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Editorial

Sam Whimster

The review section of this issue salutes the publication of three mighty volumes from the Max Weber Gesamtausgabe project. Two are on methodology, one is on universities and academic freedom. Hans Henrik Bruun honours the achievement as follows: 'This book [*Zur Logik und Methodik der Sozialwissenschaften. Schriften 1900–1907*] virtually closes the majestic procession of volumes that constitutes the Max Weber Gesamtausgabe. We should be deeply thankful for the Gesamtausgabe, and properly mindful of the immense efforts which have gone into it over many years.' He also adds 'we can never take our classics for given, even when they come in definitive editions'.

In the field of Weber's methodology there is now something of a consensus that there exists no hermeneutic appetite to reveal a unified theory of methods in the social sciences. We now have all of Weber's methodological writings at our disposal in a critical-historical edition, so may the work of application and development continue, albeit piecemeal. That said, it is interesting to combine the volume on universities (*Hochschulwesen und Wissenschaftspolitik. Schriften und Reden 1895–1920*) whose major theme is the assertion of academic freedom (*Lehrfreiheit*) with the two volumes on methodology. (The other volume on methodology is *Verstehende Soziologie und Werturteilsfreiheit. Schriften und Reden 1908–1917*, edited by Johannes Weiß, and here reviewed by Guy Oakes.) The study and articulation of the multiple topics of 'objectivity', value judgements, facts, theory and ideal types, interpretation, causation, and the presuppositions of science and so on is only viable to the extent that the university as an institution is secure in its own autonomy. At this point we arrive at 'Wissenschaftslehre'—Marianne Weber's preferred term. The reference back to Fichte's lectures at Berlin under the same heading was explicit for Marianne Weber. The foundation of a university in Berlin in 1810 on the principles laid down by the minister of education, Wilhelm von

Humboldt, was integral to the creation of a nation. And those principles were the three freedoms of teaching, learning and research (Lehrfreiheit, Lernfreiheit, and Freiheit der Forschung). Weber polemised that this legacy was being corrupted by the Prussian ministry of education of his day. The challenge to uphold academic freedom and the autonomy of the university remains.

Also in the review section is the publication of a major new translation by Keith Tribe of the First Part of *Economy and Society*. Comparisons with the translation of Talcott Parsons—who called his, misleadingly, *The Theory of Social and Economic Organization*—will provide a fertile subject for discussion, not least on the sense and application of Weber's apparatus of concepts.

Michael Rosenberg notes how sparse the demonstration of those late *E&S* concepts and ideal types are in the field of empirical studies. But *Ancient Judaism* which appeared at the same time provides a demonstration of Weber's late methodology. 'Particularly instructive in this respect is his depiction of the interrelations among the ideal types of traditional, charismatic and legal rule (Herrschaft) over the course of ancient Israel's history, as well as his account of the dynamic re-orientation of the religious and societal orders emerging out of conflicts among Israelite social strata.' From this we can derive a Weberian theory of societal change.

Carlos Pissardo takes up Weber's innovative application of the early Freud's concept of abreaction. Weber blew his top (in a letter to Else Jaffé, 1907) over Dr. Otto Gross's therapeutic application of abreaction theory—hold nothing back, let everything be expressed. Gross argued that it was possible to reach a new libertarian ethics by rejecting repression and freely abreacting emotional constraints. In contrast Weber argued in *The Protestant Ethic and the Spirit of Capitalism* that religion 'places certain psychological premiums (not of an economic character) on the maintenance of the attitude prescribed by it, premiums which, so long as the religious belief remains alive, are highly effective'. The demands of active worldly asceticism placed on Protestants operates as a 'means of ab-reacting feelings of religious anxiety.' But the main psychological effect of that last disenchantment theorized by Weber in 1920 is not melancholy but anxiety.

Weber studied law, first as a university student (for some nine years) and then later as a sociologist in his contribution(s) to the so-called Second Part of *Economy and Society*. He did not follow his father into the profession of lawyer. For Weber the study of law was an intellectual exercise, no more so than in the pursuit of the idea of 'a

logically coherent system of rules, free of logical contradiction and in principle without gaps.' Weber of course argues such a system can never be reconciled with the substantive reality of law in particular situations. With the aid of recent juristic scholarship Hubert Treiber explores the intellectual drivers of systematization. One looks in the first instance to the didactic texts of Roman law, like the Institutes of Gaius (161 CE). But this was something of a crammer for law students, published after many hundreds of years of sacred-ritual law. The latter's irrationalities did however involve abstract categories, rather in the same way as English law developed through notions like trespass and equity. (N.B. in both cases the difficulty of nailing down a category of property as possessive ownership.) But abstract categories are not sufficient for system. Systematization is the achievement of the *reception* of Roman law, as in the cases of the medieval Italian towns, jurisprudence as a university subject in its own right, its import into canon law, and its reception in the modern era as in the Napoleonic code. Treiber analyses these complexities with the intellectual aid of conceptual jurisprudence and the 'logicisation of the law'.

Conflict, Order and Societal Change in Max Weber's *Ancient Judaism*: Substantive and Methodological Implications¹

M. Michael Rosenberg

Abstract

Although Max Weber never formulated a theory of societal change, his study of *Ancient Judaism* was primarily concerned with understanding and explaining such change; especially the development of a disenchanted, this-worldly monotheistic faith having significant social and characterological consequences. Implicit in Weber's understanding of societal change is a dialectical relation between conflict and an order in which each serves both to reinforce and to transform the other. Conflict among Israelite social strata forms a consistent theme throughout Weber's discussion in *Ancient Judaism*, particularly the conflict between the patrimonial Israelite kings and the charismatic Hebrew prophets. This dynamic focus on conflict and change has methodological consequences which Weber illustrated with particular clarity in *Ancient Judaism*, especially in his application of the ideal types of traditional, charismatic, and legal *Herrschaft*. Presented in 'Basic Sociological Concepts' as terminologically precise and logically distinct, the flexibility and adaptability evident in Weber's application of these types to the empirical context of ancient Israel shows that he considered them to be profoundly interrelated.

Keywords: authority, charisma, conflict, *Herrschaft*, ideal type, Judaism, legality, Max Weber, societal change, societal order, patrimonialism, prophecy, tradition.

Max Weber's *Ancient Judaism* (1952) is a brilliant yet deeply flawed work, riven in two by Weber's conflicting and contradictory interests in examining Judaism: delineating the processes whereby Judaism contributed to the 'specific and distinctively formal rationalism' (Weber 2004c: 109) of the modern West through the development of a 'disenchanted' monotheistic faith that rejected magic and mystery in favour of an emphasis upon ethical conduct (Buss 2015; Fahey 1982; Farris 2014; Love 2000; Schluchter 1989; Schroeder 1992); and the

1. A version of this article was presented at the XIX International Sociological Association World Congress of Sociology, Toronto, Ontario, Canada, July 16, 2018. Thanks to the anonymous reviewer for some very helpful comments.

formation of what Weber called a 'pariah' community motivated by a pacifistic attitude, a deep sense of resentment, and an irrational dualistic economic ethic that persisted until well into the modern period. This latter aspect of *Ancient Judaism*, in particular, has been heavily criticized (Abraham 1992; Barbalet 2008; Eisenstadt 2003; Momigliano 1980; Shmueli 1968), but there has also been extensive criticism of Weber's account of the historical development of Judaic religiosity (Dever 2017; Neusner 1981; Zevit 2017).

This paper does not address either issue directly. The focus, rather, is on a different matter: outlining Weber's conceptualization of societal change. Implicit in Weber's understanding of change is an assumption of a dialectical relation between conflict and what Weber understood to constitute an 'order' (Weber 2004a: 335). *Ancient Judaism* stands out in this regard because Weber delved deeply into an examination of the societal changes deriving from—and giving rise to—conflict among various Israelite social strata; conflict that Weber considered central both to the development of Jewry's theology of disenchantment and its supposed 'pariah spirit'. This focus on change generated a dynamic view of Israelite society that links *Ancient Judaism* to 'Basic Sociological Concepts' (Weber 2004a)—Weber's methodological introduction to his unfinished text, *Economy and Society* (Weber 1978)—as products of his late sociology. Indeed, Otto (2017: 322) suggests that *Ancient Judaism* serves as the most 'mature example' of Weber's methodological approach (cf. Schluchter 2004).

In *Economy and Society*, and especially in 'Basic Sociological Concepts', Weber introduced many of those highly abstract ideal types with which contemporary social scientists are familiar. Despite his formulation of an extensive array of terminologically precise and logically distinct concepts, Weber understood that real life is characterized above all by variation and change. Applying ideal types to concrete cases necessarily brings to the fore empirical deviations, areas of overlap, and conceptual gaps. This was a point Weber repeatedly stressed in 'Basic Sociological Concepts', referring to the 'fluidity' of distinctions, transitions, and convergences among ideal types when applied to 'reality' (Weber 2004a: 328, 333, 335). Intending his ideal types to be flexible and adaptable in use, Weber allowed for combinations of seemingly disparate types such as 'patrimonial bureaucracy' (Weber 1978: 221). Thus, within the confines of his typological approach, Weber attempted to emphasize the 'processual character of social phenomena' (Lichtblau 2011: 464) as illustrated in his use of the terms *Vergemeinschaftung* and *Vergesellschaftung* to contextualize

social relationships. Lichtblau (2011: 464) notes that ‘on the empirical level, the boundaries between *Vergemeinschaftung* and *Vergesellschaftung* are fluid’ and that ‘the great majority of social relations involve features both of *Vergemeinschaftung* and of *Vergesellschaftung*’. This is the case for all of Weber’s ideal types; the boundaries of all these types are fluid when applied to empirical phenomena.

While the finished portions of *Economy and Society* provide few demonstrations of how ideal types are to be employed in empirical cases, the conceptual and processual aspects of Weber’s late methodology are well illustrated in *Ancient Judaism*. Particularly instructive in this respect is his depiction of the interrelations among the ideal types of traditional, charismatic and legal rule (*Herrschaft*) over the course of ancient Israel’s history, as well as his account of the dynamic re-orientation of the religious and societal orders emerging out of conflicts among Israelite social strata. Weber indicates, and Grosby (1991: 238) reiterates, that even the tribal composition of the Israelite confederation underwent change over time before amalgamating into a putative common people with a monarchical state. These two aspects of *Ancient Judaism*, Weber’s dialectical account of societal change and the display of his mature methodology, are here discussed together because it is impossible to understand either without taking both into account.

Max Weber on Societal Change

Although Eisenstadt (1968) asserted that an interest in social change was a significant aspect of Weber’s thought and work, Weber’s conceptualization of change has, with only a few exceptions (Collins 1986; Mommsen 1987, 1989; Schroeder 1992), rarely been addressed in a systematic way. Instead, references to change in the Weberian literature are usually either sporadic (Ling 1985; Takahashi 2008); highly specific, as in the references to charisma as a ‘revolutionary force’ (Smith 2016); or dismissive, as in critiques of Weber’s supposed ‘Orientalist’ account of the ‘rise of the West’ (Farris 2014; Goldstone 2009; Hobson 2004) or Assmann’s (2008: 88) characterization of Weber’s view of change as a ‘purely mental process and a form of rationalization’. Admittedly, Weber himself did not and would not have provided a comprehensive theory of societal change (Whimster 2007: 173); he considered the course of history to be too variable and unpredictable. Contingencies such as the outcome of the Battle of Marathon (Weber 2012a: 171–72); transformative ideas having an ‘elective

affinity' with the interests of social strata, such as Luther's reconceptualization of 'vocation' and its elective affinity with the 'styles of life' of ascetic Protestant religious strata (Weber 2002: 36); unanticipated consequences, as in the transformation of ascetic Protestant religiosity into economic rationalism (Weber 2002); charismatic revelation, as in the cases of Jesus and Mohammed (Weber 1978: 245); even natural events, such as the flooding of the Dollart (Weber 2004a: 315)—these and other factors were identified by Weber as capable of having a profound impact on individuals, on social groupings, and on societal orders. Still, while the direction of change is unpredictable, change is inevitable: 'the cultural problems that move humankind', Weber wrote in his essay on 'Objectivity', 'constantly assume new forms and colourings' (Weber 2012c: 121). New social relations emerge that transform social action and forms of social organization. Change—or at least the potential for change—was considered by Weber to be a universal feature of social life.

Given that Weber would not have formulated a systematic theory of societal change, it is not the purpose of this paper to override his objections and claim to find such a theory within his work. Nevertheless, there is one driver of change to which Weber gave repeated and particular emphasis: that of conflict (*Kampf*, also translated as 'struggle' [Weber 2004a: 341]). Conflict, he asserted, 'is an ineradicable element of all cultural life' (Weber 2012b: 320). Peace is not the opposite of conflict but rather, 'a shift in the forms of the conflict, or the parties to the conflict, or the objects of the conflict or, finally, in the chances of selection—and nothing else' (Weber 2012b: 320). For Weber, conflict can appear in many guises, ranging from 'struggle aimed at... destruction' to 'conventionally regulated encounters', 'oriented to an order' (Weber 2004a: 341).

Yet, precisely because Weber considered conflict to be ubiquitous, it is not conflict per se that he considered relevant for understanding significant societal change, but rather the relationship of conflict to an 'order'. For Weber, conflict and forms of order are interconnected. In itself, this is not a new insight; it was asserted by many others, including Simmel and especially Marx. In a way, Weber's understanding of change followed up on Simmel's claim that 'there could not be any kind of social unity in which the converging directions of elements would not be permeated inextricably by the diverging ones' (Simmel 2009: 228), without, however, incorporating Simmel's vitalistic assumptions (cf. Kemple 2016), nor, for that matter, Simmel's notion of 'social unity'.

Order, Legitimacy and Validity in 'Basic Sociological Concepts'

While a command may be conveyed directly and imperiously, as in the issuance of a military instruction by a superior officer or in the formulation and application of rules by an administrative body, Weber understood *an* order to be constituted out of a set of 'principles' which orient and regulate social relationships (Weber 2004a: 335), thereby shaping societal 'groupings', especially social strata such as classes, status groups, communities, associations, and enterprises. This does not imply that conflict is eliminated via orientation to an order but rather that struggle is channelled and directed via maxims, worldviews, institutional obligations, commonly accepted procedures, shared expectations, or even the 'humiliations and mortifications' of negative public opinion (Weber 2004a: 334). Nor does Weber imply that all conflict inevitably leads to order; and certainly not that some form of order is inherent in or an inevitable outcome of any particular form of conflict. Still, while regulation via orientation to principles does not characterize all social relationships, Weber did consider it to permeate all *groupings*; from the family, to the state, to the contours of the modern West.

Particularly significant to Weber were those societal orders whose ideal-typical 'configurations' (Roth 1979) he sought to clarify in *Economy and Society*: including the economic, legal, political, social, and religious orders. In the case of the economic order, what is a 'loveless and un pitying economic struggle for existence' (Weber 1994: 78) is regulated and excludes violence via processes of exchange and 'selection' (Weber 1978; cf. Swedberg 2000) that provide particular social strata with 'the greater opportunity to survive in the selective struggle for existence' (Weber 1952: 80). Similarly, struggle—and varieties of order—are embedded in the state, whose legitimate right to use force—on which every state is 'based' (Weber 2004c: 131)—is fundamental to its administrative activity. Not the ubiquity of struggle but rather the conversion of real or potential conflict into an order via social relationships oriented to sets of legitimated, valid principles—or the brutal use of force—are the sociologically relevant processes. Conflict, then, inheres in any form of order, generating new sets of circumstances and requiring constant regulation and, often, a reconsideration of the very principles to which that order is oriented. Seen in this way, the relationship between conflict and an order is a dialectical one that, while it may not ensure a direction for change, nevertheless ensures that change of some kind is ongoing.

A similar point with respect to religious change has been emphasized by Kippenberg (2017), who identifies what he describes as a dialectical relation inherent in Weber's thinking with respect to disenchantment. Rather than contribute to straight-forward secularization, Kippenberg argues that the process of disenchantment itself alters and transforms religiosity thereby having 'a repercussion on the religion itself' (Kippenberg 2017: 271). But the dialectical dynamic underlying such transformations was not limited by Weber to the religious sphere. In all such cases, conflict and forms of order intertwine. Although Weber did not use the term 'dialectical' (which had a different meaning for him, see Weber 2012c: 103), his empirical explanations of societal change imply such an approach (cf. Lehmann 2008; Mommsen 1990; Nielsen 2005; Schluchter 1989). Tradition as the basis of an 'order', for example, can be incorporated into change while change may come to reinforce tradition. This fundamentally dynamic view of social life and organization—one expressed, as we shall see, in *Ancient Judaism*—had methodological implications.

As noted above, Weber considered a sociological understanding of the social world to require the use of dynamic 'categories'. This is evident in 'Basic Sociological Concepts', in which sociology is announced to be a 'science of action' (Weber 2004a: 312). The profusion of ideal types to be found in 'Basic Sociological Concepts' was not intended to facilitate the growth of theory but to enable an understanding of empirical variation and change. Yet, as Whimster notes, both in 'Basic Sociological Concepts' and in all of the completed portions of *Economy and Society*, Weber 'pulls back away from historical development in favour of interactions between spheres of activity that are conceptualized as types of social relationships' (Whimster 2007: 232), thereby de-emphasizing change. That these types are 'relatively empty of content' (Weber 2004a: 325), however, was intended to ensure that they would be sufficiently flexible to apply despite the inevitable variations that characterize empirical actions and events. While Weber lauded the importance of conceptual precision, that precision was not directed towards claiming an 'accurate' depiction or conceptual encompassing of reality, but to providing a contrast between the rationally constructed ideal types and 'real action, influenced by all manners of irrationalities (emotions, errors)' (Weber 2004a: 314), thereby making 'real action' scientifically understandable and providing a basis for explaining the deviations from the ideal types (Rosenberg 2013, 2016). Weber's concept of the 'state', for example, did not refer to any one particular state, nor did it limit the forms a state may

display or the actions a state may undertake (Weber 2004a: 356). As Charles Turner (2018: 147) has put it, ‘Weber was trying to develop a terminology that was formal enough to serve the study of all cultures and societies at all periods in history, but substantive enough to do so without resorting to abstractly universalist formulas’. This is only possible if the ideal type is intended from the first to be flexible, designed to be applicable to—rather than distinct from—the contradictions and variations constituting real life thought and action.

Weber’s concept of order is itself, as Bruun and Whimster (2012: 491) note, an active one, used by Weber in ‘different senses’. These include ‘life orders’ (*Lebensordnungen*) that orient systems of meaning ranging from that of the individual personality (Hennis 1988) to the societal-level orders such as the economy. For Weber an order such as the economy or the legal order is not a component of a social system; nor is it a static pattern of social relations, since a thief ‘orients his action with respect to the “validity” of criminal law even as he infringes it’ (Weber 2004a: 336). Nor does struggle cease when an order comes into being, since maintaining the validity of an order requires effort by those social strata with a vested interest in doing so, usually via *Herrschaft*, the legitimation of rule.

In differentiating the three ideal types of *Herrschaft* legitimated via tradition, charisma, and legality (Weber 2004f.), it is commonly assumed that Weber treated tradition and charisma as opposites (cf. Eisenstadt 1968), with tradition as a static and charisma as a revolutionary force. But all orders and their associated groupings—from the family to the state—incorporate some form of *Herrschaft* that is, as Weber suggested in his course on the sociology of the state, some mix of all three:

‘The elements of compliance tend to be mixed or engaged in struggle with each other’... ‘The pure forms very rarely [appear] in reality... Often 2 elements in conflict with each other’ (quoted in Jeremias 2012: 153).

In ‘Basic Sociological Concepts’, for example, Weber noted that traditional action and charisma can both be ‘sociological spurs to developmental processes’ (Weber 2004a: 323-24). Both can be implicated in those processes whereby orderly social phenomena develop.

Tradition and Societal Change

Tradition has a close relation to order in Weber’s thinking. ‘The original and most universal validity ascribed to orders’, Weber stated, lies

in the 'sanctity of tradition' (Weber 2004a: 340) and 'everyday domination' Weber noted, 'is traditional' (quoted in Jeremias 2012: 153). This may take the form of rote compliance, but it need not do so. Tradition becomes a *meaningful basis* for social action when a decision must be made concerning how to act and a conscious process of fitting that decision into a system of traditional 'verities' is initiated. Even if that decision takes into account a belief in the 'eternal validity' of existing principles, the very process of deciding *how* to act in accordance with those principles may change that tradition. Weber referred to this process of constructing or reconstructing tradition as 'traditionalization' (Weber 1978: 246). New ideas, new interests and new leaders emerge as some members of social strata chafe under the expectations or constraints of an existing tradition and seek to transform it. Yet insofar as traditional demands cater to the interests of powerful social strata, and insofar as tradition serves as the foundation of everyday domination, a tradition is rarely discarded but is usually refashioned and may be reinvigorated in the ensuing struggle. The result is a process of traditionalization in which the existing tradition is either reinforced—even if somewhat altered—or, more rarely, an entirely new tradition comes into being. An example of the first form of traditionalization is the transformation of the Lingayat sect in India, whose founder rejected the caste system, back into relatively orthodox Hinduism (Weber 1958: 304). An example of the second is the emergence in India and then spread of Buddhism (which itself evolved into multiple traditions) out of Hinduism. Given, then, that Weber viewed conflict—and thus change—as ubiquitous, he did not consider tradition to be static, to be simply the preservation of what existed in the past. Rather, what appears to be the preservation of tradition despite struggle is better understood as an active process of traditionalization in the sense that a tradition is reformulated; Kippenberg's point with respect to religion.

When other forms of domination are integrated into 'everyday domination'—when charisma, for example, becomes routinized—it is often through an active process of traditionalization. While charisma may at times be a revolutionary force, it need not be in order to contribute to societal change, which often takes the form of routinizing charisma—even revolutionary charisma—into a set of practices and expectations that either enter into or reconstitute a 'traditionally' legitimated order. In 'Science as a Vocation' Weber referred to charisma not only as a destructive force but as a spiritual 'firestorm' that 'welded' communities *together* (Weber 2004e: 30; cf. Kemple 2014:

181). Historically, keeping such communities viable after the storm has passed has required a process of traditionalization or rationalization, 'or a combination of both' (Weber 1978: 246).

As for the legal order, compliance with a system of laws is enhanced not only by means of a 'coercive apparatus' (Weber 1978: 315) but also by a 'belief' (Weber 2004a: 340) that 'is never purely legal', but 'comes to be established and habitual, and this means is partly traditional' (Weber 1978: 263). However useful it is to conceptually differentiate the ideal types of *Herrschaft* then, Weber did not treat empirical phenomena as encompassed by these concepts, which are only tools to identify aspects of empirical reality that are significant in terms of a social scientific interest (Weber 2004a: 326).

For societal change to be understandable sociologically, neither reference to a charismatic leader's revolutionary overthrow of traditional 'verities' nor to the development of new ideas suffices. It is at the level of the social stratum and the relationships among strata that Weber usually looked to understand why a leader comes to be accepted or why ideas come to be adopted. As he put it in *The Protestant Ethic and the Spirit of Capitalism*: 'In order that a manner of life... adapted to the peculiarities of capitalism... should come to dominate others, it had to originate somewhere, and not in isolated individuals alone, but as a way of life common to whole groupings' (Weber 1976b: 55). The participants in these groupings did not simply reject the existing traditional economic way of life but transformed it into a new economic order; a new modality of struggle, competition, regulation, and exchange. The inner-worldly asceticism of the Protestant sects, for example, built upon, even as they transformed, the monastic asceticism of medieval Catholicism (Weber 1976b: 119).

Whereas the finished portions of *Economy and Society* lack sufficient historical and sociological examples to illustrate Weber's use of ideal types in social scientific explanation, the same cannot be said of his studies of religion, beginning with the first version of *The Protestant Ethic and the 'Spirit' of Capitalism* (Weber 2002). All of these studies incorporate discussions of change; either those changes that brought about the 'distinctive rationalism' (Weber 2004d: 109) of the modern West or how 'the particularity of [each] ethic is realized over time with very different historical consequences' (Weber 2004b: 56). In each of these studies of the world religions, he uncovered multiple traditions that served to direct life conduct. For this reason, Weber could refer, in *Ancient Judaism*, to such traditions as the 'military', the 'priestly', the 'pacifistic', and the 'pure Yahwe'. In the case of Judaism,

such distinct and competing traditions can be identified by us today because they were inscribed in the Torah and the rest of the Hebrew canon as what Assmann (2015: 7) calls 'counter-narratives'.

In *The Protestant Ethic and the Spirit of Capitalism*, Weber's focus was on religious ideas and the consequences of their adoption by ascetic Protestant groups. In *Ancient Judaism* he also asked out of what 'circumstances and vicissitudes' (Weber 1952: 80) historically significant ideas emerged and what strata were implicated in the struggles whereby these ideas were adopted and adapted. It is in *Ancient Judaism* that we find Weber's most comprehensive and nuanced discussion of societal change, its ties to conflict among various social strata, and the linkages between conflict and order.

Conflict and Authority in Ancient Judaism

In Weber's studies of the Chinese (Weber 1951) and Indian (Weber 1958) civilizational complexes—as summarized in 'Introduction to the Economic Ethics of the World Religions' (Weber 2004b)—he identified 'decisive' social strata—usually composed of elite intellectuals—who perpetuated and reinforced those modes of religiosity in which they had vested material or ideal interests. This focus on what Weber considered decisive social strata is the source of many of the criticisms of his studies (cf. Fuchs 2016; 2017). In contrast, Weber did not identify a decisive social stratum among the ancient Israelites. He did note the importance of pious town-dwellers and plebeians (whom he described as 'pariah-people' [Weber 2004b: 57]) for the post-Exilic period but singled out no particular stratum as decisive for the era primarily discussed in *Ancient Judaism*, which preceded the return from exile under the Persians.

This does not imply that the ancient Israelites were united in beliefs or practices; quite the contrary. In *Ancient Judaism* Weber identified multiple traditions and forms of traditional authority tied to distinctive strata—the hierocratic authority of the priests, the patrimonial authority of the kings, and the patriarchal authority of the clan leadership—in conflict with one another and with yet another, the authoritative moral law of the Torah as understood by plebeian strata. This conflict was the wellspring out of which charismatic Hebrew prophecy emerged, which, rather than being revolutionary, was itself subordinated to the authority of the Torah. Multiple forms of *Herrschaft*—traditional, charismatic and legal—are presented in *Ancient Judaism*, each of which underpins and to some extent undermines the others.

Combined with historical contingencies imposed by external military powers and cultural influences, tradition in Israel was transformed into a processual force facilitating societal change. How then did a relatively unified mode of religiosity emerge among the Israelites, one characterized by an attitude of disenchantment? Weber's answer was conflict and its intimate connection to the societal orders.

Ancient Israel was located at the crossroads of multiple empires and civilizational complexes. Throughout Judaism's formative period a sequence of empires—Egyptian, Hittite, Assyrian, Babylonian, Persian, Hellenic, and Roman—battled one another. Local tribal and national groups were also engaged in struggles for land or for booty. Contemporary archaeological evidence suggests that a distinct Israelite population did exist by about the 8th century BC. Surprisingly, there is little archaeological evidence of significant foreign influence (Dever 2015: 401). While the Israelite population was likely affected by the various competing empires and tribal groups surrounding them, it would seem that culturally at least, their development was autonomous. They responded to the cultural influences and military threats around them but followed their own cultural path (Assmann 2015).

For Weber the source of this autonomy resided in a religiously generated notion of the relationship between human beings and God: that of the covenant (*berith*). This idea of a contractual agreement between God and the Israelites had an elective affinity for the aspirations of those regional clans and tribal groups that came to form the Israelite confederation, initially for self-defense, in the face of constant hostility and war with their neighbours. The concept of a covenant then became an ethical norm in terms of which relations among the people of Israel themselves were regulated in partnership with God, ultimately via the Torah. In Weber's view this conception of a *contractual* relation between God and his people was a unique one, having profound consequences for the development of Israelite religion and political organization. The formulation of the covenant by the Israelites had rational consequences in the sense that adherence to the terms of the covenant could be assessed and appropriate action taken.

One consequence was that the Hebrew God of the confederacy came to be re-conceptualized in a different sense than that found in other religions because he was both more powerful and more limited. He was more powerful in that he could not be constrained through magic and had dominion over all peoples—rather than simply those considered his subjects—and over all events, including not only natural events but the very course of history. Nevertheless, despite this

power, God had voluntarily placed limitations upon himself via his covenant with the Jewish people. Yet the religious tradition composed of the Decalogue(s) and the covenant with God did not constitute a genuine *authoritative* ethical system because aspects of that tradition were acknowledged by many people, including some prophets, to be 'unfair'. It was hoped that they would be renewed on a more favorable basis in the future (Weber 1952: 327). In that respect, Israelite tradition was *not* based on 'eternal verities' but on a covenant understood to have had a historical point of origin and whose content was potentially subject to change.

This conceptualization of the covenant was applied to two sets of conflicts identified by Weber. One was competition with the prevailing religious beliefs and practices of Israel's neighbors and of the various powerful civilizational complexes nearby. It was the struggle against these foreign influences that, in Weber's view, led to the development of many of the beliefs and practices of the Israelites. The covenant thereby validated and demanded of the people life conduct different from their neighbours. Even when certain foreign ideas and practices were incorporated into the Hebrew canon, as Otto argues was the case with the Assyrian 'loyalty oath' to the monarch, it took the form of 'subversive opposition' (Otto 2000: 65) to Assyrian influence, being revised into a 'loyalty oath' to God. Insofar as foreign influences were incorporated into existing Israelite traditions, it was often through such creative and subversive adaptations rather than simple imitation.

The second conflict was the struggle among the various Israelite social strata to define Judaism and assert their version of Israelite tradition. This latter struggle pitted all of the major strata of Israelite society against one another. During this period of struggle no social stratum could establish its view of Judaism as authoritative; none of these strata could be identified as decisive. Instead, the parties to this struggle consciously constructed sets of principles around which various orders could coalesce, serving to guide both thought and practice. These competing traditions were the sources of the 'counter-narratives' that Assmann (2015) identifies in the Hebrew canon.

That multiple counter-narratives were incorporated into what became the Hebrew canon is not a sign of inconsistency of thought or redaction but, in part, that certain sayings and writings had come to be considered 'divinely inspired, often obscure words from a distant time' (Carr 2011: 5) and not to be tampered with. But given the significance of conflict among the Israelite social strata stressed by

Weber, the presence of counter-narratives in what became the canon likely indicates as well that no social stratum had yet become decisive in defining Judaism. Rather than written to gratify a monarch or as an esoteric text intended exclusively for the members of an elite literate sect, the Torah and the rest of the Hebrew Bible were constructed to address and educate multiple audiences and social strata.

These sets of conflicts contributed to the development among many Israelites of the idea that “‘Israel” was constituted not by a state hierarchy with the king as its central personality’, as was the case among the Assyrians, Egyptians and others, but ‘by a covenant between [God] and his people’ (Otto: 2000: 75). Judaism came to be ‘democratized’ (Otto, 2004). But Israel did have kings, and they aspired to imitate the absolute, patrimonial rule of their neighboring monarchs. With respect to religion they both tolerated foreign cults and sought to promote a domesticated religiosity, including the use of court oracles. This struggle between a democratizing conception of Judaism and one exalting the imitation of foreign patrimonial rulership fomented political and religious divisions among multiple social strata. In consequence, Weber’s account of these struggles in *Ancient Judaism* required him to emphasize the empirical interconnections and limitations of the ideal types presented in ‘Basic Sociological Concepts’. The Israelite king, for example, could *not* be a genuine patrimonial ruler since the authority of the king was limited so long as Israelite tradition affirmed God to be the true monarch. This was a point stressed by the prophets: God was the true king, his throne the true court. The Israelite ruler was considered subservient to the covenant established between God and his people, and thus subservient to the traditional law. This also meant that in a crucial respect, with regard to the capacity for ‘holiness’, Israelites collectively constituted a ‘holy nation’ and thus every member was the equal of the king, another point stressed repeatedly by the prophets.

In a cultural climate in which even God was considered to be constrained by the terms of a covenant, a prophet could not become a ‘pure individual carrier of charisma’ (Weber 1978: 439). The prophet was seen to be chosen by God rather than being the incarnation of some extraordinary or magical quality. Nor could the prophets serve as a genuine charismatic revolutionary force because they had to subordinate their interpretation of God’s message to existing law, which meant formulating a message in accord with existing tradition. In that respect the prophets could not undermine the authority of the

priests (although they derided the utility of ritual) but had to direct their opposition towards the king, the patricians, and those people—almost certainly a majority of the rural population—who retained a belief in magic and continued to worship fertility deities and graven images (Dever 2015). While the prophets were, as Berger (1963: 941) emphasized, ‘socially detached’, they did attract a following among the ‘pious laity’ (Weber 1952: 282). Their ability to do so was the key to their demagogic success, allowing them to challenge the authority of the kings. But the focus of the followers was on the message, not on the prophet.

Nor could the priests affirm, much less impose, a genuine hierocratic order (Weber 2004a: 356) because competition among the priests themselves prevented the development of a monopoly on ritual practice until the return from exile when the Persian overlords threw their support behind the post-exilic priests of Jerusalem. Even then the authority of the Temple priests was challenged, however, because they had no monopoly on knowledge of the Torah, which Weber argued was widely disseminated by a different stratum, the ‘Torah teachers’ (Weber 1952: 218). Moreover, it was with the prophets, not the priests or the courtly oracles, that God was believed to communicate.

Each of these strata (and multiple others discussed by Weber) had an influence on the development of Judaism but none was decisive. Rather, Judaism as a conceptual domain was multiplex, characterized by strata competing to define reality via contending worldviews and traditions. De-emphasizing the significance of the material and ideal interests of a dominant stratum having a definitive status as ‘legitimate’ allowed Weber to focus on widespread conflict as a motor force, particularly that between the classical Israelite prophets and the patrimonial kings. In this struggle prophecy emerged as the key element in the development among the Jews of an attitude of disenchantment together with a sense of history and a common identity. For this reason, this particular conflict merits further attention.

Patrimonial Kings and Charismatic Prophets

The conflict between the patrimonial Israelite kings and the charismatic Hebrew prophets was not one between two sets of individuals but a clash between very different conceptions of social order and of the traditions affirming the validity of each conception. In the end, Weber asserted, neither view prevailed; rather, the conflict gave rise to a new conception of societal order, first articulated by the prophets,

reformulated by the priests of Jerusalem, and then extended and modified by the rabbis.

These conflicts occurred against the backdrop of social structural change, a 'transition to urban culture' (Weber 1952: 370), as an urban patrician stratum formed that accumulated wealth by impoverishing the rural population through debt bondage (Weber 1952: 110). Under Solomon, the monarchy took on the character of a 'government based on labour services' (Weber 1976a: 140), with 'a fortified capital, accumulation of a royal hoard, a foreign bodyguard in addition to the national levy, and public works for which the supervisors were imported' (Weber 1976a: 140). The tradition which Solomon and his successors sought to emulate was a foreign one deeply offensive to the majority of the population who did not accept the legitimacy of the newly established *corvée* state. It was condemned by the prophets as an 'abomination', 'unheard of' in Israel (Weber 1952: 131). Also considered an abomination by the adherents of traditional Israelite law was the marriage of the kings to foreign wives who imported alien religious beliefs and practices.

The result was civil war following Solomon's reign, the division into two kingdoms, and ultimately the survival of Judea as a 'city kingdom' under the control of the priests of Jerusalem. This generated a 'shift in power [and] a sweeping reorganization of political and social institutions' (Weber 1976a: 141). Significantly, throughout this time the kings were actually vassals of foreign powers, and so their pretensions to patrimonial authority were viewed by many with disdain.

Patrimonialism for Weber is not purely a form of traditionally legitimated rule, but in its empirical manifestations incorporates diverse and contradictory elements: a 'regime of favorites' (Weber 1978: 228) who serve the ruler as 'purely personal instruments' (Weber 1978: 231); charismatic 'grace', 'flowing from... patrimonial domination' (Weber 1978: 979-80); and support for the development of a system of law establishing ethical principles legitimating their rule, as in the case of Ashoka in India and Josiah in Judea.

In the case of Judaism, the limitations placed on patrimonial authority, as noted above, were particularly acute. Put in simple terms, the Israelite king could neither dispense grace nor serve as the ultimate legal authority. Neither charisma nor legality were embodied in the person of the king. Nor was dispensation such as that granted to the Buddhist king Ashoka to kill his enemies (Weber 1958: 242) possible for the Israelite kings because of the overriding authority of the covenant with God. It is significant, for example, that the fundamental

code of Jewish law found in Deuteronomy is not known as King Josiah's Code but is attributed to Moses speaking as a prophet on behalf of God. This conceptual context served to inhibit the development of autonomous patrimonial authority, as did the clear inability of the kings to stand up effectively to foreign powers and protect the populace. The people, unable to depend upon a king for protection, had to look elsewhere. The classical prophets asserted that the populace—and the kings—look to their own ethical conduct in order to merit and receive God's protection. In doing so they reconceptualized the relations and obligations of the Israelites to God, to their priests and state officials, and to one another (see Weber's [1952: 116] catalogue of popular complaints about 'socio-political conditions' voiced by the prophets).

In attempting to ascertain God's will and demands, the classical prophets directed their attention to understanding events happening in their own time. Weber suggested that because of the constant pressures exerted by foreign states as well as the pervasive conflict—and change—in their own society with the establishment of the monarchy, many Israelites in general, but the prophets in particular, 'question[ed] the meaning of the world' in light of traditional beliefs (Weber 1952: 207). Such questioning, Weber noted, 'presupposes the capacity to be astonished about the course of events' (Weber 1952: 207), which itself implies a sense of history whereby the present can be evaluated in terms of the past and alternative future possibilities can be anticipated in terms of the present. Consequently the prophets did not suggest new laws or a revolutionary transformation of the existing social structure. Their goal, rather, was to have the populace obey what they considered to be traditional law. Because of their opposition to the actions and pretensions of the kings, the prophets stressed the power of God, expressing thereby a new, more majestic and more universal conception of that power. This new conception had as its model the very social, political and economic relations being asserted by the king and his court, whose powers and glory were 'subversively' reassigned by the prophets to God and his servants rather than to the human monarchy. The monocracy claimed by the kings became the monotheism affirmed by the prophets. In addition, as Schluchter (1989: 192) notes, 'the shift in the center of gravity from the country to the city helped to repulse magic', reinforcing the tendency towards disenchantment. 'Tradition' was reconceptualized by the prophets in terms of the new social relations and circumstances transforming the Israelite community.

This means that human actions have consequences and that the world can be changed by human endeavor (Weber 1952: 4). Even God's actions can be evaluated since God too is a party to the agreement; God, too, has to live up to his commitments. This made it feasible to hope that in the future God 'would form a more benevolent *berith* with his people than was the old hard covenant with its severe laws' (Weber 1952: 327). But such an amended covenant, being a joint agreement, would require not only God's will but human endeavor.

Nowhere in this combination of God's will and human endeavor was there any room for magical coercion, for mystical empowerment, for gnostic revelation, or for a contemplative flight from the world. Deciphering God's message required no training or specialized abilities and did not serve as a sign of moral or intellectual superiority. All that was required of the prophets, who in effect acted as demagogues, was to have their claim to be God's representatives acknowledged. God's message, not magic, was the basis of their charismatic authority. A crucial consequence of Hebrew prophecy as understood by Weber is that while the prophet is taken to be a charismatic figure and may also personally suffer from a psychological pathology, nevertheless Hebrew prophecy was *rational* in that the prophets were required to engage in interpretive work in order to comprehend the message God wanted announced to his people.

It was Weber's contention that in this way Hebrew prophecy sought to formulate an image of God emphasizing the contrast with the abominations and vanity of the kings as well as their vassalage to foreign powers (and to their foreign wives). The prophets did this by emphasizing the grandeur and magnifying the power and majesty of a monotheistic God who actively intervenes in the affairs of the world. The prophets thereby played a role both in encouraging and legitimating the process of disenchantment and in directing the development of a conception of a political community that did not *require* a human monarch. This served to stabilize Jewish thought in times of crisis and change, while allowing that thought to adapt to that crisis and change. A new conception of the people of Israel was formulated, one characterized not only by common ancestry but by a common present and future fate. In this sense, not only do 'charisma and rationalization, as dichotomously interrelated forces, constitute social change' (Mommsen 1992: 142), but, more generally, the struggles over what meanings are to be embedded in the societal orders contribute to societal change.

It can be argued that these struggles made it possible for the Israelites to accept the destruction of the Jewish state and their dispersion. In contrast to the belief that Israel 'as a nation... did not and could not exist without the land' (Grosby 1991: 242), prophecy laid the foundation for the realization that if God is the true, *universal* monarch, no earthly king is needed and no state is necessary. Significantly, the reestablishment of the Judean state under the Persians did not serve to institutionalize prophecy but led rather to the disappearance of classical prophecy and a new authority granted to the priests. Once the priests, influenced by the prophets but with very different interests of their own, had formulated a sufficiently comprehensive system of ethical conduct, neither they nor the traditionalist public had further need for the prophets, even in the crises of struggle with the Romans and the second destruction of both state and temple.

In this way the classical Hebrew prophets served as a pivotal component in the dialectic of conflict and societal orders that generated the foundation of diasporic Judaism. Since the pious laity had come to see that adherence to the covenant with God, not the rituals of the priests, served as a promise for the future, the priests had to incorporate into the Torah both the messages of the prophets and a number of other counter-narratives in order to appeal to as extensive a laity as possible. The rigid piety and exclusiveness asserted by Ezra and Nehemiah, for example, is contrasted by Assmann (2015: 7) with the 'more liberal counter-narrative' of the book of Ruth. Had the reign of the priests persisted and the state survived, the interests of the priests in emphasizing ritual might well have vitiated or reversed the process of disenchantment. But due to historical circumstances—whereby the kings were ousted by foreign powers, the peasantry was disconnected from Judaism by the exile of the religious leadership, and the utility of the priests was terminated by the destruction of the Temple—Weber saw the rabbis and the pious laity as the ultimate winners in promulgating those ideas that came to direct the material and ideal interests of later Jewry.

As illustrated by the case of the Hebrew prophets, charisma need imply neither personal aggrandizement nor a call for revolutionary transformation. However distinct Weber's ideal types of *Herrschaft* appear as logical categories, real life combinations and variations, as he noted in his 1920 lectures on the state, are 'normal' and to be expected. Understood in this way, societal conflict is not a struggle between two or more sets of material and ideal interests but results from a complex interweaving of interests, modes of life conduct, and

conceptions of order; each of which has different meanings for different strata and may lead in a different direction. The resulting dynamic gives a shape to the societal orders, the social relations out of which they are composed and the principles to which they are oriented.

Conclusion

For Weber, conflict in and of itself does not drive societal change unless that conflict weaves its way into conceptions of order—meaningful principles—to which members of social groupings orient their actions. Even then, historical contingencies, unanticipated consequences, and the emergence of new conditions and new ideas impact upon and redirect change. In this paper, the focus has been on Weber's understanding of change via the conflict among social strata and on the types of *Herrschaft* implicated in the relations among and within these strata. The specific example used has been the struggle between the patrimonial kings and the charismatic prophets of ancient Israel and their associated sets of supporters. Not included here are Weber's discussions of the characterological implications of struggle for individual personality (Hennis 1988), nor the impact of reason itself as a revolutionary and rationalizing force (Mommsen 1987: 44). While extensive references to both can be found in *Ancient Judaism*, the goal here has been more modest: to depict some ways in which changing social conditions in ancient Israel as well as external military threats resulted in the instituting of a monarchy which unsuccessfully sought to attain patrimonial rule. Seeking to emulate the rulers in the communities around them, the Israelite kings overreached as their ambitions led them to challenge existing tradition. Artificially grafted onto a cultural complex that strongly opposed that overreach, a traditionalist reaction formed led by charismatic prophets who, free of political and social obligations, were able to adopt the mantle of being God's messengers. Despite their fervent advocacy of existing tradition, they nevertheless participated in the fundamental transformation of Israelite religiosity, contributed to legitimating its emerging societal orders, and provided the foundation for Jewry's survival in the diaspora.

All this happened thousands of years ago. Anyone seeking to mine Max Weber's thought in order to understand our contemporary 'cosmos' might well assume that there is nothing to learn by reading *Ancient Judaism*. Certainly, it is widely ignored or dismissed (cf. Ghosh 2014: 231). But focusing only on *The Protestant Ethic and*

the Spirit of Capitalism, as many social scientists do, directs attention away from accessing Weber's mature mode of conceptualizing the social world. Nor does Weber's final draft of *Economy and Society*, including 'Basic Sociological Concepts', suffice, since, as Whimster (2007) notes, it is filled with an array of ideal types that lack the historical and sociological context Weber did not live to provide. But in *Ancient Judaism*, Weber's last substantive sociological study, he did provide such a context. Ostensibly a socio-historical study of a set of specific changes related to religion, it nevertheless allows us to identify Weber's concepts and method in a way that can be applied to the contemporary world.

This is not only because some of the phenomena characterizing ancient Israel—such as the role of political demagoguery—would seem to be applicable to today's life. Bodemann, for one, suggests that Weber himself conceptualized ancient Israelite society and its conflicts as a 'message in relation to modern Germany' (Bodemann 1993: 236). But the demagogues and rulers of today can only be fully understood in terms of contemporary circumstances, not those prevalent thousands of years ago. Nor is the disenchantment characterizing much of modern life—certainly for contemporary intellectuals—anything like the attitude of focused and intensified religiosity fostered by the Hebrew prophets. While an awareness of history provides us with a broader appreciation of the range of possibilities and variations with respect to change, history, as Weber stressed, has no inherent meaning. We make history understandable in light of our contemporary interests and concerns. In that respect the resemblances we find between antiquity and our present circumstances are ones that *we* formulate from *our* present vantage point.

That being the case, the contemporary utility of Weber's *Ancient Judaism* for the social sciences does not reside solely in differentiating what Weber got right historically or conceptually about Judaism from what he got wrong (Ertman 2017), but more in its demonstration of key aspects of his dynamic view of the social world together with his methodological procedure for understanding that world. This dynamic view—expressed through *Ancient Judaism's* focus on identifying the dialectical relationship between conflict and the societal orders at the level of social relations within and among social strata—remains significant for understanding contemporary configurations of conflict and order (see, for example, Zheng [2003]). Moreover, understanding what Weber tried to do in *Ancient Judaism* helps to remind us that the point of social scientific investigation is

to grasp the richness of the empirical phenomena we investigate, not to become preoccupied with the logical categories in terms of which we construct our conceptual schemes. For that reason alone, *Ancient Judaism* is well worth reading.

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**Ab-reactive Ethics:
The (Un)faithful's Psychic Constellation in *The Protestant Ethic***

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Abstract

This article seeks to understand how four concepts introduced by Max Weber to the second edition of *The Protestant Ethic and the Spirit of Capitalism* are employed to identify and describe what can be called the *psychic constellation* of the ideal-typical Reformed Protestant. As will be demonstrated, two of these concepts, taken in their rigorous sense, were first developed by Freudian psychoanalysis (*ab-reaction* and *anxiety*), while the other two (*disenchantment of the world* and *psychological premiums*) are originally Weberian. The aim is both to propose an alternative understanding of Weber's thesis (different from today's predominant Kantian interpretation of it) and to investigate the still poorly explored affinity between Weberian sociology and Freudian psychoanalysis.

Keywords: Max Weber, psychoanalysis, ab-reaction, anxiety, disenchantment of the world, psychological premiums.

Introduction

Absent from what is today known as the first edition of *The Protestant Ethic and the 'Spirit' of Capitalism*, i.e., from the two essays published in the *Archiv für Sozialwissenschaft und Sozialpolitik* between 1904 and 1905, the Freudian concepts of ab-reaction [*Abreaktion*] and anxiety [*Angst*] were introduced by Max Weber to the 1920 edition of his most famous work at a crucial moment of its argument: precisely when the sociologist proposes his explanation of the elective affinity between Reformed Protestantism and a particular life conduct most suitable to the specific needs of modern capitalism at its origin. The two passages in which these concepts are introduced in an articulated way are the following:

In striking contrast to Lutheranism, this attitude toward life was also connected with the quiet disappearance of the private confession...
That was an occurrence of the greatest importance. In the first place it is a

*symptom of the type of influence this religion exercised. Further, however, it was a psychological stimulus to the development of their ethical attitude. The means to a periodical 'ab-reaction' of the emotional sense of sin was done away with (Weber 2005: 62; translation altered).*¹

That worldly activity should be considered capable of *this* achievement, that it could, so to speak, be considered the most suitable means of ab-reacting feelings of religious anxiety, finds its explanation in the fundamental peculiarities of religious feeling in the Reformed Church, which come most clearly to light in its differences from Lutheranism in the doctrine of justification by faith (Weber 2005: 67; translation altered).²

The fact that Weber resorts twice, at a decisive moment of his *The Protestant Ethic* (henceforth *PE*), to a Freudian neologism and establishes a relation between it and one of the most central concepts of psychoanalysis has, remarkably, never drawn due attention from Weberian scholars—at least not so far as to trigger any attempt to extract consistent theoretical consequences from it. Even studies that aim to explore the affinity between psychoanalysis and Weberian sociology either simply ignore both concepts (cf. Strong 1985; Kaye 1992) or are unable to consider them in connection (cf. Parkin 2002; Sica 1988; Zaret 1992; Bericat 2001). Symptomatically, the very presence of these concepts is lost in English translations: in the classical version of Talcott Parsons, *Abreaktion* is indiscriminately translated as 'discharge' or 'counteracting' (Weber 2005: 62, 67) (which is also employed to render German verbs as different as *durchkreuzen* or *entgehen*, among others), while in Stephen Kalberg's more recent edition, it is translated simply as 'release' or 'banish' (Weber 2001: 61, 68). *Angst*, by its turn, is translated in both versions sometimes as 'fear'

1. Passages inserted in 1920 are italicized. 'Im auffälligsten Gegensatz gegen das Luthertum ist denn auch im Zusammenhang mit dieser Lebensstimmung in den Gebieten des voll entwickelten Calvinismus die Privatbeichte, gegen welche Calvin selbst nur der möglichen sakramentalen Mißdeutung wegen Bedenken hatte, stillschweigend verschwunden: ein Vorgang von größter Tragweite. Zunächst als Symptom für die Art der Wirkung dieser Religiosität. Dann aber auch als psychologischer Entwicklungsreiz für ihre ethische Haltung. Das Mittel zum periodischen "Abreagieren" des affektbetonten Schuldbewußtseins wurde beseitigt' (Weber 1986: 97).

2. Passages inserted in 1920 are underlined. 'Daß die weltliche Berufsarbeit zu *dieser* Leistung für fähig galt,—daß sie, sozusagen, als das geeignete Mittel zum Abreagieren der religiösen Angstafekte behandelt werden konnte—hat nun aber seinen Grund in tiefliegenden Eigentümlichkeiten des in der reformierten Kirche gepflegten religiösen Empfindens, welche in ihrem Gegensatz gegen das Luthertum am deutlichsten in der Lehre von der Natur des rechtfertigenden Glaubens zutage treten.' (Weber 1986: 106).

and sometimes as 'anxiety' (a choice that is in accordance with ordinary German use but that nonetheless ultimately conceals the conceptual density of the term).

Furthermore, both concepts were not merely juxtaposed to the original argument of *PE*; rather, their meaning appears closely linked with two other concepts, not by chance also absent from the first edition, yet now of unquestionable Weberian ancestry: *disenchantment of the world* [*Entzauberung der Welt*] and *psychological premiums* [*psychologische Prämien*]. The Freudian concept of anxiety was adopted by Weber in 1920 to describe specific psychic consequences yielded by the radical disenchantment of the world carried to its farthest extent by Reformed Protestantism, while the concept of psychological (or psychic) premiums—mistranslated by Parsons as 'psychological sanctions' (as in Weber 2005: 80)—grasps the ab-reactive dimension of ascetic life conduct among these Protestant believers.

The aim of this article is therefore to investigate how these four concepts were employed by Weber in the second edition of *PE* in order to identify and describe what one might fairly call a *psychic constellation* peculiar to his ideal-typical Reformed Protestant. It is expected that an examination of this psychic constellation will allow, on the one hand, an alternative understanding of Weber's thesis—one that departs significantly from the current predominant *Kantian* reading—and, on the other, an inquiry into a particular aspect of a relationship that was never adequately addressed by the German sociologist or by Weberology, namely, the relationship between Weber's comprehensive sociology and Freud's psychoanalytic theory.

Ab-reaction and Anxiety in Psychoanalysis

What would have made Weber, at such a critical stage of his argument, turn not only to a Freudian neologism but also to a concept as significant to psychoanalysis at the time as anxiety? Especially when one recalls the circumspection with which Weber dealt with concepts as well as his insistence in debugging sociology of any kind of psychologism, it seems most unlikely that these could have been gratuitous references. By mobilizing Freudian conceptual tools, Weber, a strong critic of any attempt to reduce sociology to psychology, was entering dangerous territory, and he could not be unaware of it.

On 13 September 1907, Weber wrote a now well-known letter to his former PhD student Else Jaffé in which he presents his view on

an article Otto Gross had submitted to the editors of the *Archiv* (for details on Weber's relationship with Else Jaffé and Otto Gross, cf. Green 1974; Whimster and Heuer 1998; Roth 2010; Ghosh 2014). Amid disparaging remarks and criticisms regarding Gross' 'psychiatric ethics' and his naïve non-differentiation between scientific assertions and value-judgments (faults that made Weber oppose the publication of the article in the journal), the sociologist discloses that he had already read Freud's 'major works' (Weber 1998: 383). He thereupon refers to a still undeveloped casuistry in the newborn psychoanalysis (in a critique whose target shifts from Gross to Freud) and mentions 'important concepts, such as that of "ab-reaction"', which had unfortunately been 'garbled and watered down until they have lost all precise meaning' (Weber 1998: 383).³ The fact that Weber had noticed this early the disappearance from Freud's texts of such a specific concept (while some of his followers were still using it, as will be seen below) is remarkable and reveals how seriously Weber took the 'major works' of the Austrian psychoanalyst. The election of the concept of ab-reaction as a positive example of what psychoanalysis could offer to eventually 'become very significant in suggesting interpretations for whole series of cultural phenomena, especially in the area of the history of *religion* and morality' (Weber 1998: 383-84), should consequently not be assumed as simply accidental.

The short-lived (in Freudianism) concept of ab-reaction, which is not found in Freud's works after the turn of the century, appeared for the first time in an 1893 article called 'Preliminary Communication', published by Freud and Joseph Breuer in the medical journal *Neurologisches Centralblatt*. This article was subsequently reprinted as the first chapter of their 1895 *Studies on Hysteria*—undoubtedly one of Freud's 'major works' then as now. In this masterpiece of psychoanalysis, when referring to psychotherapeutic devices available to deal with traumatic reminiscences (the same reminiscences that could give rise to hysterical symptoms), Freud and Breuer mention a peculiar mechanism of late discharge of 'excessive tensions' that could prevent these neurotic consequences:

3. 'Die Theorien von S. Freud, die ich jetzt auch aus seinen größeren Schriften kenne, haben sich im Lauf der Jahre (zugestandenermaßen) stark gewandelt und sind, nach meinem (laienhaften) Eindruck, noch jetzt keineswegs in ihre endgültige Fassung gebracht,—wichtige Begriffe, wie z.B. der des "Abreagierens", sind gerade neuestens leider bis zur völligen Verschwommenheit verstümmelt und verwässert worden' (Weber 1990: 394).

The injured person's reaction to the trauma only exercises a completely 'cathartic' effect if it is an *adequate* reaction as, for instance, revenge. But language serves as a substitute for action; by its help, an affect can be 'ab-reacted' almost as effectively. In other cases speaking is itself the adequate reflex, when, for instance, it is a lamentation or giving utterance to a tormenting secret, e.g. a confession. If there is no such reaction, whether in deeds or words, or in the mildest cases in tears, any recollection of the event retains its affective tone to begin with (Freud and Breuer 1955: 8).

Ab-reaction—language as a substitute for action—is thus defined by Freud and Breuer as one way of discharging the 'affective tone' associated with an event of potentially traumatic character. Hence, it should not come as a surprise that at this moment Freud identifies a familiarity between this mechanism and the 'curative effect' of psychotherapy: the Freudian 'talking cure' is itself a method that 'brings to an end the operative force of the idea which was not ab-reacted in the first instance, by allowing its strangulated affect to find a way out through speech' (Freud and Breuer 1955: 17).

Since this is the first time the neologism *Abreaktion* is employed, confession is the first example presented by Freud and Breuer for this affective discharge without which neuroses tend to develop. For them, to put it simply, those who confess heal themselves. As Breuer states in his theoretical comments,

There is a normal, appropriate reaction to excitation caused by very vivid and irreconcilable ideas—namely, to communicate them by speech... We meet the same urge as one of the basic factors of a major historical institution—the Roman Catholic confessional. Telling things is a relief; it discharges tension even when the person to whom they are told is not a priest and even when no absolution follows (Freud and Breuer 1955: 211).

The ab-reactive Catholic confession, like the psychotherapeutic method, is a means of a 'talking cure'.

In *Studies on Hysteria*, the focus of Freud and Breuer concerns, of course, the likely hysterical consequences of a failure in these cathartic processes of ab-reacting tensions associated with reminiscences. In such cases, excitability is converted into well-known somatic symptoms. 'Retention hysteria', however, is only one of its possible outcomes. Even when it does occur, part of the affect persists since hysterical conversion is never capable of dealing with all available tension. Interestingly, in a contemporary article, Freud defines 'anxiety neurosis' as a pathology caused precisely by this excessive tension not discharged by psychic mechanisms, whether normal, pathological, or

clinical. Accelerated breathing, palpitation, and sweating (i.e., typical symptoms of anxiety) are but substitutes for the psychic discharge that did not occur; the tension deflected from the psychical field then returns as anxiety (Freud 1955: 347).

Roughly, this is how Freud develops his reflections on the relationship between anxiety and ab-reaction within the context of what is now usually referred to as his first theory of anxiety. After the turn of the century, he abandoned (to Weber's regret) the concept of ab-reaction and no longer regarded the psychoanalytic clinic as a cathartic mechanism for the discharge of emotionally saturated traumas—which, in turn, also precluded its association with Catholic confession (although the concept of ab-reaction is still used by psychoanalysts today). Furthermore, after approximately 1908, another theory of anxiety would be developed in terms quite remote from his previous physicalist model of the mind (cf. Laplanche 1980).

The articulation between confession, ab-reaction and anxiety would nonetheless continue to be considered by some of Freud's disciples, including the psychiatrist Arthur Muthmann, one of his earliest followers. Returning to Weber's letter from September 1907, it is interesting to find him, after mentioning his acquaintance with the major works of Freud, naming an article published months earlier in the first issue of the journal *Zeitschrift für Religionspsychologie*: 'Obsessive Acts and Religious Practices' (nothing less than Freud's first work directly dedicated to cultural issues and written in February of the same year). What Weber did not mention, however, was that in that same issue he also came across a provoking paper by Muthmann, entitled '*Psychiatrisch-theologische Grenzfragen*' (Muthmann 1907).

Some fifty pages after Freud's text, Muthmann, closely following his master's physicalist model (already outdated at that stage), defines anxiety as an experience between repression and the return of the repressed that occurs when unpleasant affects associated with an unconscious representation manage to surface to consciousness as pure tension. According to him, the subject experiences this as a sudden and inexplicable increase of excitability, that is, as anxiety (Muthmann 1907: 71). Although this anxiety, devoid of psychic representations, emerges as an intractable attack, Muthmann recalls that in such circumstances, there are individuals who have a special ability to aid its discharge through ab-reaction, that is, to make anxiety go away. These '*Lebenskünstler*', endowed with a broad spiritual horizon and with 'the most intense sensitivity to the smallest untruths, the simplest imbalances' (Muthmann 1907: 62), could then come to aid

‘when the ab-reaction process stalls’ (Muthmann 1907: 63). Nietzsche, Muthmann continues, called this type ‘priestly natures’: ‘those who confess’, Muthmann quotes the German philosopher, although he likewise could be quoting Freud and Breuer, ‘also forget’ (Muthmann 1907: 64). Consequently, Catholic confession is again identified in its importance as a psychological device:

By truly recognizing the human need for fruitful ab-reaction, which is also emphasized by Nietzsche, both in rare ‘priestly natures’ as in its popular sense, the Catholic Church has religiously legitimized a technique of ab-reaction—the confession—and with psychological insight it has also cultivated the need for ab-reaction (Muthmann 1907: 64).

In a sweeping generalization, Muthmann goes as far as to correlate the absence of confession to the higher rates of suicide among Protestants when compared to Catholics: ‘one should not doubt confession is for many the greatest blessing’ (Muthmann 1907: 65).

Only a couple of years after having published his two essays in the *Archiv*, and in the precise year—1907—when ‘the great majority of learned and specific emendations’ to the *PE* were made (Ghosh 2014), it was highly unlikely that statements like these would go unnoticed by Weber. As discussed below, Weber would later directly refer to Muthmann’s article in the second edition of *PE*. Within the context of a discussion on the psychic consequences of the abolition of confession among Reformed Protestants, Weber mentions Muthmann in a footnote immediately after using the concept of ab-reaction for the first time. It is true that he does so to depict Muthmann’s explanations as ‘too simple for such a highly complex psychological problem as the confessional’ (Weber 2005: 180). But why take the risk of this intersection with psychoanalysis? How could a discarded Freudian concept, understood in its ‘too simple’ relation to Catholic confession, be of any interest for Weber’s research?

Between Ethics and Ab-reaction

A categorical answer to these questions is not given by Weber in the above-mentioned letter addressed to Else Jaffé. Nonetheless, in this letter, one can find a first remnant of a theoretical opposition that is utterly decisive for Weber’s sociology—an opposition, not by chance, structured with the aid of the concept of ab-reaction.

To put it plainly, the opposition established by Weber in the letter is an opposition between, on the one hand, systems of ethics and, on the other, therapeutic practices he insists on considering in line with

an ab-reactive framework. As Weber there explains, ethics can be divided into two groups: 'heroic ethics', which impose demands of principle that individuals are generally unable to meet, except at the highest points of their existence, and 'average ethics', which accept humans' 'everyday nature' as a benchmark for their demands. In both cases, Weber insists that ethics always entail some kind of self-sacrifice (Weber 1998: 385). Regarding the 'psychiatric assistance' provided by Dr. Freud and his followers, for its turn, no new demand was imposed on the individual, except, Weber ironically continues, to confess what one is and what one wants while lying on Freud's couch (Weber 1998: 386). For Weber, the ab-reactive features of Freudian cure techniques were, rather than a new ethics, nothing but 'a revival of confession' (Weber 1998: 386).

This opposition, it is important to note, does not necessarily imply a devaluation of psychoanalysis. Instead, it is mainly a conceptual distinction made by Weber between ethical worldviews, which is one thing, and psychoanalysis, which is something different. For Weber, the problem with Gross' 'psychiatric ethics' was in merging one with another, assuming that it was possible to base a new ethics on a straightforward process of emotional ab-reaction. This distinction does not necessarily involve any hierarchization, yet in some passages there are clear indications of Weber's personal preference for the former. Theoretically, though, the contrast is clear-cut: the individual must choose between an ethics and some kind of transcendence of the self (whether idealistic or not), on the one hand, and nervous hygiene, ab-reaction of affections and the affirmation of the self by confession on the other. This is how Weber operates with the Freudian concept of ab-reaction in this context: as a concept concerning psychic processes that under no circumstances could be mistaken as a basis for establishing a new ethics of life (as Gross advocated).

Indeed, this opposition later takes the mature form of a conceptual differentiation between value-rational action and affectual behaviour. As is well known, in the first chapter of *Economy and Society*, Weber constructs four ideal types of social action; among them, only two can be taken as rational, while only value-rational action has, strictly speaking, an ethical sense. In his canonical definition, individuals act according to a 'pure value-rational orientation' when they, 'regardless of possible cost to themselves, act to put into practice their convictions, of what seems to them to be required by duty, honor, the pursuit of beauty, a religious call, personal loyalty, or the importance of some "cause" no matter in what it consists' (Weber 1978: 25). The

value-rational action is, consequently, in evident opposition to instrumentally rational action as well as (and here the opposition already present in the letter returns) to affectual behaviour—a type of irrational action that is ‘determined by the actor’s specific affects and feeling states’ (Weber 1978: 25). Interestingly, to describe this irrational behaviour, Weber turns again to the Freudian ab-reaction: ‘Action is affectual if it satisfies a need for revenge, sensual gratification, devotion, contemplative bliss, or for ab-reacting emotional tensions (irrespective of the level of sublimation)’ (Weber 1978: 25; translation altered).⁴

In both cases, in the letter and in *Economy and Society*, Weber resorts to the concept of ab-reaction mainly to distinguish affectual behaviour, this kind of confession of the self that is typical of weak people, from value-rational actions, which alone can be the basis for an ethics. However, if this is the case, then how can we interpret the above-mentioned passage, inserted by Weber into the second edition of *PE*, according to which worldly activity among Protestants ‘could, so to speak, be considered the most suitable means of ab-reacting feelings of religious anxiety’? Could an ethical duty also be an ab-reactive affectual behaviour?

To address these questions, the concepts of ab-reaction and anxiety must now be considered in relation to the concepts of disenchantment of the world and psychological premiums.

The Disenchantment of the World

It is currently well established in Weberology (Schluchter 1989: 417) that the concept of disenchantment of the world first appeared in Weber’s work in the 1913 article ‘On some categories of interpretive sociology’ (Weber 2012; 1985). Less discussed is the fact that this concept comes to light not only within a section of suggestive name—‘Relationship to “psychology”’—but also amid a discussion concerning the boundaries and interfaces between sociology and psychology. That few lines before or after referring for the first time to the process of disenchantment Weber also discusses how sociology must address phenomena such as the sexual drive or mentions the Freudian concept of ab-reaction seems to be of no greater significance for its critical reception. This is, however, the context in which Weber

4. ‘Affektuell handelt, wer sein Bedürfnis nach aktueller Rache, aktuellem Genuß, aktueller Hingabe, aktueller kontemplativer Seligkeit oder nach Abreaktion aktueller Affekte (gleichviel wie massiver oder wie sublimer Art) befriedigt’ (Weber 1980: 12).

first turns to the concept of disenchantment of the world. Furthermore, at the time, the meaning of the concept was tied to the broadening of the *irrational* dimension of social action, not the opposite. As Weber formulates it,

For example, action oriented according to conceptions of magic often has a character that is subjectively far more instrumentally rational than any non-magical 'religious' behavior, since religion is forced, as the disenchantment of the world increases, to make ever more (subjectively) instrumentally irrational meaning-related assumptions ('convictional' or mystical ones, for instance) (Weber 2012: 277; translation altered).⁵

Disenchanted religious conducts may be of less instrumental rational character (i.e., more irrational from this point of view) than magical actions because, according to Weber, whereas magical behaviours tend to be subjectively oriented towards 'unambiguous and clearly comprehended ends' (Weber 2012: 276) directly associated with interests, religious subjects are more likely to perform actions whose subjectively intended meaning is quite independent of any instrumental concern. For Weber, individuals who turned to the aid of a sorcerer seeking to free themselves 'from sickness, poverty, and from all sorts of distress and danger' (Weber 1946: 272) performed an action whose meaning was, ideally, as clear and instrumentally rational for them as for the sociologist who could understand it without resorting to irrational phenomena such as those studied by psychology (the sexual drive, for instance). Weber certainly acknowledges a very local and limited rationality in these 'unambiguous ends'; it is, however, a rationality that is relatively impenetrable to inflows of irrational factors.

This decrease in rationality associated with the disenchantment of the world must, of course, always be understood from a specific point of view; in this case, from the point of view of instrumental rationality. The transition from magic to religion no doubt also entails, apart from this decrease, a gradual replacement of instrumental rationality by a superior (also from a specific point of view) kind of rationality, namely, a rationality that presents itself either as an 'objectively correct rationality' [*objektive Richtigkeitsrationalität*] (Weber 1985: 435) or as value-oriented (that may end up structuring an ethics regarded

5. 'An magischen Vorstellungen orientiertes Handeln beispielsweise ist subjektiv oft weit zweckrationaleren Charakters als irgendein nicht magisches "religiöses" Sichverhalten, da die Religiosität ja gerade mit zunehmender Entzauberung der Welt zunehmend (subjektiv) zweckirrationalere Sinnbezogenheiten ("gesinnungshafte" oder mystische z. B.) anzunehmen genötigt ist' (Weber 1985: 433).

as valid in itself). In other texts, remarkably, Weber even refers to this aspect of the disenchantment of the world as a kind of *sublimation*—a concept whose roots no doubt go back further than the advent of psychoanalysis. In ‘An Intermediate Consideration’, for instance, Weber speaks of ‘sublimated religions of salvation’ (Weber 1946b: 331) to discuss ethical religions that have promoted the sublimation of magical and worldly instrumental interests in the form of goods of salvation. In this sense, in contrast to magical behaviour, ethical-religious conducts are ‘oriented to *inward* sacred values as means of salvation’ in as much as they have been ‘sublimated from ritualism towards “religiosity of conviction”’ (Weber 1946b: 328; translation altered).⁶

It is, though, always an incomplete disenchantment. One of the most thorough findings of Weber’s sociology is that no ethical religion has fully rid itself of magical practices. The insistence of non-sublimated interests can still be felt in magical practices that persist within religions. Especially among masses, who are less ready to satisfy themselves with mere promises and sublimated goods of salvation, there always remains magical means for the direct manipulation of this world aimed to satisfy interests in the here and now. Additionally, even the most sublimated goods of salvation can never, for Weber, be completely dissociated from worldly interests since the ‘most elementary forms of behaviour motivated by religious or magical factors are oriented to *this* world’ (Weber 1978: 399). If the utmost interest is ‘that it may go well with thee’ in the here and now, it seems that it may go better if one follows certain ethical precepts instead of remaining adrift in a sea of interests and affects. This is not due to any long-term utilitarianism but rather because a true theodicy endows life with a meaning that makes it more bearable than it would otherwise be if restricted to the naïve and unsystematic pursuit of immediate pragmatic purposes. As a promise and, at the same, time a canopy (cf. Berger 1967) that provides meaning to life, a theodicy is also a way—albeit a sublimated one—of responding to worldly interests. The certainty of salvation, one of these sublimated goods of salvation, is consequently not a simple negation of the interest in living well in this world since ‘man in quest of salvation has been primarily

6. ‘Dies folgte aus dem Sinn der Erlösung und dem Wesen der prophetischen Heilslehre, sobald diese sich, und um so mehr, je prinzipieller sie sich zu einer rationalen und dabei an *innerlichen* religiösen Heilsgütern als Erlösungsmitteln orientierten Ethik entwickelte. Je mehr sie, heißt das im üblichen Sprachgebrauch, vom Ritualismus hinweg zur “Gesinnungsreligiosität” sublimiert wurde’ (Weber 1986b: 541).

preoccupied by attitudes of the here and now' (Weber 1946: 278). Although salvation is extramundane, its certainty is an ideal *worldly* interest—and an interest that undoubtedly insists.

The disenchantment of the world at this first 'moment' appears, therefore, as an increasing (though never complete) detachment of religious conduct from instrumental ends; from magic to religion, disenchantment is here synonymous with the sublimation of worldly interests into goods of salvation.

In contrast, the process described in *PE* bears quite distinct characteristics. In *PE*, what is under scrutiny is not only how worldly interests are sublimated through the disenchantment of the world but how (already sublimated) goods of salvation are *themselves* sublimated through a disenchantment that now repudiates as 'superstition and sin' not only 'all magical means to salvation' but also all 'sacramental forces on salvation' (Weber 2005: 61). The singularity of this disenchantment that came to its 'final conclusion' with Calvinism, its most radical actualization, is that from then on, '[t]here was not only no magical means of attaining the grace of God for those to whom God had decided to deny it, but no means whatever' (Weber 2005: 61). Disenchantment in *PE* is thus synonymous with 'the complete elimination of salvation through the Church and the sacraments' (Weber 2005: 61) in circumstances where, as Weber explains in *Economy and Society*, the 'basic dogma of strict Calvinism, the doctrine of predestination, makes it impossible for the church to administer sacraments whose reception can have any significance for eternal salvation' (Weber 1978: 1198).

The most striking feature of this 'last' disenchantment by which the goods of salvation themselves are 'sublimated' is that from it no higher (or more 'sublime') goods are engendered, only emptiness. When an ethical religion itself is submitted to this radical disenchantment, there no longer remains in it any good to be aimed for, no 'atonement, hope of grace, certainty of forgiveness' (Weber 2005: 71). Hence, the paradoxical status of Calvinist theodicy and its *deus absconditus*, the pinnacle of this process: on the one hand, it is one of the most rationally consistent, since disenchanting, forms of theodicy (Weber 1946: 275); on the other, precisely at this point, this theodicy ceases to be a theodicy: 'the complete elimination of the theodicy problem and of all those questions about the meaning of the world and of life, which have tortured others, was... self-evident to the Puritan' (Weber 2005: 65). The most consistent theodicy is ultimately the one that ends up decreeing that nothing in this world makes sense

as the believer renounces ‘in a loveless clarity... accessibility to any meaning of the world’ (Weber 1946b: 359). For such a radically disenchanted theodicy, all that is human is corruption and no worldly interest is valid, not even the most sublimated ones (such as certainty of salvation). It is no doubt still a theodicy, but such an empty one that it becomes unable to fulfil the most compelling demand placed upon any theodicy. This last stage of the disenchantment of the world that singles out ascetic Protestantism leaves behind nothing but a hidden God: an object of worship no doubt omnipotent but so devoid of any worldly garb, so high above human interests, so extramundane, that has become unable to sustain any theodicy worthy of the name. When it comes to this point, to this ‘absolute’ sublimation, it is as if the foundation from which this process takes its momentum—the worldly interests—disappears from beneath its feet, leaving only emptiness. Hence the rejection by Reformed Protestantism not only of hedonistic but also of eudemonistic worldviews, that is, of the very quest for happiness. Every meaning is gradually excluded from this world, and all that is mundane becomes a *wastetime*; worldly interests, such as the pleasure of listening to music, leave this world to give place to ‘that absolute nothingness which we find typical of the Anglo-Saxon peoples later, and even today’ (Weber 2005: 246; translation altered).⁷

In several passages from the 1904–1905 essays, Weber associates such a decline of worldly interests with two very peculiar moods: melancholy and moroseness (Weber 2005: 201). It seemed it was the fate of those who succeeded in repressing the ‘spontaneity of the *status naturalis*’ (Weber 2005: 201) to resign themselves to a tedious life free of ups and downs. As an outcome of that ascetic *Bildung* of the self, necessary to forge a constant character, a melancholic, although also responsible and predictable, personality would arise. According to these passages (all retained in the 1920 edition), the doctrine of double predestination and the devaluation of the world to which it led had the psychological effect of producing solitary individuals, indifferent to the inconstancy of life but at the same time able to act only and solely by conviction—a true Kantian ethical subject, one could say. It is indeed almost impossible to image the seventeenth-century heroic capitalist devoid of these attributes.

7. ‘Auffallend ist aber der Absturz von einer anscheinend ganz guten musikalischen Veranlagung (die Rolle Englands in der Musikgeschichte war nicht unbedeutend) zu jenem absoluten Nichts, welches wir bei den angelsächsischen Völkern später und noch heute in dieser Hinsicht bemerken’ (Weber 1986: n.343).

Surprisingly, this is not the characterization found in the passages inserted by Weber into the 1920 edition of *PE*. When appropriately read and interpreted, the psychological consequences of the doctrine of double predestination and the process of disenchantment of the world described in these passages are quite divergent from that previous melancholic or morose depiction. Rather than Kant's sobriety, the reader is now confronted with a true *psychopathology* of the disenchantment that undoubtedly resembles some psychoanalytic ideas Weber came across some years before:

The 'disenchantment' of the world, the elimination of *magic* as a means to salvation, the Catholics had not carried nearly so far as the Puritans (and before them the Jews) had done. To the Catholic the *salvation through the sacraments* was a compensation for his own imperfection: the priest was a magician who performed the miracle of transubstantiation, and who held the key to eternal life in his hand. One could turn to him in grief and penitence. He dispensed atonement, hope of grace, certainty of forgiveness, and thereby granted *release* from that tremendous *tension* to which the Calvinist was doomed by an inexorable fate, admitting of no mitigation (Weber 2005: 71; translation altered).⁸

Depicting, in 1920, the psychic constellation resulting from disenchantment, Weber does not mention non-tense moods such as melancholy and moroseness. By not having at their disposal 'friendly and human comforts', that is, means of discharging their psychic stress, Reformed Protestants are now, in opposition to Catholics, pictured as 'doomed by an inexorable fate' to live pervaded by a 'tremendous tension'. Since worldly interests are completely devoid of object for them, they are deprived of the due channels of the ab-reaction of tension (beginning with auricular confession), and their interests are present now as tension alone without corresponding means of actualization. In other words, the main psychological effect of that 'last' disenchantment theorized by Weber in 1920 is not melancholy but

8. 'Die "Entzauberung" der Welt: die Ausschaltung der *Magie* als Heilmittel, war in der katholischen Frömmigkeit nicht zu den Konsequenzen durchgeführt, wie in der puritanischen (und vor ihr nur in der jüdischen) Religiosität. Dem Katholiken stand die *Sakramentsgnade* seiner Kirche als Ausgleichsmittel eigener Unzulänglichkeit zur Verfügung: der Priester war ein Magier, der das Wunder der Wandlung vollbrachte und in dessen Hand die Schlüsselgewalt gelegt war. Man konnte sich in Reue und Bußfertigkeit an ihn wenden, er spendete Sühne, Gnadenhoffnung, Gewißheit der Vergebung und gewährte damit die *Entlastung* von jener ungeheuren *Spannung*, in welcher zu leben das unentrinnbare und durch nichts zu lindernde Schicksal des Calvinisten war' (Weber 1986: 114).

'religious anxiety' (Weber 2005: 67). Weber's Protestants are now not sober and melancholic but, above all, anxious.

Similar to Freudian anxiety, the anxiety diagnosed by Weber among Protestants concerns the existence of tensions devoid of worldly representation able to grasp them. After the whole world has been (supposedly) disenchanting, only an *absconditus* God and an empty earth are left. From then on, human 'unambiguous and clearly comprehended ends', such as living a life free 'from sickness, poverty, and from all sorts of distress and danger' (Weber 1946: 272), or sublimated interests such as the *certitudo salutis*, come forth only negatively, as pure tension.⁹ But, if this is the case, if worldly interests insist coming forth, even when devoid of object, then one is forced to conclude that the disenchantment of the world, even in ascetic Protestantism, was not as complete as could be expected. Besides that nothingness something mundane remains, although only as mere tension.

Psychological Premiums

If Weber were a psychologist or a sociologist seduced by the sirens' song of psychologism so in vogue at his time, one could expect to find him deriving from such a psychic constellation a set of behaviours

9. Although Parkin is one of the few to recognize the importance of the concept of 'religious anxiety' in the *PE's* argument, he failed to note that this concept is to be understood in relation to the concepts of disenchantment of the world, psychological premiums and ab-reaction. What is even more serious is that Parkin's argument is limited to a doctrinaire explanation of the 'religious anxiety', which prevents him to understand why, in a disenchanting world, only the *ad infinitum* movement of the ascetic could relieve that anxiety. According to Parkin: 'Weber's emphasis on economic criteria and material success as the most evident proof of salvation is therefore somewhat unwarranted. The pious Calvinist would be able to detect the hand of God working in his favour in a hundred and one ways - most of them entirely unconnected with economic rationality. For example, the enjoyment of good health while others were falling sick; the survival of one's children in an age of high infant mortality; the esteem of the community bestowed upon those of exemplary asceticism; and so forth. It is clearly necessary to Weber's strong thesis that the state of the balance sheet should be regarded by the faithful as the best indication of salvation; if purely moral criteria were adopted, the energies of the Calvinist would not be so readily harnessed to capitalistic ends. All that salvation anxiety would be wasted' (Parkin 2002: 50). The whole point, however, is that every worldly aim, such as good health or 'the esteem of the community', loses its weight in a world that took to its furthest limits the process of disenchantment. Rather than a 'somewhat unwarranted' choice of Weber, the abstract and limitless 'material success' (but not material enjoyment) was the only possible benchmark left in a disenchanting world.

that would eventually bring a solution to his problem, specifically, how to understand the 'inner relationship between certain expressions of the old Protestant spirit and modern capitalistic culture' (Weber 2005: 11). Fortunately, however, not only was Weber not a psychologist, but he was also, since his first works on the methodology of social sciences, a tenacious adversary of any attempt to subsume sociology to an alleged psychological foundation. The reason for his interest in psychoanalytic concepts cannot therefore be found in any expectation to simply derive social conducts from this or that psychic configuration. If Weber draws psychic consequences from historical phenomena, it is not to eventually raise them as grounds for other historical events but to address causal factors that, although irrational, are constitutive links in the causal chains in which the sociologist was interested. After all, it was Weber himself who recognized in 'hundreds of examples, particularly in cultural history', the existence of 'phenomena which have apparently been directly determined by purposively rational [considerations]' but that 'actually came into being historically as a result of quite irrational motives and subsequently survived by virtue of being "[well] adapted", and in some cases became universal' (Weber 2012: 278). This is exactly what is at stake in *The Protestant Ethic*.

In the 1904-1905 essays, Weber did already mention a certain 'anxiety of salvation' that tormented the faithful Puritan. Turning to Christian Bunyan's *Pilgrim's Progress* protagonist, Weber commented: 'Only when he [Christian] himself is safe does it occur to him that it would be nice to have his family with him. It is the same anxiety of death and of the beyond which we feel so vividly in Alfonso of Liguori' (Weber 1905: 14). Next to the expression 'which we feel so vividly', Weber observes in a footnote: 'But the *effects* of this anxiety on Bunyan and Liguori are characteristically different: the same anxiety that drives the latter to every kind of self-torment spurs the former on to a life of virile, restless and systematic work' (Weber 1905: 14). Weber, however, is at that moment unconcerned with asking the reason for this difference as he draws no theoretical consequences from this discussion. In 1904-1905, the description of distinct anxieties affecting a Protestant hero and a Catholic bishop does not evolve in any consistent theoretical direction.

However, here again a remarkable movement takes place in the second edition of *PE*. When we leap forward fifteen years, Weber moves the above-cited footnote into the body of the text and reformulates it as follows:

But the *effects* of this anxiety on Bunyan and Liguori are characteristically different. The same anxiety which drives the latter to every conceivable self-humiliation spurs the former on to a restless and systematic struggle with life. Whence comes this difference? (Weber 2005: 63-64; translation altered).¹⁰

At the end of the passage, now in the body of the text, Weber introduces a fairly straightforward but hitherto missing rhetorical question: *Woher dieser Unterschied?* – ‘Whence comes this difference?’. Why did anxiety arouse in the ascetic Protestant ‘a restless and systematic struggle with life’, while in a Catholic bishop it led only to ‘self-humiliation’? Here, Weber encounters the problem of the subjectively intended meaning of the actor’s reaction facing anxiety, and the reader finds the sociologist at his greatest power: not deriving behaviours from psychic constellations or psychological laws but historically understanding how actors have typically reacted to those psychological conditions. It is at this point that Weber presents a distinction between two ideal types of meaningful reactions towards anxiety: one of so-called saints and the other of ordinary people.

Facing anxiety, how did the Puritan saint typically react? Clinging to nothing more than faith, to *sola fides*, this hero of Protestantism lives without relying on expectations, promises, or any attempts at finding a meaning for this world. Not waiting for theodicies, these saints live in absolute deprivation of worldly interests, devoid of immediate or sublimated expectations of living well in this world, which now just ‘exists to serve the glorification of God’ (Weber 2005: 64). The three days of Abraham’s silent walk through the desert, where he simply accepts the utter lack of sense of the world and abandons any aspiration of being happy in it, sacrificing what he had of most valuable for his faith, become the perfect image of their lives. For them, the doctrine of double predestination remains in full force as they know salvation is without mediation. God has no mundane representatives, even though His *absconditus* character should not be understood as a simple absence; His presence is a hidden presence. Therefore, again, *sola fides*, as for Calvin himself who simply ‘rejects in principle the assumption that one can learn from the conduct of others whether they are chosen or damned’ (Weber 2005: 65). Without intermediaries, one simply honours His absolutely obscure presence in this leap of faith, where ‘it is

10. ‘Nur freilich sind eben die *Wirkungen* dieser Angst bei Bunyan und Liguori so charakteristisch verschieden: dieselbe Angst, welche diesen zu jeder erdenklichen Selbsterniedrigung treibt, spornt jenen zu rastlosem und systematischem Kampf mit dem Leben. Woher dieser Unterschied?’ (Weber 1986: 98).

held to be an absolute duty to consider oneself chosen, and to combat all doubts as temptations of the devil, since lack of self-confidence is the result of insufficient faith' (Weber 2005: 66).

In Weberian sociology, however, saints and heroes are never numerous enough to constitute a mass, and the very few who deserve such titles could not alone be the bearers of a life conduct as comprehensive as the capitalist spirit. Weber, for this reason, is mainly interested not in those who from the beginning have always been heroes but rather in 'the broad mass of ordinary men' who, with no special vocation to be saints, *end up* acting as one. The defining feature of these average individuals is that for them 'the question could not be suppressed whether there were any infallible criteria by which membership in the *electi* could be known' (Weber 2005: 66). They are, in other words, simply unable to bear the doctrine of double predestination in its radicality; in their day-to-day life, they cannot tolerate that nothingness in which 'self-confident saints' live.¹¹ They long for the certainty of salvation; in them, worldly interests (and the *certitudo salutis* is an ideal worldly interest) insist. Faced with the anxious lack of goods of salvation following disenchantment, the average Puritan cannot avoid the urge to search for mundane signs of salvation in the here and now.¹²

11. Consequently, I cannot here agree with Ghosh when he imbues the typical ascetic protestant with a charismatic character, as a result of the *certitudo salutis*. According to Ghosh, the *certitudo salutis*, '[c]oupled with the deterministic insistence of the predestinarian that God's grace once granted could never be lost, ...was an enormous, present empowerment, and not just a distant hope for the afterlife' (Ghosh 2014: 289), so that (identifying this supposed certainty that 'could never be lost' with charisma) ascetic Protestantism would be, 'in its pure form', 'the world of those with grace or charisma' (Ghosh 2014: 313). Without going into the troublesome aspects of such approximation between *certitudo salutis* and charisma, it should be noted that according to Weber, far from being a resolution to the religious anxiety, the doctrine of the *certitudo salutis* was a central aspect of it. For Weber, '[i]t was impossible, at least so far as the question of a man's own state of grace arose, to be satisfied with Calvin's trust in the testimony of the expectant faith resulting from grace, even though the orthodox doctrine had never formally abandoned that criterion' (Weber 2005: 66); for the Weberian Protestant 'the question could not be suppressed whether there were any infallible criteria by which membership in the *electi* could be known' (Weber 2005: 66). To describe someone in deep doubt about his salvation status and in constant search for signs of certainty as a charismatic individual is nothing but a contradiction in terms.

12. What is discussed in this article is independent from the Mackinnon-Zaret debat, even though it also touches the problem of predestinarianism. Our aim is not to confirm (nor to deny) the historical credibility of Weber's thesis regarding

It is by describing this average way of dealing with the anxiety of lack of object (or, indeed, of its empty presence) that Weber reaches the heart of his problem, that is, the affinity between the disenchantment of the world, the anxiety it engenders and the capitalist spirit. In these average individuals, crossed by the radical disenchantment of the world that emptied their most mundane affections and interests, the desire ‘that it may go well with thee’ returns in the here and now as anxiety. Unable to bear it, seeking to dispel that tension but denied the traditional means for it (auricular confession, for instance), the typical anxious Protestant reacts by obsessively forging (impossible) signs of salvation: they stage themselves as chosen ones. What was excluded by the disenchantment of the world is made present again, and anxiety is thus ab-reacted:

That worldly activity should be considered capable of *this* achievement, that it could, so to speak, be considered the most suitable means of ab-reacting feelings of religious anxiety, finds its explanation in the fundamental peculiarities of religious feeling in the Reformed Church, which come most clearly to light in its differences from Lutheranism in the doctrine of justification by faith (Weber 2005: 67; translation altered).¹³

Average Puritans, those who were in fact relevant to capitalism at its origin, are not ethical heroes who, without further ado, conform themselves with the *sola fide* of the doctrine of double predestination but those who irrationally react to the disenchantment of the world

seventeenth-century doctrine of predestination, but to emphasize its theoretical importance within Weber’s argumentation, especially in what concerns its consequences for the constitution of the anxious psychic constellation typical of the ascetic Protestant. In this sense, it should be emphasized that both Mackinnon and Zaret, despite disagreeing on the historical validity of Weber’s descriptions, coincide on their acknowledgment of the theoretical centrality of the concept of anxiety to Weber’s line of reason. According to Mackinnon, ‘seemingly unmoved by evidence to the contrary, that “predestination was not reinterpreted, toned down or fundamentally abandoned”, Weber proclaims that “intense worldly activity” is the way of overcoming the ultimate value’s anxiety’ (Mackinnon 1988: 183). Similarly, for Zaret: ‘The key issue for the Weber thesis is not the precise ordering of the decrees or the stages in the *ordo salutis* but whether formal doctrines can induce sufficient anxiety in lay adherents to motivate extended searches for evidence of the operation of saving grace in their “works”, which in Puritanism certainly extended to secular employments’ (Zaret 1992: 386).

13. Again, passages inserted in 1920 are underlined. ‘Daß die weltliche Berufarbeit zu *dieser* Leistung für fähig galt,—daß sie, sozusagen, als das geeignete Mittel zum Abreagieren der religiösen Angstafekte behandelt werden konnte—hat nun aber seinen Grund in tiefliegenden Eigentümlichkeiten des in der reformierten Kirche gepflegten religiösen Empfindens...’ (Weber 1986: 106).

associated with it and irrationally, obsessively, uphold their interests in the here and now. As a true symptom, active worldly asceticism relieves (or is expected to relieve) anxiety. If, according to Weber, 'an ethics based on religion places certain *psychological premiums* (not of an economic character) on the maintenance of the attitude prescribed by it, premiums which, so long as the religious belief remains alive, are highly effective' (Weber 2005: 145; translation altered)¹⁴, then the singular psychological premium that active worldly asceticism places for Reformed Protestants is to operate as a 'means of ab-reacting feelings of religious anxiety' in a disenchanted world increasingly devoid of it. The reciprocal meaningful relationship between the concepts of disenchantment of the world, anxiety, ab-reaction and psychological premiums is here clearly expressed.

Final Remarks

In the first edition of *PE*, the comparison between ascetic Protestantism and non-ascetic Christianity proposed by Weber followed a very straightforward *doctrinaire* perspective. In contrast to the Catholic axiological system, so went his argument, which affirmed the value of work as 'a succession of individual acts', allowing the faithful to live 'from hand to mouth' and, as an accountant, to use 'good works' as the 'occasion demanded, to atone for particular sins', 'the God of Calvinism, on the other hand, demanded of believers, and effected in them, not single "good works", but a "holy life", that is, sanctification by works unified as system' (Weber 1905: 27). The ascetic life conduct was therefore mainly associated with this greater appreciation of a 'holy' and 'systematic' life among Reformed Protestants, in opposition to the rather unstable Catholic 'hand to mouth' type. Thus, after restating that for these Protestants work is 'the end *in itself* of life, as ordained by God', Weber could conclude: '[h]ere the difference from the medieval doctrine becomes quite evident'.¹⁵

14. 'Das Entscheidende des Unterschiedes ist (um das vorwegzunehmen): daß eine religiös verankerte Ethik auf das von ihr hervorgerufene Verhalten ganz bestimmte, und, so lange der religiöse Glaube lebendig bleibt, höchst wirksame *psychologische Prämien* (nicht ökonomischen Charakters) setzt, welche eine bloße Lebenskunstlehre wie die Albertis eben *nicht* zur Verfügung hat' (Weber 1986: n. 35). This entire excerpt was, of course, not present in the 1904–1905 edition of *The Protestant Ethic*.

15. 'Deutlich zeigt sich hier die Abweichung von der mittelalterlichen Doktrin' (Weber 1905: 81).

This verdict, so unequivocal, fifteen years later¹⁶ undergoes an apparently modest but symptomatic amendment. In the second edition of *PE*, instead of '[h]ere the difference from the medieval doctrine [*Doktrin*] becomes quite evident', the reader encounters the following: '[h]ere the difference from the medieval conduct [*Haltung*] becomes quite evident' (Weber 2005: 105; translation altered).¹⁷ The divergence between ascetic Protestantism and medieval Catholicism is now emphasized as being not of *Doktrin* but of *Haltung*. After conceding, again in hitherto unpublished passages, that the ideal of the systematic sanctification of life was not strange to 'official Catholic doctrine' ('[i]t is, of course, true that the official Catholic doctrine, even in the Middle Ages, itself set up the ideal of a systematic sanctification of life as a whole' [Weber 2005: 194]), something that his colleagues Sombart and Brentano had, against him, advocated years before (cf. Sombart 1913 and Brentano 1916), Weber's explanation shifts emphasis from the linear affinity between an axiological system and its corresponding valorization of active worldly asceticism among Reformed Protestants towards a new regard on the (irrational) dimension of their conduct. Since this dimension cannot be interpreted as a mere *derivation* from this or that doctrine but only as a *typical deviation* from them, it is at this point that the concepts of ab-reaction, anxiety, disenchantment of the world and psychological premiums become necessary as conceptual tools able to address irrational causal factors sedimented into a psychic constellation that work in 'directions' that are 'very different from the *doctrine* of the theologians' (Weber 2005:

16. It is not my intention here to determine the exact year when Weber made this and others amendments to the *PE*. On this particular point, however, what is argued in this paper is completely compatible with Ghosh's narrative according to which: '[t]he textual history of the *PE* is not to be reduced to a stark choice between what Weber thought and wrote in 1904–1905 and what in 1919–20, though this has been the assumption hitherto. On the contrary, the way Weber thought and wrote mirrored his conception of historical evolution as a sequence of progressive accumulation, in that he had an ingrained tendency to add ever fresh layers to an original composition' (Ghosh 2014: 146–47). Weber mentions the Freudian concept of ab-reaction as early as 1907, the concept of psychic premiums in 1910, in his last reply to Rachfahl (Weber 1968), and the concept of disenchantment of the world about eight years before the 1920 edition of *PE* – a sequence therefore coherent with Ghosh's conclusion that 'the revisions to the text that were first published in 1920 present an aggregate record of a history going back to 1906–1907' (Ghosh 2014: 147).

17. 'Deutlich zeigt sich hier die Abweichung von der mittelalterlichen *Haltung*' (Weber 1986: 171).

145). Consequently, unless such a constellation is duly considered, this conceptual emphasis shift remains simply unintelligible.

In failing to acknowledge this, today's dominant Weberology insists on understanding Weber's thesis from a Kantian perspective. According to this reading, in *PE*, Weber addressed, above all, the origins of a value-rational action by describing how a singular life conduct (active worldly asceticism) was sanctioned (positive or negatively) by an also singular axiological system (Reformed Protestantism), with the latter having a direct incidence on the former. In this sense, Stephen Kalberg could not be more explicit when he states that 'only values, for Weber, and particularly a unified configuration of values, are capable of introducing methodical-rational conduct of life' (Kalberg 1980: 1164). In the specific case of ascetic Protestantism, what was at stake was therefore how a 'set of work-oriented values heretofore scorned became of utmost centrality in the lives of Puritan believers' (Kalberg 2005: 70). Accordingly, the more loyal those Protestants were to such 'work-oriented values', the more permeated by the capitalist spirit they should be. Wolfgang Schluchter, making clear the Kantian inspiration of this reading, named 'this value-relation made possible by the religion', which finds its most radical form in ascetic Protestantism, an 'axiological turn' (Schluchter 2009: 5; 1989: 31). As Schluchter claims, 'Weber, in *PE*, interpreted the action of the strata influenced by ascetic Protestantism in the heroic age of capitalism as value-oriented' (Schluchter 1989: 29), which 'led to the religious variant of modern man, driven forward by inner beliefs, and leading his life rationally according to divine injunction' (Schluchter 2017: 41). Likewise, 'the virtues of the spirit of capitalism' are, for Guy Oakes, 'categorical imperatives... grounded in absolute rules of self-abnegation that subordinate the person to super-personal values' (Oakes 1989: 82). The Kantian categorical imperative, subjected to an 'axiological turn' in Weber's hands, would then be the key to understand the genesis of a life conduct clearly devoid of egoistic-utilitarian and affective motivations (both pathological inclinations according to Kant). As for the Kantian subject, 'the imperative of creating a personality' (Schluchter 1989: 35) was to be fulfilled by Weber's Puritans through a progressive 'destruction of the spontaneity of the *status naturalis*' (Weber 2005: 79), which should then be replaced by a life conduct truly oriented by an ethics of conviction.

Instead, when the psychic constellation discussed in the present article is appropriately emphasized, it becomes quite evident that a correct understanding of Weber's thesis in *PE* entails an affective

dimension that, *Kantianly*, could only be called pathological. There is, indeed, an 'axiological turn', but its significance is truly grasped only if one considers its psychological and, from a certain point of view, irrational presuppositions and consequences. Paradoxical though it may seem, ascetic work in capitalism functions, for Weber, as a way to relieve psychic suffering: it ab-reacts the anxiety resulting from the radical disenchantment of the world consistently achieved only by Reformed Protestantism. This—and not any Kantian moral feeling (rigorously absent from Weber's writings)—is the unprecedented psychological premium Reformed Protestantism ultimately places on worldly asceticism. Here, Weber is anything but a Kantian; after all, would there be something more problematic to a Kantian than the idea of an ethical conduct based on pathological ('ab-reactive') motivations? Weber's thesis remains, consequently, radically unintelligible unless such a psychic constellation is correctly identified and interpreted as inherent in the capitalist spirit.

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On Weber's Partiality to 'Logic'

Hubert Treiber

In loving memory of my late wife Ulrike

Abstract

Weber uses the term 'logical' with striking frequency: as a typical attribute of what is 'rational', but also in the definition of legal arrangements, where the 'legally relevant components' that characterise a legal institution are ordered in a 'manner which is itself logically free from contradiction'. Logic or logically significant characteristics are all features of the theoretical and academic doctrine of law, which stands as a contrasting type to the artisanal-empirical doctrine of the law of practitioners (represented by Roman and English law respectively). In this way logic or what is logical is an important sign of the difference between these two fundamental types of legal doctrine. Above all, logic and the logical play an outstanding role in Weber's definition of a legal 'system' in the sense of 'an assembly of all the legal propositions established by analysis in such a way that, taken all together, they form a system of rules that is itself logically free from contradiction and seamless in principle'. In this definition of 'system' Weber makes use of the postulates of so-called conceptual jurisprudence, something that did not exist in fact, but which originally signified a deliberate caricature (or criticism) of the science of the Pandects, of which Georg Friedrich Puchta (1798–1846) stood as the representative. He was selected because Rudolf von Jhering had Puchta mainly in mind when he framed the polemical idea of conceptual jurisprudence. Puchta was also singled out because he spoke, *inter alia*, of a 'genealogy of concepts', which encouraged the ascription of systemic qualities to his system of private law. Yet Weber omitted to test Puchta's 'system' according to his own ideal-typical criterion of a system that 'logically free from contradiction' and 'seamless in principle'. This deficiency will be remedied here.

Keywords: Weber, Puchta, Jhering, logic, logical, theoretical and academic doctrine of law vs. artisanal-empirical doctrine of the law of practitioners, legal 'system', rational, rationalisation, conceptual jurisprudence, Pandects.

1. Prefatory Remarks

I wish to focus in the following on those features of Weber's writings that give a real sense of his mode of argument, and of the way in which he used concepts—as for example in his presentation of Roman Law. I also wish to show how recent research in legal history has revealed particular inconsistencies in his thinking (especially as regards the way in which his concept of system is 'bound up' with logic). In so doing I will be highly selective, emphasising those aspects that have not previously been examined in other studies of Weber's legal sociology.¹

For an appreciation of how formal law has developed towards rational law it is useful to make use of Weber's four theoretical stages of development, something which to my knowledge has never been attempted. These stages run as follows: 'from the charismatic revelation of law and legal decision-making by 'legal prophets' [stage 1]; to the empirical creation of law and legal decision-making by legal *notables* (the creation of cautelary jurisprudence and case law) [stage 2]; on to the imposition of law by secular and theocratic powers [stage 3]; and finally to the systematic development of legal norms and the administration of law by those who are legally *educated* and formally trained in legal literature and formal logic (specialised lawyers) [stage 4].² Here we should note Schluchter's observation (1991/II: 418) that

1. As regards working with and on Weber, I hope that I can claim to have made a virtue of necessity (as a non-legal member of a Law Faculty offering an optional course). I used the opportunities so presented to ask for clarification on legal matters, especially those related to legal history. This was also the case with the book on which this essay is based, *Max Webers Rechtssoziologie – eine Einladung zur Lektüre* (Wiesbaden: Harrassowitz 2017), for which Joachim Rückert (Frankfurt) and Hans-Peter Haferkamp (Cologne) patiently answered all my questions. The latter was especially helpful in regard to Puchta. In respect of the history of law, I was fortunate to be invited to contribute to the *Festschrift für Sten Gagnér*, edited by Maximiliane Kriechbaum, 1996 ('Die "rückwärtsgewandte" Expertenreform—Innenansichten zur grossen Strafrechtsreform der 1950er Jahre', 229-73); and also in being asked by Michael Stolleis to join the multi-disciplinary working group 'Naturgesetz und Rechtsgesetz'. See Lorraine Daston and Michael Stolleis (eds), *Natural Law and Laws of Nature in Early Modern Europe. Jurisprudence, Theology, Moral and Natural Philosophy*, 2008 ('The Approach to a Physical Concept of Law in the Early Modern Period: A Comparison between Matthias Bernegger and Richard Cumberland', 163-82). See also Gerd Graßhoff, Hubert Treiber, *Naturgesetz und Naturrechtsdenken im 17. Jahrhundert*, 2002. Stefan Breuer (Hamburg) and Peter Ghosh (Oxford) have also critically reviewed the present essay, for which I here thank them. I would like to thank Keith Tribe for the translation.

2. MWG I/22-3: 617ff.

'an ordering in terms of stages and epochs ... does not correspond to the actual course of historical events. Nor does it allow any exact historical period to be identified. Nevertheless, it is related to the sequence of historical events and approximate dating.' It should be further noted that Weber extended the genetic perspective outlined here by adding a typological perspective. The genetic approach, constructed in a set of ideal-typical developmental stages, focusses on the 'general development of (formal) law and legal procedure', taking in the interaction between intra- and extrajuristic conditions; hence on the conjunction of those social strata (*Trägerschichten*) who work in law and their training, including the concepts they employ (their legal techniques),³ as well as prevailing political power relationships (taken to be something complex in itself). The wielding of administrative powers (*imperium*) has an independent significance, and is not limited exclusively to one developmental stage (it is invoked especially where the rationalisation of procedure and process is concerned).

Together, the four theoretical stages of development cannot simply be fitted into a two-by-two table, since the typological perspective includes both contrasting pairs—formulaic/formell : substantive/materiell and formal/formal : material/material—and is directed to the formal qualities of the law.⁴ Both imply a deeper investigation of Weber's remarks on 'the nature of legal rationality' (= a typology of law) and on 'the degree of rationality of the law'. I deal with this in more detail in my book on Weber's sociology of law; here I will examine briefly only the conceptual distinction of 'analytical' from 'synthetic-constructive' work. This is because, for one thing, Weber makes use of this distinction mainly in his treatment of Roman law, and for another, 'synthetic work' relates to the construction of legal institutions (*Rechtsinstitute*) and legal relationships (*Rechtsverhältnisse*). As to legal relationship the characteristic 'legally relevant elements' of a legal institute can be ordered in a manner that is 'without logical contradiction'; and the latter is clearly often used by Weber

3. Weber understands legal technique to be a typical way of thinking characteristic of a specific legal order. A 'document' can therefore be either a) an intuitively accessible and manifest 'bearer' of law (a kind of 'legal animism'); or b), purely logically, as a rational item of evidence (MWG I/22-3: 346f.).

4. Here Weber benefits from his legal training. See the overview in Whimster (2017: 275). For detailed information on Weber's legal training see Marra (1988, 1989, 1992). To Weber's concept of law in comparison with other legal theorists (Eugen Ehrlich, Theodor Geiger, John Griffiths, Heinrich Popitz, Franz von Benda-Beckmann) see Treiber 2012.

to characterise what is 'rational'. This is true of a late product of the 'logical systematisation' of law, as in 'the connection of all legal principles derived from analysis in such a way that they form a logically coherent system of rules, free of logical contradiction and in principle without gap' (MWG I/22-3: 303, 305). The characteristics that Weber employs together with logic, or employs logically, are all attributes of a scientifico-theoretical doctrine of law, a type standing in contrast to the artisanal and empirical doctrine of law used by practitioners (represented by Roman and English Law). Here one begins to sense that there is an important logical difference between these basic types of legal doctrine (as argued by Winkler 2014: 120ff.); and that this is consequently related to a similarly basic problematic that at this point can only be noted. In his identification of 'system' Weber employs postulates drawn from a conceptual jurisprudence that has really never existed, and which is better viewed as a wilful exaggeration of Pandect science. This means that the excessive critique of Pandect science that has come to be called conceptual jurisprudence is a purely imaginary construct that Weber has adopted for his ideal-typical construction of the modern system. We therefore need to review the results of recent legal historical research into nineteenth-century Pandect science.

Central to my discussion is the fundamental typological contrast between the artisanal and empirical doctrine of practitioners (employing Roman and English law), and 'modern university-based rational legal training' (employing the reception of Roman law and Pandect science). As elaborated in my book of Weber's sociology of law, this involves primarily stages 2 and 3 (the reception process, supplemented by a necessarily brief contrast of juridical law and that of imperium on the one hand; and on the other the administration of communal reality law), as well as stage 4 (Pandect science).

I will not here deal in any detail with the first stage, the charismatic revelation of law by 'legal prophets', nor with the third stage in which law is imposed by *secular and theocratic powers*. As regards the first stage, it can be said Weber introduces the concept of legal prophets without elaboration and almost in passing in §3 of his sociology of law (MWG I/22-3: 463); comparable statements in §5 on Judaic Holy Law (MWG I/22-3: 536f.) are relatively vague (a conclusion with which E. Otto (2002: 133f.) agrees). The demand for legal certainty subsequent to social conflict, seeking the commitment of law to a written text 'by prophets, or trusted representatives assuming the form of prophets (Aisymnets)'—among the latter Weber included Moses,

whom he considered to have in all likelihood to have been ‘a historical figure’ (MWG I/22-2: 182)—was likewise only mentioned in passing in the sociology of law (MWG I/22-3: 570f.). Ultimately Mohammed is a clear example of this first developmental stage, since his charismatic revelation of law took the form of ‘a general norm’, as well as the form of the ‘revelation of a purely individual decision that was in the prevailing circumstances correct’ (MWG I/22-3: 446).

2. The Empirical Legal Doctrine of Practitioners

In the second stage of the creation and exercise of law Weber deals with Roman and English law. In so doing he follows the view taken in the contemporary literature of comparative and historical law that there is an elective affinity between the two legal orders, even if there are significant differences. Weber was mainly interested in what they share in common: that in both cases law was derived from legal practice, and so above all took account of the interests of the legal parties involved. Besides that, this created flexibility regarding technical fictions, analogies and procedural reform. Although I deal with both legal forms, the emphasis is on Roman law, partly because Weber saw here the beginnings and developments of legal rationalisation, along with limitations presented to this process. For this, following his early paragraphs he developed a detailed conceptual armoury made use of later, applying explanatory figures such as the significance of legal education and the impact of bureaucratisation for the systematisation of law. Also important was that the codification during the reign of Justinian formed the substance for the reception of Roman law, and ‘selected the quite unique collection of the pandects in the world from the admittedly only relatively rational systematised products of extremely precise Roman legal thinking of Respondents and their students’ (MWG I/22-3: 505). At the fourth stage this was turned by legal science into a ‘system’ that Weber treated as possessing ‘methodological and logical rationality’.

The mode of argument regarding the empirical doctrine of law is clearly marked out in the case of Roman law (cautelar jurisprudence is a notable example), so that here already what is ‘logical’ or even ‘Logic’ are repeatedly brought into play. Weber considered the most important feature of Roman law to be its ‘analytical character’, breaking down processual tasks into the ‘logically “simplest” factors’ (MWG I/22-3: 499). He thought that this was owed to Roman ‘religio’, in which the ‘conceptual, abstract and thoroughly analytical

distinction of divine competences of the sacred numina (deities) was exemplary (MWG 22-3: 499f./ES: 797).

Typical of both Roman and English law are the reforms to judicial process promoted by the 'commercial needs of civil society', which he treats as a step on the path to rationalisation since they remove 'a formalism that had magical origins'. In Rome this led to formulary procedure (Formularprozess) whose procedure was governed by edict (MWG I/22-3: 557). During the period of the Middle Republic (from about 250 BC onwards) it was customary to appoint a consilium of (at first honorary) legal specialists to draft jurisdictional edicts (as guidance for the conduct of trials by the Praetor, who was a lay person). The activity of these jurists came to be called cautelary jurisprudence. Weber used this to demonstrate both the major impediments to, as well as the early forms of, subsequent rationalisation (making generous use of the concepts of 'the rational' and 'rationalisation'). Rationalisation was obstructed in both Rome and England by 'practical and usable frameworks for contracts and actions created by the typical and recurring individual needs of legal parties' (MWG I/22-3: 480), features typical of the everyday conduct of legal practice and formulation of legal doctrine. Actual legal practice typically 'moves from one particular case to another', and 'never seeks to move from the particular to general principles, so that particular decisions can be subsequently deduced from these general principles' (MWG I/22-3: 481/ES: 787). Cautelary jurisprudence makes use of no 'general concepts developed by abstraction from what is apparent and empirical', but instead employs concepts related to 'palpable, solid matters of fact arising in the everyday world, and so in this sense formal matters of fact' (MWG I/22-3: 480f.: 'sensible and evident formalism').

A certain degree of flexibility in the law was brought about by technical fictions and analogies. When there was a need to adapt to new economic circumstances the fixation on a word leads that 'the word (...) is turned around and around, interpreted, and stretched' (ES: 787) in order to get a 'transformation in the meaning of prevailing law' (see MWG I/22-3: 481, 506), the digression on 'stages on the lengthy path to contract law in England' provides 'exemplary material'. In such circumstances no kind of 'rational systematic order' based on the 'logical construal of meaning' is to be expected; the best one can hope for are 'superficial efforts at systematisation' creating some order in legal material, a consequence of a legal education still in its early stages, an explanatory figure that was important for Weber.

In his sociology of rulership Weber writes that during the Roman Republic (509 BC to 27 BC) the 'decisive shift in legal thinking towards rationalism was made possible by the technical form of procedural instruction, making use of legal concepts whose formulation derived from Praetorian edicts' (MWG I/22-4: 192f.). Even here, where the jurisdictional edict cited 'purely factual matters' (*actiones in factum*), Weber thought that the interpretation and extension of wording assumed a 'rigorously formal-legal character', leading him to conclude that in this way 'constructive and logical legal work' achieved the very peak 'of which it was capable based upon purely analytical methods' (MWG I/22-3: 506). This was he thought primarily the outcome of consistent and professional advice by legal counsellors (Kon-sulenten). Law that was made adaptable through procedural guidance and counsel was he considered rational; and here the sense in which rational is used can be linked to the fact that any adaptation was not the work of lay persons (such as the Praetor or the judge), but of persons trained in the law. All the same, this law was only a relatively rational law, because 'more than is sometimes supposed, Roman law well into the Empire not only lacked a synthetic-constructive character, but also a rational and systematic one' (MWG I/22-3: 501).

Even while Weber emphasised the 'analytical character' of Roman legal thought, he did on the other think that it limited 'any constructive synthetic power in its dealing with concrete legal institutes' (MWG I/22-3: 499). He saw opportunities for escape from the constraints of cautelary jurisprudence imposed by the practical and empirical conduct of the law (once more) in the specialist training of those dealing with the law. For some of them, if not all he noted, their institutional distance from legal practice would achieve the same effect. Weber considered that the responding juriconsults (respondierende Juristen) had 'detached themselves from the methods of the older cautelary jurisprudence through increasingly logical finesse of their legal thinking' (MWG I/22-3: 502, 503), not least because in the later phases of the Republic they enjoyed the advantage of specialist training. It was not however until the imperial era, via the privilege of *ius respondendi* granted by Augustus, that 'one section of those with standing as legal counsel' advanced into 'a position in which they were officially responsible for the conduct of the legal process' (MWG I/22-3: 501). Once in this position, and removed from daily practice, these lawyers had the opportunity to distance themselves from thinking instilled by the routine activity of legal counsel, and also had according to Weber an 'optimal opportunity of formulating a

rigorously abstract conceptual framework' (MWG I/22-3: 501). During the imperial period Weber noted the 'increasingly abstract character of the legal conception' as an additional factor alongside the predominant 'analytical approach' (MWG I/22-3: 505).⁵ As a consequence of the nonetheless 'relatively secondary status of theoretical training as compared with legal practice' Weber detected a marked increase in the abstraction of legal thinking that, on the one hand, achieved 'the collecting together of a wide variety of heterogeneous issues under one category',⁶ while at the same time the constructive capacity to 'develop abstract legal concepts' declined. One seeks therefore in vain for conceptual abstractions such as legal capacity (*Rechtsfähigkeit*), or legal transaction (*Rechtsgeschäft*) (see Kaser 1994: 174).

As regards the systematic structure of ancient Roman law, Weber detected only a modest degree of progress towards rationalisation during the reign of Justinian (MWG I/22-3: 504). It was the 'Byzantine bureaucracy' that had pushed the prevailing legal practice towards systematisation, accepting the resulting reduction in 'the formal rigour of legal thinking' (MWG I/22-3: 501). Without going into any detail (see here the digression on 'Legal historical sketches on the teaching of law and on personal bureaucracy' [Eich 2005: 58-66]), it must be recalled that Weber always made use of two explanatory figures when considering any attempt to introduce a degree of systematisation, or when evaluating its achievement. The first involved the function of didactic texts for legal education, about which opinions differ;⁷ the second was the systematisation brought about by

5. Schulz (2004: 28) attributes to the final century of the Republic a greater inclination to abstraction than that of the Classical period, while the post-Classical Byzantine era was by contrast characterised by a much greater tendency to abstraction.

6. As an example of a technique taken directly from Roman Law rather than developed through the construction of abstract legal concepts Weber selects the category *locatio* (MWG I/22-3: 504) which came into use in connection with the form-free contracts arising from the increase in commercial transactions (Waldstein and Rainer 2014: 64). Joseph Schacht (1982: 21) has pointed to an interesting parallel in Islamic Law, which in the comparable contract of *ijāra* makes use of the same technique, 'the collecting together of a wide variety of heterogeneous issues under one category' (*ijāra*; *locatio*): 'the juridical construction of the contract of *ijāra* in which, following the model of the Roman *locatio conductio* [l.c.], the three originally separate transactions of *kirā* (corresponding to l.c. *rei*), *ijāra* proper (corresponding to l.c. *operarum*), and *ju'l* (corresponding to l.c. *operis*) were combined' (Schacht 1982: 21). See also Bhala (2011: 561f.), who writes: 'As the Romans did, the *fukahā* and *ulema* [religious and legal scholars] combined these three transactions into a single contractual category.'

7. So for example, while Flume (1962: 26) calls the *Institutiones* introduced as

bureaucracy (including the bureaucratisation of legal decision-making). Wherever there is bureaucracy there is 'pressure for the unification and systematisation of law' (MWG I/22-3: 569), and there are officials who are continually busy with the tasks set them, tasks that require specialised training for their completion. Since Weber wrote hardly anything about the bureaucracy of imperial Rome, we refer to the study of Eich (2005). He draws upon the model of proto-bureaucratic administration provided by the early modern state, an ideal type of 'personal bureaucracy' with certain key characteristics: a standing army, the development of a new financial administration involving new kinds of functional agents, together with bureaucratic organisational principles that in part already existed. The ideal type makes it possible to say that under Augustus the first beginnings, or early stages, of a 'personal bureaucracy' can be recognised, although it was only under the Severan dynasty (193–235 AD) that one can really speak of this becoming truly established.

Nor is Weber's approach to English Law and its development directly related to a given sequence of historical events. He has in view a lengthy period: from the Norman Conquest (1066) onwards, more specifically from the reign of Henry II (1154–1189) up to the nineteenth century reforms to the court system and the law of procedure (1833, 1852, 1873). Within this chronological framework Weber lays emphasis upon two points. The first concerns the legal remedy of the writ system,⁸ persistently, if not consistently, seeking to draw

a training manual by Gaius in the second century CE a 'legal textbook', Weber sees it as a 'modern compendium for crammers' (MWG I/22-3: 501). Kaser and Knütel (2005: 26f.) emphasise on the other hand that the *Institutiones* of Gaius organised into *personae* (Book 1), *res* (Books 2 and 3) and *actiones* (parts of civil process, Book 4) offers 'a system clearly dominated by substantive logical principles suitable for the classroom'. But then Stagl (2016: 601) argues that: 'The teaching of law in the "didactic system" of Roman Law divided up legal material more or less in the same way as done today: General Part (Allgemeiner Teil) and Foundations, law of obligation, Process, Property Law, Family Law, Law of Inheritance. (...) The actual organisation of the didactic system resulted from didactic constraints, and not at all from any so-called thinking linked to forms of legal actions (of *legis actiones*).'

8. See Berman (1983: 446ff.) and Baker 2007. See Kahn-Freund (1965:18f.) for the thinking involved in legal remedies. Peter (1957: 51) makes a clear distinction between *actio* and writ: 'The word "action" means (...) an action, in legal language where a plaintiff in an action calls upon the protection of the praetor or the judge. "Writ" on the other hand is written, in the language of the law the will of the king expressed in writing, when qualified with "original" then a royal decree for court judgement regarding the claim made by the plaintiff.' In this respect Peter sees some affinity between writ and the 'instruction for adjudication (Judikationsbefehl) made

comparisons with the *actiones* of Roman law. The writ system implies that attention is paid to the emergent royal courts, which in the course of their establishment involved processes of centralisation and specialisation. To this first point there also belongs the emergence of the legal profession of attorneyship, linked to their practical and empirical legal training, sketched as ideal types in §4 of the sociology of law. The reforms introduced by Henry II and his successors favoured a '(relatively) rational evidential procedure' and exemplify very clearly how Weber employs the concept of *imperium* in the sense of 'a concrete legal "quality"', to be understood here as a power of command legitimated personally and substantively ('*ex officio*'). The second point concerns the comparison between English law (empirical training in the law) and continental law (rational training in the law). In this comparison it is the significance of extrajuristic conditions (especially power relations) that plays a major part for the divergent development of both legal systems. I will not deal here with the different constructions of corporation law in England and in Germany, and the opposing development of associations (*Verbände*) in both countries together with the differing political frameworks for both bodies of law; to which also the special features of English urban organisation (*Städtewesen*) also belong.

By the later years of Henry II's reign there were already around 75 different writs (Peter 1957: 20), and in the course of the thirteenth century their number increased. The invention of new writs was on the one hand suited to the strengthening of the crown; while on the other, they were despite this also 'the most important instrument for the continued internal development of common law, refining the rudimentary form that it had originally taken and adapting law to changing economic circumstances' (Peter 1957: 67f.). It was the 'practical needs of legal parties' that led to the invention of new writs, or to the drafting of 'templates for contracts and legal formulae that possessed sufficient elasticity' (MWG I/22-3: 481). From the later thirteenth century onwards the new profession of lawyers, and of judges recruited from among their number, joined to create new frameworks for actions through the 'extension of wording', or by extensive interpretation through analogy or technical fictions. The need to select the right writ when facing a confrontation in court resulted in English lawyers focussing very strongly upon issues of demarcation, as

by the praetor to the judge.' For further aspects of and differences between *actio* and writ see Peter (1957: 52). Also MWG I/22-3: 452.

had their Roman predecessors. This made it 'impossible for them to make judgements about the problems thrown up by the numerous events in life simply on the basis of points of substantive law, this limiting their ability to develop, from the legal material with which they dealt, a system that was organised in terms of a rational point of view' (Peter 1957: 61f.).

My treatment of the artisanal and empirical nature of legal training differs from previous accounts by virtue of the lengthy sketch provided regarding the development of English contract law up to the case of *Slade* in 1602. The purpose of this is, first of all, to provide greater clarity (especially for non-legal persons) about the nature of Weber's discussion of the artisanal and empirical character of English law, with its tendency to favour analogy and technical fiction. Weber was of course a trained lawyer with wide-ranging knowledge of legal history, but we need to be able to evaluate his reading of legal history. Secondly, it will in this way be possible for England at least, to settle at least in outline something that Weber suggested in §2 of his sociology of law, but did not pursue: 'how contractual obligation had developed out of the personal responsibility for delicts' and 'how the delictual fault as a cause of action gave rise to the obligation *ex contractu*' (MWG I/22-3: 324; ES: 677). How else can meaning be derived from the following statement of Weber's other than as a digression in the history of legal doctrine: 'From the thirteenth century the practice of lawyers and the judicial decisions made by Royal courts in England determined the failure to fulfil a growing number of contracts as a trespass, creating legal protection for them by means of writ of *assumpsit* (...)'.⁹ Weber remarks at this point only that English lawyers had 'developed from the tort of trespass the grounds for action of numerous contracts that differed very greatly from each other' by 'forcibly consolidating what was legally quite heterogeneous so that legal compulsion might be gained by the back door' (MWG I/22-3: 506f.). Especially important for Weber was the indication that ancient law could not have known the 'idea of contractual obligation', but had instead recognised 'obligations for entitlement and rights of claim ... as claims *ex delicto*' (MWG I/22-3: 320ff.). To this extent 'Contractual obligations were first constructed like torts, and were still in medieval England connected formally to fictive torts' (MWG I/22-3: 290, 289). Weber does not go into the issues of demarcation associated with this construction, issues that were intensified given that there were

9. MWG I/22-3: 332; for the whole context see Scholz-Fröhling (2002).

no prospects at all of choosing between two forms of action. These demarcation issues can for example be seen in the strategies pursued by plaintiffs in trials, as for instance if 'a breach of contract is treated as though it were deception' (Weidt 2008: 19); and especially in the differing judgements the court of common pleas and the court of King's bench handed down in comparable cases. Hidden behind the differing judicial decision-making of the two Royal courts was however a 'competition over competences' (Weidt) that indicates the existence of differing workloads and hence financial interests [for instance, fees (Sportelgebühren)]. Weber blamed this interest in fees for the competition over competences conducted by differing courts (MWG I/22-4: 292f.).

Various factors played a role in the gradual acceptance of the claims made according to the law of obligations ('contract law') between the twelfth and the seventeenth centuries. One of these was the inflexibility of the writ system and the difficulty of making any change to it, due to the restricted domain for the application of a catalogue of fixed plaintiff claims. Another was the material inclination of the legal parties (plaintiff and defendant)—dictated by their given circumstances; and most of all the rising number of claims that, given the rigidity of the writ system, challenged the creativity of the lawyers and judges involved. They responded by following their own financial interests [in questions of jurisdiction, court business, court fees, perks (Sportelgebühren)],¹⁰ all of which promoted creativity. The judges of the King's Bench and the Exchequer, for example, 'who lived on their court fees, and the lawyers who were not permitted to appear in the Court of Common Pleas', were in this way prompted to 'develop from the fifteenth century a series of fictions and devious means' that allowed 'the two Courts with less business [the King's Bench and the Court of Exchequer], *without a formal original writ* of Chancery, also to hear cases in Common Law that really belonged to the Court of Common Pleas' (Peter 1957: 76). Under these circumstances there was no prospect of any systematic penetration of thinking related to legal material based upon case law, given that prevailing legal thinking was dominated by the writ system and 'procedural law'.¹¹

10. On the significance of administrative fees (in the sense of Sportelgebühren) see MWG I/22-3: 482. Also MWG I/22-4: 190ff.; 'Sporteln' was the term used since medieval times for the fees arising from administrative procedure (see MWG I/17: 172, fn. 11).

11. Weidt (2008: 9) points out that writs constituted 'the prevailing law', continuing on to cite Maitland's (*System of Writs*: 90, 101) as follows: "'He who knows what

3. 'Rendering the life of the law scientific' (Wieacker): the Reception of Roman Law and the Pandect science

Given the duration of the reception of Roman law, Weber's treatment of this unique and momentous process is relatively brief, limited to a few pages (MWG I/22-3: 578-85). He focussed primarily on the early history, and on the later developments of the nineteenth century. This is because, for one thing, he was interested in the new stratum of legal notables that the reception had created, trained in the classroom and not in practice, and qualified by the award of a university doctorate (MWG I/22-3: 581). He was also very much interested in the efforts made during the nineteenth century to apply a 'logical systematisation of the law' by Pandect science. Wieacker described the reception process as the 'Verwissenschaftlichung des Rechtslebens' (1967: 131),¹² the 'scientisation of prevailing law' comparable to the process of the rationalisation of the law, stripping it of all its magic and subjecting it to an ever-increasing degree of systematisation (MWG I/22-3: 582). Central here was quite clearly the prospect of subjecting the law to a theoretical transformation brought about by 'the revolutionary alteration of those responsible for legal process' (Wieacker),¹³ associated with the chance of a gradual 'logicisation of legal process' (Logisierung des Rechts), which stood in (a possibly overdrawn) contrast with the previous artisanal and empirical grounding of legal doctrine. The onset of the reception process was therefore marked by the emergence of a new set of university-trained legal specialists, ideal-typically the opposite of English lawyers who had been trained in practice. Weber was especially interested in the connection between 'modern, rational legal training in universities' (MWG I/22-3: 304) and the capacity to embark upon a 'specialised legal sublimation of the law as understood today', in which process Weber saw the preconditions for a *genuine* systematisation of legal matters (MWG I/22-3: 304f.), something that

cases can be brought within each formula knows the law of England. The body of law has a skeleton and that skeleton is the system of writs." But the skeleton lacks the solidity lent by a spine. Neither the emergence of individual actions, nor their interaction, had a coherent foundation, either materially or conceptually. Instead, individual actions were promoted by pressure of contemporary circumstance. They had no systematic character, and existed, in their isolation as legal islands mostly unconnected in the sea of life'. And this was the view of a continental lawyer trained in a university!

12. For critiques of Wieacker see Dilcher (2010), Landau (2010), and Winkler (2014).

13. Dilcher (2010: 249).

he thought that the nineteenth century efforts at creating a Pandect science actively sought to bring about. He did however concede that both the Romantic and the Germanist branches of German legal science had ultimately failed in their attempt to create 'a purely logical and novel systematisation of ancient law', presenting a 'rigorously formal juridical sublimation of the (legal) institutes that did not derive from Roman law' (MWG I/22-3: 589f.).

While Weber did focus upon a 'new stratum of legal notables' (MWG I/22-3: 581), he did not study the emergence of universities, nor did he examine the significance of the School of Law in the University of Bologna for the reception process. Instead, he sketched features of the reception process that served the rationality of the law—especially the increasing 'degree of abstraction of legal institutes themselves', something that occurred because 'Roman legal institutes dissolved any remnants of national connection and translated the law into the sphere of logical abstraction, Roman law becoming "properly logical" law and so gaining an absolute status'¹⁴ wherever there was 'no connection to divine law, and no theological or materially ethical interests' that were opposed to it.¹⁵ He placed greatest weight on the construction of 'purely systematic categories' (for example, legal transactions), and above all on the enhanced significance of '(synthetic) constructive capacities'. The fact that scholarly law had always been capably of practical application was a major source of support, as exemplified by those who followed on from the Glossators: commentators whose legal counsel (*consilia*) was in demand and who sought to render 'Roman Law [useful] for the rapidly developing cities of contemporary upper Italy'.¹⁶ Making Roman Law useful demanded 'constructive capacities', described by Ehrlich as follows:

It was possible to distort a legal concept of Roman law to such a degree that it now fitted quite alien structures; and it was possible to bring together diverse elements of Roman law in such a way that the result-

14. MWG I/22-3: 582. Weber is here relying on Ehrlich (1967/1913: 244, 248), as he indicates himself.

15. MWG I/22-3: 581, 545. By referring to these conditions Weber indicates that the 'nature and degree of the rationalisation of law' depends upon a range of other factors that he reduces to three major influences: (1) differing political power relationships; (2) the relative power of theocratic and secular powers; 3) differences in the structure of those notables, responsible strata (Trägerschichten), who played an important part in legal developments, differences that themselves were dependent upon political constellations—MWG I/22-3: 618f.

16. Sellert (2005: 188); Sellert (1998).

ing norms for decision corresponded to what was needed in practice; it was possible through interpretation to distort Roman decisional norms to such an extent that they provided the desired outcome (Ehrlich 1967/1913: 249).

However, the principal feature of the reception process was that it did not turn on ‘the *material* conditions of Roman law’. ‘Civil legal *interests*’ were anything but interested in this, since the ‘institutes of medieval commercial law and of municipal landholding’ seemed much more suited to their purposes (MWG I/22-3: 580/ES: 853). More directly linked to their interests was instead the reception of ‘the general formal qualities of Roman law’, a perspective to which Weber always lent emphasis—as in his contribution on “‘Roman” and “German” Law’ for the periodical *Christliche Welt*, where he refers to Roman law as a ‘*body of law that is more complete, legally and technically*’ (MWG I/4-1: 528). Appropriation of Roman law for practical needs was most marked in the work of Italian notaries, who played ‘a very decisive part in the reception of Roman law in their notarial documents’; until there was a definite stratum of legally-trained judges in Italy ‘politically-powerful notables’ were the most significant element.¹⁷ Weber considered the Italian notaries ‘who interpreted Roman law as commercial law (Verkehrsrecht)’ to be ‘one of the most significant oldest strata of legal notables who were interested and directly participated in the creation of the *usus modernus*¹⁸ of Roman law.’¹⁹ Weber attributed the ‘formal qualities of Roman law’, the ‘formal training of lawyers’ in general, and ‘increasing legal specialisation in the practice of law’ to a ‘legal rationalism originating in the university’, which also created the ‘princely codification of early modernity’ (MWG I/22-3: 580). The university-trained lawyers who represented this development increasingly found employment in ‘the secular world of administration and legal practice’.²⁰

17. MWG I/22-3: 492f. On the treatment of documents see MWG I/22-3: 336ff., and MWG III/6: 371.

18. *Usus modernus pandectarum* ‘is commonly used to denote an epoch of legal history, beginning in the sixteenth century and ending with the codification of natural law, in which *ius commune* (das Gemeine Recht) became the basis of legal doctrine and jurisdiction, by exchange of Italian legal science (*mos italicus*) on the basis of Roman and Canon Law, which was gradually received in Germany since the thirteenth century’ (HRG, vol. V: Sp. 628-636, 628).

19. MWG I/22-3: 493/ES: 793; MWG I/22-3: 582ff. Also MWG I/17: 186f., and fn. 39.

20. Sellert (2005: 191); MWG I/22-3: 578f., 583f.

If §6 of the sociology of law is read with the eyes of Dilcher (2010) and Wieacker (1967) then we find a perspective that makes sense of how Weber deals with both *imperium* and *Amtsrecht* (authoritarian power) in the context of the reception of Roman law. In the very first sentence of this paragraph he sees the 'older folk administration of justice' (*dinggenossenschaftliche Justiz*) as suffering major inroads from the direction of *imperium* (MWG I/22-3: 552). Dilcher sees two different dimensions to Wieacker's linkage of 'scientisation' to rationalisation that we can use here, since they provide insight into the connection that Weber bluntly makes in §6 between issues that seem to be too heterogenous at first glance. This therefore makes clear what reception has to do with judicial law (*Juristenrecht*), and judicial law with *imperium* respectively authoritarian power (*Amtsrecht*). According to Dilcher, Wieacker 'detaches the rationalisation of judicial decision-making from its embedment in everyday life, and places it in the mentally-constructed context of "autonomous legal matters", and of a rule deduced from this' (Dilcher 2010: 237). A statutory and rational legal order replaces 'ad hoc decisions based on tradition and the legal spirit of the community (*Rechtsbewußtsein*), or of their most prominent members',²¹ represented according to Weber by 'the administration of justice by the folk assembly' (MWG I/22-3: 560/ES: 843, 470ff., 287f.). Dilcher treats the other, extrajuristic dimension of scientisation by contrast as being relationships 'supported not only by a stratum of legal scholars separated from the wider public, but also by virtue of the social and political assignation of this stratum to the designs and plans of those with political power, the sovereign rulers'. This also addresses the contrast that interested Weber between juridical law²² and *imperium* on the one hand, and 'popular law' [(= 'the administration of justice by the folk assembly'/'*dinggenossenschaftliche Rechtspflege*' (ES: 775))] on the other.

Weber treats this process of 'law finding by the folk assembly' (*dinggenossenschaftliche Rechtsfindung*) (MWG I/22-3: 552, 470ff./ES: 774) as an example of 'popular law' (*Volksrecht*) (MWG I/22-3: 443f.) and so contrasts it to a reception process that is driven onward by the

21. Dilcher (1978: 96). Dilcher also emphasises the role played by the medieval city with its tendency to the modernisation or rationalisation of the existing body of law.

22. The term 'juridical law' is a broad one—as the 'extensive participation of experts familiar with and trained in the law, devoting themselves to this end on an increasingly "professional" basis as lawyers and judges'—this 'rendered the vast mass of law created in this way as "juridical law" (*Juristenrecht*)' (MWG I/22-3: 443f.).

scientisation of rational, or more rational, law (juridical law) as well as by the 'creative will of the political rulers, the princes' (Dilcher 2010: 237). Besides the part played by juridical law and imperium, the development of municipal jurisdiction in the course of the thirteenth century also contributed to the displacement, or destruction, of features of 'the older folk administration of justice' (Weitzel 2006: 352). Jürgen Weitzel's work is the key reference for Weber's presentation of these latter forms, and the criticisms made of it, in particular his extensive two-volume study *Dinggenossenschaft und Recht. Untersuchungen zum Rechtsverständnis im fränkisch-deutschen Mittelalter* (1985, espec. vol. I: 71ff.). According to Weitzel (1985/I: 72), Weber links actions of the folk assembly (*dinggenossenschaftliches Handeln*) to two phenomena that are not always easy to distinguish from each other (1985/I: 371, fn. 74): on the one hand, the pathbreaking 'form of the medieval division of powers' (1985/I: 370f.; MWG I/22-3: 295ff.); on the other, what Weber also calls a 'division of powers'—the division of labour between (supposedly) charismatically-endowed individual judges and 'community participation' in the form of '*Umstand*'²³—here Weber also uses the concept of 'law finding by the folk assembly' (ES: 774), or 'administration of justice by the folk assembly' (ES: 775). This last term (*dinggenossenschaftlichen Justiz*) is misleading according to Weitzel (1985/I: 76) since it is a nineteenth-century legal term and so limited to the understanding of the court prevailing in this period, 'in which judicial decision-making was considered to belong to governmental powers'. He takes the view that no useful understanding can follow from the adoption of this concept with regard to the established organisation of the *Dingverfassung*, in which 'rulers and the folk assembly, authoritarian legal coercion and judicial decision-making by members of the folk assembly (*Rechtsgenossen*), join in the conduct of the law'.²⁴

The division of powers between judge and folk assembly (*Dinggenossenschaft*) that we have already raised crosses with the distinction of legal coercion and judicial findings, and this becomes complicated in Weber because he defines 'law-finding by the folk assembly' (ES: 774) as the 'condition' in which 'the members of the

23. For the expression '*Umstand*' see MWG I/22-3: 466. See also the *Handwörterbuch zur Deutschen Rechtsgeschichte* (HRG), vol. V: Spalte 437-442, 437: "'*Umstand*" signifies those persons who are bystanders, outside the limits of the court, excluded from the place at which proceedings took place (*Gerichtsstätte*). Those "*Urteilsfinder*" who sat on the bench (*Rachinbürgen*, *Schöffen*) were not part of this group.'

24. For this and the previous quotation see Dilcher (2006: 619).

folk assembly do participate in decision-making, but do not have full control of the decision made. Instead, they are in a position to either accept or reject the decision proposed by the charismatic or official bearer of legal knowledge, influencing it only by particular means of direct criticism' like the 'Urteilsschelte'²⁵ (MWG I/22-3: 473/ES: 774). Weitzel draws attention to the way in which, as a result, the original division of powers between judge and folk assembly shifts towards a relationship between 'the decision-making "authority of legal charisma" and the associated ratifying competence of the "Umstand", which itself represents the local organisation of "Ding- und Wehrgemeinde"' (Weitzel 2003: 369/ES: 775; Weitzel 1985/I: 82f., 108). Weber believes that this definition provides greater precision, and gives Weitzel the opportunity to show that Weber's conceptual distinctions—between the 'charisma of legal decision-making' and the 'acclamation of "Umstand"' (MWG I/22-3: 470), as well as between 'formal juridical law and material popular law' (MWG I/22-3: 473/ES: 774)—takes on a momentum of its own dominated by the *leading idea* of the 'nature and tendency of the material rationalisation of law' and so ignores historical events and circumstances. It is a historical fact that there was in general during the time of the Franks no such thing as 'the charismatic quality of the person pronouncing judgement'.²⁶ Instead the definition, together with its elaborations, served on the one hand the 'emergence of a capacity to make decisions independently of all legal prophecy and charismatic legal instruction (Rechtsweisung)' (Weitzel 1985/I: 108); on the other, 'the maintenance of the *formalistic* character of early medieval law and legal decision-making' (MWG I/22-3: 471, 514), together with tendencies developed through authoritarian powers that reinforced the tendency to the material rationalisation of law. This is exemplified by the use

25. "'Whosoever is dissatisfied with the judgement made can appeal (anfechten) or object (schelten) to it" (Brunner-Schwerin: 473) (...). Appealing against or objecting to a judgment are thus closely related in medieval sources, for an objection creates a counter-judgement... The questions raised by an objection to a judgement were, and are, extraordinarily controversial' (HRG, vol. V, 1. Aufl.: Sp. 619-622, 619f.).

26. Although it can be said that 'during the High and Late Medieval periods some lay judges (Schöffen) and councils (Ratsgremien) gained a kind of charisma (Weitzel 1985/I: 82f., and fn. 94; 108f.), 'Schöffen' (= beisitzende Urteilsfinder) are defined as participating adjudicators who (...) perform the legal function of mediating between the parties and through their judgement creating order. (...). Use of the term in the Franconian Empire gradually increased during the eighth century, displacing the existing usage of rachineburgius (Rachinbürgen)' (HRG, vol. IV: Sp.1463-1469, 1463).

of *imperium* in §6 (MWG I/22-3: 471). Regarding the expression of the definition introduced above of ‘an equal involvement of “Umstand” in charismatically-infused legal decision-making’, Weber argues that ‘the participation of the folk assembly as an “Umstand” largely preserved the formal character of the law and of legal decision-making’, since they were the ultimate product of revelations made by legal authorities, and which were addressed to those ‘whom it purports to dominate rather than to serve’.²⁷ Of course, these charismatically-gifted legal elders saw that they had to prove themselves by their own power of persuasion, as would anyone subject to the coercion of ‘true charisma’. It took the feeling of approval, of being in the right, and the everyday experience of the participants of the folk assembly that provided support for charismatically-endowed authority (ES: 774). For Weber, ‘law shaped in this way was also *formally* judicial law, since without specific legal knowledge it could not assume the form of a rational rule. But it was at the same time *materially* “popular law” (materiell gesehen: Volksrecht)’ (MWG I/22-3: 473/ES: 774).

The fourth stage, the administration of law by those who are legally *educated*, ‘university trained’ specialists, involves a number of inconsistencies. Weber developed an ideal-typical account of the way in which private law was developed in nineteenth-century universities by Pandect science, resulting in overstatements that emphasised the importance of logic. Legal principles were constructed analytically from individual cases (logically ‘highly-sublimated legal principles’); from these principles legal institutes were built; and then from these institutes legal relationships ‘synthesised’. Even when defining what a legal relationship Weber fell back on logic, making the legal orderliness of the elements constituting a legal institute a defining characteristic of a logically and internally coherent entity (MWG I/22-3: 302). ‘Analytically-derived legal principles’ were systematised in such a fashion that they formed a ‘logically coherent system of rules, free of logical contradiction and in principle without gap that above all implied that all conceivable facts of the case could be logically subsumed to one of its norms’ (MWG I/22-3: 303). We should note that Weber’s *ideal-typical* overstatement of a ‘system’ makes use of the postulates that have been attributed to a so-called conceptual jurisprudence (Begriffsjurisprudenz) since the time of Jhering. There is some sense in the assumption that Weber made use of features ascribed

27. MWG I/22-3: 473/ES: 774; decision-making in respect of the law by the folk assembly had ‘a rigorously formal law of evidence’ (MWG I/22-3: 514).

to conceptual jurisprudence in his ideal-typical construct; this ideal-typical construct preserved him from using the conceptual jurisprudence as an appropriate label for a highly rational and systematised law,²⁸ which is a caricature of Pandect science and that insofar never existed in fact (Henkel 2004). The first inconsistency arises from the fact that Weber appears to be partisan in his analysis of the Free Law School, in that he presents the formal qualities that are supposedly guaranteed by conceptual jurisprudence as worth defending. It is difficult to decide how far in so doing he unconditionally supports those postulates of conceptual jurisprudence that have been subject to major criticism from the Free Law School²⁹ because of his ambivalent stance. There is here also an echo of the critique Weber directed to Wilhelm Ostwald's "'Energetische" Grundlagen der Kulturwissenschaft'³⁰ in which the degree to which Weber valued conceptual jurisprudence can be recognised. Weber was deeply convinced that the postulates attributed to conceptual jurisprudence guaranteed 'legal formalism', and so the 'formal justice' that is the hallmark of 'the legal precision of the work', itself typical for the judge as bureaucratic official (MWG I/22-3: 638/ES: 894). The contrast alluded to here between 'automatic subsumption' (Subsumtionsautomat) and the 'sovereign judge' (Richterkönig)³¹ also points to the exemplary nature of conceptual jurisprudence, because the 'legal techniques' that Weber attributes to it solely function to guarantee the higher good of 'formal legality'.³²

Another inconsistency is that Weber ascribes to the legal work of a formally-trained lawyer a 'high degree of logico-methodological rationality' and systematic character without, as might have been anticipated, measuring the product of these lawyers by this standard. The following will seek to do this, considering how close or distant Weber might be in his ideal-typical construction (that makes use of the usual postulates of conceptual jurisprudence) to the system presented by

28. The formulation in MWG I/22-3: 305 would be more exact if it concerned to Pandect science.

29. Ehrlich (1967/1913: 261) has talked of 'legal mathematics'; another important accusation relates to the fiction of the closure of the legal system and the consequent requirement for legal construction.

30. Published in the *Archiv für Sozialwissenschaft und Sozialpolitik*, reprinted in *Gesammelte Aufsätze zur Wissenschaftslehre*: 400-426 (see 419ff.).

31. MWG I/22-3: 624f.; MWG I/22-4: 195 where the contrast between the two types is softened.

32. See also Weber's review of Philipp Lotmar, *Der Arbeitsvertrag*, Bd. 1 (MWG I/8: 37-60).

G.F. Puchta.³³ To do this we need to outline the features of Puchta's system. Puchta was selected because Jhering had Puchta mainly in mind when he framed the polemical idea of conceptual jurisprudence, even though the first volume of his 'Der Geist des römischen Rechts auf den verschiedenen Stufen seiner Entwicklung' (The Spirit of Roman Law in the various stages of its development) was dedicated to Puchta.

Bound up with Puchta's concept of system is the requirement that 'individual legal principles (Rechtssätze) be deduced from a higher general concept (oberster Grundsatz)'. More exactly: that it be deliberately connected to this latter concept. This highest principle runs as follows: 'All law is a relation of the will to an object.'³⁴ Hence it is the variety of objects that leads to the differentiation of the system, since the legal will is treated as a constant. Puchta's legal system has five such objects, to which he seeks to order 'all rights of private subjects' (Haferkamp 2005: 262f.):

Things; (2) actions; (3) persons, that is, (a) persons external to us, (b) 'persons who have existed externally to us, yet have been replaced by us, and (c) law concerning the own person.'³⁵

Preceding this differentiated system of private law was a general part (Allgemeiner Teil), both of which from 1832 were described as the First and the Second books of a series and which had to be 'harmonically connected to the remaining system' (Haferkamp 2004: 267ff.). Puchta argued that 'all of Pandect Law had to be ordered according to "principles" and "consequences"', being systematised on this basis (Haferkamp 2004: 276). This requirement can be linked to Kant's view³⁶ that rational science was characterised by a 'connection of causes and consequences'.³⁷ Puchta, like many of his contemporaries,

33. There are some excellent studies of Puchta: Haferkamp (2004); Henkel (2004); Mecke (2009). Of great importance is the fact that Puchta talked (ambiguously) of a 'genealogy of concepts' ('Genealogie der Begriffe').

34. Haferkamp (2012: 81); Haferkamp (2005: 262f.); Haferkamp (2004: 266f.).

35. Haferkamp (2004: 267) citing Puchta, 'Zu welcher Classe von Rechten gehört der Besitz', *Rheinisches Museum* 3 (1829): 248; Haferkamp 2016: 362f. Haferkamp (2005: 263) also cites the usual characterisation: 'This initially involved law of property, law of obligation, large parts of family law, and law of inheritance. The only new element was Puchta's law concerning the own person, to which he assigned law of possession.'

36. Kant, *Metaphysische Anfangsgründe der Naturwissenschaft*, Vorrede AA 4: 467ff.; cited as in Haferkamp (2004: 276).

37. Haferkamp (2004: 276), referring to Schröder (1979: 150ff.).

proceeded from the assumption that the law itself manifests a particular structure or 'nature' (an 'inner system') that can be understood as essentially *organic*. The consistent derivation of the system of law from a (higher) concept of law (oberster Grundsatz)³⁸ upon which Puchta then embarked—the system he set about building—was not capable of capturing the inner connectedness of the legal organism (Haferkamp 2004: 446), but was only capable of representing it from one particular perspective (that of the highest principle: von einem obersten Grundsatz) (Haferkamp 2005: 264; 2004: 287). The peculiar 'inner structure' of the law and its representation do not match up—the demands of scholarship and the 'inner structure' of the law are in tension (Haferkamp 2004: 446, 467f.).

As regards the concept of system, Puchta's account of the law of property (the first object) demonstrated in exemplary fashion how the 'subordination of a thing to the will of an individual' led to the law of property. 'This subordination could be complete (total subordination: property); or partial and then involve a right to a thing (*ius in re*). Law regarding the latter (*iura in re*) could involve subordination through use (Benutzung), as a servitude (servitudes, *emphyteusis*, *superficies*), or its sales value, (right of lien, Pfandrecht).³⁹ The two possibilities of rights to (property, *iura in re*), as well as the fundamental distinction 'between a will oriented either to "use" or to sales value (right of lien)' are according to Puchta 'basic differences' (Grundverschiedenheiten) that follow 'logically from the supreme principle'. The further subdivision into servitudes, *emphyteusis*, *superficies* are by contrast 'other differences' (sonstige Verschiedenheiten)⁴⁰ that relate to historical circumstances. The servitudes are in turn subdivided into servitudes *personarum* (personal servitudes) and servitudes *rerum* (real servitudes), a form of distinction that recurs in Puchta as a 'subdivision of subjects' (Haferkamp 2004: 393).

As can be seen from Puchta's doctrine of servitudes (with which I do not deal here), he later found it necessary to demonstrate affinities, even in the case of currently valid law, which according to the conceptual specifications of 1829 were 'other differences' (sonstige Verschiedenheiten), that 'could not be rigorously deduced from the original

38. Haferkamp (2004: 279) points out that Puchta's requirement that 'the entirety of positive law be brought together under one principle and consistently derived from it' corresponded to the notion of system prevailing in the later eighteenth and early nineteenth centuries.

39. See on all of this Haferkamp (2005: 264).

40. Haferkamp 2004: 212f. (Puchta *Pandekten*, 2nd edition 1844: 64 note a).

higher principle (oberster Grundsatz)' (Haferkamp 2004: 413ff.; Mecke 2009: 697, 695). The entire construction of this arranged 'architecture' of solid connections (Haferkamp 2005: 265) presents a 'systematic classification of laws as an "organism of genus and species"' (Mecke 2009: 696, 697). Keeping with a system of positive legal principles organised around a higher principle and conceived in terms of genus and species, then it seems clear that one could 'derive any one concept through all the interconnections involved and pursue it up and down through the structure'.⁴¹ Puchta coined for this the notion of a 'genealogy of concepts' ('Genealogie der Begriffe'), and his critics characterised it as a 'conceptual pyramid', using this to then accuse him of adherence to 'formal and conceptual' thinking.⁴² Puchta made clear what he had in mind, using servitudes as an example:

If we consider the individual right to cross a piece of land which the owner of one piece of land has granted to the owner of a neighbouring piece of land, then the task of the lawyer is in part to identify the place of this right in a system of legal relations, while also identifying the origin of this right up to the higher concept of the law itself; and he must be able to move from this higher concept down to the individual right whose nature is only then, and by this process of deduction, defined. It is a right, that is, power over an object; a right to a thing, thus being part of the special nature of these laws; a right to a thing belonging to another, so a partial subordination of this thing; the aspect from which the thing is subordinated is that of usage, it belongs to the genus of rights of use of things; the usage is for a particular subject which the right exceeds, and so this is a right of servitude; for a piece of land, hence a Präsidialservitut; for this need of a piece of land, an access servitude (Wegservitut). I call this a genealogy of concepts (Genealogie der Begriffe).⁴³

Puchta intended his 'system' to reorganise, or reclassify, positive law from the 'highest principle' in such a manner that a limited number of 'basic differences' (Grundverschiedenheiten) (Mecke 2009: 687ff., 700ff., 702) can be developed from the 'highest principle' (oberster Grundsatz), provided that this is founded through a legal provision; so that 'Puchta's system of rights is a system of legal principles organised according to one especially strict perspective' (Haferkamp 2012: 84). There are also 'other differences' (sonstige Verschiedenheiten)

41. Mecke 2009: 588 (Puchta *Cursus* I (1841): §§33, 101).

42. Mecke 2009: 592: '(...) the simple use of the expression "genealogy of concepts" does not amount to the idea that concepts are ordered pyramidally, as deducible logically one from another.'

43. Haferkamp 2012: 80 (Puchta *Cursus* I (1841): §§33, 101).

that cannot be deduced 'with logical necessity' (Puchta), but which nonetheless, as his treatment of servitudes demonstrates, can be attached to the systematic classification by invoking 'principles' of reliable source and the 'consequences' that follow from them. Because of this a coherent, 'complete and hierarchically ordered' system is an impossibility;⁴⁴ besides which 'from 1837 Puchta detached whole groups of legal principles (Rechtssatzgruppen) from his system and called them juridicial customary law (Juristengewohnheitsrecht)' (Haferkamp 2005: 273). Haferkamp emphasises that these connections could not be made in syllogistic form; Mecke talks of 'lawyers' logic' (Juristenlogik) that made use of 'plausible inferences', that according to Ogorek develop into 'rational argumentation with its grounds' (Mecke 2009: 772; Ogorek 1986: 218f., fn. 83). Seen in this light Haferkamp suggests that Puchta's pandects are 'more "positive", true to the sources, while also being more logical, more rigorously systematic as the presentation of the pandects by his contemporaries' (Haferkamp 2004: 420, 470). It could also be said that they were 'more logical' and more rigorously systematic than all the systems of those developmental stages of Weber with which we began. While Weber's remarks might suggest it, Puchta's system is not at all 'unrealistic' (lebensfremd), even if he did not include in his exclusive system of subjective rights important legal institutes that met contemporary commercial needs (Mecke 2009: 846, 811ff., 819ff.). Measured against Weber's system of 'a logically coherent system of rules, free of logical contradiction and in principle without gap',⁴⁵ Puchta's 'logical sublimation of system' seems rather 'underdeveloped'. But this does not match up with Weber's statement that Pandect science had created what made the usual legal work of his time stand out: that it had achieved the 'greatest degree of logico-methodological rationality' (MWG I/22-3: 305), especially since this judgement made use of the postulates that placed the combat concept conceptual jurisprudence at his disposal.

Weber attributed to the legal work of formally-trained lawyers the 'greatest degree of logico-methodological rationality' and 'system'

44 Haferkamp 2008: 468; Haferkamp 2012: 85; Mecke 2009: 687ff., 700ff., 845 (concluding summary).

45. MWG I/22-3: 303; Weber recognised that the 'idea of coherent and complete law' had been heavily criticised, and the comparison of a judge with an automatic decision-making machine indignantly rejected; but he considered this indignation to be understandable 'because some tendency towards this type is one consequence of the bureaucratisation of the law' (MWG I/22-4: 195).

without, as might have been expected, demonstrating the actually-existing level of rationality by using his ideal-typical standard as a yardstick. It seems that, with the theoretical construction of the fourth developmental stage, the high degree of rationality specific to it results from theoretical reflection, and in this manner creates plausibility for the affinity of a universal 'market sociation' and 'the functioning of the law according to rational and calculable rules' (MWG I/22-3: 247).

That the especially high degree of the rationality of the law is owed to theoretical thinking is ultimately indebted to what Weber called the 'logicisation of the law'. Using this concept, which he took more or less as a given, Weber demonstrated a process that he attributed first to the reception of Roman law, and then to Pandect science (MWG I/22-3: 582f., 589; also Winkler 2014: 122f.). What that might be all about is revealed by the change of track of the early nineteenth century that is associated with the name Savigny: 'he made science the source of law, so that the university professor became the shaper of the law, training practitioners and pressing into their hands the Pandectic textbook as a guide' (Dilcher, Kern 1984: 36). It is more than plausible that in Germany the rise of formulated legal rules (MWG I/22-3: 630f.) associated with the promulgation of the Bürgerliches Gesetzbuch (BGB) sidelined lawyers working in universities. These scholars in the field of law consequently suffered a loss of power and prestige. They ceased being 'responsible joint builders of the law' and mutated into 'interpreters of laws to which they had at first to subordinate themselves, without taking any position of their own (Bucher)' (Meder 2005: 353).

Max Weber-Gesamtausgabe

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Max Weber and the 'Prussian "Geist"'

Christopher Adair-Toteff

Abstract

In 'Wahlrecht und Demokratie in Deutschland' (1917) Max Weber suddenly shifted from discussing voting rights in a democratic Germany to identifying four generals who he claimed embodied the genuine 'Prussian "Geist": Gneisenau, Scharnhorst, Boyen, and Moltke. The first three were actively involved in making the reforms to the Prussian military during the early decades of the nineteenth century, but Helmuth Moltke was heavily involved in military matters and political issues from 1864 until his death in 1891. Hence, he made major impressions on the young Max Weber during the first three decades of Weber's life. In this essay, I argue that Weber considered Moltke an 'ideal type' of leader: a modest man who possessed a sense of judgment and who acted according to the 'ethics of responsibility'. In contrast, another German general, Erich Ludendorff, embodied those traits that Weber warned against in his later lecture *Politik als Beruf*: vanity, the lack of judgment, and the lack of any sense of responsibility. By contrasting Moltke with Ludendorff we not only get a sense of what Max Weber meant by the genuine 'Prussian "Geist"', but we also get an idea of Max Weber's notion of the true political leader. There is no question that to understand what Weber meant by 'Prussian "Geist"' would mean investigating a full range of topics, including his opinions on the agrarian question, his view of Bismarck and his successors, and many more. However, by focusing on his opinions of Moltke and Ludendorff, we get a good sense of why Weber believed the 'Prussian "Geist"' was so important for Germany's future.

Keywords: Prussian Geist, Helmuth Moltke, Ludendorff, responsibility.

Introduction

Max Weber wrote 'Wahlrecht und Demokratie in Deutschland' during the second half of 1917 in order to address the critical political situation in Germany. Besides the continuing war, one of the most pressing issues for Weber was the question of voting rights and that was a major focus of his piece. That is why it is peculiar that Weber mentioned the 'old Prussian Spirit' ('alte Preußische Geist').¹ And, it

1. Like many others I distinguish between Prussia and Germany because prior

is odd that he referred specifically to a group of Prussian generals that he insisted embodied the 'real Prussian Spirit' ('echte Preußische Geist') (Weber 1984: 386). However, these two references to the 'Prussian "Geist"' are neither mere asides nor simple historical comments; instead, they help clarify Weber's conception of genuine political leadership. The four generals listed are Gneisenau, Scharnhorst, Boyen, and Moltke and taken together represent the best of the 'Prussian "Geist"'. Weber extols these gentlemen warriors from the past in order to contrast them with the vain and irresponsible 'leaders' of the present. And, one of the vainest and most irresponsible 'leaders' was Erich Ludendorff. The purpose of this essay is to set out the contrast between Moltke and Ludendorff; Moltke was sober and rational and he embodied the best of the 'Prussian spirit' while Ludendorff was vain and reckless and was Moltke's opposite.²

These comments about the 'Prussian "Geist"' cannot be understood by focusing solely on 'Wahlrecht und Demokratie in Deutschland'; rather, they must be considered within a broader context. This entails examining some of Weber's other writings from the period of roughly autumn of 1917 to spring of 1919. And, it means paying close attention to Weber's January 1919 lecture *Politik als Beruf*. There is no question that to understand what Weber meant by 'Prussian "Geist"' would mean investigating a full range of topics, including his opinions on the agrarian question, his view of Bismarck and his successors, and many others. However, by focusing on his opinions of two particular generals, we gain a good sense of what Weber thought was especially important about the 'Prussian "Geist"'. And, by contrasting Moltke and Ludendorff in light of the 'Prussian "Geist"', we will gain a clearer and a fuller sense of Max Weber's concept of a genuine political leader.

to the unification of Germany in 1872, there was no 'Germany'. Prussia was the largest and the most powerful state in the German territories but it is also important to keep in mind that there are many questions about Prussia: 'which Prussia?—the Prussia of Friedrich the Great, the Prussia of Bismarck?' See Oestreich 1964: 3. 'Which Prussia, the one became part of Germany in 1871, the one which ended in 1918 with Germany's defeat in the First World War, the one which ended in 1945 with Germany's defeat in the Second World War, or the one that the Allies dissolved?' See Hinrichs 1964: 15 and Puhle 1980: 13, 18.

2. 'sober and rational' captures Weber's notion of 'nüchtern' which was one of Weber's favorite words. Bruhns 2017: 19.

*'Prussian "Geist"'*³

Part of the reason that we might think it peculiar that Weber invoked the notion of the 'Prussian "Geist"' is that we tend to associate Weber with Heidelberg and scholars have frequently referred to him as the 'Mythos of Heidelberg'. Indeed, Weber was connected to Heidelberg for close to 21 years. He moved there in 1897 and left for Munich in 1918. However, during this period Weber was away from Heidelberg for several years as he recovered from his illness. He initially stayed for months in sanatoriums in southern Germany and then recuperated in Italy for over a year. It is instructive to compare his time in Berlin with his time in Heidelberg. Weber he had moved with his family from Erfurt to Berlin in 1870 and spent most of his formative years there. He did attend other universities but he spent most of his time at Berlin and it was from that university that he received his degree. He did not leave Berlin until 1894 when he moved to Freiberg to take up a professorship. He remained at Freiberg for only a few years before he was called to Heidelberg. And, while we are correct to some extent to associate Weber with Heidelberg, it also seems that he always regarded himself as a Prussian.⁴ Heidelberg is notable mostly because of its past; in contrast, Prussia was 'Janus faced': it looked to the future for innovation and it looked to the past for tradition (Stadelmann 1950: 394). And, consider two of Weber's claims in his Freiburg Inaugural Lecture: that the Prussian nobles were the 'carriers of culture and with that Germanness' and that the sound of the Prussian Junker name affects his Freiberg audience during his Inaugural lecture. He said: 'I know well that the name of the Junker sounds unfriendly to South German ears.'⁵ Weber was not a Prussian Junker, but he admired the older generations of Junkers who gave Prussia so much—especially some of

3. The term 'Geist' is frequently found in German works and it has many different meanings. Perhaps the most appropriate English translation for the purposes here is 'spirit'. The justification for this choice will be made evident later in the essay.

4. In his August 1916 address in Nürnberg, Weber offered two reasons why he might not have been happy to address his audience: that he was not a member of the national committee and that he was Prussian. 'Obwohl nicht Mitglied des Nationalausschusses und obwohl Preuße, bin ich doch gern hierher gekommen' (Weber 1916: 656).

5. 'das Rittergut der Träger der Kultur und damit des Deutschtums' and 'Ich weiß es wohl, daß der Name Junker süddeutschen Ohren unfreundlich klingt' (Weber 1993: 547, 566).

the Prussia generals. That is why in 'Wahlrecht und Demokratie in Deutschland' he insists that the 'Prussian "Geist"' belongs to 'Germanness' ('Deutschtums') and it is why he invoked the names of four great Prussian generals:

The real 'Prussian spirit' belongs to the most beautiful blossoms of Germanness. Every line that we have from Scharnhorst, Gneisenau, Boyen, Moltke breathes it even so as the deeds and words of the great Prussian (admittedly to a large part from outside of the Prussia homeland) that one does not first need to name (Weber 1984: 386).

So who were these great generals who embodied the 'Prussian "Geist"'? Gerhard Johann David von Scharnhorst (1755–1813), August Wilhelm Anton Graf Neidhardt von Gneisenau (1760–1831), and Hermann von Boyen (1771–1843) were three of the greatest reformers of the Prussian army. After the crushing defeats by Napoleon at Jena and at Auerstedt in 1806, these three generals, along with Carl von Clausewitz (1780–1831), began to reorganize the army the following year. We know that Weber had that year in mind when just before his comment about the generals he referred to the 'inner reforms' which occurred '110' years before. Since he was writing this in 1917, that number would put it at 1807. From this, it is evident that Weber thought highly of these three Prussian generals but it is the fourth name that is important here: Moltke.⁶ Weber does not specify which Moltke he meant but it is evident from what he did say and what we know about Weber that he undoubtedly meant General Helmuth von Moltke.⁷

6. Weber referred to Moltke a number of times. These are included in Weber's writings on methodology and in his comments on speeches. But, but he referred to Moltke as an example of a general who tried to reasonably predict a battle's outcome; hence, they are not relevant here.

7. It is necessary to note that there are two individuals with the name Helmuth von Moltke: Helmuth Karl Bernhard von Moltke (1800–1891) who is often referred to as Moltke der Alter, or even Moltke d. A., and Helmuth Johann Ludwig von Moltke (1848–1916) who is generally referred to as Moltke der Junger, and who was Moltke the Elder's nephew. Both were Prussian generals but the one who is relevant here is Moltke the Elder. Moltke the Younger was the head of the Prussian general staff prior to Ludendorff. Moltke the Younger resigned because of his nerves in September of 1914 and was replaced by Falkenhayn. See Craig 1955: 301 and Ritter 1964: 55. Ludendorff and Hindenburg replaced Falkenhayn in 1916.

*Weber and Moltke*⁸

On December 8, 1878, the fourteen year old Max Weber wrote to his cousin Fritz Baumgarten about seeing the Kaiser's parade in Berlin, but Max was apparently more impressed by Moltke than he was by Kaiser Wilhelm (Weber 2017: 132–35). On September 3, 1880, Max wrote to his father about Moltke's insistence that as a new nation, Germany needed to continue to arm itself (Weber 2017: 232 and n. 5). Who was this Moltke who impressed the young Weber as well as the older Weber and why?

General Field-Marshal Helmuth Graf von Moltke (1800–1891) was a military hero and a long-standing member of the German parliament (Reichstag). He came from a lower noble but impoverished family and lived his early years in the part of northern Germany that still belonged to Denmark. That he was regarded by some Germans as a 'foreigner' haunted him throughout his life. He became a military cadet in Berlin shortly after the time that von Boyen, von Clausewitz, von Gneisenau, and von Scharnhorst had implemented their far-reaching military reforms. Unlike them Moltke was a 'self made man'.⁹ And, unlike them, he did not follow the traditional military route of rising up through the ranks. Instead, he was a military assistant in Turkey and then he was sent to Rome to be the personal adjutant to Prince Heinrich of Prussia. The Prince was bed-ridden but Moltke continued to educate him until the prince's death. He accompanied the body back to Berlin, but he spent 1848 in Coblenz and then in Magdeburg. He accompanied the crown prince to England three times, including being there for the funeral of Prince Albert, the husband of Queen Victoria (Moltke 1892a: 21–26). These travels expanded Moltke's views and made him aware

8. To my knowledge, no one has investigated Weber's assessment of Moltke. Wolfgang J. Mommsen does not mention him in his *Max Weber und die deutsche Politik*. Cornelius Torp also ignores Moltke in his *Max Weber und die preußischen Junker*. There is no entry on Moltke in the first edition of Richard Swedberg's *The Max Weber Dictionary*. There is no entry for Moltke in Dirk Kaesler's recent biography of Weber and the single one in Jürgen Kauber's biography is not about Weber but about Leon Daudet's 1915 book against Germany. Kaesler 2014; Kaube 2014: 358. In his recent book *Max Weber's Vision for Bureaucracy*, Glynn Cochrane devotes some time to Moltke, but in particular Cochrane misunderstands Moltke's importance and in general the book is unreliable.

9. 'Selfmademan'. In Herre 1984: 12. Moltke would not be awarded the noble title 'Graf' until 1871. He rarely used either 'Graf' or 'von' and signed most documents simply as 'Moltke'.

of cultural differences. These experiences would serve him well as he continued to be promoted in the Prussia army.

Moltke participated in three wars: the Prussian-Danish war of 1864, the Prussian-Austrian War of 1866, and the Franco-Prussian war of 1870–1871. He was considered responsible for the victory in all three, but his fame came primarily because of the Prussian-Austrian War. Not only did he manage to move large numbers of troops by rail in a short period of time, but he personally led the troops at the major battle of Königgrätz.¹⁰ This victory is often regarded as the point where Prussia was assured of victory over Austria. Unlike the wars with Denmark and with France, the war with Austria was unwanted and that was because many people in parts of Germany regarded Austria as a genuine ally (Nipperdey 1998a: 782-83). Gerhard Ritter has described it on several occasions as a ‘civil war’ (‘Bruderkrieg’) (Ritter 1965: 152, 276). That is why Moltke’s success in that short war was regarded as especially important. Furthermore, in his account of the rise and fall of Prussia, Christopher Clark maintained that not only did Moltke win the battle at Königgrätz, but that he was the ‘chief author of the Prussian victory of 1866’ (Clark 2007: 537). And, he was responsible for the victory at Sedan, in France, which helped lead to the defeat of France. As the victor at Königgrätz and later at Sedan, Moltke’s reputation was firmly established. As Raymond Aron indicated, Moltke had almost the same prestige and authority as Bismarck during the Prussian-Franco war. And, Aron as well as Gerhard Ritter insisted that Moltke was Bismarck’s partner and competitor.¹¹ After the German Unification of 1871, Moltke continued to enjoy the admiration and respect of the German population, both as a military officer and a member of the German parliament. When he died, much of Berlin turned out for the funeral parade, not just civilians and the military but many nobles (Jähns 1906: 666-67). At the funeral the Kaiser called Moltke ‘One of the greatest commanders of all time’ and Jähns commented that the Kaiser was right.¹²

10. Gerhard Ritter emphasizes Moltke’s work with the German railways during the early 1840s as being decisively important for his reliance on rail during the later Prussia wars. Ritter 1965: 239-40. Moltke was often referred to as ‘Feldisenbahnchefs’ (‘Field railway chief’). In his introduction to *Preussische Profile* Wolfgang Venohr recalled the ‘Bonmot’: ‘Hitler—das war Österreichs Rache für Königgrätz’ (‘Hitler— that was Austria’s revenge for Königgrätz’). Venohr 1980: 8.

11. Aron 1980: 349-51; Ritter 1965: 242. Herre wrote that Bismarck and Moltke appeared to Germans as the ‘twin brothers’ (‘Zwillingsbrüder’). Herre 1984: 351.

12. ‘Einen der größten Feldherrn aller Zeiten’. Jähns 1906: 669. Jähns wrote that

Herre insisted that Moltke possessed two 'souls': humanity was one and the other was power and he recounted that the victor of Königgrätz said that the best deed in war is the speedy end of the war.¹³ Moltke embodied the best of the 'Prussian "Geist"': intelligent but practical, successful but modest, progressive but traditional, and an idealist but more of a realist—in short, a true 'nobleman' ('Edelmann') (Jähns 1906: 675). In addition, Moltke preferred peace but knew when to go to war. In *Staatskunst und Kriegshandwerk* Ritter suggested that Moltke was the 'ideal type' of the North German man even more than the type of Prussian soldier (Ritter 1965: 238).

One of Moltke's great strengths was his principle about the separation between the political and the military¹⁴ During the War of 1870 Moltke had formulated his principle about the Chancellor and the Chief of the General Staff—that they were equal and independent. Craig suggested that Moltke wanted the separation between the military and the political in order to keep Bismarck from 'meddling in operational matters'.¹⁵ In contrast, Ludendorff intentionally blurred the line between the military and the political, which led to devastating results. And, these results helped cause considerable consternation for Max Weber.

*Weber and Ludendorff*¹⁶

Erich Ludendorff (1865–1937) was, and still is, a polarizing figure. He was regarded as one of Germany's greatest generals but has been

people often compared Moltke to Napoleon on the grounds that both were among the greatest generals of all time. However, Jähns argued that there were significant differences. One, Bonaparte became field marshal at age 26; in contrast, Moltke became one at age 66. Two, and more relevant, Bonaparte was a 'conscienceless *self-master*' ('gewissenloser *Selbstherrscher*') whereas Moltke was a 'loyal *State-servant*' ('loyaler *Staatsdiener*'). Jähns 1906: 672. A similar contrast could be made between Ludendorff and Moltke.

13. "Die größte Wohltat im Kriege" erklärte der Sieger von Königgrätz, "ist die schnelle Beendigung des Krieges". Herre 1984: 353, 348. It is slightly different in Moltke's *Kriegslehren*: 'Die größte Wohltat im Kriege ist jedenfalls die schnelle Beendigung des Kriegs'. Moltke 1911: 2.

14. Delbrück 1902: 549. Delbrück will be consulted frequently because he was not only a friend of Max Weber but was 'Germany's most distinguished military historian'. Craig 1955: 337. Lest there be some doubt about Moltke's political importance, Jähns concludes his biography of Moltke by referring to him as 'Staats- und Kriegsmann' (statesman and warrior). Jähns 1906: 676.

15. Craig 1955: 206, 327. See also Ritter 1965: 255.

16. To my knowledge, no one has investigated Weber's estimations of both Ludendorff and Moltke. Wolfgang Mommsen discusses Ludendorff in his *Max Weber*

largely blamed for Germany's defeat in World War I. This is not the place to investigate those claims, but it is the place to discuss how his life and military career contributed to Weber's dislike, distrust, and his confrontation with Ludendorff. In *Ludendorff. Legende und Wirklichkeit* Wolfgang Venohr noted that Ludendorff is now mostly forgotten but he was famous for winning the battle at Tannenberg in 1914. For that victory, he was then regarded as equal to Helmuth Moltke and Alfred Schlieffen.¹⁷ However, that reputation did not last very long and many people faulted him during the war and they certainly criticized him after it. During the twenties, they ridiculed his political writings and during the early thirties, many denounced his Nazi sympathies. Both supporters and detractors agreed that he was a difficult person—icy on the surface and volcanic in the inside. Whatever one thinks of Ludendorff, what he achieved was by his own doing—he was not aided by being from a noble family or by being able to use connections. As Venohr wrote, Ludendorff was a 'self-made man'.¹⁸ He was a soldier by profession, having enrolled in military school at the age of ten. He rose through the ranks and by August 1914 he was a major general. On August 22, he was called to the headquarters on the Western Front and was instructed to proceed immediately to the Eastern Front where two Russian armies were threatening the German army. Ludendorff arrived there several days later; on August 27 he ordered the troops to attack. The battle lasted several days and on August 31 the Germans were the clear winners

und die deutsche Politik but does not mention Moltke. Cornelius Torp ignores both Ludendorff and Moltke in his *Max Weber und die preußischen Junker*. Hiinerk Bruhns mentions Ludendorff several times and makes the important point that Weber's conception of responsibility corresponds with his notion of honor (Bruhns 2017: 166-67). Glynn Cochrane mentions Ludendorff four times and devotes a fair amount of time to Moltke. However, Cochrane misunderstands Moltke's importance and in general the book is unreliable. See (*add later*). While it may not be surprising there is no entry on Moltke in the second edition of *The Max Weber Dictionary*, it is somewhat surprising that there is not one on Ludendorff (Swedberg 2016).

17. Ludendorff also saw Moltke in Berlin, but he was slightly younger than Weber was when he saw him in Berlin's Tiergarten. He also saw Moltke's funeral parade—which he never forgot. It is somewhat puzzling that Ludendorff turned out the way he did, considering his earlier respect for Moltke and the Prussian military tradition. See Venohr 1993: 11-12. Clausewitz, Moltke and Schlieffen were the authors of the great classical military doctrines. However, Ludendorff regarded their approaches to be misguided and was convinced that his ideas were better (Venohr 1993: 106, 144-45).

18. Venohr 1993: 13. 'Selfmademan'. I am relying on these secondary works in order to show that Weber was not alone in his negative opinion of Ludendorff.

and Ludendorff was hailed as a hero (See Vonohr's account. Vonohr 1993: 30-43). There is no doubt that his decision to move quickly and decisively against the Russians was the correct one; unfortunately, the lesson that Ludendorff learned from the Tannenberg battle was not the correct one. Rather than learning that each battle is unique and that the strategy needs to take that into account, Ludendorff believed that the tactics he employed there would work everywhere. Granted, they were successful in the next battle at Masuren a few days later, but after that they were no longer guaranteed. Indeed, Ludendorff's marching orders were to lead to problems (Vonehr 1993: 71-72). In fact, Ludendorff was soon misreading the battle field; in 'Südpolen' he and Hindenburg were forced to withdraw their forces in a retreat that became almost as famous as the Tannenberg victory.¹⁹ The German army had considerable internal conflicts. Craig has suggested that Falkenhayn and the Eastern Command appeared more concerned with destroying each other than with defeating the Russians.²⁰ Falkenhayn's strategy continued to fail and by the summer of 1916, the German armies were all on the defensive. Hindenburg and Ludendorff were appointed with the younger man placed on equal footing as the older Hindenburg (Craig 1955: 306).

It is generally accepted that Max Weber was enthusiastic about the war in the early months but he soon became disillusioned and warned of the severe consequences of losing the war. One of his most passionate concerns was the introduction of unlimited submarine warfare, which he warned about throughout much of the war. Writing in March of 1916, Weber argued against it, claiming that if Germany attacked neutral shipping vessels that America would no longer remain on the sides lines. He insisted that this matter was crucial and warned that it had to be carefully considered: 'Sie bedürfen einen von jeder pathetischen und Gefühlspolitik absolut freien, *ganz nüchternen Berechnung*, eher irgend ein Schritt geschieht.' ('It requires an *entirely sober consideration* which is free from any emotional politics of feeling before any single step occurs' (Weber 1984: 118; see also Ritter 1964: 29-31). He argued that if America joined the war, then

19. Venohr 1993: 77-80. Craig suggested that the turning point of the war occurred in the middle of September 1914 when Falkenhayn decided against the mobile warfare that had served the German army in the first six weeks of the war (Craig 1955: 301).

20. Craig 1955: 304. Venohr claimed that during 1915 the atmosphere was 'generally frosty' and that on one side were Falkenhayn and General Tappen and on the other side were Hindenburg and Ludendorff (Venohr 1993: 114-15).

Germany would likely lose.²¹ He insisted that it was the duty of the leaders to act responsibly militarily and warned about being swayed by an 'Abenteuropolitik' ('adventure-politics') (Weber 1984: 124-25).

In contrast, by 1916 Ludendorff and Hindenburg were strongly pressing for unlimited submarine warfare—they 'had joined the ranks of the advocates of all-out war on the sea'.²² Ludendorff was convinced that by attacking the western supply ships, submarines would bring England to its knees (Venohr 1993: 182, 237). Venohr concluded that Ludendorff may have erred about submarine warfare but he mostly succeeded in his defense on the Eastern Front (Venohr 1993: 233, 237). That success led Ludendorff to believe that he would be equally victorious on the Western Front and after Russia withdrew from battle he insisted that most of the eastern troops should be moved west. He maintained that a major attack would be necessary and successful: necessary because morale in the military and the public was sinking; successful because it would be a surprise attack. Despite taking a month to prepare, the 'Michael' attack was not a success, in large measure because Ludendorff had overestimated the strength of his troops and he lacked a clearly defined goal for the offensive (Venohr 1993: 261, 346, 348). The offensive began on March 21, 1918 and for all intensive purposes ended ten days later on March 31. But, rather than conceding that it was not a success, Ludendorff continued to operate under the illusion that victory over the French and the British would happen soon (Venohr 1993: 293, 307-308). Later, he grudgingly accepted 'co-responsibility' for the failure of the 'Michael' offensive and Venohr defends him by reminding us that just as Hindenburg was co-responsible for the victory at Tanneberg, Hindenburg was just as co-responsible for 'Michael' (Venohr 1993:

21. In a letter dated 18/20 February 1916 to Lili Schäfer, Weber warned that if America entered the war 25% of Germany's ships would still be in American ports and their entire shipments would be confiscated. Weber 2008: 300. And in a letter dated 27 February to Marianne he repeated his claim about the Americans confiscating German ships but added that there would be a half a million sportsmen/soldiers who would be heavily armed and fresh fighting against Germany's 'increasingly exhausted and poor boys' ('zunehmend verbrauchten armen Kerle'). Weber 2008: 312.

22. Craig 1955: 320. Ludendorff and Hindenburg were not alone; many Germans regarded submarines as a 'miracle weapon' ('Wunderwaffe'). Ritter noted that there were three U-Boot crises: 1915, 1916, and the even worse one in 1917. Ritter 1964: 145. Venohr maintained that Ludendorff was mainly responsible for the February 1917 re-introduction of unlimited submarine warfare. Venohr 1980: 174 and Venohr 1993: 230.

324). Throughout the summer and into the fall, the German army continued to suffer defeats, yet Ludendorff and Hindenburg continued to insist that all was well and victory was assured. That is why Germany was astounded by Ludendorff's demand at the end of September 1918 that Germany surrender. People who knew him well remarked that Ludendorff was fine when things were going well, but that he lost his nerve when things went badly. On October 26, 1918, the Kaiser relieved Ludendorff from command without a handshake or a thank you (see Venohr 1993: 351-52). Lest anyone feel sorry for Ludendorff, Craig insisted that the Kaiser had no choice: Ludendorff's 'growing megalomania' was jeopardizing the peace negotiations (Craig 1955: 345). And, Clark reminds us that Ludendorff and Hindenburg used blackmail and intimidation against other military and political individuals and that the 'Siamese twins' had threatened to resign numerous times and was basically holding Germany ransom (Clark 2007: 610-11, 625). Yet, there were significant differences between the two generals. Clark contrasted Hindenburg with Ludendorff—he described Hindenburg as 'a towering, charismatic figure' but maintained that Ludendorff was 'a jumpy, nervous workaholic prone to violent mood swings' (Clark 2007: 609-610).

Despite his objections to Ludendorff's support for unlimited submarine warfare, Weber initially had some praise for Ludendorff's military successes. Yet, he was highly critical of Ludendorff's and Hindenburg's conflict with the political authorities on two grounds. First, like Moltke, he believed that military matters should be decided only by military men and political decisions should be decided strictly by politicians. Instead, Ludendorff and Hindenburg were constantly trying to meddle in political matters. Second, Weber insisted that it is necessary that the state acts as one in times of war, whereas Ludendorff and Hindenburg were actively working behind the scenes to undermine the political authority (Weber 1984: 409). Not only that, they resorted to subterfuge and threats of resigning.

Max Weber's response to Ludendorff was somewhat mixed. In 1917, Weber objected to Ludendorff's and Hindenburg's interference in political matters (Weber 1984: 399 and n. 3; 416 and nn. 21, 22). However, in the spring of the following year, Weber was inclined to write an essay for the *Frankfurter Zeitung* in which he was intending to defend Ludendorff's military successes from the critics who were attacking Ludendorff for his political stances (Weber 1984: 782; 1926: 662-663). By the fall of that year, Weber had decided that Ludendorff was responsible for many of the military as well as political problems

facing Germany. In an account of a speech that Weber gave in October on the political situation in Germany, Ernst Fraenkel placed much of the blame on the unlimited submarine warfare which prompted America to decide to fight against Germany. This showed a severe lack of responsibility (*dieser Mangel an Verantwortlichkeitsgefühl*). Ludendorff was not mentioned by name but he was a staunch supporter of the submarine warfare. However, Weber criticized Ludendorff by name when he insisted that the general was responsible for the problems in the East and he insisted that these problems were caused by the loss of the appropriate 'sense of distance/judgment' (*Augenmaß*).²³ And, Weber accused him of shirking responsibility either because he underestimated the military situation or simply because he lost his nerve (Weber 1984: 752-53). Ludendorff likely did lose his nerve; he had been insistent that Germany was going to win the war when in October of 1918 he suddenly announced that Germany needed to sue for peace.²⁴ He was relieved of duty and fled to Sweden, but he returned to Berlin in the spring of 1919.

Before Weber traveled to Versailles for the peace conference he wrote a letter to Ludendorff. Although Weber referred to Ludendorff as 'Euer Exzellenz' and 'hochgeehrter General', he insisted that Ludendorff had the responsibility to appear personally at the American border posts to answer for his lies and for the honor of the German officer corps.²⁵ Ludendorff's response no longer exists, but Marianne Weber indicated that it was brief and negative (Weber 1926: 663).

23. 'Augenmaß' is particularly resistant to translation but is an extremely important term for Weber. It is something that people seem to either have or not have and that it cannot be simply learned. Weber appeared to have made that point in 'Das preußische Wahlrecht' where he contrast the academic teacher who lacks 'political judgment' (*politischem Augenmaß*) and does not have the 'judgment for political realities' (*Augenmaß für politische Realitäten*) (Weber 1917c: 230-31).

24. In 'Die politische Lage Ende 1918' Weber faulted Bethmann Hollweg for not stopping the submarine warfare but he criticized Ludendorff for not just misjudging the war in the East but for generally being responsible for Germany's impending loss (Weber 1918: 752-53).

25. Weber 2012: 605-609. Stephen Turner has argued that Weber considered the notion of honor to be one of the great German virtues and he is no doubt correct (Turner 2016, esp. 151, 170-71). Bruhns also stresses the importance that the concept honor played in Weber's thinking and especially on the 'field of honor' (*Feld der Ehre*). Bruhns suggested that Weber's meeting with Ludendorff revealed how much Weber's concept of honor corresponded to the sense of responsibility (Bruhns 2017: 157-58, 162-67).

Weber met Ludendorff in person and there are two accounts of this meeting. They are by the constitutional lawyer Richard Thoma and by the national economist Emil Lederer and they are reprinted in Band I/16 of the *Max Weber Gesamtausgabe*. Thoma indicated that the three hour meeting took place in Ludendorff's apartment. Ludendorff asked: 'What exactly do you want?' ('Also was wollen Sie eigentlich?'). Weber responded that this meeting had nothing to do with the German people but solely with honor of the German officer corps. Ludendorff attempted to deflect Weber's criticisms by talking first about democracy and politics and then insisting that Weber should be going after Hindenburg. Weber responded that 'every child' knows that Ludendorff was the real person in charge—to which Ludendorff replied 'Thank God!'²⁶ This exchange reflects Ludendorff's unwillingness to take responsibility and Weber's insistence that honor and duty demand it. It also makes clear that Weber and Ludendorff represented two entirely different and mutually antagonistic approaches. Joachim Radkau insisted that there was mutual aversion between Weber and Ludendorff—Weber blamed Ludendorff personally for 'Germany's fiasco' ('deutschen Fiasko') and Ludendorff regarded Weber as a 'democrat' and insisted that he was partially responsible for the revolution (Radkau 2005: 819-20). In his biography of Weber Jürgen Kaube noted that Weber believed that the politician needed to be a hero. Instead, Ludendorff was a 'military dictator' ('Militärdiktator') during the war and a civilian coward after it.²⁷ Kaube comments on Ludendorff's remarks about his meeting with Weber—Ludendorff saw 'hate' in Weber's eyes, but maybe he could not differentiate between 'hate' and 'despising'.²⁸ Ludendorff never admitted that he might have been the source of the problem; instead, he always blamed others. These included Chancellor Bethmann, the Russian Revolution, and even the German people (Craig 1955: 323).

After Weber's death in 1920, Ludendorff continued to be involved in German politics. He participated in both the Kapp Putsch and

26. 'Weber: "Nun, Herr General, es weiß doch jedes Kind, daß Sie damals in Deutschland Nummer Eins waren." Ludendorff: "Gott sei Dank!"". Lederer offers a slightly different account: 'W[eber]: "Hindenburg ist 70 Jahre alt—außerdem, jedes Kind weiß doch, das Sie damals in Deutschland Nummer Eins waren." L[udendorff]: "Gott sei Dank!'" (Weber 1988: 549-50 and 553).

27. Craig observed that Ludendorff and Hindenburg created 'what has been called a "silent dictatorship"' (Craig 1955: 300).

28. 'Ludendorff meinte, in Webers Augen Hass zu sehen, aber vielleicht konnte es von Verachtung nicht unterscheiden' (Kaube 2014: 394, 405-406).

the Beer-Hall Putsch. He became friendly with Hitler, who admired Ludendorff's military genius. Ludendorff sought the presidency in 1925 but lost to Hindenburg. Ludendorff never forgave him and soon had a falling out with Hitler. During the last decade of his life Ludendorff published numerous writings and many of these were written with his second wife. But, almost all of them were marked by a sense of betrayal by his countrymen. Ludendorff believed that civilians did not understand or appreciate the significance of war; *Der totale Krieg* was intended to educate them about the essence and necessity of war. This would seem to suggest that, like Moltke, Ludendorff regarded himself as a student of Clausewitz. However, Ludendorff not only did not think of himself as following in Clausewitz' footsteps; rather he drew a marked contrast to Clausewitz. Clausewitz was famously known as the 'philosopher of war' ('Kriegsphilosoph') and *Vom Krieg* was a 'philosophical book' ('philosophisches Buch') (Ritter 1965: 81, 85-86). In the first chapter of his *Der totale Krieg* Ludendorff insisted that he had no intention of offering a 'theory of war' and he maintained that the 'essence' ('Wesen') of war had changed since Clausewitz wrote *Vom Krieg*.²⁹ Ritter pointed out two fundamental differences between Clausewitz and Ludendorff: that Clausewitz rejected the idea of 'total war' and that he still believed that war needed to be morally and politically justified (Ritter 1965: 344 n. 56). In contrast to Ludendorff, Moltke prided himself on writing a philosophical treatise on war and like Clausewitz he believed that wars needed moral and political justifications.³⁰ A third difference can be

29. Ludendorff 1935: 3-5. It is noteworthy that the author is not listed as Erich Ludendorff but as General Ludendorff and that it was published by Ludendorffs Verlag. That Ludendorff insisted on the title long after he had retired is indicative enough of a certain degree of vanity; but that he used his own publishing firm to issue this work is another sign of his vanity.

30. Thomas Nipperdey had a different view of Moltke. On one hand he credited Moltke with introducing the military to the advantages of the railway (and telegraph) but on the other hand he contended that Moltke wanted the total destruction of the enemy (Nipperdey 1998b: 64-66). Unfortunately, Nipperdey did not offer a justification for his assertion. In contrast, Ludendorff had insisted that warfare had not changed much between 1800 and 1914 and that it was only with the advent of the First World War that the army sought the complete destruction of the enemy (Ludendorff 1935: 4-5). Ritter noted that as much as Moltke was a traditional Prussian soldier, he was also a 'Mann der nüchternen, hellen, modernen Wirklichkeit, der Wirklichkeit des 19. Jahrhunderts' ('Man of the sober, bright, modern reality, the reality of the nineteenth century'). To Moltke, nothing was personal; he subjected everything to 'ice cold reason' (Ritter 1965: 241, 247).

detected between Moltke and Ludendorff: that Moltke still belonged to the 'old Prussian and old aristocratic tradition' whereas Ludendorff was a founding member of the 'new German nationalism'.³¹ A final difference is their differing political stances. Moltke was first elected member of the German parliament in 1879 and served until his death. During these years, he spoke briefly several dozen times and as a result he was referred to as 'der große Schweiger' ('the great silent one') (Moltke 1892b: VI). Moltke spoke only when he knew that his expertise would matter and the other members of parliament listened intently. In contrast, Ludendorff had a reputation as someone who frequently meddled in matters and often spoke about things that he knew nothing about.

In 1920 Hans Delbrück published a review of Ludendorff's memoirs. In it, he noted that the fundamental idea of the entire book was that Germany did not lose the war due to anything that Ludendorff had done; rather, it was because the Germans lacked the decisive will for victory (Delbrück 1920: 15). Two years after Weber died, Delbrück published a pamphlet in which he attacked Ludendorff. Delbrück accused Ludendorff of many things, but he mainly focused on Ludendorff's refusal to accept the consequences of his losing the war and his continued insistence that he and other like-minded generals continued to propagate the 'stabbed in the back legend' ('Dolchstoßlegend'). He also accused Ludendorff of not understanding that the revolution was the result of losing the war, not that the revolution caused Germany to lose the war. Most critically, Delbrück insisted that just as the two men, Bismarck and Moltke, created Germany, the two men, General Ludendorff and Admiral Tirpitz, destroyed it. Delbrück ended by insisting that if Ludendorff could have been a different (and better) man, the war would have ended differently (and better for Germany) (Delbrück 1922: 61, 63-64). It is important to keep in mind that Ludendorff not only lost battles, he lost Germany. In contrast, Moltke was the only military leader in history, besides Alexander the Great, who never lost a battle (Venohr 1980: 150). Despite his

31. In *Die Geschichte Preussens* Wolfgang Neugebauer wrote: 'Nicht die Träger altpreußischer und altaristokratischer Tradition im Osten waren die Protagonisten des neudeutschen Nationalismus mit Weltpolitikdimension gewesen, und so kann auch in den Entscheidungspositionen auf Reichsebene "die eigentlich forsche Vertreter einer offensive deutschen Weltpolitik nicht aus der preußischen staatlichen Tradition" (W.J. Mommsen)' (Neugebauer 2006: 126). Ritter maintained that even if Moltke stood at the beginning of 'total war', he was reasonable enough to reject the desire for revenge and triumph (Ritter 1965: 273-74, 283).

losses, Ludendorff thought of himself as the greatest general whereas Moltke was modest and often suggested that he had little to do with the victory. If he had ever lost a battle, there is little doubt that Moltke would have readily accepted blame. As a Prussian officer, it would have been the only responsible thing to do.³²

Prussia and Politics

Towards the end of *Politik als Beruf* Max Weber discusses the relationship between politics and ethics and in doing so he distinguishes between two types of ethics. One type of ethics is otherworldly and rejects politics; the other type is of this world and embraces politics. Weber refers to the first one as 'Gesinnungsethik' and since it is based upon principles it rejects any consideration of possible consequences. What matters is a principled stand; consequences are left to God. Weber calls this the 'ethic of the Gospels' and points specifically to the 'Sermon on the Mount'. Because the 'evangelical command' is 'unconditional and unequivocal' ('unbedingt und eindeutig') only saintly types like Jesus and Saint Francis actually practice it. Furthermore, anyone who believes in 'Gesinnungsethik' cannot be a politician because that type of ethics completely rejects power and the use of force. And, as Weber notes, the person who has no power, also has no responsibility (Weber 1992: 220).

Weber insists that the politician who strives for power must have a sense of responsibility and he refers to the second type of ethics as 'Verantwortungsethik'. Weber counts this sense of responsibility as one of the three qualities that the politician should have.³³ 'Verantwortungsethik' combines the sense of responsibility and a regard for the probable consequences. Weber concedes that no one can predict any and all possible consequences, but he insists that one must take into consideration the 'foreseeable consequences' ('[voraussehbaren] Folgen') of one's actions or refusals to act. In light of this, the politician must accept responsibility for the consequences of those actions.

32. Although Venohr was referring to Gneisenau, his comment about taking 'final responsibility' ('letzte Verantwortung') would apply to every true Prussian general (Venohr 1980: 68).

33. The other two are 'Leidenschaft' ('passion') and 'Augenmaß' ('eye-measurement'). The first is 'hot' and the second is 'cool'; the first drives the politician but the second is the sense of distance needed for the politician to have an accurate appraisal of the issue (Weber 1992: 226).

Max Weber does not compare the politician to the general, but he was undoubtedly aware of Clausewitz's claim that 'war is a mere continuation of politics by other means'.³⁴ The relationship between politics and ethics applies even more so to war and ethics because not only are peoples' livelihood at stake, but people's lives are as well. Accordingly, the general must possess an even greater sense of responsibility than the politician.³⁵ It was bad enough that many German politicians were far more concerned with gaining fame than with their duty to act responsibly, it was even worse that some Prussian generals were similarly concerned.³⁶ Weber was likely thinking about a number of German politicians when he gave his lecture *Politik als Beruf* to the students in Munich on 28 January 1919, but he most likely had Ludendorff in mind. For Weber, Ludendorff was a vain man who wanted attention at all costs. In Weber's opinion, he was a coward and a traitor. Finally, Weber was convinced that the man had no sense of honor or of responsibility. In Weber's mind, Ludendorff was the epitome of the decadent new German 'Geist' and, unfortunately for Germany, had held considerable power. He was the opposite of what Germany needed: a genuine 'Held' ('hero') who was dedicated to serving Germany.³⁷ What Germany needed was someone like Moltke—a hero and leader who had a sense of duty, honor, and integrity and who was always conscious of his responsibility in Germany's history.³⁸ Delbrück considered Moltke as a 'edle, gebildete,

34. The Prussian general Carl von Clausewitz wrote this in Book One of *Vom Krieg*: 'Der Krieg ist eine bloße Fortsetzung der Politik mit anderen Mitteln' (Clausewitz 1973: 210). Weber must have known of Clausewitz' dictum: not just because it had been famous for decades, but because of his own military training.

35. It does not need to be said that the believer in 'Gesinnungsethik' cannot be a military officer because he would have to 'turn the other cheek' ('halte den anderen Backen hin') rather than strike back (Weber 1992: 235).

36. Weber insisted that the 'deadly enemy' ('Todfeindin') of politicians was 'vanity' ('Eitelkeit'). He maintained that there were two 'deadly sins' ('Todsünden'): "'Unsachlichkeit' and what is often, but not always, identical with it: lack of responsibility'. 'Unsachlichkeit', like 'Augenmaß', is difficult to translate. What Weber means by 'Unsachlichkeit' is that one is more concerned about one's personal interest instead of being dedicated exclusively to the 'matter at hand' ('Sache') (Weber 1992: 228).

37. 'Aber der, der das tun kann, muß ein Führer und nicht nur das, sondern auch—in einem sehr schlichten Wortsinn—ein Held sein' (Weber 1992: 252).

38. Hans Delbrück referred to Moltke as a 'Held'. He also maintained that Moltke was like his predecessor Scharnhorst because both were 'titans' who were entitled to move powerfully in the world but chose to be reserved. Later Delbrück compared Moltke to both Scharnhorst and Gneisenau (Delbrück 1902: 546-47, 549). Still later, he

liebenswürdige, bescheidene Mann' ('noble, cultured, lovable, modest man').³⁹ That is why Weber's remarks about the 'old Prussian "Geist"' are so important—he is contrasting men like Ludendorff to those like the old, Prussian 'heroes': Gneisenau, Scharnhorst, Boyen. Like Moltke, they are the embodiment of the best of the 'Prussian "Geist"'.

Concluding Comments

Moltke and Ludendorff represented two forms of Weber's ideal types regarding leaders. On the one side, there was Moltke who was intelligent, modest, noble, and totally dedicated to Prussia and Germany. He represented the traditional 'Prussian "Geist"' but with the added benefit of thinking in terms of Germany's modern reality. His strategy was simple but effective: 'nothing more than the application of healthy human understanding'.⁴⁰ Moltke died in 1890 when Weber was only 26 but the general had impressed him when he was young and his opinion of Moltke continued to grow. Moltke embraced the sense of responsibility and the need for clarity and distance. Honor and self-control were important to him while vanity was totally foreign to him. On the other side, there was Ludendorff who was no doubt also intelligent but who was arrogant, petulant, and completely self-centered. If Ludendorff had been a private citizen, he still would have been troubling to Weber. However, as a Prussia general he was able and willing to sacrifice Germany's security and well-being for his own sense of worth. In addition, Ludendorff had refused Weber's entreaties to act in Germany's interest. He rejected any sense of responsibility and sought to assign blame to others. He was vain and sought to be the center of attention. For Weber, Germany needed to decide who was going to lead to Germany. Was it going to be someone petty

compares Moltke's theoretical genius with that of Clausewitz and he quotes Moltke's observation: 'im Kriege ist nicht alles zu berechnen, sondern muß das Unberechenbare gewagt werden; wer im Kriege völlig sicher gehen will, wird nichts erreichen. (In war not all is calculable; rather, [one] must deal with the incalculable; in war who wants to be totally certain will achieve nothing.)' (Delbrück 1902: 550). Finally, Delbrück maintained that Clausewitz' spirit is found throughout all of Moltke's writings and actions (Delbrück 1902: 565). Ritter referred to Moltke as 'Clausewitzschüler' (Ritter 1965: 302).

39. At the end of his article commemorating the hundred years since Moltke's birth, Delbrück summed up Moltke's character with the following words: 'Ernst und klug, pflichtgetreu und fleißig' ('Ernest and smart, dutiful and industrious') (Delbrück 1902: 575).

40. 'nichts weiter als die Anwendung des gesunden Menschenverstandes' (Venohr 1980: 147).

like Ludendorff or would it be someone great like Moltke? For Weber himself, the choice was clear: Moltke, the general who embodied the greatness of the true 'Prussian "Geist"'. Unfortunately, it was not somebody like Moltke who would lead Germany in the next decades but someone more like Ludendorff. And, it was not just Germany that would suffer as a result, but much of the rest of the world.

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Review Essay

On Academic Freedom

Max Weber, *Hochschulwesen und Wissenschaftspolitik. Schriften und Reden 1895–1920*, edited by M. Rainer Lepsius and Wolfgang Schluchter with the assistance of Heide-Marie Lauterer and Anne Munding (Max Weber Gesamtausgabe I/13; Tübingen: Mohr Siebeck, 2016), xxxiii + 971pp. (hbk). ISBN 978-3-16153-432-4. €399.00.

‘Economics deals with ascertainable facts; ethics with valuations and obligations. The two fields of enquiry are not on the same plane of discourse’ (Lionel Robbins, *The Nature and Significance of Economic Science*, 1932).

‘As against Robbins, Economics is essentially a moral science. That is to say, it employs introspection and judgement of value’ (Lord Keynes, writing to Sir Roy Harrod).¹

Where does Max Weber stand on the above argument between the two opposed camps of the science of economics in the twentieth century? Robbins claimed authority from Max Weber directly—ours is a science of fact not judgements, said Weber.² But Keynes is the more Weberian—sociology is a science that ‘concerns itself with the interpretive understanding of social action’;³ and it is not value free, but rather values are its major object of study, said Weber.

1. See Tony Atkinson’s discussion of these two principles: ‘Economics as a Moral Science’ in *Lionel Robbins’ essay on the significance of economics as a science. 75th Anniversary Proceedings*, ed. Frank Cowell and Amos Witztum (London: STICERD, 2005), pp. 38–56.

2. Robbins in *An Essay on the Nature and Significance of Economic Science* (London: Macmillan, 1935) wrote ‘Economics deals with ascertainable facts; ethics with valuations and obligations. The two fields of enquiry are not on the same plane of discourse’ (p. 148); ‘economic analysis is *wertfrei* in the Weber sense’ (p. 91).

3. Weber, *Economy and Society* (New York: Bedminster Press, 1968), ch. 1, p. 4; MWG I/23, p. 149. Keynes would probably have agreed with the whole definition, which in Bruun’s translation runs: ‘a science that seeks to understand social action interpretatively, and thereby to explain it causally in its course and its consequences.’ See *Max Weber: Collected methodological writings*, ed H.H. Bruun and S. Whimster, trans. H. H. Bruun (London and New York: Routledge, 2012), p. xxviii.

Robbins was seeking to move economics on from its nineteenth century philosophical modality as a moral science. The two main planks of classical economics were production and distribution; one concerned with wealth and property, the other with who gets what and why. Robbins asserted that economics was the science that ‘studies human behaviour as a relationship between ends and scarce means which have alternative uses’. Economics has the intellectual equipment—the analysis of markets and price behaviour—to reveal the optimal use of scarce means for a given end. Economics was a technique that avoided the moral standing of ends—the exploitation of nature, the exploitation of human labour, inequality. If we want cars, there is an optimal market structure and behaviour of the firm for achieving that end. This is the science of economizing as Robbins termed it, and how Weber termed it (*‘Wirtschaften’*) in Chap. 2 of *Economy and Society*.

Weber appears to slide towards Robbins’ side of the argument. But Weber would also take an additional step in his analysis. Social scientists can debate the desirability of cars. Weber disliked them because they were noisy, smelt of fumes, were dangerous, and reappropriated roads for their exclusive use. And, on the other side, they increased economic efficiency—and as he later found out they are fun to drive. It’s a moral choice, which has to be laid out for citizen discussion. The economist does not preclude the discussion in favour of efficiency. Weber’s criticism of economists is that they unthinkingly take the side of efficiency. The science part of values is their analysis and display, not making premature value-judgements. The argument swings back to Keynes’ position.

These are arguments that the neoliberal version of economics as well as recent updates of neoclassical theories have ignored. With the collapse of many of the tenets of scientific economics—the real world of economic behaviour has taken off in a completely different, and worrying, direction—the arguments of the moral sciences are regaining the initiative. Where Weber stands in relation to the moral sciences is not the subject of this review. The point I wish to make here is that these arguments belong to the methodology of the social sciences and that subject is studied within universities (as can be seen in the then timely debate edited by Cowell and Witztum referenced above). Do universities stand up for open academic debate allowing such basic questions to flourish? This is an institutional as well as a values question and it stands at the heart of *‘Hochschulwesen’*. Extra-academic determination of the universities removes the deeper sources

of conviction and inspiration that propels these questions, and Max Weber devoted the whole of his academic life to combating illicit interference in the university and the degradation of the academic spirit. He did this in a way that few academic personalities of our time can rival.

Weber also made a series of categorical statements about the pursuit of science. The state, political parties and interest groups had no right to interfere with the process of science—*Wissenschaft*. By the same token, academics had no right to recommend political, religious, ethical or economic choices on the basis of science alone. Policy was an academic topic of study but it should not be scientised. This is the Weberian position on what is termed ‘academic freedom’. Max Weber is generally regarded in the social sciences as the champion of academic freedom—even though the term is taken up in often indiscriminating ways.

Academic freedom is under attack across the world, often grossly and also more subtly undermined. Flagrantly in the case of the renowned historian, Romila Thapar, whose research based account of early Indic history have been rejected by Hindu ideologists working through institutions of government, YouTube, and—not to be expected—Mumbai’s Indian Institute of Technology.⁴ Even more grossly, military police in Brazil have entered university campuses threatening academic staff, and students have been encouraged to denounce their lecturers for ‘leftist propaganda’—altogether reminiscent of Stalin’s denouncing ‘rightist deviation’. Academics tend to assume academic freedom as a right and Weber is taken as the author and authority behind this precept. But this is both wrong and complacent. It assumes that academics are an unassailable status, but what are the material grounds for this belief? For this we have to turn back to Max Weber and how he fought for the freedoms of *Wissenschaft* in the university against all those who sought to undermine it. We tend to suppose that academic freedom is taken as a Kantian precept, but for Weber being an academic was a profession, a vocation. In being an academic one always fought for science and preserved its autonomy within the institution of the university. This is

4. “‘And then the government fell. But the books continued!’ An Interview with Romila Thapar’, Byapti Sur and Kanad Sinha, *The Newsletter* (International Institute for Asian Studies, 74 Summer, 2016). < <https://www.ias.asia/the-newsletter/article/then-government-fell-books-continued-interview-romila-thapar>>.

David Gellner outlines the attacks by Hindu ideologists, at the Dept. of Computer Science and Engineering at IIT Mumbai, on Sanskrit research. See D. Gellner, ‘Sheldon Pollock and Max Weber: Why Pollock is more Weberian than he thinks’ (*Max Weber Studies* 17.2 [2012], pp. 215-17).

the message of the volume under review and Weber fought like a terrier against any infringement of the position of a lecturer or professor, or the faculty, or the university as a whole.

The Rules of Toleration

The opening piece in the Hochschulwesen volume is a short description of economics at Heidelberg, written for a university prospectus in 1897. Weber writes that the economics faculty pursues two different methods. One is liberal-individualistic, represented by Rau, the other is historical represented by Knies. Knies goes deep, Rau is more accessible; both contributed in practical ways to German cultural development—Rau as a champion of the Prussian led customs union, and Knies in his role as a reformer of the Baden school system. From the start, then, there was methodological co-existence within the confines of the university; unlike the elimination of the other that degrades so many economic departments today.

In the next piece Weber has arisen from his suicidal depression and bounces back in the debates of the 1905 conference of the Verein für Socialpolitik. Gustav Schmoller had given a paper which criticised the growing influence of cartels and private interests as endangering the role of the state (back to the future!) and Friedrich Naumann commented that Schmoller did not have a proper grasp of the technical and economic reality of cartels. Schmoller in his concluding comments as chair of the Verein lost his cool and called Naumann a demagogue and marxist, and threatened to resign his post. Weber immediately springs to his feet and eloquently and respectfully defends Naumann.

We learn some interesting things from this interchange. A stenographer took down the debates and the resulting text was sent to the speakers for their approval prior to publication. Hence we are listening to the authentic tone of Weber and we can hear how he voices his sentences, making accessible what on the page looks long and complex. On the next point, it is important to realize that the Verein did not practise Shilsian 'ethical neutrality'. How could it? It was an association whose purpose was arguing out policy and so value positions. These are debates outside the university and allow a partisanship that Weber sought to prohibit in the classroom and the scientific association. Nevertheless, in his chiding comments to Schmoller, Weber seeks to uphold a protocol—that Schmoller was exceeding his role as chairman. Also note that the Verein—a pioneering thinktank—did

not have a fixed position determined by a majority opinion or vote; it was supposed to be open to all viewpoints.

Who gets to be Professor?

Weber's position, unsurprisingly, is that chairs should be open to all the talents, where 'all' denotes a spectrum on underlying positions whether theoretical, practical, political, or religious, and where talent is adjudged by academic criteria. The ministries of education in the federal states, especially Prussia, had some strange habits. If they were trying to save money on salary, they would appoint someone as professor who was pretty useless and not pay them much. These chairs were known as 'punishment professors'—the faculty were being punished. Then there were academics who were being moved up the state hierarchy by being parachuted into chairs, which acted as staging posts in their ascent. The economist Ludwig Bernhard, in 1908, was the preferred candidate by the Prussian ministry of education for professor of economics at the University of Berlin, and personally supported by the top civil servant Ludwig Holle (the successor of Friedrich Althoff). The case attracted Weber's close attention and some very sharp talons went to work.

In three anonymous articles and one signed article to the *Frankfurter Zeitung* Weber deplored firstly that Bernhard was parachuted into Berlin without the approval of the faculty there. Secondly, Bernhard did not conform to the usual practice of informing the faculty and seeking their approval (or disapproval), and that by analogy he was just another state appointee rather like the medieval church awarding a priest a pecuniary prebend. Of course, Berlin has some first rate academics in their fields and some 'absolutely independent personalities' but it was not the university it was and was appointing mediocrities on the make. The Berlin faculty in allowing the promotion of Bernhard was displaying moral weakness and was already victim to the Althoff system and in future would only observe the form but not the substance of professorial selection. The proud traditions of academic professional solidarity and independence at Berlin University were being replaced by a patronage system that extended to the whole of Prussia. Berlin professors who had influence with the department of education could put their protégés in academic posts in the provincial universities. Personal links counted for more than substantive achievement and threatened to undermine professional solidarity across German universities. It was to be deplored that the

'guild' of professors was being threatened by a patronage 'hierarchy'. By 1917 we all know Weber's morose and pessimistic comments in 'Science as a Vocation—and Profession' that no aspirant scholar should assume he will receive the recognition of an academic post and that he will be overtaken by favoured mediocrities.

Two themes come out of this critique. One is its deepening, the 'Althoff system'; secondly the founding of the organisation for university teachers as a counterweight to state interference.

Academics Unite

The second meeting of University Teachers Congress (Deutsche Hochschullehrertag) was held in Jena's town hall in the Carl-Zeiss Platz, September 1908, on the theme of freedom of science and teaching (Wissenschaft und Lehre). Weber wrote an article for the *Frankfurter Zeitung* beforehand. One of the organisers, Professor von Amira, had written his own introduction, attacking the influence of clericalism in theology faculties—which promoted dogmatism. That, of course, was a problem in Munich from where Amira wrote but hardly touches on the real dangers. Jena University was largely supported by the Karl Zeiss foundation, raising the ever-recurring question of how to insulate academic freedom from private interests. The Zeiss Foundation had a clause stipulating that any funding of chairs or other academic activity was conditional on full academic freedom for lecturers (Dozenten) and no limitation of their civil rights. The rector, on this basis, had claimed that academic freedom at Jena was secure. But that in practice was not the case, argued Weber, on the basis of Roberto Michels's experience in sounding out the Jena faculty on his Habilitation there, thinking, unlike Prussia where his Social Democratic views excluded him, academic freedom would be honoured at Jena. The reply came back to Michels that he would not be able to apply according to various university regulations. Michels was also knocked back at Marburg where a Dr. Fischer opined that Michels was an outspoken Social Democrat, that as an Aryan ('Arier') he had not had his children baptised, and lastly he had left his university accommodation in a mess. Michels took himself and his family to Turin where the requirements for a Habilitation were controlled by a central committee, which comprised, as Weber pointed out, both social democrats and conservatives, and decisions were not dependent on court and salon prejudices, or religious views acceptable to the court. Weber blasts the closed circles of court and clericals which

are just as bad for the cultural development of the nation as reserve officer status and colour fraternities.

Weber expanded his views on academic freedom in a subsequent article for the German equivalent of the *Times Higher*. The Jena debate had failed to separate academic freedom for those already holding chairs and those not yet habilitated. Academic freedom as understood for those in post Weber thought somewhat weird. According to that view, the academic as a citizen and in his public utterances had to be mindful of his position as a 'Beamter', i.e., state employee, and as such recognize the powers that be—political and religious. Any public protest against those powers would lead to his dismissal, but whatever he said in the classroom was free from the authorities—and private. Schmoller, for example, took a student to court for relaying excerpts from his lectures on trade policy to a newspaper.

For Weber the first parts were a denial of citizen rights, and the last absolved the professors at the lectern of academic rigour—they could say what they wanted to their students with all the security of a tenured position ('*beati possidentes*').

Returning to who gets appointed, Weber again makes the point that the political and religious undesirables are filtered out prior to application. No woman appointee is mentioned throughout the volume, which is down to academic patriarchy and the lack of women's secondary education. It was a monstrosity that a tenured professor could not be disqualified for his views but an untenured lecturer (*Dozent*) could be. (*Dozenten* were paid according to the number of students who attended their lectures, i.e., student fees.)

Given the relative material backwardness of Germany to the Anglo-Saxon nations, which could afford private foundations, the state has had the major role in founding and supporting universities. Under the motto who pays the piper gets to choose the tune, the state in its control of the political outlook (*politischen Dressur*—Weber's emphasis) of the academic youth has eliminated all personalities with character from academic life and castrated academic freedom.

The Weberian message here is pretty simple: the state may encourage the expansion of higher education as a means for raising the cultural development of a country but it should not interfere with the running of universities. So, to give a recent illustration, a Labour Prime Minister had encouraged the expansion of higher education (actually, on the grounds of endogenous growth theory) but initiated an inquiry headed by the ex-CEO of British Petroleum plc to stipulate the purpose of higher education: student satisfaction. Given the current

shortcomings of much of secondary school education, which are themselves the result of the undermining of the professionalism of teachers, most universities in England and Wales are simply rectifying the lack of educational skills in their students, so altering the whole character of higher education. The state also formulates the criteria of research funding—impact, relevance etc.—so interfering in the process of scholarship (*Wissenschaft*) itself. Scotland, autonomous in these political matters, escaped this fate and its universities flourish, their academic freedom untainted. Whether this process has eliminated all ‘academic personalities’ from the scene is open to review, but the number of those personalities who have stood out against this regime is very small. Trade unionization has been no substitute to associations like the Austrian and South German University Teachers Congress.

The Style is the Man

Weber, having dealt with the external institutional conditions, turns to his main argument. Academic institutions analyse facts, their real determinants, laws and connections, they analyse concepts and their logical presuppositions and content. ‘Contrary to this, they do not teach and *cannot* teach what *should* happen, since this is a matter of final personal judgement of value and view of world (*Weltanschauung*), which cannot be “proven” as a scientific statement (*Lehrsatz*)’ (133-4). *Weltanschauungen* can be studied in the lecture hall—their psychological origins, the structure of their ideas, their presuppositions but science cannot underwrite their beliefs. Which gods a person obeys is a matter of individual conscience. The lecturer can help a person to know what it is that she wants. But the lecturer cannot present his own political views as ‘science’; there is an obligation to withhold one’s own personal views (*Selbstbescheidung*) and to intellectual probity (*intellektuellen Rechtschaffenheit*—Weber’s emphases). Weber rounds off his exposition with the statement: ‘Everything else, in the whole *substance* of his striving, the individual, in his struggle with life, has himself to overcome.’⁵

5. Sérgio da Mata underlines this sentiment with Weber’s commitment to a ‘science of reality’ (*Wirklichkeitswissenschaft*). ‘Vis-à-vis the fictionalization of the world—which persists in academic circles as much by means of aestheticism as by repeated efforts to rehabilitate utopia—those who responsibly look at the study of humans in society have but one alternative: make reality a vocation and a profession. This, among other important epistemic virtues, was what Max Weber taught

Weber likens this to Jesuit teaching—that is, argumentation without revealing the teachers' own, here religious, belief. At this point we are deep into methodology, or rather, Marianne Weber's preferred term, *Wissenschaftslehre*. Weber's refusal of normativity at the lectern is well-taken and the study of norms in themselves—to think of Talcott Parsons or Harold Garfinkel—is a productive scholarly exercise. And Weber, as many since Hume have said, is correct to hold that science as the ultimate proof of norms and values is an invalid position. However, does that exclude science from justifying value positions, be they economic, political, religious or moral? Gunnar Myrdal held that Weber's denial of his own viewpoint was, as a general lecturing and research practice, impossible to uphold.⁶ It was far better to declare one's own personal value positions to students, and then proceed according to scholarly standards of evidence, theory, and logic. The Jesuitical mode is a style of pedagogy which has its place, but also has its personal costs to both lecturer and students. The proper apparatus of science can cope with the expressive utterance, and self-denial is not without moral ambiguity.

But throughout the volume this is Weber's style and it's held to unyieldingly in every minutiae; one might say it is the academic style, one always in attack mode. Science, ultimately, is a belief in science—or as he put it in the 'Objectivity' essay: 'scientific truth is only what demands to be true for all those who *want* truth'.⁷ Any complacency or Myrdelian compromise is the enemy of academic freedom (*Lehrfreiheit*).

Weber's attitude was, then, one of attack. In the fall-out of his outspoken comments at the Leipzig conference, newspapers had revealed the identity of one unnamed professor—hinted at by Weber—whom the heavy industry lobby had tried to impose on the economics department at Leipzig, Richard Ehrenburg. He claimed to have innovated quantitative methods taking forward von Thünen's work, and he had attacked members of the Verein für Socialpolitik as a bunch of professorial socialists. Weber wrote to the *Frankfurter Zeitung* saying this

us' ('Realism and Reality in Max Weber', *The Oxford Handbook of Max Weber*, ed. E. Hanke. L. Scaff and S. Whimster, forthcoming 2020, p. 608).

6. On the statement of value positions in Gunnar Myrdal see Sven Eliaeson, *Max Weber's Methodologies* (Oxford: Polity, 2002), pp. 121-22.

7. MWG I/7, p. 193. 'Denn wissenschaftliche Wahrheit ist nur, was für alle gelten will, die Wahrheit wollen.' [Translations of this epigram vary.]

was the attempt to impose a 'Tendenzprofessor' by buying the chair. Ehrenburg replied in *Der Tag* that Weber had impugned his honour. Weber doubled down with a second article to the *Frankfurter Zeitung*, noting, firstly, that no economist of any importance would agree that Ehrenburg had discovered a new method, secondly, even Ehrenburg knows that the Verein für Socialpolitik comprises diverse and conflicting viewpoints, thirdly, any serious economist knows that it is not the direction of Ehrenburg's work that denies him a faculty recommendation but rather the sinking quality of his publications. Finally Weber notes that there is nothing personal in his attack and that he, Weber, is quite happy to go along with the most heterogeneous positions just as long as they receive faculty approval. The industrialists and agrarians were not just sponsoring a chair but importing an inferior method into the faculty. Arguments about what sort of science were, and are, valid for economics were being pre-empted by the importation of both man and method. In our time, business sponsorship of chairs has over the last three decades had far-reaching consequences, many of which are anything but 'Pareto efficient', i.e. they have damaged general economic welfare and benefitted the few.

Weber maintains a strictly scientific attitude in matters of policy science, and the volume carries his outline for a study of the press. The difference of such a report to the policy-prescriptive Verein für Socialpolitik is that practical aims would be excluded. The topics and themes on the press would be selected and studied empirically by a team of researchers with relevant expertise (140).⁸ The same scientific protocol is repeated in Weber's outline on the establishment of the German Sociological Society (Deutsche Gesellschaft für Soziologie). 'The society should, according to the whole tenor of its foundation, have a purely objective scientific character. From this it follows that *any* form of political, social-political, social-ethical or any other propaganda for practical aims or ideals as such or going under other names *must* be excluded' (157). Weber goes on to recommend that the first conference be given over to the discussion of 'methodischen Prinzipien', given that sociology comprises 'very different directions'. Weber notes the growth of the organised study of social life through *individual* disciplines—economics, law, cultural history, historical and comparative science of religions, historical and systematic ethnography (Sittenkunde), social psychology. The mastery of these subjects

8. See 'Special Issue: Weber, the Press and Sociology. Then and Now', *Max Weber Studies* 13.2 (2013).

demands organised collective work, and now the time has come for 'organised sociological work' (199). In the same vein Weber facilitated a section for statistics within the DGS.

At the University Teachers Congress in Dresden in 1911 Weber again took up the theme of state interference in academic life, this time through a comparison of American and German universities. The former operate completely outside the orbit of the state. There is no bureaucratic state and there are no state examinations; instead instruction occurs through students being able to reproduce the content of their lectures—a soulless procedure comments Weber. In the near future the American state would become a professionalised civil service, at which point the universities were in a good position to resist any lessening of their autonomy, unlike the German universities which are obligated to an over-mighty state.

A Prussian Dominated Cartel

Weber goes on to make a number of disobliging comments about the Prussian dominated German university system. Where in the individual states American universities compete with each other, the German universities operate as a cartel with the rules set by Prussia's Ministry of Education. With a ministerial-director for universities as visionary as Friedrich Althoff this had the benefits of overseeing the country's needs, for instance in natural science, as a whole rather than leaving appointments to the individual federal states and the faculties. But, Weber complains, Althoff regarded academics as either scoundrels or swots who had to submit to his guidance. At this point Weber recounts his experience with Althoff, who in 1894 had tried to get Weber appointed as Levin Goldschmidt's successor as a professor of commercial law in Berlin. Weber, as we know, escaped to Baden's Freiburg. But there was an episode when Althoff approached Max Weber Sr. who at that time was sitting on the Reichstag's budget committee and asked him to support a new economics chair, adding, presumably with menace, 'just ask your son what he thinks'. Weber Sr. resigned from the committee so as not to be pressured by Althoff at a personal level. Weber, 18 years later in Dresden, notes that it was almost impossible for any aspirant academic not to accede to whatever proposition might be put to him by Althoff. Weber identified Althoff as a corrupting force and the system itself as corrupt, to the extent that similar aspirants (in 1912) had no idea of the grand old Humboldtian legacy and treated applications to

universities simply as a stock exchange. We might think that Weber is over-generalizing from his particular experience, but he is correct to identify the process of corruption from above, whether the government or managerialism, and its encouragement of careerism and opportunism in lecturers.

This section of the volume takes up over a 100 pages (298-412). Weber in calling out the 'Althoff system' as corrupt, and tellingly noting how much fresher the air was in Baden, annoyed many a Prussian professor. The newspapers reported his contribution extensively, often getting details wrong and angling their stories for its sensational aspects. Weber wrote numerous rebuttals and clarifications for these newspapers.

Pages 418 to 498 of the volume cover the Arthur Salz affair. Salz had published a history of Bohemian industry, and in a review of it Paul Sander of the German University of Prague accused him of plagiarism. Weber perceived anti-Semitism behind this accusation. Weber exercised his editorial office in the *Archiv für Sozialwissenschaft und Sozialpolitik* for Salz to defend his reputation in its pages, with Weber also contributing a supportive editorial statement. Weber and Sander escalated the conflict drawing in the faculties of both Prague and Heidelberg. What started in early 1914 only ended with an editorial statement by Weber in September 1916.

As in the Ruge affair where matters of status honour are involved Weber pursued a fight to the end, with no detail too small to contest. (Dr. Ruge had written an anonymous article in the *Heidelberger Tageblatt* in 1910 in which he defamed the women's movement in Heidelberg as a movement 'of old maids, sterile women, widows and Jewesses'. Documents on this appear in this volume, but this nasty controversy is best followed in MWG *Briefe* II/7.⁹) M. Rainer Lepsius, the original editor of this volume, found the obsessively combative side of Weber somewhat offputting—and clearly this lack of affection delayed its publication. Indeed Hochschulwesen only appeared after Lepsius's death, with Wolfgang Schluchter leading an editorial team to complete the volume. The complexity of the contents is astounding: 49 separate pieces (Schriften und Reden) in Part Ia (Zu Wissenschaft, Universität und ausseruniversitärer Forschung); 16 references on promotions and habilitations (Part Ib)—Weber prefers candidates who have mastered method and empirical detail but

9. See my review in *Max Weber Studies* 1.1 (2000), pp. 115-22.

allowing for the necessary theoretical and comparative oversight to develop later; and 33 items on university structure and appointments (Parts Ic and Id). In Part II there are 18 items on lectures and stenographed contributions to debates (eight of which at the Verein für Socialpolitik), and Appendix 1 has eight co-written items, and Appendix 2 has three items on the statutes of the German Sociological Society. That the volume should have appeared earlier—in the early 1990s would have been appropriate given the subsequent deterioration, for various reasons, of *Lehrfreiheit*—hardly needs to be stated. But the scholarly apparatus is a testament to the indefatigable sleuthing of the MWG editors and researchers. If you want to know how the German universities operated at the height of their international fame, then *Hochschulwesen* needs to be on your bookshelves.

Conclusions for Our Time

In this review I have endeavoured to reflect some of the detail with much remaining unnoticed. However, despite what appears as scrapiness, there is but one core theme running through the volume: *Lehrfreiheit*. It is highly pertinent to ask how one transposes the defence of academic autonomy and the space within which to freely discuss the basics of *Wissenschaft* in the present day, where they are heavily compromised almost everywhere one looks. The Weberian University is a desideratum that could well replace the international league tables based on the derivative practice of fatuous indicators. Fritz Ringer in *The Decline of the German Mandarins* (1969) mocked the academic culture of Weber's time as elitist with elephantine *Ordinarien* roaring their place in the status order. As I hope I've shown, Weber himself was just as critical (a very large matter hardly appreciated by Ringer) of the set-up and, as ever the sociologist in 'Science as Vocation and Profession', the external circumstance of the university are always subject to change. Given this inevitable sociological and cultural relativism, there is an unwavering absolute, the commitment to profession and scholarship. That is Weber's position in the Science lecture. What the *Hochschulwesen* collection asserts is that inner commitment has to be protected and nurtured within the institution of the university. The poor underpaid and overworked lecturer is in no position—as Weber said of himself in 1894—to uphold that commitment in the face of grinding managerialism and government intervention. But it still remains a conviction, one that should be held by

those better placed to fight for the autonomy of the university.¹⁰ That responsibility belongs in the faculty and the senior professors—and acting the big beast may be no bad thing in the perennial fight for *Lehrfreiheit*.

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10. The internationalization of universities and league tables had opened up a new career path for professors who, having no local loyalties, see little purpose in defending the habitus of the university *qua* university. See Alan Scott and Piero Paulo Pasqualoni, 'Evoking Humboldt: Universities in the German-speaking World', in *Routledge Handbook of the Sociology of Higher Education*, ed. J. Côté and A. Furlong (London and New York: Routledge, 2016), ch. 19.

Book Reviews

Max Weber, *Verstehende Soziologie und Werturteilsfreiheit. Schriften und Reden 1908–1917*, edited by Johannes Weiß with the assistance of Sabine Frommer (Max Weber Gesamtausgabe I/12; Tübingen: Mohr Siebeck, 2018), xv + 648pp. (hbk). ISBN 978-3-16150-296-5. €269.00.

In 1981, Mohr Siebeck published a slight but dense prospectus that set a milestone in the history of scholarship on Max Weber. Reproduced in the thousands, the ‘green brochure’—with the famously severe and otherwise mysteriously expressionless photograph taken around 1917 of the great man on the cover—announced ambitious plans for a complete historical-critical edition of Weber’s work (MWG) and offered details on its conception, scope and structure, philological standards, and financing, as well as a timetable and editorial personnel for each of the volumes then projected. Two volumes were reserved for work conventionally called ‘Weber’s methodology’—an assortment of writings that explore a wealth of topics in the philosophy of science. Volume I/7, ‘On the Logic and Methodology of the Cultural and Social Sciences 1900–1907’, was scheduled for publication in 1984; volume I/12, ‘On Methodology and the Controversy over Value Judgments in the Social Sciences 1908–1917’, for 1987. Both would fall under the editorial responsibility of Horst Baier. Some thirty-five years after the green brochure was circulated, both volumes have now appeared: I/7 in 2018, now with the title ‘On the Logic and Methods of the Social Sciences’ and edited by Gerhard Wagner together with several collaborators; and I/12 in the same year, edited by Johannes Weiß in collaboration with Sabine Frommer and also with a new title: ‘Interpretive Sociology and Freedom from Value Judgments’. The original heroic plans for publishing these volumes were not only strikingly unrealistic but doomed, and for reasons that have no bearing at all on the qualifications or diligence of Horst Baier, a key progenitor of the MWG project and an original member of its editorial board.¹ Years of

1. For a warm appreciation of Baier’s importance in the early planning of the edition, see Edith Hanke, Gangolf Hübinger and Wolfgang Schwentker, ‘The Genesis of the Max Weber-Gesamtausgabe and the Contribution of Wolfgang J. Mommsen’

gestation and a substantial lapse between the conception and publication of both volumes were inevitable. Two considerations come into play here: the formidable intellectual and scholarly demands posed by Weber's methodological writings and the standards for a historical-critical edition on which the edition was grounded.

Weber's methodological writings are neither polished nor systematic, but occasional works of a highly heterogeneous nature. The scope and intensity of his confrontation with the publications of other authors is without parallel in the social sciences. In his texts written between 1900 and 1907 and published in *MWG I/7*, he analyzed the work of the economists Wilhelm Roscher and Karl Knies, the historian Eduard Meyer, and the jurist Rudolf Stammler. In these writings, Weber often discussed arguments of the economist Friedrich Gottl, the physiologist and probability theorist Johannes von Kries, the jurist Gustav Radbruch, the psychologist and philosopher Hugo Münsterberg, the experimental psychologist and philosopher Wilhelm Wundt, the philosopher and sociologist Georg Simmel, and the philosophers Wilhelm Windelband, Heinrich Rickert, and Emil Lask. And there were others. For the contemporary scholar, even those with impressive chops in the field of Weber research, the result is overwhelming and virtually beyond comprehension.

MWG I/12, which comprises texts written between 1908 and 1917, is a *mélange* of long, discursive monographs, shorter articles, papers and comments delivered at meetings of the Association for Social Welfare Policy (hereafter, the Association) and the German Sociological Society (hereafter, the GSS), review essays on books and conference proceedings, brief remarks on the possibility of resolving value conflicts on the basis of a formal ethic, an unfinished essay on Georg Simmel as a sociologist and theoretician of the monetary economy, and two sets of fragmentary excerpts from Simmel's *Sociology* of 1908—extremely cursory notes that will be largely incomprehensible to readers who have not made a recent study of Simmel's book. In other words, these are texts of varying provenance, subject matter, authorial intention, and intellectual weight. There are two universally acknowledged classics: the monograph on the meaning of value-freedom in sociology

(*Max Weber Studies* 12 [2012]: 59-94). By sharing his substantial background research with Hans Henrik Bruun, Baier became the midwife of Bruun's English translations of Weber's collected methodological writings, which were published before *MWG I/7* and *MWG I/12*. See Max Weber, *Collected Methodological Writings*, ed. Hans Henrik Bruun and Sam Whimster, trans. Hans Henrik Bruun (London: Routledge, 2012), p. xxxiii.

and economics (1917), together with Weber's preliminary versions delivered as papers at meetings of the Association in Vienna (1909) and Berlin (1914); and the 'Kategorien' essay, 'On some Categories of Interpretive Sociology' (1913), which constituted the basis for the first chapter of *Economy and Society* on the fundamental concepts of sociology. There are long review essays in which Weber developed his own positions on the works he reviewed: 'Marginal Utility Theory and the "Fundamental Law of Psycho-Physics"' (1908), in which he argued, inter alia, that psychology was irrelevant to the concept of instrumental rationality employed in marginal utility theory, and "'Energetic" Cultural Theories' (1909), in which he savaged attempts by Wilhelm Ostwald, a physical chemist with philosophical ambitions, to anchor social theory in thermodynamics and derive value judgments from the results of the natural sciences. The volume documents Weber's active engagement as discussant in the first two meetings of the GSS: the initial conference of 1910 in Frankfurt and the meeting two years later in Berlin. Weber commented frequently, aggressively, and tentatively on a wide range of papers—including technology and culture, the concepts of race and society, economy and law, nationalities, nationalism, and patriotism. Sometimes cutting off speakers with the warning that they had violated the GSS prohibition against introducing value judgments, he objected, interrogated, interrupted, and generally played the role of the alpha-male academic intellectual.

Interlocking themes reappear throughout these writings: the importance of conceptual and analytical clarity, empirical investigation and logical analysis as the sole bases of knowledge in the social sciences; the value neutrality of the social sciences and the fallacy of pretending to derive policies, norms, or values from scientific claims; the need for a sharp eye for axiological assumptions or inferences concealed in scientific arguments; his conception of sociology as the causal explanation of human conduct, the intentions of which have to be interpreted or understood; the rejection of the ideal of a natural science of society as well as the reduction of sociology to psychology; and a deep suspicion of any metaphysical contamination of the social sciences.

Weber was an enthusiast and a master of bricolage, taking up and occasionally misunderstanding what he happened to find in the course of his famously vast reading. He reworked much of this material for his own purposes, which might be quite remote from the intentions of its authors. Approaching the work of his predecessors and contemporaries in the way a beaver meets a tree, he chewed

it to bits in building his own edifices. It is not surprising that this *modus operandi* calls for immense labor on the part of editors of the methodological volumes. Moreover, many of the ideas and persons Weber mentioned in his methodological writings are largely forgotten. They lie in the mists of the academic history of the Kaiserreich, a period of German thought in the human sciences notable for confusion, obscurity, and 'dilettantism'—one of Weber's favored terms of abuse. The effort to penetrate these mists in order to recover the persons and recapture the ideas calls for many years of laborious reading and hard thinking. Weiß, who is now emeritus, published his first book on Weber in 1975, and Gerhard Wagner's first journal article on Weber was begun in his third semester at Heidelberg in 1983.

The MWG is celebrated for its lofty editorial standards, and justifiably so. The plan for the standardization of all volumes of the series was originally set out in the green brochure. Each volume includes an introduction by the editor, the edited texts preceded by editorial reports, directories, and registers. The introduction provides biographical, historical, and scientific background, as well as an account of the main lines of analysis undertaken in the edited text. The editorial reports provide information on the genesis, development, and transmission of the texts and document editorial decisions—for example, with regard to text-specific peculiarities. When sources permit, texts are printed in an authorially authorized form. They are also furnished with two pieces of apparatus. A text-critical apparatus documents editorial interventions, for example, correction of printing errors. An explanatory apparatus documents the addition or correction of quotations and bibliographical references and also elucidates the text. A bibliography identifies the literature cited by Weber, and a list of persons provides brief portraits of the most prominent people he mentions.

The green brochure introduced a principle of minimal editorial interpretation in which the MWG is grounded. Writing on behalf of the editorial board in the text of the green brochure, Wolfgang Schluchter employed a conventional philological metaphor: although every edition is inevitably accompanied by an 'editorial shadow', it is the responsibility of editors not to lengthen the shadow they cast by indulging in their own interpretations of authorial texts. Editors as interpreters should play a modest part as servants of the text, and the space allocated to their role should be as small as possible. Accordingly, editors will 'limit their editorial interventions into an authorial text to a minimum—not engaging in a search for the best text or

the ideal text, but the actual text of the author'. Otherwise they risk assuming the authority of 'executor of the last will and testament of the author', as if they were putative co-authors.² This principle covers all the editorial text of the MWG: not only the text-critical apparatus, but also the explanatory apparatus, the editorial reports, and the introduction. It entails a rule of parsimony that can be understood as a philological variation on Occam's razor: no multiplication of editorial comment beyond necessity—commentary should be 'limited to a minimum' sufficient for specialists in the field of the work in question.³

Weiß's introduction represents a substantial departure from this standard of editorial interpretive minimalism. In the pre-MWG literature on Weber's methodology, some Weber mavens found the seductive power of the idea of *Einheit*—the internal consistency and systematic coherence of Weber's texts—irresistible, even though they evinced no strong appetite for the long march of historical research through the tangled sources of his arguments. Here they risked committing the fallacy explained by Quentin Skinner in his now famous 'mythology of coherence', ascribing to the work of an important thinker 'a coherence, and an air generally, of a closed system, which they may never have attained or even aspired to attain'.⁴ Some found it indispensable to discover Weber's main question—there must have been one and only one—the scarlet thread that was supposedly woven throughout his thinking, or the key that would unlock the Weberian inner sanctum.⁵ Weiß joins this venerable tradition of Weberian systematics, but on a more secure footing of many years of research into Weber's intentions and the circuitous path of their formation and reformation in 1903–1917.

In his introduction, Weiß proposes a grand interpretive strategy of stunning simplicity: the unity of Weber's methodology can be

2. Wolfgang Schluchter, 'Einführung in die Max Weber-Gesamtausgabe', in *Max Weber Gesamtausgabe* (Tübingen: Mohr Siebeck, 1981), p. 8.

3. *Ibid.*, p. 11.

4. Quentin Skinner, 'Meaning and Understanding in the History of Ideas' (1969), in *Visions of Politics*, vol. 1 (Cambridge: Cambridge University Press, 2002), p. 68.

5. Influential proponents of this position included Alexander von Schelting, *Max Webers Wissenschaftslehre* (Tübingen: Mohr Siebeck, 1934); Dieter Henrich, *Die Einheit der Wissenschaftslehre Max Webers* (Tübingen: Mohr Siebeck, 1952); Wilhelm Hennis, *Max Webers Fragestellung. Studien zur Biographie des Werkes* (Tübingen: Mohr Siebeck, 1986); and Friedrich Tenbruck, 'Das Werk Max Webers: Methodologie und Sozialwissenschaften', *Kölner Zeitschrift für Soziologie und Sozialpsychologie* 38 (1986): 13–31.

captured in various stages of an epochal ‘turn to sociology’ in his thought, consummated in the ‘Kategorien’ essay. In Weiß’s reconstruction, this essay—revised for clarity and precision as the first chapter of *Economy and Society*—represents the apotheosis of Weber’s methodological thought, the *terminus ad quem* to which his ‘pre-sociological’ methodological writings, beginning in 1903, had been moving. This strategy offers Weiß the occasion for an elaborate interpretive exercise of some ninety pages. On his view, Weber’s earlier texts foreshadow the ultimate statement of his methodology, from the perspective of which they are backshadowed and finally become comprehensible.⁶ On Weißian premises, this reading is not only justified; it is necessary because the methodological writings follow an immanent path whose direction is revealed only at its end in the ‘Kategorien’ essay. This is why the pre-sociological texts of 1903–1907 as well as those that followed should be read through the lens of Weber’s thinking in 1913. It is as if Weber knew when he was writing ‘Roscher and Knies’ (1903–1906) what he would think in 1913. Weiß’s reconstruction excavates the underlying logic that he ascribes to Weber’s methodological works, revealing a pattern of development that may not conform to the history of his thinking at the time he wrote them. Beyond the confusions that often appear in Weber’s pre-1913 thinking lies a pure and crystalline Idea of his thinking. Like Botticelli’s Venus rising from the sea, once the ‘Kategorien’ essay emerges in all its glory, the confusions are dissipated. The earlier texts make sense—one and the same sense—as movements in the direction of Weber’s turn to sociology, Weiß’s master trope.

This is obviously not the place for a full-scale critical analysis of Weiß’s interpretation, which would require a journal article that is certainly merited. However, it may be worthwhile to raise two considerations here, without suggesting that they are conclusive or definitive.

Weiß’s essay, which occupies roughly 25 percent of the content of *MWG I/12* written or spoken by Weber, poses a question of editorial discretion. Is a historical-critical edition devoted to the work of a great thinker an appropriate setting for a monograph-length exposition of the editor’s own views of this thinker’s work, an account that

6. On foreshadowing and backshadowing, see Michael Andre Bernstein, *Foregone Conclusions: Against Apocalyptic History* (Berkeley: University of California Press, 1994); and Gary Saul Morson, *Narrative and Freedom: The Shadow of Time* (New Haven, CT: Yale University Press, 1994).

could be expanded into a book without undue difficulty? The MWG has answered this question in the green brochure.

Consider Weiß's interpretive strategy of foreshadowing and back-shadowing. Earlier texts are approached not by considering what Weber thought or intended as he was writing them, but on the basis of ideas that he did not have at the time and perhaps could not have had: the ideas that comprised the meta-theoretical synthesis achieved in the 'Kategorien' essay. In what sense could Weber have glimpsed in 1903-1906 what he did not see until 1913? How could he have grasped conclusions he did not reach until he wrote the 'Kategorien' essay? On Weiß's reading, to understand Weber's methodological writings is to see them as stages in a process of disclosure that ends in the final text in which all is disclosed. This reading employs a teleological metaphysics of history writ small. Earlier events and actions are understood as anticipations of later states in which they are consummated and their meaning revealed.

The ur-schema of this metaphysics of history is early Christian historiography, in which the history of the ancient Hebrews was said to be replete with 'signs and portents' of the advent of Jesus Christ. Erich Auerbach has analyzed this metaphysics in a masterful fashion by employing the concept of figurative interpretation.⁷ Earlier happenings were said to prefigure those that occur later. The past was understood prophetically, as an imperfect but portentous augury of what is to come. The Apostle Paul and, following him, the Church Fathers, used this hermeneutic of signs and portents to redescribe persons and events of the Old Testament as symbols of the redemptive narrative of the New Testament. Thus the slaughter of Paschal sheep or goats commanded by Jehovah before the exodus from Egypt (Exodus 12:3-13) was held to prefigure the blood sacrifice of Jesus on Calvary—'the Lamb of God, which taketh away the sin of the world' (John 1:29). On the premises of this metaphysics, there is a sense in which all history is prehistory—a foreshadowing of the end in which its significance is revealed.

None of which is meant to suggest that Weiß's introduction depends on whether we accept an eschatological historiography. Nevertheless, the interpretive strategy he employs by reading the history of Weber's methodology as consummating a turn to sociology stands or falls with a metaphysics in which the intentional conduct

7. Erich Auerbach, 'Figura', in *Gesammelte Aufsätze zur romanischen Philologie* (Bern: Francke, 1967), pp. 55-92.

of actors—in this case, the conduct of Weber himself in writing his methodological works—is not understood retrospectively, by reference to the intentions that informed them. On the contrary, conduct is understood prospectively, on the basis of subsequent intentions that were not, and perhaps could not have been, available to them at the time they acted. The ironies at stake here cut deep. Weber's methodology is not interpreted by employing the theory of action and its interpretation at which he arrived in the 'Kategorien' essay, but on premises alien to his methodological project. Earlier methodological texts foreshadow texts that were written subsequently. By backshading, or drawing inferences from the key text to which all others were tending, their meaning emerges.

Regardless of the view taken on the editorial introduction, no assessment of *MWG I/12* should fail to stress the value of the editorial commentary supplied by Weiß and Frommer. It is indispensable to readers of the methodological writings, a judgment that can easily be confirmed by considering the plight of an American student in the 1960s introduced to these texts by Johannes Winckelmann's spare editions of Marianne Weber's original collection of 1922: the *Gesammelte Aufsätze zur Wissenschaftslehre* (Collected Essays in the Theory of Science). The novice was confronted by analyses and arguments that could be understood, if at all, only in the most abstract terms. *Kampf*—struggle or contestation—is of course an idea fundamental to Weber's conception of life as well as his own work. Although it was clear that the methodological works were written by a thinker often determined to take adversarial positions, the historical specifics of the problems he addressed, the controversies he entered, the views of his adversaries, and exactly what was at stake in the disputes remained terra incognita. The Anglophone literature on these matters was still in a primitive state, and the German literature was quite thin. Most of what the reader of the methodological writings needed to know was housed in German archives.

The editors of *I/12* have, in the main, explored the essential intellectual and institutional background of Weber's methodological writings, addressing the needs of historically untutored students as well as the interests of Weber-Kenner who, for example, may have no idea who Leonard Nelson was and why, long ago, he was regarded as a philosopher of some consequence in Germany (292-95). Readers will find especially valuable their commentary on the nuances and increasing complexity of Weber's views on the value-freedom of social science as they developed between 1909 and 1917, the grounds for his

dissatisfaction with the Association, the motives for his early and intensive engagement in the GSS, and the reasons for his disenchantment after only two years. Weiß's elaborate reconstruction of the genesis and substance of the older and newer parts of the 'Kategorien' essay, much of it included in his introduction (60-77), is a provocative exercise in Weberian exegesis that will repay careful scrutiny. Finally, there is a larger question. Weiß acknowledges that from the time of his early professorship in economics and finance at Freiburg until his death, Weber saw himself predominantly as an economist (6). The 'Kategorien' essay became the conceptual basis for *Economy and Society*, which was planned as one volume in the encyclopedic handbook project *Grundriß der Sozialökonomik* (Compendium of Socio-Economics). It is difficult to see how this essay can be detached from the primacy of economics in Weber's thought and repositioned as the axial text in a turn to sociology. In what sense, therefore, can it be said that the course of his methodological thought represents such a turn?

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Max Weber, *Zur Logik und Methodik der Sozialwissenschaften. Schriften 1900–1907*, edited by Gerhard Wagner with the assistance of Claudius Härpfer, Tom Kaden, Kai Müller and Angelika Zahn (Max Weber Gesamtausgabe I/7; Tübingen: Mohr Siebeck, 2018), xv + 774pp. (hbk). ISBN 9-783-16153-774-5. €349.00.

For various—unrelated—reasons, the publication of some of the most important volumes of the *Max Weber Gesamtausgabe* has been delayed almost to the end of the whole series: 2014 gave us the first version of *Die protestantische Ethik und der 'Geist' des Kapitalismus* (I/9), and 2016 the final one, coupled with the *Die protestantischen Sekten und der Geist des Kapitalismus* (I/18). And 2018 saw the publication of the whole bulk of Weber's work on methodology: First came volume I/12, edited by Johannes Weiss, with Weber's writings and interventions from 1908 to 1917 on 'Verstehende Soziologie und Werturteilsfreiheit', followed in November 2018 by volume I/7, with Weber's essays on 'Logik und Methodik der Sozialwissenschaften' (1900–1907), edited by Gerhard Wagner—the book which is the subject of the present review.

Volume I/7 is a highly important addition to the Weber corpus. First of all, it comprises the bulk of Weber's published work in the field of methodology (in the narrower, 'philosophical' sense of the term);

and secondly, it marks, together with the 'Protestant Ethic', Weber's return to scholarly writing after his deep depression around the turn of the century. But there is a further reason why I/7 is of particular interest: While all the major items in it are well known from Marianne Weber/Johannes Winckelmann's *Gesammelte Aufsätze zur Wissenschaftslehre*, an edition which has been with us for nearly a century, Gerhard Wagner has also included the transcribed text of a large number of notes written by Weber in Nervi on the Italian Riviera in late 1902 and early 1903. Technically, these notes are reproduced in an 'Appendix', but like the printed articles, they are provided with thorough textual and substantive annotations. The text of arguably the most important note, on Rickert's 'values', and of a few others, had already been published, but the major part of the 'Nervi notes' included in this volume will be completely new to the reader, and Wagner's decision to include them must be applauded.

One should be clear, of course, about the limited source value of these notes. They reflect off-the-cuff ideas that came to Weber during his work, sometimes as reactions to texts that he had been reading. They never made it into print, but, as Wagner himself notes (623), they can be read as preparatory work for Weber's printed essays, or as further elaborations of ideas launched in these essays. Even in cases where the notes seem to be written with a view to publication, their non-appearance in Weber's printed work does not necessarily mean that he rejected them in substance. This is, I think, certainly the case with the so-called 'Nervi Fragment', which deals critically with Rickert's concept of 'values' (there may, indeed, be an indirect reference to it in the discussion of Simmel in the 'Knies II' essay [308 n. 47]).

Apart from the major part of the 'Nervi' material, only a few, minor Weber texts in this volume were not readily available previously. There is a small note, in which Weber disclaims any major influence on his wife's published book on Fichte's socialism. This is—typically—chivalrous on Weber's part, but the letters from Max to Marianne on the subject, quoted by Gerhard Wagner, give one the impression that Max's disclaimer is actually somewhat disingenuous.

There are a few texts dealing with the new editorship of the *Archiv für Sozialwissenschaft und Sozialpolitik*. Of these, the 'Geleitwort' is the most important. Wagner discusses the contentious question of the authorship of this piece, which is simply signed by 'The Editors'. It was certainly not drafted by Jaffé. It was not, Wagner says, drafted by Weber (as Marianne claimed); nor was it drafted by Werner Sombart (as Sombart himself maintained). It is, Wagner diplomatically

concludes, the result of close cooperation between these two scholars. Finally, there is a small editorial notice signed by Weber, in which he takes issue with Gustav Cohn concerning the decision by the *Verein für Sozialpolitik* not to publish a certain rejoinder. The methodological interest of the piece seems almost too slight to warrant its inclusion here.

Up to a point, Wagner's task has been an easy one. Apart from the handwritten 'Nervi' notes, as well as a short manuscript first draft for a publicity notice for the *Archiv*, and the Stammler 'Nachtrag', his primary material consists of items originally printed in one version only. There should therefore be little work to do in the way of textual emendation. (Some of the emendations that Wagner does make [e.g., 397, l. 13; 431, l. 25; 555, l. 7] are questionable, however; in other cases [e.g., 183, l. 2; 539, l. 6; 549, l. 18], emendations are lacking where they should, in my opinion, have been made.)

The handwritten material of course presents far greater difficulties. Weber's handwriting is characteristic (some might even call it beautiful), but it is unusually difficult to read. This is particularly evident with the 'Nervi' notes. In scanned form, these notes can now be accessed, and it will be obvious to anyone who looks at these scans that the text is in many cases almost illegible.⁸ Having myself transcribed all the 'Nervi' notes in 1971, I have the greatest possible respect for the efforts of Wagner's transcriber, Diemut Moosmann, to make sense of them. (Indeed, it now becomes clear that my own readings, for instance of the 'Nervi Fragment', most fully reproduced in *MWS* 1.2 [2001], 157-59, contained a number of regrettable errors.) Even so, I beg to differ with Diemut Moosmann in certain cases: For instance, I believe that the title of the 'Nervi Fragment' should be read as 'Rickerts "Werthe"' (not 'Werth'); that 'Stocke' (628, l. 5) should be 'Starke'; and that 'Sein' (629, l. 5) should be 'Prius'. In some other cases, the new readings are in my opinion at least questionable, partly because it is not always clear whether a word has been underlined or deleted by Weber. This is the case, for instance, with the text on notes A 16 and A 17 (transcribed, 625). These two grubby scraps of paper are a transcriber's nightmare, containing an almost impenetrable thicket of corrections, additions, and deletions. Against this background, one wonders why there are so few editorial admissions of 'uncertain reading', compared to, for instance, the edition of

8. http://archivdatenbank.gsta.spk-berlin.de/midosasearch-gsta/midosaseaRCH/vi_ha_nl_weber_m/index.htm, no. 31/6.

Weber's American letters (MWG II/4), which were also transcribed by Diemut Moosmann.

Another item included in this volume and also based on a handwritten Weber manuscript is the 'Nachtrag' ('Addendum') to the Stammler essay. Here, too, there are problems, but of a different kind: The manuscript of the 'Nachtrag' was already available to Marianne Weber for her first edition of the *Gesammelte Aufsätze zur Wissenschaftslehre*, and—we may confidently assume—also to the editor of the later editions of that work, Johannes Winckelmann. So, when Gerhard Wagner, adhering to his stated principle (576) of ignoring the published version of the 'Nachtrag' in the *Gesammelte Aufsätze zur Wissenschaftslehre*, bases himself solely on the transcript by Diemut Moosmann, he is in fact competing with transcripts made by persons whose expertise in deciphering Weber's handwriting was at least as great as Moosmann's (although it must be admitted that Marianne Weber was occasionally careless in her transcriptions, and now and then even 'adjusted' the texts). I have unfortunately not been able to check the transcripts against the original, which is now in the Bavarian State Library. But even so, it seems clear to me that, at certain points (e.g., 597, l. 14; 598, l. 1), Moosmann/Wagner, in diverging from the Marianne/Winckelmann version, endorse readings which are counterintuitive, and sometimes plainly incorrect. Undoubtedly erroneous are—in my view—Wagner's corrections of quotation marks (596, l. 13 and 17) which can be found both in the manuscript (see 596, textual notes s and g) and in the Marianne/Winckelmann version. A similar correction of quotation marks a little later (598, l. 20) may be in accordance with the original (there is no textual note), but even so, the original does not make sense, and should have been corrected, as indeed it is in Winckelmann's edition. In all these cases at least, Wagner would have been well advised to take the Marianne/Winckelmann text into account.

In some respects, Gerhard Wagner's introduction to the volume is a surprise. In spite of the central importance of the texts that it introduces, it is unusually short—in fact, with its 27 pages, it is among the shortest of all the introductions in the Series I of the *Gesamtausgabe*. To a certain extent, this no doubt reflects the fact that Wagner relegates to the editorial notes the treatment of a number of questions and concepts that one might rather have expected to find in the introduction. This rearrangement does not always lead to convincing results. For example, although Weber repeatedly points to the ideas of Heinrich Rickert as a central plank in his methodological platform

(see, for instance, p. 45 n. 1 and p. 142 n. 1), the introduction contains no substantial elucidation of Rickert's central concept of 'Wertbeziehung' (value relation) and its ramifications: the piecemeal treatment of this concept only comes later, in scattered editorial notes (62, 154, 166 and 189).

On other central points, which in my opinion also qualify as what the general editorial guidelines of the *Gesamtausgabe* call 'thematic points of gravity', the editorial discussion, both in Wagner's introduction and in his editorial notes, is even more scarce. Thus, the concept of the ideal type, to which Weber attached great importance, and which he discussed thoroughly over 30 pages in his most important methodological article, 'Objektivität', receives only cursory treatment in the introduction (short mentions, 24 and 26), supplemented with brief references in the editorial notes (454, 460). As for the concept of objectivity, Weber included it (albeit in quotation marks) in the title of 'Objektivität', and he expressly stated (161) that the purpose of that article was precisely to explore the meaning of 'objectivity'. Nevertheless, the concept of objectivity is completely ignored in the introduction, and only crops up once in an editorial note (154). Closely related to this is Weber's demand for value freedom (i.e. freedom from value judgments), a demand which, in various forms, runs through many of the texts in this volume. Here, too, Wagner's introduction and editorial notes are entirely silent. Nor is there any substantive discussion of the concepts of 'rule' and 'norm', which are central to Weber's long and impassioned discussion of Stammler. It also seems odd, to say the least, that when Weber mentions the connection between religious (Puritan) ideas and the 'capitalist spirit' (87 n. 80; 173, l. 15-18), and Calvin's theory of predestination (212, l. 29), Wagner's editorial notes make no mention at all of the obvious link to Weber's essay on the Protestant ethic.

Another reason for the surprising brevity of the introduction may be Wagner's—in my view regrettable—decision to 'refer to other volumes of the *Max Weber Gesamtausgabe*, but not to research literature, in [the] introduction, the editorial remarks, and the editorial explanatory notes' (30). This makes the introduction more 'backward-looking' than it might otherwise have been. (For a different approach, see the introduction to volume I/12, which does, usefully, refer to more recent discussions in the Weber research literature of various salient points.)

What does Wagner's introduction actually contain, then? Wagner builds on one central supposition. When Weber started writing again in 1903, after his total breakdown, his new work, at least in

the methodological field, was, as Wagner tells us, essentially not a new beginning, but a continuation: 'Now, as then [before Weber's illness], Weber was concerned with surmounting the 'Methodenstreit' [quarrel about methods] in the field of economics' (1). In itself, this point of view is certainly correct: There is no doubt that, in the 1890s, Weber was deeply interested in defining his own position vis-à-vis Carl Menger and Gustav von Schmoller in the 'quarrel about methods' (see the introduction to *MWG* III/1, 21-31); and his concern with various aspects of the 'quarrel' is equally evident in many of the articles in the volume under review. Wagner sees Carl Menger as the central figure of reference for Weber in this respect. This is also entirely reasonable, since, by and large, Weber was much closer to Menger's position than to that of Schmoller in the 'quarrel'.

Generally speaking, however, Wagner's approach is curiously distant.

No sooner has he mentioned that there was a 'quarrel about methods' in economics than he embarks on two whole pages of the history of the quarrel in the *natural* sciences (2-4). He then makes a reference to Weber's economics lectures from the 1890s. But he does not go into the substance of Weber's views; instead, he makes a tenuous connection between the presence of Sigwart's *Logic* on the reading list for those lectures, and Weber's interest in Rickert. Anyway, the appearance of Rickert on the stage is only fleeting. After a few lines, Wagner instead embarks on a two-page exposition of *Windelband's* distinction between 'nomothetical' and 'idiographic' sciences. It is certainly true, as Wagner notes (8), that Rickert built on that distinction in his *Limits*. But surely then, rather than Windelband, it should be Rickert, whose work—particularly the notion of 'value relation' as the specific characteristic of concept formation in the cultural sciences—was, as noted earlier, a central inspiration for Weber's methodological essays, who ought to be the focus of attention. And when Rickert does reappear a little later, Wagner mostly discusses his views on causality, in spite of the fact that, as he notes, '[Rickert] did not feel it necessary further to clarify his idea of causality' (11). A reference to the 'Nervi' material would have been more interesting here, particularly since Weber in one 'Nervi' note makes a direct and pertinent connection between Menger and Rickert: In his jottings on 'Sociology' (656), Weber notes that Menger apparently believes that 'collective' phenomena are identical with 'what is generally *significant*'. This view, Weber says, goes back to Knies; and he continues: 'Actually, [they represent] a *selection* of what is significant', adding, 'Therefore, Rickert should be discussed

at this point'. This note obviously refers to Rickert's ideas on theoretical 'value relation'—about which, as I noted, we hear nothing in the introduction.

In connection with a discussion of Menger's method we get a full page on Wundt's logic which, Wagner asserts, inspired Menger. This assertion may well be true, but *Weber's* references to Wundt's thought—mostly in the 'Knies' essays—are highly critical of Wundt's psychologizing approach and his valuational concepts (e.g., 'creative synthesis'); and there is no mention of Wundt in Weber's economic lectures (vol. III/1). That both Wundt and Weber talk about 'analytical method' and 'abstraction' does not, in my opinion, offer sufficient grounds for implying, as Wagner seems to do (16 and 17-18), that Weber was *dependent on* Wundt in this respect.

Much of the rest of the introduction (19-24) is devoted to the ideas of the physiologist von Kries. As with Menger, it is in itself quite reasonable to focus on von Kries, whose concepts of 'objective possibility' and 'adequate causation' are discussed and applied by Weber, above all in the essay 'Objektive Möglichkeit und kausale Verursachung'. But Wagner expands on von Kries to what seems to me an inordinate extent, going into concepts like 'Spielraum', which does not occur at all in Weber's methodological writings, and devoting three or four pages to the details of Kries's theory of 'probability' and 'games of chance', where editorial notes would no doubt have sufficed. (Weber's own footnote at the beginning of the 'Objektive Möglichkeit' essay, according to which '[i]t is evidently out of the question for causal historical analysis to adopt principles of the so-called "probability calculus" in the strict sense [...] [451 n. 29] should perhaps have served Wagner as a warning sign.)

The preceding comments on the introduction may perhaps seem unduly critical. Wagner is, after all, entitled to adopt an unorthodox approach to Weber's methodology, and to stress the importance of the intellectual history underlying some of Weber's concepts. What I find somewhat disturbing, though, is that Weber's own pronouncements (for instance on Rickert, and on the ideal type) are marginalized in the process, and that much of the intellectual history that Wagner goes into at length seems to be (at least) at one remove, so to speak, from Weber's own text. (A similar tendency can be found in some editorial notes, e.g., 208, l. 27.) I also have my doubts as to the fruitfulness of the pronounced weight given to the discussion of the natural sciences; nor am I convinced by Wagner's tendency to treat concepts like 'Idealbild', 'Abstraktion', or 'Analyse' as *technical* terms,

the use of which can therefore serve as a basis for asserting intellectual dependence. Wagner's approach is decidedly original; but many readers will not, I fear, find in the introduction and other editorial material sufficient treatment of what they will, quite reasonably, be looking for.

This book virtually closes the majestic procession of volumes that constitutes the *Max Weber Gesamtausgabe*. We should be deeply thankful for the *Gesamtausgabe*, and properly mindful of the immense efforts which have gone into it over many years. And however one may feel about Wagner's approach in the book under review, it is a timely reminder that we can never take our classics for given, even when they come in definitive editions.

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Max Weber, *Economy and Society: A New Translation*, ed. and trans. Keith Tribe (Cambridge, MA: Harvard University Press, 2019), xi + 504pp. (pbk). ISBN 978-0-67491-654-8. \$24.95.

Marianne Weber has a lot to answer for. After her husband's death in 1920, she created Max's magnum opus, *Wirtschaft und Gesellschaft*, by combining his recently completed work on sociological categories with manuscripts from before 1914 into a single book, first published in 1922 and then in an expanded two-volume version in 1925. With mixed feelings, this reviewer recalls taking the university library copy of one of those editions, in large format with oddly small type, home one summer, and mistakenly reading it by beginning at the beginning, then turning the pages. Weber's assurance that he had revised a previously published article ('Ueber einige Kategorien der verstehenden Soziologie' [1913]) to make it as easy to understand as possible only enhanced the intimidating effect, but the experience told a naïve undergraduate that if this was sociology, surely it was a very serious field. After the 1920s, the work had a complicated publication history: Johannes Winckelmann edited new post-war versions in slightly different formats, and Talcott Parsons and others produced partial English translations, later assembled and revised by Guenther Roth and Claus Wittich as *Economy and Society (ES)*, still sitting half-read on many office bookshelves. A book Max Weber did not complete became his major claim to international scholarly fame. That fame helped to justify the remarkable *Max Weber Gesamtausgabe*—whose

editors decided ruthlessly to undo Marianne's effort by decomposing the 'book' into six constituent parts.

Keith Tribe has now retranslated one of those parts, the *Erster Teil* of the 1920s editions, which Weber himself had been preparing for separate publication. As the core of Weber's 'sociology'—scarcely quotes used advisedly—it has long drawn special attention. Here, Weber proposes his definitions of social action and sociology, his approach to understanding and explanation, his categories of economic action, his types of *Herrschaft*, and his distinction between class and *Stand*. In several ways, this new translation is a major contribution to scholarship. For one thing, Tribe offers much more than a translation. In his introduction, he nicely untangles the tangled history of the work (with a nod to MWG editor Edith Hanke), recounting Friedrich Hayek's role in the background of the first translation and concluding with a list of German and English versions that by itself covers nearly two pages. Drawing on his expertise in German economic discourse, he masterfully places Weber's preoccupations in historical context; if you had neglected to follow up on Weber's references to Friedrich Gottl in the Preamble or G.F. Knapp in chapter 2, Tribe will tell you what you missed. An experienced translator, he explains in exemplary fashion his overall approach and his specific choices, in his introduction, a series of footnotes, and a substantial appendix on key terms. As an additional aid to readers, Tribe introduces each chapter with an overview of its content and finishes the volume as a whole with another appendix containing just the definitional paragraphs of chapter 1. That appendix also supports one of Tribe's main points by illustrating the coherence of Weber's text that, he claims, previous English translations had obscured. Tribe conveys that 'systematic didactic structure' (8) most strikingly by approximating Weber's own layout, distinguishing explication from definitions via indentation, and rendering his stresses in boldface. At least for anglophone readers, the work is now nearly 'as easy to understand as possible'.

Dismissing *ES* as 'less useful' (2), Tribe takes *The Theory of Social and Economic Organization (TSEO)*, Parsons's translation (with A.M. Henderson) published in 1947, as his 'reference' text. Tribe corrects a number of Parsonsian errors—for example, *Arbeitsneigung* should be something like 'inclination to work', not 'incentives' (263). He also gives reasons for alternative choices and argues against elaborations. For example, where Parsons waffled by rendering *Herrschaft* as authority and imperative control, Tribe favors the simpler and more neutral 'rule', or the

slightly more awkward 'rulership', thus avoiding any admixture of legitimacy. For *Verband*, Tribe chooses 'organisation' over Parsons's 'corporate group', though conceding that on first use *Verband* has the element of group-ness and that Weber could have used the direct German equivalent of 'organisation' but did not. Arguing that 'status' is now too diffuse to convey the precise, layered positions implied by *Stand*—perhaps underestimating the abilities of the average sociology instructor—Tribe proposes 'rank' as a better fit, linking Weber to John Millar. In most of these cases, Tribe has the edge.

Still, like any translation this one leaves room for debate. In some instances, it appears, Tribe's choices are not clearly superior to prior versions. As an example, compare different renderings of Weber's definition of sociology:

- Weber: 'eine Wissenschaft, welche soziales Handeln deutend verstehen und dadurch in seinem Ablauf und seinen Wirkungen ursächlich erklären will'
- Tribe: 'a science that in construing and understanding social action seeks causal explanation of the course and effects of such action'
- Parsons in *TSEO*: 'a science which attempts the interpretive understanding of social action in order thereby to arrive at a causal explanation of its course and effects'
- Roth in *ES*: 'a science concerning itself with the interpretive understanding of social action and thereby with a causal explanation of its course and consequences'

In Tribe's line, 'construing' is needlessly vague and no improvement over 'interpretive'; he refers to 'action' twice, while Parsons and Roth, like Weber himself, make do with one mention; by contrast with Tribe, Parsons's 'attempts' catches the connotation of striving in Weber's 'will'; and both Parsons and Roth straightforwardly translate 'dadurch' as 'thereby', while the direct connection between *verstehen* and *erklären*, important to Weber and amply illustrated in his subsequent text, gets lost in Tribe's 'in... seeks'. In fact, a later paraphrase comes closer to making Weber's point: 'sociology seeks causal explanation of the course and effects of social action *by means of* the understanding of (individual) social action' (65, emphasis added). On the whole, I would certainly recommend Tribe over Parsons and Roth, but scholars without German who want to do serious work on certain passages or concepts may like to keep the older versions handy, perhaps in electronic format.

Tribe goes beyond correcting and updating Parsons to promote an agenda: he wants us to understand Weber in a certain way, and he wants us to know that Parsons got it wrong. This agenda is a bit less persuasive than the translation itself. For example, Tribe suggests that Parsons wrongly stresses structure, since 'Weber is not an analyst of social *structures*... but primarily an analyst of social *processes*' (4, emphasis in original). But while Parsons indeed misses some dynamic features of Weber's terminology, in his defense he could refer to a rather long list of structural terms in Weber, starting with items in Marianne's table of contents—*Beziehung, Ordnung, Gewalt, Verband, Leistungsverteilung, Herrschaft* (and its forms), and *Klasse*—and Tribe pushes his point rather far by treating *Lebensführung* as a 'processual' concept. Tribe further argues that Parsons 'obscures the sense of system' in the German text by turning it into a 'continuous narrative'—'easier to read than the original', he acknowledges! (10)—and having the temerity to add subheadings 'to create a structure of his own' (8). That charge also seems exaggerated: far from obscuring what he is doing, Parsons clearly explains how he changed the text's look for an anglophone audience (*TSEO*, 89). Parsons's continuous narrative and pertinent subheadings provide a 'sense of system' close to Weber's substance, and, for all his stress on coherence, Tribe himself notes that the text 'begins to run out of control' in chapter 2. The systematic quality of the work's actual argument(s) remains in question—for his part, Parsons says explicitly that Weber 'disclaimed' the idea of putting forward a 'system' of theory and that any 'systematic development' remained 'seriously incomplete' (*TSEO*, 7). Tribe's visual presentation of Weber's structure gets off to an awkward start in any case: on the very first page, which features a typo, the originally connected two preamble paragraphs with consistent fonts become separated and get different fonts, leaving the second paragraph dangling between new preamble and actual text.

Tribe aims to continue the liberation of Weber's work from the 'misconceived' notion pushed by Parsons and his colleagues that Weber helped to lay foundations for an 'interpretive sociology', perhaps even for sound sociological theory as such; instead, 'today' we can properly view him 'once more as the leading theorist of modernity' (viii). Yet when Tribe summarizes the thrust of Weber's 'methodological' argument, he sounds much like the interpretivists of old, since his Weber argues 'that the motivation of individual action can inform an understanding of social processes and social orders that transcends the intentions of those who are engaged in them' and that

'individual action and its meaning has to be the basis of any social analysis' (65, 75). That Weber was 'a leading theorist of modernity' is not some new insight but a point Parsons himself made, now more than 70 years ago: he did not only present Weber as a grand theorist of action but also stressed, in the last section of his introduction to *TSEO*, that Weber's 'dominant interest' was in understanding 'the social structure and dynamics of modern Western civilization', which made him a prime 'interpreter of the course of modern society' (78, 84). That introduction, quite critical in places, bears rereading by scholars willing to reconsider the cliché that Parsons smoothly Americanized his German hero. If we must deparsonize Weber yet again, let us also detribalize Parsons.

Behind Tribe's latter-day polemics against Parsons lies a larger dispute familiar to faithful readers of *Max Weber Studies*. They will not be surprised that Tribe, translator of two books by Wilhelm Hennis, trots out the latter's denial that Weber was ever a sociologist (5). For Tribe, Weber is the political economist he mostly claimed to be, concerned especially with issues in economic history; 'his sociology,' the consistently used quotation marks reinforcing the idea that it was a late and relatively minor addition to Weber's repertoire, served to provide some intellectual backing for a larger project in 'socioeconomics'. As the relatively neglected chapter 2 illustrates, that project had to do with understanding the 'management' of social processes and the reorientation of life conduct in the context of modern, rationalized economic organization (66-69). The relatively brief text translated here already did its limited job and therefore 'was not that incomplete', says Tribe, though he allows that Weber 'had not yet come to that conclusion when he died' (59). A proper reading of *Economy and Society* will rescue Weber and his 'real intellectual achievements' (ix) from the clutches of mere sociologists. Among those achievements, we learn, are 'the analytical components that have proved foundational for the social sciences' (xi). But if Tribe and his comrades deny that Weber was much of a sociologist, and oppose scholars who claimed him as a founder of something or other, it is not clear in what sense he can refer to Part I, at the end of his Preface, as 'this foundation' (xi). What sort of foundation? Foundation for what? Who needs it? Chapter 1 has been part of a long debate, chapter 3 has provided useful tools for comparative political sociology, though chapter 2 on economic action never quite caught on—but as far as I can tell, they played a founding role only in projects Tribe rejects. Working sociologists today would have no trouble denying Hennis's denial, seeing

rather a lot of sociology in *ES*, but many would wonder if they can base their work on Weber's 'individualistic' method (57); a little more *Gesellschaft* in *Wirtschaft und Gesellschaft*, rather than just the characteristically Weberian adjectival forms and conjunctions of the word, also might have made it a more promising foundation.

Closer inspection of the supposed foundation, with Tribe's aid, will show it to be cracked and shaky; most structures built on top have not lasted. What, then, shall we make of Weber's work now? Keith Tribe's own answer will not satisfy everyone, but his excellent translation should help us reflect fruitfully on the question for another generation.

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Notes for Contributors

Max Weber Studies is an international journal which is published twice a year. It concerns itself with the interpretation, reception and application of Max Weber's writings and ideas and celebrates his polysemic legacy. The journal publishes new academic work on Max Weber and includes among its aims:

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