



Classical Sociological Theory and Foundations of American Sociology

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PART III
WEBER

I. The Rational State

“The state in the sense of the rational state has existed only in the western world.”

NOTE ON SOURCE: This passage is from *Wirtschaftsgeschichte*, a collection of Weber's lecture notes, first published after his death in 1923. The first English translation (*General Economic History*) was made in 1927, by Frank Knight, an American professor of political economy. It is known as the source of Weber's institutionalist theory of capitalism. The selection below is direct from the Knight translation.

Introduction – Why this is important and what to look for

This selection is from Part 4, “The Origin of Modern Capitalism” and follows closely the 29th chapter, entitled “the Rational State.” It is here that Weber articulates the political foundations of modern capitalism. Read this in conjunction with the following section, “Evolution of the Capitalist Spirit,” which focuses on the cultural foundations of modern capitalism. This section is also a useful introduction to Weber's theory of politics and the state.

The Rational State

A. *The State Itself; Law and Officialdom*

The state in the sense of the rational state has existed only in the western world. Under the old regime in China, a thin stratum of so-called officials, the mandarins, existed above the unbroken power of the clans and commercial and industrial guilds. The mandarin is primarily a humanistically educated scholar in the possession of an administrative position but not in the least trained for administration; he knows no jurisprudence but is a fine writer, can make verses, knows the age-old literature of the Chinese and can interpret it. In the way of political service, no importance is attached to him. Such an official performs no administrative work himself; administration lies rather in the hands of petty officials. A state with such officials is something different from the Western rational state.

In reality, everything is based on the magical theory that the virtue of the empress and the merits of the officials, meaning their perfection in literary culture, keeps things in order in normal times. In essence, things are left to take care of themselves. The officials do not rule but only interfere in the event of disturbances or untoward happenings.

Very different is the rational state in which alone modern capitalism can flourish. Its basis is an expert officialdom and rational law.

The rational law of the modern Western state, on the basis of which the trained official renders his decisions, arose on its formal side, though not as to its content, out of Roman law. The latter was to begin with a product of the Roman city-state, which never witnessed the dominion of democracy and its justice in the same form as the Greek city. Under Justinian, the Byzantine bureaucracy brought order and system into this rational law, in consequence of the natural interest of the official in a law which could be systematic and fixed and hence easier to learn.

With the fall of the Roman empire in the west, law came into the hands of the Italian notaries. These, and secondarily the universities, revived Roman law. The notaries adhered to the old contractual forms of the Roman empire and reinterpreted them according to the needs of the time. At the same time a systematic legal doctrine was developed in the universities. The essential feature in the development was the rationalization of procedure. The magnificent administrative organization of the church required fixed forms for its disciplinary ends in relation to the laity and for its own internal discipline. The businessman could not permit commercial claims to be decided by a competition in reciting formulas.¹ This two-fold rationalization of procedure from the profane and the spiritual sides spread over the western world.

Although some see the revival of the Roman law as the basis for the downfall of the peasant class and the development of capitalism, all the characteristic institutions of modern capitalism have other origins than Roman law. The stock certificate comes from medieval law. The bill of exchange comes from Arabic, Italian, German and English law. The commercial company is a medieval product. So also the mortgage, and the deed of trust, as well as the power of attorney. None of these go back to the Romans.

The reception of the Roman law was crucial only in the sense that it created formal juristic thinking. In its structure every legal system is based either on formal-legalistic or on substantive-material principles. By the latter are to be understood utilitarian and economic considerations. In every theocracy and every absolutism justice is materially directed as by contrast in every bureaucracy it is formal-legalistic.

Formalistic law is calculable. In China it may happen that a man who has sold a house to another may later come to him and ask to be taken in because in the meantime he has been impoverished. If the purchaser refused to heed the ancient Chinese command to help a brother, the spirits will be disturbed; hence the impoverished seller comes into the house as a renter who pays no rent. Capitalism cannot operate on the basis of a law so constituted. What it requires is law which can be counted upon, like a machine; ritualistic-religious and magical considerations must be excluded.

The creation of such a body of law was achieved through the alliance between the modern state and the jurists for the purpose of making good its claims to power. In contrast to other areas of the world, the west had at its disposal a formally organized legal system, the product of Roman culture, and officials trained in

1. A reference to the ancient German legal trial, in which the losing party was the person who mispronounced or misrecited a standard formula. This is similar to the medieval witch trials in which innocence was found by sinking when thrown in a river, or other "judgments by God" through trials of ordeal.

this law were superior to all others as technical administrators. From the standpoint of economic history this fact is significant in that the alliance between the state and formal jurisprudence was indirectly favorable to capitalism.

B. The Economic Policy of the Rational State

For the state to have an economic policy worthy of the name, one which is continuous and consistent, is an institution of exclusively modern origin. The first system which it brought forth is mercantilism.

C. Mercantilism

The essence of mercantilism consists in carrying the point of view of capitalistic industry into politics: the state is handled as if it consisted exclusively of capitalistic entrepreneurs. External economic policy rests on the principle of taking every advantage of the opponent, importing at the lowest price and selling much higher. The purpose is to strengthen the hand of the government in its external relations. Hence mercantilism signifies the development of the state as a political power, which is to be done directly by increasing the taxpaying power of the population.

England is distinctively the original home of Mercantilism. The first traces of the application of mercantilistic principles are to be found there in the year 1381. In England it finally disappeared when free trade was established, an achievement of Puritan dissenters in league with industrial interests.

Questions for Contemplation and Discussion

1. What does Weber mean when he denotes a state as “rational” or law as “rational”? Consider this rationality as an institutional element that arose over time and triggered new developments as well. What is the connection between rationality and capitalism?
2. Why do absolutists states depend upon substantive-material legal principles? Can you think of a modern example?
3. Who were the agents in the construction of our modern legal system? How does Weber explain the motivation for this development? What are the connections between the legal system, the state, and capitalism?

Concepts

Rational (Western) State

Rational-Formalistic Law

Mercantilism