
Unequal Rights is one of two volumes written by Susan Stefan, a lawyer who specializes in mental health discrimination law. The companion volume is Hollow Promises. Upon receiving these two books and examining their tables of contents, my initial reaction was that they were very similar in both theme and content. I was wrong. Two key dimensions provide a significant difference between them.

The first difference is the intended readership. Unequal Rights offers a greater degree of detail regarding legal theory by explaining the logic behind judges' decisions. Correspondingly, it offers more details regarding the strategies of the defense. In addition, Stefan presents details of Congress's intent. Most importantly, not only is she able to offer an analysis of the thoughts of our representatives, she also provides quite elucidating quotations. Thus, unlike Hollow Promises, Unequal Rights offers background information to enable a plaintiff's lawyer to construct a legal theory and a strategy with a greater potential of leading to a successful final disposition for the plaintiff suffering from a mental illness.

Second, and more difficult to explain, the general tones of the two volumes are quite different. A hint can be found in their titles. Unequal Rights has a very optimistic tone. Stefan's vision within this book is that dedicated lawyers can make significant changes in case law. These changes can have a profound effect on society's perception of mental illness. Fairness would emerge in the hearts and minds of employers who hire persons with mental illness. However, Stefan makes it clear the litigation alone cannot facilitate the type of
change required to create an environment free from
discrimination. Case law is the catalyst for social change.
Conversely, Hollow Promises (published after Unequal
Rights) gives the impression that Stefan is frustrated because
she sees little improvement in the plight of persons with
mental illnesses. Perhaps the theme in Unequal Rights
emerged from Stefan's youthful idealism whereas Hollow
Promises emerged from the harsh realities of the stereotyping
and suspiciousness inherent within our social structure. Thus,
if one desires a clear picture of discrimination toward persons
with mental illnesses and the social change necessary to
elevate fairness, one needs to read both books.

The noticeable difference between the two volumes leads one
to address Stefan's motivation for writing them. The answer
to this question is found in Unequal Rights (page xi). While a
student intern, Stefan observed a woman of her own age who
was being forced to stay in a psychiatric institution longer
than her psychiatrist's original projection. As a result, the
patient was going to lose her job and apartment and become
homeless upon discharge. To make matters worse, the
psychiatric aides who were restraining her would not permit
her to speak to her psychiatrist. Thus, each time the aides
refused her request, the interaction between the aides and
the patient became more volatile. Stefan saw an inherent
unfairness and experienced an emotional reaction—and at
that point committed herself to becoming a legal advocate for
persons with mental illnesses. For the last 15 years, I have
been reading a large number of books written by lawyers who
address the legal aspects of psychosocial problems. The
impetus for all these books seems to be based on a personal
experience that induced the lawyer to become a social justice
advocate. Stefan's interest in mental health discrimination
follows the path of many young lawyers.

After readers have finished both volumes, Stefan forces them
to ask an important question: Why does advocacy for persons
with mental disability seem so hopeless? The answer can be
found in the conflict between individual needs and the need to protect society. The best example can be found in the Williamson case. Williamson made national news in 1995 when he went on a shooting spree, killing two college students and wounding another. Jurors in the murder trial found him not guilty by reason of insanity and committed him to Broughton State Hospital in Morganton, N.C. After this trial, Williamson successfully sued his psychiatrist for $500,000, claiming that he failed to take his medication (for paranoid schizophrenia) because his psychiatrist did not offer follow-up services. When the general public and our elected officials hear stories like this, they become unsympathetic to the plight of persons with mental illnesses. Where is the key problem? After reading both volumes, I do not believe the primary solution lies in case law, legislation, or legal strategies as Stefan suggests. I suspect the problem lies in the Diagnostic and Statistical Manual of Mental Disorders (DSM-IV-TR), which does not include an axis or codification for potential violence. Prior to making the kind of changes Stefan is seeking, the protocol for labeling must become more specific for violence. Otherwise all persons with mental illnesses will continue to be stereotyped as being unsafe by our legislators, our judges, and the general public.

Many positive points can be made regarding Unequal Rights. First, as a person who teaches courses in social policies, I can say that Stefan offers the best history of disability benefits I have ever read. In addition, she offers great hints for lawyers and disabled persons in dealing with disputes with governmental agencies (SSI, SSDI, Medicaid, etc.). Second, Stefan is able to clarify to lawyers (including the plaintiff's), judges, and legislators the etiology of learning disorders, mental retardation, and mental illness. In fact, Stefan induces the serious reader to ask the question “Has our society's understanding of mental illnesses significantly changed since the 1700's?” On a personal level, I have been asking myself this question since I completed Unequal Rights. Such questioning is a valuable outcome of Stefan's work.
The most intense reading is the chapter on higher education. To my personal embarrassment, she provides significant data to illustrate that the worst problems of mental illness discrimination are found in institutions of higher education. Although discrimination toward persons with mental illnesses is terrible in the business and governmental sectors, higher education's harsher actions go beyond the cruelty of other social institutions.

In summary, Unequal Rights can be read independently from Hollow Promises. Each offers different themes to our understanding of discrimination toward persons with mental limitations. Each is a valuable resource on its own merit. All law schools should adopt Unequal Rights. Lawyers who will be representing a plaintiff with a mental illness, learning disability or mental retardation should read this book before developing a legal theory or courtroom strategy. Staffs employed in a college's Office of Disability Support Services should have this book in their library and use it as a reference. In addition, all academic libraries that have a mission to serve human services degrees should adopt this book.

Note

At an outside, objective observer, Stefan found the woman's requests reasonable. She stresses that to this day she cannot understand why the aides were unwilling to respond to the patient's rational concerns.