

CONNEXITY

Connexity is not a form of thought which has commanded very much academic interest: I should acknowledge that at the outset. Nevertheless, I rather took to it for a while because it suggested, albeit by using a useless jargon term “connexity”, another approach to the anomie which late modernism engenders. The idea that post-Enlightenment society generates such anomie is there in Adorno and Horkheimer’s *The Age of Enlightenment* and so this much is nothing new. What is interesting is its reference to what is, in effect, a theory of attachments between individuals and social groups – the process by which connections are formed in society. Geoff Mulgan’s book *Connexity* is an attempt by a new Labour thinker to mould this idea into a political programme.

The material on this page is culled from AS Hudson, Towards a Just Society. The particular focus here – while considering connexity in the round as well – is on the way in which we might use connexity theory to think about the legal system.

Connexity and social justice in the legal system

While the legal system remains inaccessible for most people, society is changing profoundly. One impact on the legal system in the changed world is the growth of what Mulgan calls “connexity”.¹ In his terms, despite this growing interdependence, institutions like the legal system are failing to connect with individuals by failing to provide them with access to remedies. As the world changes in this way, individuals are less able to protect their rights, to impose obligations on others or to forge new identities and connections.

The growth of inter-connectedness and the increased concentration on human rights raise the following sorts of problems:-

“[T]he clearest sign of all of the heightening tension between freedom and interdependence is that in much of the world today the most pressing problems on the public agenda are not poverty or material shortage (although these remain acute for large minorities), but rather the disorders of freedom: the troubles that result directly from having too many freedoms that are abused rather than constructively used.”²

¹ “*Connexity: how to live in a connected world*”; Geoff Mulgan, Chatto & Windus (1997).

² Mulgan, *op cit.* p.5.

Having freedoms, but being unable to protect or advance them, is bound up with the growth of dispossession and disaffection in 1990's Britain. The modern legal system³ makes little allowance for inequalities of bargaining power and the impossibility for most people of accessing legal advice. This is at root a political question, calling for a need to examine the possibility of social justice and equality without the possibility of recourse to law.

Law is, in theory, the great leveller. Only in the context of law is an individual equal in power to any other individual.⁴ Where the legal system denies access, then that ability to be equal is lost. Therefore, access to justice is not simply about law or about legal procedural rules, it is about rectifying the denial of social justice. It is about the provision or denial of basic civil liberties. In Mulgan's terms, a "weakness infuses liberal politics which imagines the individual as a self-sufficient entity, not formed by society, and owing nothing to it, but rather heroic in his or her isolation, and defined by a series of claims that can be made on society".⁵ That is true of the legal system. Concentration is poured onto the creation of models for codes of rights and obligations with little attention being paid to the manner in which those rights can possibly be protected. The individual is not self-sufficient. Access to law or access to justice is necessary to achieve or create self-sufficiency.

The further problem for the legal system is the extent to which it is a closed system. As Foucault put it: in Western societies power is discussed in the language of law rather than magic or religion, the individual who cannot enter the closed system of the law is denied power. Where power is discussed in the language of law, not being able to enter that discussion is a denial of power. In Teubner's terms:

"'Legal reality' ... is a social, not a psychic construct ... it is the product of communications. And among social constructs, it is a highly selective one, since it has come into existence with an autonomous social system, the hypercyclically constituted legal system.'"⁶

The law seals itself from other discourses about politics and constitution. Yet, it is through law that constitutional reform must be put into action.

Speed, politics and connexity

³ The better appellation is probably a "postmodern legal system". As with Jameson's definition of the term "postmodern", our legal system is constantly self-referential, it pastiches old codes of dress and language constantly and draws for new ideas on old texts and habits of thought (see generally Frederic Jameson, *Postmodernism, or the Cultural Logic of Late Capitalism*; Verso, 1989).

⁴ See for example the recent Mc Libel litigation where two individuals were able to defend an action brought by the megalithic Mc Donalds corporation, converting it into the longest trial in English legal history.

⁵ Mulgan, *op cit.* p.9.

⁶ Teubner, *"Law as an Autopoietic System"*, (Oxford, Blackwell, 1993) at p.45.

It is a commonplace that there has been a growth in communication - what is less clear is whether more is being communicated or whether there is a useful quality of information being exchanged. Within this information society, law still operates as an important means of communication between citizens. The legitimacy lent by law to discussions of social rights plays a part in shaping the language of morality. Through cross-border means of communication, techniques of expanding law have become global. The proliferation of human right rhetoric in formerly non-democratic states is testament to this. Law is used more and more broadly by pressure groups as well as by individuals.

The collapse of the communist bloc in eastern Europe in the late 1980's and 1990's was fuelled by the increased speed of communication. The dissemination of samizdat newspapers in the former Soviet Union and Czechoslovakia (a network of photocopied and faxed newsheets) communicated advances and news of events instantaneously. This change in culture meant that news did not spread slowly by rumour or by letter post capable of being intercepted. Events could be reported from fax machine to fax machine and then spread quickly by photocopier. Technology has been able to change the world radically in this way. There is an immediacy of ideas which geographic space had previously slowed. Speed itself has become a part of the political structure by requiring action and reaction far more rapidly than before.

As Mulgan puts it, “freedom has expanded beyond any historical precedent at just the time that the world has become more interdependent and interconnected ...”⁷ and later, that

“As a phenomenon, and as a way of looking at the world, connexity is forcing itself on to public consciousness through everything from global warming and the Internet, to ever more intensive arguments about the virtues and vices of free trade.”⁸

Will speed and greater communication cause the state to end or simply challenge it, through law and other media? In Mulgan's opinion, for a government to succeed in cultivating responsibility it must understand the plurality of society. In his words, “A state which has too much power may infantilise its citizens.”⁹ The mantra is that it is better for a decision to be made locally to its effect - that it seems must depend upon the nature of the decision. Mulgan focuses on the root of the word “communicate” being the Latin *communicare*, to share. His politics would be forged by government which communicated with citizens, learned from them, and shaped policy accordingly. His ideal government would be:-

“sensitive to their own capacities and those of their citizens to strike the right balance between their overall responsibilities, and the freedom of citizens to exercise responsibilities for themselves ... reversing the tendency of politics to

⁷ Mulgan, *op cit.*, 1.

⁸ Mulgan, *op cit.*, 3.

⁹ Mulgan, *op cit.*, 226.

disempower people by drawing responsibility away from them, reducing their power to a post hoc acceptance or rejection.”¹⁰

Perhaps familiarity breeds contempt in an anti-political age, as Mulgan has pointed out elsewhere.¹¹ Perhaps it is an accessible system of justice which makes this possible. The reliance on “voluntarism” unfortunately seems set to disappoint in a politically apathetic age. Mulgan urges us towards less compulsion from government. Through law we allow others to shape their own truth, their own discourse and their own communications. In this analysis, the Third Way is about community, whereas traditional socialism is about central control. In liberal democracies, absolute values have become very unfashionable. The important point is that government is in fact about control and not about the slightly fey term “governance”. Communities will create their own hypercyclical rules - rules give rise to mechanisms of appeal whereas prejudice gives rise to violence, mistrust and antipathy.

¹⁰ Mulgan, *op cit.*, 229.

¹¹ Mulgan, *Politics in an Anti-political Age* (Cambridge, Polity Press,).