

Right of appeal

C.H. Rolph

Cyril Greenland's research study of Mental Health Review Tribunals reveals very disturbing flaws in the present system which give rise to serious questions about civil liberties.

There is a widespread belief, says Professor Greenland (and there certainly is in the Commonwealth countries I've visited) that our system of Mental Health Review Tribunals works well and is worth following. So it has been followed in Northern Ireland, Saskatchewan, Alberta and the author's own territory of Hamilton, Ontario, where he is professor in the School of Social Work at McMaster University. This study, No. 38 in the invaluable series of *Occasional Papers on Social Administration* edited by Professor Richard Titmuss, was presented as a thesis to the University College of North Wales at Bangor and was financed by the Mental Health Research Fund. For all its objectivity, some academic pedantry, and much remarkably disciplined restraint, it's an indictment. Clearly visible through all the understatement, there are thousands of cases of desperate suffering and frustration; most of them clearly avoidable.

With telling effect Professor Greenland sets his findings against what is perhaps the best-known of all John Stuart Mill's statements of belief, and it's a little frightening to be reminded that Mill's principles, however stirringly expressed, are still no more than opinions which are daily flouted:

The sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number, is self-protection. The only purpose for which power can be rightfully exercised over any member of a civilised community, against his will, is to prevent harm to others. His own good, either physical or moral, is not sufficient warrant. He cannot rightfully be compelled to do or forbear because it will be better for him to do so, because it will make him happier, because in the opinion of others to do so would be wise or even right.

Mental health and civil liberty

by Cyril Greenland

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Of course, Professor Greenland met with all the predictable snags as he went round the hospital regions: the hurdles set up by individual prejudices, the predilections, the liver complaints. Some chairmen of Tribunals wouldn't even tell him the names of hospitals involved in the appeals, and this killed off any hope of studying the comparable frequency of appeals from different ones.

Seventeen per cent of the appeals were actually granted unheard. Why? Was there no answer to them anyway? Indeed 'some hospital authorities may be deliberately avoiding confrontation with Tribunals'; and on that his studiously moderate comment is that 'the consequences for civil liberty merit careful scrutiny'. (The scrutiny might even establish why it is that in some hospitals 50% and in others only 5% of the patients appeal. To say nothing of why so many appeals are withdrawn, and why in some hospitals so little effort is made to inform patients of their rights.) Professor Greenland found it 'difficult to avoid the impression that in some of these hospitals the ward staff were also inadequately informed and perhaps even hostile to the work of the Tribunals'.

The charge nurse in one hospital, who seemed particularly resentful, had the mistaken impression that the Tribunal was hearing complaints from patients about ill-treatment. She said it was most unfair that her side of the story would not be heard.

And it will come as no surprise to anyone who has tried to understand a hospital case-book that 'the barely legible entries in the three-inch-thick case-book' about a patient who had been in for 30 years (from the age of 16) 'read like a soiled laundry list of mishaps and misdemeanours . . . In no sense could it be identified as a psychiatric record', and yet 'extracts from it, all damaging to the patient's character, were used by the Responsible Medical Officer in his report to the Tribunal'.

Even more familiar, whether or not it's the fault of doctors, administrations, staff shortages, etc., is the finding that some patients don't see their doctors for months on end. (A man I've been visiting for some years sees his psychiatrist about every four months.) Here is an extract from notes made by Professor Greenland at 'formal hearings' conducted by different—and widely differing—Tribunals:

Case No. VIII. 403. Formal. No relatives present. 10.55 a.m. Patient invited to come in. Objects to the report, which she says is inaccurate. Says that the R.M.O. had not seen her for three months. R.M.O. admits this is true, but says she could have been discharged from hospital if only she would take the initiative in approaching welfare agencies. This is discussed by the patient, R.M.O., and medical member. Patient admits she could have done more to help herself. President says her chances of discharge would be much better if she had somewhere to live. R.M.O. agrees that he should have referred the patient to the social worker.

Even if anyone wants to forget that story, it should take a long time.

There is praise for the Tribunals where it is manifestly due. One or two outstanding lay members come in for special (but, of course, anonymous) mention—I think I can identify one of these, and I've long been glad, though mystified, that he finds the time for the job.

But the Mental Health Review Tribunals, on this record, stand condemned. They should be replaced, says the author, by an independent commission like the Mental Welfare Commission in Scotland or the Mental Health Information Service in New York State, protecting the rights of all patients compulsorily detained and treated. All appellants should be eligible for legal aid in presenting their cases—at present they are far more likely to be turned down if they have no lawyer which, of course, is a monumental scandal.

The government should finance the important scheme lately initiated by the National Council for Civil Liberties and the National Association for Mental Health for providing volunteer 'patients' representatives'. And perhaps above all—no, *indisputably* above all—the hospitals should develop a variety of half-way houses and hostels for patients who don't need to be detained but simply have nowhere to go. Let me conclude with the one passage in which Professor Greenland gets his closest to an outburst:

Confronted with the disclosure of appalling conditions in some mental hospitals, Mental Health Review Tribunals have virtually nothing to offer. They are powerless to deal with instances of improper commitment, inadequate treatment, or the actual neglect of patients who seek their help. And in respect of the patients who are incapable of exercising their rights of appeal, Tribunals are completely impotent.

As Tribunals, of course. As individuals, working backstage, their members can sometimes make things hum. But you will see why, in relation to the Tribunals, I called this powerful little book an indictment.

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