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A Study on Sociology of Law and Contemporary Philosophical Contradictions

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ABSTRACT

Based on a review of the theoretical concepts that grew out of past orientations, this article presents an outline of the key theoretical views in contemporary sociology of law. As a result, this research will simultaneously look ahead and backward at theoretical advancements in the sociology of law.

Keywords: Sociology, Law, Jurisprudential Sociology

Introduction

There is now a greater variety of theoretical viewpoints than ever before in contemporary sociology. It is now often unclear where theoretical boundaries are established what they represent, and what the significance of such variation could be due to the development of theoretical pluralism in sociology. While some academics see sociology's theoretical variety as a problem that highlights the sociology's lack of coherence and represents the complexity of social existence, others consider it as strength (Cole 2001).

The studies in this article centre on the theoretical shifts and developments in sociology that have occurred after the functionalist paradigm's gradual waning. These changes occurred approximately between the 1960s and the present, and they continue to define the field in general and the sociology of law in particular. In comparison to the modern age of sociology, which lasted approximately until the 1980s, the current situation is such that theoretical variety has expanded in ways more complicated than during that time. However, this presentation may be idealised as a heuristic tool that provides a comprehensive review of the key theoretical schools and the fundamental issues in sociology of law. This book, as previously stated, does not seek to take sides in these theoretical conflicts; rather, it aims to demonstrate the contributions that each sociological theoretical movement has made to the study of law and to show how each movement fits into the larger sociology of sociological scholarship. This review will focus primarily on three theoretical turning points in the sociology of law.

Sociological Conflict Theory

The idea that conflict has to be investigated as a crucial aspect of society is at the centre of the conflict-theoretical tradition in contemporary sociology. Therefore, it is incorrect to connect conflict theory with the sociology of conflict. Contrarily, conflict-theoretical approaches see conflict as crucial to the dismantling of society's circumstances, while an order-oriented perspective sees society as fundamentally including processes of stability and integration. By implication, conflict theory implies a practical or critical attitude that is focused on change and the improvement of social circumstances, in contrast to an order-oriented sociology, which engages in a methodical and objective study of society. Conflict theory may theoretically draw on the writings of Karl Marx in terms of both its definition of conflict and its conception of knowledge and practise. Marx's writings were not historically seen as having much law to sociology, but as critical or conflict-theoretic sociology became more and more prominent, this sociology began to drastically shift. However, the contemporary expressions of critical sociology are much more independent and varied than a simple recapture of Marx's social theory, particularly in the sociology of law, an area to which Marx had in fact made relatively little contribution (Swingewood, 1975).

Relationship between Law and Morality

William Chambliss (1964) gives a study of vagrancy laws in terms of a historical analysis of the socio-economic circumstances in which such laws had developed and were implemented in one of the most prominent articles in the contemporary sociology of law. The evolution of vagrancy laws as they were implemented in the US and the UK may be divided into four periods by Chambliss. In England, the first vagrancy law was enacted in 1349. Giving donations to someone who was jobless and in good health and mind was considered a felony. Vagrants were made to do work under pain of punishment in jail. After the Black Death of 1348, which killed half the population and destroyed the labour force, this law was passed in an effort to ensure inexpensive labour. The vagrancy law was not enforced in a later era because, according to Chambliss, feudal society was evolving into an industrial one. A subsequent

era, beginning about 1530, saw a return to crime, and as industry grew, so did the severity of penalties for breaking the vagrancy law. Theft and robbery of merchants moving commodities were therefore the newest targeted crimes. Finally, in 1743, the definitions of vagrancy were further broadened to cover all wanderers, including vagabonds. As a result, the vagrancy law's purpose was expanded to include maintaining order and deterring crime in addition to managing labour.

Theoretically, Chambliss' research was positioned in response to programmatic calls for a new approach in the sociology of law. Chambliss lists publications by Arnold Rose (1962) and Gilbert Geis as examples of these early ideas (1959). Rose defined the goals of the sociology of law as questions about the social, political, and cultural dimensions of law, going beyond a purely juridical understanding of law. Geis argued for the use of insights on law for criminology that could result from a greater collaboration between sociology and legal scholarship. However, despite the fact that such programmatic assertions had clear theoretical significance, they remained somewhat isolated and did not directly inspire much further advancement in the sociology of law, at least not until Chambliss and others started to push the field of sociology of law in the direction of conflict theory.

Austin Turk (1976), an American sociologist, created a theoretical framework for a conflict-theoretical, non-Marxist sociology of law. Turk presents a viewpoint on law as a source of social power and a partisan tool in social conflict, in contrast to the prevailing idea in mainstream sociology that views law as a means of resolving conflict. People compete for a set of legal resources in order to advance their ideologies and interests, or to assert power over and against one another. Turk identifies five different types of resource control in the legal law: (1) police power over the tools of physical aggression and the representatives of control; (2) economic and political power over the material benefits and costs associated with the legal law; (3) political power in the legal decision-making process; (4) ideological power of the legal law as society to control whatever is brought into existence as legal and just; and (5) deflective authority over the amount of attention and time invested in the legal law.

Jurisprudential Sociology

The sociology of law was once thought of as a companion to legal theory and was seen by some of the law's pioneers notably Gurvitch as being secondary to the philosophy of law, which supplies the field's most fundamental perspective. The normativity of law was discounted in the functionalist school of sociology of law in favour of the idea of law as social control. The sphere of legal studies, social jurisprudence, and philosophy of law were designated as the home for normative concerns, which were not dismissed as insignificant. However, some proponents of contemporary sociology of law in the latter part of the 20th century believed that morality and law were intimately related and that normative issues could not be ignored. Selznick and Nonet (1992, 1996, 1999, 2004) have made the largest contributions to creating a legal-sociological approach that maintains a close link with normative and, therefore, jurisprudential orientations among these experts (Kagan et al., 2002).

Behavioural Perspectives in The Sociology Of Law

Micro-theoretical viewpoints that are based on behavioural presumptions are the last theoretical perspective that has to be covered in this review of the main features of contemporary theoretical approaches in the sociology of law. Similar to interactionism, behaviourist sociology encompasses a wide range of viewpoints that may not necessarily align perfectly with one another but do share certain fundamental traits. The social exchange theory and rational choice views will get particular focus in this review (Hedstrom and Swedberg 1996).

Conclusion

The fact that the basic theoretical pillars of sociology in general are represented in the sociology of law is evidence of its development. According to the well-known dichotomies of conflict vs order, structure versus agency, description versus interpretations, objectivism versus constructionism, and contextualism versus behaviourism, sociologists of law differ in their various theoretical stances. The issue of norms is quite different, but by no means unique to the sociology of law. It itself is most clearly in the conflict between jurisprudential sociology and pure sociology. The normativity debates are crucial to the sociology of law. When reiterating the importance of law to sociology as a whole, current sociology of law has not been as persuasive to sociologists outside the speciality field as the traditional sociological contributions have been. However, there have been several theoretical and substantive advancements to the study of the law within the sociology of law.

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