Mental Health Tribunals – Essential Cases[1] *by Kris Gledhill*

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You might say that opinions on the subject of the Mental Health Review Tribunal are mixed: some people loathe it while others merely dislike it. The same was said of the rule of Marshall Stalin. And yet the Government wants to give the MHRT more power.

At one time, way back when we were looking forward to a bright, shiny new Mental Health Act, it seemed the tribunal was to be placed at the very heart of the new system: it was to be capable of imposing compulsion on patients, and not merely discharging them, and was to have control over their treatment and also, in some cases, their leave or transfer and the selection of their nominated person. That, you might recall, was back in the days when England was considered a good bet for the World Cup.

How times have changed. And yet, even now, now that the draft MHB has gone the way of all flesh (and Sven-Goran Eriksson), it seems the tribunal is to retain its starring role.

When it announced that it was going to amend rather than replace the existing Mental Health Act, the Government said, gnomically, that it would be "taking order-making powers with regard to the Mental Health Review Tribunal." What did it mean? A subsequent briefing sheet said that hearings would be arranged more quickly and referrals made more frequent, but there remain concerns that eventually, we are going to be landed with one-person tribunals after all. And there's certainly going to be community compulsion, so that the reach of the MHRT will extend even further. There are some that will not be pleased to hear this.

Often, it seems that the MHRT is under attack from all sides: from patients and hospitals, the media, and the High Court; from its *clients*, as the DCA insists on calling them. (In *Kind Hearts and Coronets*, the 1949 film that starred the not-yet *Sir* Alec Guinness, one of the characters complains, "A difficult client can make things so distressing." He is a hangman.) The tribunal is too slow, we hear, or too reckless; it doesn't explain itself properly; it doesn't think about the victims.

Within the loose-leaf pages of Kris Gledhill's excellent new book can be found many reasons for the flak the MHRT receives.[2]

They're all here: the tribunal that discharged a patient because no one had thought to plan for his discharge; the tribunal whose medical member was employed by the detaining authority; and countless tribunals positively burning with frustration because they can't get doctors to do their bidding.

But it isn't Gledhill's purpose simply to state the case for the prosecution; this is not that sort of book.

1 *ISBN 0-9552071-0-X*

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Invariably, tribunals have reasons for acting as they do, and they are often logical, thought-through reasons. One of the merits of this book is that it gives a glimpse of those reasons and helps the reader to get a feel for the judicial process that produced them (anguished, conflicted and even tortured though that process might be).

The book is divided into twenty neat, logical chapters, each of which looks at a single aspect of Mental Health Review Tribunal work and considers how it has been addressed in the courts. So, for example, there is material on 'Adjournment', on 'Capacity – Patients without', and – of course – on the 'Medical member'. There are also four appendices, containing relevant extracts from the Act and the Rules, and from the ECHR and the HRA.

Each chapter has a brief introduction, and many are divided into sub-chapters addressing specific themes. So, for example, the chapter on 'Detention and discharge' deals with nine specific issues, including 'Admission criteria' and 'Nature or degree', but also 'Displacement action – tribunal during' and 'Barring order – tribunal following'.

In these chapters, Gledhill presents well over 100 cases, some whose acronymic titles are familiar – *IH*, for example, and *PD* and *CS* – and some that are less so. In almost every case, there is an introductory paragraph on 'Facts and outcome' and then extended passages from the judgment itself. In many cases, Gledhill adds useful cross-referencing and a brief, pithy commentary of his own.

There are challenging times ahead. The work of the MHRT is about to get more extensive, more complex, and we should make sure we understand it properly. We need to come to terms with the tribunal, to understand what it can – and cannot – be expected to do, and to appreciate the very real burdens under which it labours. This book has a very useful part to play in that process.

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