises a broad range of critically important questions. They suggest a diverse field of potentially viable possibilities that can lead to positive changes for retarded persons and their families in Australia. I would strongly urge all readers to add this book to their libraries.

If critical comment is warranted (and I believe that the worth of this book far outweighs such comment) it is perhaps that one or two diagrams and charts might have helped clarify the complex, convoluted relationships between, for example, categories of law, differences in law among the several states and the Commonwealth and so forth. Perhaps a more important (and heartening) point is that events in Australia are currently changing so rapidly that there have recently been several highly significant advances in the broad field of mental retardation services, for example the advent of Victoria's Mental Retardation Division and in New South Wales, the Richmond Report. These developments, far from dating the book, merely highlight the fact that better times for retarded people, their families and for their communities, are on the way.