

**Autonomy, Informed Consent and Medical Law: A Relational
Challenge; Alasdair Maclean; Cambridge; Cambridge University Press;
2013; xvii + 296 pp; Hardback; £25.99**

Book Review

Ellen Ball

Consent is an area of both law and politics which is a topic of ongoing ethical debate as well as of weighty academic study. It is a difficult and contentious issue, one which Maclean attempts to tackle within this book. The issue of consent will always be a cause for concern, but especially within medical litigation. Maclean analyses the ethical basis for consent to medical treatment, providing an extensive consideration of the ethical issues as well as a detailed examination of current English law and how today's position was arrived at.

Analysis is focused around the healthcare professional-patient relationship and the development of Maclean's relational model balancing these two parties and their obligations. Further, this model is used to critique the current legal regulation of consent and to consider the future development of law; more specifically contrasting with Mason and O'Neill's recent proposal for a model of genuine consent. Maclean takes the position that there are serious flaws with the current law and position taken on consent; flaws that may not be rectified by a change in law alone but a change in position. He argues for his relational model over such a genuine consent model as the one from Mason and O'Neill.

The Introduction sets out the idea of healthcare practice needing to have patients at the centre of the service, with partnership required between professionals and patients. Maclean's aim is to construct a model of consent that reflects the value of autonomy, with the model able to expose the deficiencies in the legal regulation of consent and provide some suggestions as to how to remedy these. The Introduction also considers the Bristol Royal Infirmary's Inquiry and current Government proposals into consent under medical law and recommendations in care. There is a consistent balance of critique, descriptions and definitions so as to fulfil Maclean's aim of "exposing the flaws of the current legal regulation of consent and to suggest how the deficiencies might be addressed" (p260).

The first part of the book entitled 'An Ethical Model' examines the moral basis of consent and includes chapters 1 to 4.

Chapter 1, 'Autonomy' starts the discussion off by exploring the meaning and importance of autonomy through its nature, value and limits. This is then followed with an examination of the nature of the connection between consent and autonomy.

Chapter 2 examines other moral principles and approaches to consent, focussing on beneficence, justice and virtue, which may be relevant to how the law should regulate consent within medical treatment. Maclean also considers the relevance of these principles in their ability to help shape the extent of the duty of the healthcare professional to respect the patient's autonomy.

The healthcare professional-patient relationship is discussed in Chapter 3, setting the context for consent. Through examining the relationship itself, the rights and the obligations of the two parties can be seen. This chapter then discusses the obligations of both professional and patient.

Chapter 4 considers the concept of consent "what it is and what it isn't" (title) determining the underlying theory and important attributes, as well as limits of the concept of consent. Maclean

deconstructs consent to find the relevant attributes that reflect the different aspects of consent to healthcare interventions allowing him to develop his model of consent. There is a spectrum of approaches noted and various elements of consent considered.

The Conclusion and addendum at the end of Part I is a very useful and helpful, acting as clarification of what has been covered to this point.

Part II: Consent and the Law examines the laws approach to consent, analysing the law chronologically to highlight the problems faced in trying to develop an ethically appropriate standard through the courts

Chapter 5 examines the legal regulation of consent, specifically under battery law and the law of negligence. The chapter looks at the rules that the courts have developed, with formal and detailed examination of the leading cases.

Following on from this Chapter 6 rationalises the law and ethics of consent by comparing the legal model of consent with the relational model developed in Part I of the book. There is also a brief consideration of whether weaknesses and flaws found with the current law could be corrected through professional regulation or legislation and likelihood of this.

Finally, Chapter 7 considers where the law could go in the future with a closing comparison of consent models.

In his conclusion, Maclean offers a summary of the book and what he has covered in each chapter.

The book overall is detailed and coherent. Each chapter is well structured with individual introductions and conclusions summarising clearly and in a consolidating manner the matters being discussed. This is a substantial book owing to the complexity of the topic, but through its structure,

and starting from the basics, Maclean is able to break down each important topic enabling the reader to build up knowledge as they progress. There is a lot of case law used throughout the book, but only where appropriate and useful. This is all listed, along with figures, at the beginning of the book for ease. The cases are of course effective in highlighting the material within the book and the same goes for Maclean's own illustrative examples. For these reasons, the book is a great tool for undergraduate students in helping to solidify their basic knowledge of consent, and allowing them to leave with an extensive and comprehensive knowledge of this area of law and the issues involved. Although taking a focus around Maclean's own relational model, there are many references and consideration of other academic opinions. This partnered with just how much Maclean covers also makes this book appealing to academics.

**Aberystwyth University Law and Criminology Student Journal (AULCSJ), 1st Edition
published online by the Department of Law and Criminology, Aberystwyth University on
behalf of the AULCSJ. August 2014. Article downloaded from
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criminology/informationforcurrentstudents/studentactivities/auslcj/](http://www.aber.ac.uk/en/law-criminology/informationforcurrentstudents/studentactivities/auslcj/)**