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Title

Coercion in freedom. Genesis, implementation, and legal rights in compulsory community care.

Abstract

This thesis aims to analyze compulsory community care (CCC) as a social and normative practice in different contexts in the Swedish welfare system. The research questions are: How can the motives to introduce CCC in Sweden and other Western countries be understood? What happens in and between psychiatric and social service organizations when CCC is implemented? How are the legal rights of patients protected and what forms of social control of patients is discernible in written court decisions regarding CCC? What normative positions regarding autonomy is the CCC legislation based on? How can CCC be understood from steering, historic and power perspectives?

The first four research questions corresponds to the four different research studies included in the thesis, while the fifth question relates to the material as a whole. The empirical material consists of documents from the parliamentary process, 15 interviews with employees in psychiatric and social services, all written court decisions over a 6 month period (N=541) and the current legislation.

CCC was adopted despite the lack of evidence supporting its effectiveness. The government bill focused on integration and rehabilitation with the stated intention to reduce coercive powers even though CCC entails an actual expansion of coercive powers. The introduction of CCC meant that politicians adapted the legislation to excessive clinical use of use of temporary leave that had previously been seen as a problem. When implemented in psychiatric and social services, CCC was materialized as a physical object in the coordinated care plan. This helped clarify responsibilities and facilitated coordination between the organizations. The requirement of a coordinated care plan thus served as a political steering strategy for enhancing collaboration. In the written court decisions about CCC deficiencies in procedural fairness were identified with respect to all four requirements for a fair trial that were investigated: transparency, clarity, consistency and impartiality. The special provisions often involved surveillance controlling techniques. The control is mostly physical, because of the unique role of medication, but also spatial and temporal. CCC may be understood as disciplinary power. A legal requisite for coercive care is that the patient opposes care but in practice it is assumed that the patient will agree to the coercive elements. Legal requisites for allowing and discharging from CCC are thus met at the same time. Restrictions of patient autonomy in the legislation is often motivated in terms of avoiding relapse or to safeguard the health and quality of life of patients. There is no research evidence that compulsory community works. Accordingly, it remains unclear what benefits CCC provide that can trump the autonomy of the patient.

Keywords

compulsory community care, community treatment orders, mental health policy, policy implementation, patient rights, social control, court rulings, autonomy

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