

BOOK REVIEW

THE MODERN JUDGE: Power, Responsibility and Society's Expectations

By Sir Mark Hedley

With a Foreword by Sir James Munby

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A JURISPRUDENTIAL GIFT FROM THE JUDICIARY

An appreciation by Phillip Taylor MBE and Elizabeth Taylor of Richmond Green Chambers

What a pleasure to read! It's great to be able to hear from members of the Judiciary what they think in 21st century, especially on matters such as family law. And *The Modern Judge* gives us a particularly powerful statement on what the public expect of their judges in 21st century.

In the Foreword, Sir James Munby writes that "some judges write memoirs, a rather dubious literary genre" but that is not the case here, thank goodness!

The author of this memoir is Sir Mark Hedley who informs us that "as society becomes more complex, so does the law". He continues saying that "law cannot provide for every circumstance and so its application often involves the exercise of discretion. Criminal sentencing, child welfare, the protection of those who lack mental capacity and disputes about medical treatment are obvious examples." These views succinctly set out his mission statement.

Also, it is for these reasons that we welcome this short memoir as both more interesting and more important than some of the books we have reviewed recently on what Munby calls "higher jurisprudence".

Indeed, we need more books such as *The Modern Judge* to gain a better understanding of how judges judge in an era where they have a higher profile with the public. Munby goes on to say that Hedley had a "remarkable ability to distil legal concepts and fundamentally important principles in spare, non-legal and seemingly simple language" which is the hallmark as the good (as well as the modern) judge because it is what we expect of them.

So, it's Hedley's personal review on how judges go about their tasks and how far they are influenced or affected by their backgrounds, beliefs and own life experiences which remain highly topical since the UK's decision to withdraw from the European Union as we enter a new legal and political era.

The book is very much a fascinating, humane and insightful account of how this judge has seen his role in recent years. It's a great read for those forced to read jurisprudence at university... which many of us rather enjoyed. A point which was made of senior judges many decades ago remains a truism with Hedley whom Munby describes by saying that "the reference to 'our fallible humanity' is both striking and so very characteristic of Sir Mark's view of the human condition".

Many see some partial answers to pressing questions like "if consistency is an aspect of public justice, can that be achieved", and what is "the conflict between public justice and personal privacy" all about?

So for a society where the judiciary have perhaps greater effective power than ever before, Hedley's aim "is to be frank rather than scholarly about judging" and he is exactly that throughout this most useful short and easy to read essay which is most insightful for those who follow the role of judging in 21st century.

Hedley declares that a “trial judge is in a very different position to the appellate judge”. A most important point in view of the continuing debate on the role of the cross-examiner today with the changing face of procedures as the online courts arrive in 2020.

His approach is that the trial is “where the facts are determined and it is essentially a trial judge who exercises the powers of discretion which modern society increasingly vests in its judiciary”. We fervently hope this position remains the case notwithstanding the massive upheavals now on the way with both access to and the procedures for delivering justice in the immediate future!

We leave the final words with Sir Mark with his “opportunity for reflection” here with pressures on both individuals and the system which have increased in the last few years. It’s the “product of lifelong conversations with colleagues” and the many diverse people he has met in his varied life. We are most grateful to have these views which opens up the judiciary in a moderate way to a new and different audience: something which we never have had some years ago. Thank you, Sir Mark.

The publication date is cited as at 2017.