

4 comunitania

REVISTA INTERNACIONAL DE TRABAJO SOCIAL Y CIENCIAS SOCIALES
INTERNATIONAL JOURNAL OF SOCIAL WORK AND SOCIAL SCIENCES

JULIO / 2012

ISSN: 2173-0512 / www.comunitania.com



RAFAEL ALIENA | MARÍA CRESPO | ELENA GARCÍA-CUEVAS | MARTA CEBALLOS
MIGUEL ÁNGEL MAÑAS | ESTEFANÍA MUÑOZ | VICENTE PECINO | CRUZ GARCÍA
MARÍA MONTERO Y LÓPEZ-LENA | JOSÉ MARCOS BUSTOS | JAVIER CARREÓN | JORGE HERNÁNDEZ

RESEÑA

Inmaculada Vivas Tesón, Más allá de la capacidad de entender y querer. Un análisis de la figura italiana de la administración de apoyo y una propuesta de reforma del sistema tuitivo español / Beyond the capacity to understand and wish. An analysis of the Italian institution of support administration and a proposal for reform of the Spanish protection system, Olivenza (Badajoz), FUTUEX (Fundación para la promoción y apoyo a las personas con discapacidad), 2012.

Reseña realizada por Ángeles Martín Rodríguez

DOI: <http://dx.doi.org/10.5944/comunitania.4.12>



Reseña:

The publication we have reviewed has been awarded First Prize by the State Observatory for Disability and published by the Foundation for the Promotion and Support of Persons with Disabilities (FUTUEX), on paper and digitally on the portal of the Observatory (<http://www.observatoriodeladiscapacidad.es/informacion/documentos/18181>).

This work is the result of research carried out at the “Ugo Natoli” Department of Private Law of the University of Pisa (Italy) by Inmaculada VIVASTESON, tenured lecturer in Civil Law at the University of Seville and it is about one particular Italian institution, the *amministrazione di sostegno*. The entire study is abundant in rich bibliographical information and first-hand interpretation of case law, which is undoubtedly conveyed throughout its pages.

Following transposition by the Spanish legal system of the United Nations Convention on the Rights of Persons with Disabilities, adopted in New York on the 13th

December 2006, the author's aim is to assess whether our domestic Law has adopted the principles and values of this International Treaty. She contemplates whether the protection mechanisms we have in place (particularly, legal incapacitation and the protection system) respond to the social model of disability found in Article 12 of the UN Convention and whether it can be moulded to all situations of debility in which dependent persons may find themselves.

In search of plausible alternatives put forward by other countries modernising their legislation seeking to respond to new social challenges and which could eventually be adopted by our legal system, Vivas Tesón focuses on the study of the Italian institution of protection, the "*amministrazione di sostegno*" (which could be translated as "*support administration*"). This institution is aimed at protecting the individual more than their property, which, in the opinion of the author, Spanish legislators must pay special attention to given that this institution is in perfect harmony with the UN Convention (despite outdated it), particularly with recognition in its Preamble (letter n) that "*the importance for persons with disabilities of their individual autonomy and independence, including the freedom to make their own choices*" and with its "*in dubio pro capacitas*" guiding principles and "*minimal intervention*".

In Chapter 1, Dra. Vivas Tesón deals with the study of the judicial history and the *ratio legis* of Italian Law 6/2004, from the 6th January, which introduced into articles 404 to 413 of the *Codice Civile*, together with total ("*interdizione*") or partial ("*inabilitazione*") legal incapacitation, the figure of *l'amministrazione di sostegno* or support administration. Having looked at other legal experiences in Europe, particularly the French, Austrian, German, English and lastly, Spanish ones, she discusses the content of the Italian law. Chapter II is devoted to the study of the support administration, analysing, *inter alia*, its terminology, distinctive characteristics and practical problems of delimitation between the support administration and judicial incapacitation.

In the third and final Chapter the author covers the legal system of the Italian protective institution.

Below, Vivas Tesón makes ten observations *de lege ferenda* regarding one, absolutely necessary legislative reform today in the Spanish system of protection for dependent persons or, as the author indicates, those who are not "disabled", but "differently abled".

Without a shadow of doubt, this monograph and its distinguished recognition by the State Observatory for Disability contributes to confirming the solid research career of Dr. Inmaculada Vivas Tesón.



ARTICULOS/ARTICLES

- Regímenes de bienestar y política social por otros medios: un marco analítico / Welfare regimes and social policy by other means: an analytical framework
Rafael Aliena Págs 9-42
- Economic development, family wealth and settlement of the personal life and work / Desarrollo económico, riqueza familiar y conciliación de la vida personal y laboral
María Crespo Garrido Págs 43-61
- Decentralisation and social welfare policy in Spain's autonomic state / El proceso de descentralización en el estado autonómico español y la política del bienestar social
Elena García-Cuevas Roque Págs 63-84
- Familias homoparentales y trabajo doméstico: Implicaciones para la disciplina del Trabajo Social / Homoparental families and domestic work: Implications for the field of Social Work
Marta Ceballos Fernández Págs 85-104
- Realidad organizacional y teletrabajo / Organizational reality and teleworking
Miguel Ángel Mañas Rodríguez, Estefanía Muñoz Alba y Vicente Pecino Medina Págs 105-122
- Sistemas de la democracia sustentable / Sustainable Democracy Systems
Cruz García Lirios, María Montero y López-Lena, José Marcos Bustos Aguayo,
Javier Carreón Guillén y Jorge Hernández Valdés Págs 123-156
- Estado del bienestar, salud y carrera profesional: la carrera profesional como herramienta para mejorar las prestaciones y servicios en entorno de crisis / Welfare state, health and development career: the development career as a performance and services improvement tool in a crisis environment
Raquel M. Pérez-García Págs 157-182

RESEÑAS/REVIEWS

- Josefa Fombuena Valero. EL TRABAJO SOCIAL Y SUS INSTRUMENTOS. Elementos para una interpretación a piacere / Instruments for Social Work. Elements for a piacere performance (por Lucas Puig Navarro) Págs 183-186
- Michel Wieviorka. Una sociología para el siglo XXI / Neufleçons de sociologie (por Antonio Álvarez Benavides) Págs 187-190
- Sonia Calaza López. "Garantías constitucionales del proceso judicial español" / "Constitutional rights of the judicial Spanish process" (por Antonio Fernández de Buján) Págs 191-193
- Julio Casal. La transición de los jóvenes a la vida adulta. Crisis económica y emancipación tardía / Young people and transition to adulthood: Economic crisis and late emancipation. Colección Estudios Sociales (por Almudena Moreno Mínguez, Antonio López Peláez y Sagrario Segado Sánchez-Cabezudo) Págs 195-197
- Inmaculada Vivas Tesón. Más allá de la capacidad de entender y querer. Un análisis de la figura italiana de la administración de apoyo y una propuesta de reforma del sistema tutivo español / Beyond the capacity to understand and wish. An analysis of the Italian institution of support administration and a proposal for reform of the Spanish protection system (por Ángeles Martín Rodríguez) Págs 199-200

