THE RIGHT TO REFUSE

Two recent federal court decisions have affirmed to a limited extent the human and Constitutional right of "mental patients" to refuse psychiatric "treatment." Although there are serious flaws in both of the decisions, they do represent a step in the right direction. Following is a brief analysis of Rennie vs. Klein (New Jersey) and Rogers vs. Okin (Massachusetts).

Rennie vs. Klein In this suit, filed by the New Jersey Public Advocates, the court gave people a very limited right to refuse psychiatric drugging. The ruling said people in NJ who wish to refuse psychiatric "medications" are entitled to a hearing before an "independent" psychiatrist--not a judge--at which the person is entitled to be assisted by an "advocate." However, said the court, this right can be abrogated in a "life-threatening emergency" or if the person is "incompetent."

Such restrictions on the applicability of the Rennie decision tend to make it toothless. For example, the word "incompetent" in forensic (legal) psychiatric terms is generally understood to mean that a court has determined that a person must have a "guardian" to handle his/her affairs and life decisions. But since the Rennie ruling, New Jersey psychiatrists have come up with the label "functional incompetency"--which has nothing to do with legal "incompetency"--as a means of getting around having to send a "patient" to a hearing before drugging him or her. In addition, a hearing before another psychiatrist, especially one hired by the Dept. of Mental Health, is certainly no guarantee of safety; the idea of a psychiatrist having the ultimate say over such matters is, in fact, absurd, no matter how "independent" or "objective" he may be. The goal of the psychiatric inmates' liberation movement is to abolish all forced drugging.

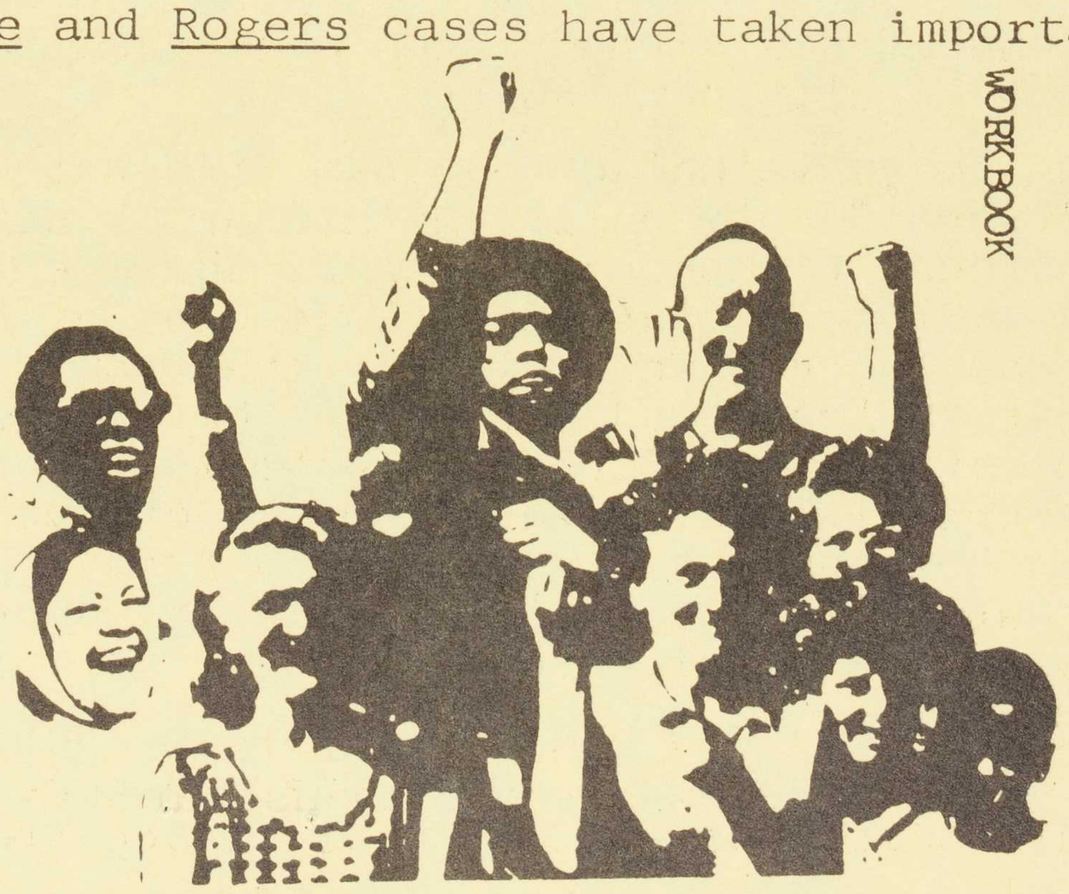
ALMP has recently joined an appeal of the Rennie decision by the New Jersey Dept. of the Public Advocate, along with several other organizations. The appeal will ask that certain modifications be made in the decision. It will challenge the idea of "functional incompetency" and ask that the term "incompetent" in relation to Rennie be interpreted to mean only legally determined "incompetency." It will ask that the "independent" psychiatrist not be hired by the state. And it will ask that the "advocates" who are to assist "patients" at their drugging hearings not be people who also work as employees of the psychiatric facility. (Recently there has been a liberal reformist movement developing in NJ and elsewhere which holds that there is no serious conflict of interests involved with "mental health" workers attempting to "advocate" for "patients" at the same time. "Patients" are being pressured to accept workers as their "advocates," rather than people who are not part of the MH system.) A date for the hearing has not yet been set.

Rogers vs. Okin In 1976, seven inmates at Boston State Hospital--some of them members of the Mental Patients Liberation Front--sued 14 professionals because of forced drugging and seclusion. Although the damages which were asked for were not awarded, U.S. District Court Judge Joseph Tauro ruled last fall that psychiatric inmates have a Constitutional right to refuse drugs and solitary confinement (seclusion).

As with Rennie, the decision leaves large loopholes. Forcible "treatment" can still occur if a person is labelled in "substantial likelihood" of violence. And a person who is labelled "incompetent" is still in danger of being forcibly subjected to drugs and seclusion, as this decision doesn't apply to her/him either; a court can quickly rule a person incompetent, appoint a complacent "guardian," and continue with forcible drugging. (This is done today in Boston to allow forcible electroshock.) Nevertheless, the case represents a clear victory for the "mental patients'" movement and we congratulate MPLF.

We hope that similar but farther-reaching "right to refuse 'treatment'" cases will be won in the near future--cases which clearly establish for once and for all that ALL HUMAN BEINGS EVERYWHERE HAVE THE RIGHT TO REFUSE PSYCHIATRIC DRUGS AND "TREATMENTS." Both the Rennie and Rogers cases have taken important steps towards achieving that goal.

Some material in this article was excerpted from Acting Out, the journal of the Mental Patients' Liberation Front (Boston).



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