

# Table of Contents

Preface	
Embarrassed in translation . . . . .	9
Introduction . . . . .	11
Chapter I	
On the history of science background . . . . .	15
1. From the study of law to sociology of law . . . . .	16
2. From the critique of Stammler to »verstehende« sociology of law . . . . .	20
3. Sociology of law on the move? Disciplinary historical context and efforts at institutionalization . . . . .	23
4. Interpretive sociology of law in the context of the Freirechtsschule and the criticism thereof . . . . .	27
5. Cultural scientific challenges to legal analysis . . . . .	32
Chapter II	
The distinction between legal and sociological approach . . . . .	39
1. »Juristische Konsequenzmacherei« and »social theory« . . . . .	39
2. Normative meaning of legal terms, factual effect of conceptions of law and the exemplary function of normative conceptualization for the empirical one . . . . .	40
3. The causality problem as legal and empirical-historical attribution . . . . .	43
4. Normative and empirical validity of a rule: its »complicated causal links« . . . . .	44
5. On the banal empiricism of the application of rules . . . . .	47
6. The relationship between interpretive sociology and legal dogmatics . . . . .	48
7. The distinction between the legal and sociological perspective and the differentiation of validity types . . . . .	49

### Chapter III

Concept and reality of law in the structure of normative systems: »Die Wirtschaft und die Ordnungen« ..... 53

1. On the concept of a »pure« sociology of law ..... 56
2. »Consensus« (Einverständnis) and the law ..... 56
3. The doctrine of the two sides of law ..... 57
4. Conventions and customs in the normative cosmos of society ..... 59
5. »Customs« as a »source« (»Grund«) of law and the emergence of novelty ..... 61
6. Criticism of materialist and spiritualist causality of law and economics ..... 62

### Chapter IV

The development of law:  
Max Weber's so-called »sociology of law« ..... 65

### Chapter V

»Epochs in the development of the current state« of  
»law and economics« ..... 69

### Chapter VI

The conditions for the development of rational law ..... 75

1. The problem of legal rationalism ..... 77
2. Dimensions of rational law ..... 80

### Chapter VII

The power of »inner-legal conditions« ..... 85

1. Disenchantment in the magic garden of the law ..... 85
2. Rationalization through discursive dissolution of customs? ..... 87
3. Rationalization through tradition? ..... 88
4. Rationalization and the diversity of emotional cultures ..... 89
5. Legal innovation through charisma ..... 90

Table of Contents	7
<b>Chapter VIII</b>	
Carriers of legal rationalization	95
1. The lawyer as a craftsman: The education of lawyers and legal rationalism	97
2. The university as a place of developing and communicating law	98
3. Priest schools as places of developing law	100
4. Dignitaries as carriers of legal development	101
<b>Chapter IX</b>	
Religious powers, their orders and references to the analysis of religious communities	105
1. Sacral and profane in Roman law	106
2. Legal particularism in India	107
3. The lack of tension between positive law and natural law in China	109
4. Rational and irrational elements of Islamic law	112
5. Religion of laws and religious law in ancient Judaism	116
6. Canon law as starting point for the Occidental rationalization of law	123
7. The insignificant role of the Protestant ethic for the genesis of Occidental law	125
8. The ambivalent rationality of English law	127
<b>Chapter X</b>	
Political forces and the rationalization of law	129
1. Empire and administration of the law	129
2. System, ratio and domination	131
3. The reception of the formal qualities of Roman law	132
4. On the spirit of the Code civil	135
5. Paradoxes of rational natural law	136
<b>Chapter XI</b>	
The substantive qualities of formal law and the endangerment of modern legal culture	141
<b>Chapter XII – Biographical epilogue</b>	147
References	151

