

Max Weber's Evolutionary Economic Theory

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Abstract:

Max Weber is most widely recognized for being the founder of Interpretive Sociology, with *The Protestant Ethic and the Spirit of Capitalism* regarded as his most important and widely taught work. However, being educated as a legal scholar, teaching courses in economics, and writing on economic history throughout his entire career, his body of research goes far beyond sociological theory. His expansive writings on the peculiarities of modern institutional forms, ranging from the development of state legal systems and bureaucracy to the structure of liability distribution in enterprise, contain a robust analysis of capitalisms' genesis that situates it at the nexus of several inter-related historical developments. This essay will take the early steps to draw out of Weber's oeuvre an evolutionary analysis of economic institutions that takes the law as its theoretical core in a manner that expands on his analysis of symbolic meaning in human life. Despite differences in analytical content, the thematic similarities to notable economists in the American Institutionalist tradition depict Weber as a notable figure for scholars working in that tradition who share an interest in economic history and evolutionary institutional analysis.

Introduction

Max Weber is universally acknowledged as a foundational figure in the social sciences whose oeuvre defies disciplinary boundaries yet ironically becomes a basis by which to define them. His most widely read academic contribution is found in *The Protestant Ethic and the Spirit of Capitalism*, a historical analysis of the ethics and patterns of meanings that produce a cultural basis for capitalist development. The school of thought most closely associated with Weber's work, taking the themes of *The Protestant Ethic* as an analytical core, is known as *Verstehen*, or Interpretive Sociology, that takes *meaning* as the basis for individual human action and the object for sociological interpretation. As such, Weberian sociology broadly emphasizes his theories of social action, religion, and the oft cited "iron-cage" of bureaucracy in modern society. However, the analytical and pedagogical fixation on these themes in his writing leads one to the erroneous conclusion that Weber was primarily a sociologist, one whose work captures the broader contours of society.

In contrast to this common depiction, the purpose of this essay is to articulate an analysis of Weber's thought that places the emphasis on his study of the economic institutions that provide a foundational institutional set for the evolutionary development of capitalism. In doing so, many of the themes in his writing overlap with those of the American Institutionalist tradition, particularly with John Commons and Thorstein Veblen. Considering his insights can provide greater clarity for understanding the institutional arrangements that contributing to evolution of capitalist practices, and could invite new debates and perspectives among Institutionalist scholars. This essay will proceed through three sections: (1) a brief reconstruction of Weber's historical and sociological theory followed by summarizing the prominent interpretations of his work; (2) revisit the central themes in his early academic work as a legal scholar, his theory of law and bureaucracy, and his writings on monetary theory and economic history as the pertain to his theoretical conception of capitalism; and finally, (3) summarize the main themes and conceptual piece of his analysis of economic institutions and briefly situate them alongside Institutional Economic theorists.

Section 1: Max Weber's Oeuvre and its Interpretations

A good place to begin outlining the general orientation of Weber's work is with his rationalization thesis of modernity in the European world, which is essential to understanding both his historical philosophy of society and his writings on economic history. The centrality of this thesis for Weber's institutional analysis is well documented, with it being said that "the principle of rationalization is the most general element in Weber's philosophy of history. For the rise and fall of institutional structures, the ups

and downs of classes, parties, and rulers implement the general drift of secular rationalization” (Gerth & Mills 1946: 51). However, ‘rationality’ and thus ‘rationalization’ are not uniform, unilinear, nor deterministic concepts, and rather they contain a fundamental degree of ambiguity that lends to their application to explain a variety of individual actions and historical developments. Within his theory of social action, he proposes rational action as motivated towards pragmatic, means-end calculation as well as towards value fulfillment (Weber 1978: 24-26).¹ As such, for his broader historical analysis, rationalization remains “socially and historically differentiated, [and] thus comes to have a variety of meanings” (Gerth & Mills 1948: 51).² This can be seen in Weber’s analysis of a vast array of civilizations, ranging from Chinese and Indian to Germany and the European continent. The scholar Gunther Roth and Claus Wittich, editors of large amounts of Weber’s writings, contend that he was not interested in ‘master-key’ statements of history, and was “set against the ‘need for a world-formulae” (Weber 1978, Roth & Wittich Introduction: xxxv-xxxvi).

The process of rationalization that occurred in Europe would remain of particular interest to Weber as this is the lone place where capitalism came to flourish at the onset of the modern period; working towards a synthetic analysis of the institutional development of capitalism would remain a central concern throughout his work (Love 1986; Trubek 1972). Weber understood the unique process of rationalization within this geography as one that developed under a culture that placed a growing emphasis on calculating, instrumentally oriented action; once established, these patterns of orientation grew into an institutional and behavioral basis for capitalist development as it broke out of the traditional, religious patterns of life entrenched under the Catholic Church in the middle ages (Weber 1946: 350-351). His most widely regarded empirical study on the rationalization process in Europe was produced early in his career, and is found in *The Protestant Ethic and the Spirit of Capitalism* that details how those traditional forms of religious motivation became reoriented so as to provide a cultural disposition amenable to the development of capitalist practices.

¹ Some scholars interpret the other two kinds of social action outlined by Weber, those being action motivated by affectual and traditional orientations, as additional ‘patterns of rationality’ to the other two mentioned here. However, it is not entirely clear whether these other motivations for social action constitute their own distinct patterns of rationality in behavior or merely motivations. In either case, the clearly articulated ‘value-rational’ action demonstrates well enough the ambiguity inherent to rational motivations.

² Despite this recapitulation of Weber’s rationalization thesis, Gerth and Mills themselves contend that there is an implied unilinear historical construction in Weber’s analysis of bureaucratic trends in European society, but this claim is not textually substantiated nor expounded upon. This theme of constructed conceptions of rationality will be a reoccurring one throughout this essay.

In that work, Weber famously argued that the displacement of traditional patterns of meaning, action, and authority centered around the church was set off by Martin Luther and his Protestant Revolution against what he perceived to be the decadence of the religious authorities. This set off a chain of path dependent developments by whereby the focus of the spawning Protestant sects, particularly those associated with Calvinist doctrines, came to emphasize one's *calling* in life as it is associated with their duties in labor and the continual reinvestment of acquired wealth into their communities in this world, rather than the salvation beyond it (Weber 2001: Chapter 3). The new signs of one's election to salvation were not guarded by the religious leaders of the Catholic Church but instead were the prosperity one gained in this-worldly pursuits, a marked change from the more or less stable rhythms and hierarchies of feudal Europe (*ibid*: Chapter 4). This new attention given to worldly affairs and perpetual reinvestment that grew out of the new religious orientations of Protestantism is colloquially known as the "Weber Thesis" of capitalist origins. Within the context of Western rationalization, these emerging motivations were amenable to and aided along the growth in the rationality of calculation and means-ends orientations necessary for the operation of capitalist enterprise. However, Weber's legacy has perhaps given too much weight to this thesis and his sociology of religion in general as the general character of his writing on capitalist development. As such, he has come to be most commonly known and taught for his contributions to sociology, specifically for his analysis of the impacts of the cultural and symbolic world of meaning on the path of economic development (Swedberg 1999: 561-562).

One prominent interpretation of Weber in this respect can be found in the scholar Stephen Kalberg (2014), who argues that the central theme running throughout Weber's oeuvre is a "sociology of civilizations" that emphasizes the different ways societies produce subjective meaning-complexes. In his interpretation, the fundamental questions coming from Weber's work can be posed as:

"How do values become salient to the extent that they significantly guide action in groups and endow it with meaning—and even continuity? How is subjective meaning formulated by reference to values and clusters of values, rather than exclusively by reference to means-end calculations, tradition-oriented action, or affectual action? And how do orientations to ethical values endure over longer periods despite their repeated contestation and violation by the orientation of action to material interests and power calculations? Is ethical action, especially if sanctified by a religious doctrine, then more capable of opposing action oriented to material and political interests?" (Kalberg 2014: 215-216).

Within this framing, the centrality of the different rationalization processes is still present, but the content and emphasis is decidedly placed on the world of culture and meaning in opposition to 'material' interests in the construction of world-views.

These themes are undoubtedly foregrounded in some of Weber's work, but the concern in this essay is their configuration around his analysis of those 'material' institutions that also takes a prominent role. For instance, when considering the central arguments made in *The Protestant Ethic and the Spirit of Capitalism*, Weber makes quite clear in the introduction that the world of ideas and subjective meanings exist in connection with that world of material and institutional practices, and the arguments presented there are but one half of a story:

"For though the development of economic rationalism is partly dependent on the rational technique and law, it is at the same time determined by the ability and disposition of men to adopt certain typed of practical rational conduct... In this case, we are dealing with the connection of the spirit of modern economic life with the rational ethics of ascetic Protestantism. *Thus we treat here only one side of the causal chain*" (Weber 2001: xxxix, emphasis added).

In the closing chapter of the book, he asserts the need to investigate the world within the "totality of social conditions" emphasizing the special attention also needing to be given to "economic conditions" (Weber 2001: 125).

The main argument that will be constructed in the following section is that, both before and after the publication of the *Protestant Ethic*, Weber engaged in detailed analysis of those economic conditions that developed into capitalist institutions, one that can be considered as an evolutionary theory of institutional development that places the origination of capitalism as its chief concern. This is demonstrated in several parts. First, Weber's first major publication on the development of commercial partnerships during the middle ages will undergo a thorough investigation, followed by a reconstruction of Weber's theories of bureaucracy and the legal apparatus that he understood as an essential economic institutions. Finally, the section will conclude with Weber's analysis of monetary theory and its chartalist themes, his broader view of economic history, and how these topics exist in conjunction with his theoretical conception of capitalism. In Section 3 that follows, these themes in his work will be brought together and compared to similar themes found in two prominent American Institutional Economists, being John Commons and Thorstein Veblen.

Section 2: Weber's Economic Writings and his Theory of Capitalism

Max Weber's formal education as a young man followed that of his father in the field of legal studies. While attending university, his education was under prominent scholars, mostly in the field of law, but early on he fell under the teachings of Karl Knies, a leading figure in the German Historical School. Perhaps most notably, he studied under the then-prominent legal scholar Levin Goldschmidt, an expert in the field of commercial law, whom Weber would choose to supervise his dissertation on the development of legal forms of the joint partnership in Italian cities (Weber 2003, Kaelber's introduction: 4-9). Weber's dissertation would eventually be expanded upon as a chapter in his first major publication, *The History of Commercial Partnerships in the Middle Ages* (HCP), published in 1889. This study is notable for its institutional detail in the evolution of general and limited partnerships as distinct legal entities for the purpose of facilitating economic activity. This work is important to review in detail because the legal analysis shapes Weber's later studies on the development of European legal systems, and it is argued here that he identifies legal frameworks themselves as key economic institutions.

As an extension of his dissertation, HCP takes the Italian city-states for its geographic emphasis because of their rich documentation of legal developments. This study is backgrounded against the claims that contemporary economic institutions emerged out of the framework of Roman law, an argument with which Weber disagrees. Rather, he argues that, given the arrangement of obligations and liability that compose the general and limited partnership, no such legal precursor can be found in the Roman legal system (Weber 2003: 58-60). Instead, he takes the three principal characteristics that define both limited and general partnerships and finds their origin in the middle age classification of the *commenda*, and from there they have diverging histories that define their growth as distinct entities. In this sense, it is not correct to think of one as an attenuated arrangement of the other, but instead they are distinct forms of economic organization that share some common principles. The three characteristics that he uses to define their operation consist of: (1) a separate fund distinct from each of the partners, (2) a joint name that business is conducted under, and (3) the arrangements of joint and solidary liability to creditors for debts taken on by the partnership, the former applying to the general and the latter to the limited. It is on the basis of the third characteristic that the two forms diverge in their arrangement of liability and debt obligations of their members (*ibid*: 74-78). However, for this paper, it is important to place the attention on the legal production of these institutional forms, rather than some of their granular legal peculiarities.

Weber reconstructs the institutional development of the *commenda* as arising to meet the challenges posed to maritime trade in the middle ages: investors (in this case, owners of large amounts of goods) in trade that faced high levels of risk in trading endeavors, and merchants who enacted those risks and acquire their revenue share through the successful facilitation of trades. These circumstances generally found their largest imperative in the commercial activities of large Mediterranean cities. The structure of the medieval *commenda* operated on the basis of one partner providing goods or investment, while another fills the role of the *tractator* that facilitates the transactions for a share in the profits. However, under the *commenda*, the risk was primarily taken on by investor-owners of goods for trade. While the *commenda* was the preferred method of operation for many years, extensions of this form could provide a basis for stable partnerships and create a growth of economic activity (Weber 2003: 63-67).

Weber finds the *commenda* as a precursor to another kind of partnership, the *Societas Maris* that developed in the laws of Genoa, Italy; this was the form that would later produce to the general partnership as it instituted a change to the *commenda* in the form of an evenly distributed risk rather than a change in profit distribution. This occurred through the establishment of a joint fund between partners, the first of Weber's outlined principal characteristics described above. Another legal form, the *Societas Tarrea*, generally concerned with inland trade unlike the *Societas Maris* above guiding maritime trade, and therefore it was less distinguished in terms of risk and profit-sharing stipulations and is thought by Weber to lead to the development of the limited partnership that geographically took place over different parts of Italy (*ibid*: 70-83). The key theme shared by both was the establishment of a separate fund, distinct from each of the partners themselves. However, it was in the construction of liability that important institutional forms come to light, which also provide the key for why such institutions could not have developed out of Roman law. In this case, it is the structure of the household itself that configure the path of their development.

Weber argues that, through the middle ages, the household functioned as a basis for a community and was not defined primarily by kinship relations as was the case in Roman law. In the latter case, the father or head of the household maintained control of that household's assets, and at best the others could only be "considered beneficiaries of a part of the revenue that derives from the household" (Weber 2003: 86). The circumstance in medieval law, on the other hand, presented a kind of 'household communism' in which all members lay claim to the assets of unit. "The lack of individual accounting is a natural characteristic of the institution of joint property. This was the basic idea... for the unconditional joint status of all acquisitions and expenditures in the course of business must have led to unwanted consequences" (*ibid*:

86-87). In the medieval-feudal type arrangement, the household was primarily considered a “community of production” rather than the conception of a “community of consumption” that prevails now. That notion of ‘community’ configures the household as a unit defined by proximity and cohabitation, not kinship or ownership (*ibid*: 88).

However, when moving away from the more rural configurations of households to the developing domain of maritime cities, commercial imperatives provided a changing set of institutions in the development of personal asset ownership and liability. As small domestic communities of artisans grew into an industry of international status, it entails a transition from small home-workshops to factory production environments. “For such types of companies, the domestic community of members could no longer be the rule, let alone the characteristic of the acquisitive community. The change in this direction was manifest as soon as home, workshop, and sales office no longer coincided naturally, as had been the case for the small artisan” (Weber 2003: 114). In the medieval household-unit configuration, there was a clear basis for joint liability as each member of the unit held claim to the total assets, but around the growing urban industries there were statutes associating the joint fund with contracts. For instance, Weber outlines 1325 statutes determining that liability for debts undertaken by partners in a *stacio*, or station, for the purposes of business transactions, shall be borne by only those members. Concurrently developing statutes in Milan and Modena across the 14th and 16th centuries outline procedures for assigning the rights and obligations to assets undertaken jointly in a business endeavor, or partnership, and how they become divided among individuals outside of the partnerships (*ibid*: 118-119).

For the purposes of this paper, the emphasis need not be on the specificity of the individual varieties of partnerships but instead is place on the double articulation of institutional forms in the shift from the governing of households to the governing of property relations. In the first articulation, there was the institution of household communism providing a basis for a joint fund liability assessed in that manner; the second articulation is the process by which those relations dissolved in the assigning of personal liability separate from the community of inhabitation, but personal liability that could engage in partnerships endeavors with ownership and liability being of this new fund for the purpose of enterprise. He summarized the co-production of these two legal forms, the business partnership on the one hand and the household on the other, and why the latter was amenable to the former, as follows:

“One cannot say that principles of ‘family law’ carried over to other forms of association. Rather, for the law of property the same basic elements existed, and this led to a parallel development of law. The relations between fellow workers were basically similar to the relations between members of the family household. The family household, in turn, found it necessary, if it also intended to be the

basis for a commercial enterprise, to set up its bookkeeping system and to represent itself toward third parties—in short: to cover all aspects relevant to the law of property—the same way a commercial company did. Thus, in both cases, the legally relevant aspects coincide” (Weber 2003: 93).

As such, the legal classifications are relevant in the distinction between the business partnership and household assets but occurring on the same ‘basic elements’ in the separation of individual assets from the communal household. In the case of this period, those involved in the ‘technical’ side of production for the firm could still be held liable for obligations to creditors, as well as the creditors responsible for the monetary contributions of other creditors. There was a separation of individual assets from households but not yet the emergence of the modern firm with more nuanced liability arrangement, as this would come about later on with these early development in commercial law as a necessary foundation. In the context of this paper, this analysis is significant for two reasons. In regard to its empirical content, this study provides an evolutionary basis for the precursor to capitalist firms in through an evolutionary institutional analysis of legal designations of funds and liability. Secondly, this study produces the components for a theoretical analysis of both economic activity and capitalist development more broadly in solid legal foundations, a site that would remain a core theme throughout Weber’s analysis of capitalist institutions later in his career. In a style characteristic of Weber, he provides a multifaceted set of institutions that exert influence on economic development, ranging from social relations within the household to the statutes regulating liability in maritime trade, all working in concert to depict an institutional set for the growth of capitalist practices.

The Weberian scholar Lutz Kaelber, who wrote the introduction to the first English edition of HCP, find traces of this work can be found in many of Weber’s later writings and argues that there is a fundamental continuity in theme throughout. In the large collection of works published under the title *Economy and Society*, references to the household as a budgetary unit, the importance of rational capital accounting, and direct references to the *commenda* can be found throughout several sections. As Weber further developed his theoretical understanding of capitalism through his lectures in the posthumously published *General Economic History*, he returned to some of the themes first discussed here, namely the distribution of risk and the distinguishment between private assets and those of a firm, both of which occur through the development of capital accounting (Kaelber 2003: 28-29; Weber 1978: 95). The significance of this theoretical emphasis can be connected to the larger project in Weber’s work that is explaining the rise of modern capitalism within his philosophy of history as a ‘rationalization’ process of society’s institutions. This extends further into the legal components of Weber’s analysis, which are connected to his theory of bureaucracy as a unique and emergent historical form of institutional organization. This legal-economic

analysis, working alongside his analysis of meaning and social action, has direct bearing on Weber's approach to monetary theory and the relations inherent to market processes.

Weber theory of the bureaucratic form is embedded within the form of legal authority that is characteristic of emerging nation-states with the European rationalization process. Bureaucracies can be briefly characterized by their separation of their officer's duties from their personal life, a set of rigid boundaries on the domain of available actions within their position, and a hierarchical organization to those positions and the procedures of activity. In his analysis, bureaucracies are not synonymous with government but rather are products of its pattern of authority, and they occur throughout governments, profit-making enterprises, churches, militaries, and political organizations. In this regard, they are a ubiquitous modern institutional form that, he argues, is "from a purely technical point of view, capable of attaining the highest degree of efficiency and is in this sense formally the most rational known means of exercising authority over human beings..." (Weber 1978: 218-223). In regard to the operation of the economy itself, it is indispensable as "its development, largely under capitalist auspices, has created an urgent need for stable, strict, intensive, and calculable administration" (*ibid*: 224). Weber would commonly juxtapose Marx's concept of the 'means of production' onto the bureaucratic system calling it the 'means of administration' to emphasize its importance as a technical institution facilitating economic function. However, he did note the implications of this form for our practical action and meaning-oriented motivations, something he would often refer to in the capacity of "substantive" aspects of an issue; in this case, such a process a process imbued with such strict calculation and concern for technical ends, as "the fate of our times is characterized by rationalization and intellectualization and, above all, by the disenchantment of the world" (Weber 1946: 155).

A further extension of the rationalization thesis into legal-economic institutions occurs in Weber's discussion of monetary theory. As he states, "from a purely technical point of view money is the most 'perfect' means of economic calculation. That is, it is formally the most rational means of orienting economic activity" (Weber 1976: 86). His understanding of the monetary system is situated in a peculiar place between the positions of Ludwig Von Mises, an Austrian economist who emphasizes a quantity theory of money, and G.F Knapp, a prominent pioneer of the state theory of money. He expresses some praise for both, calling Von Mises' monetary theory as that "which has been most acceptable" to his own mind, but also refers to G.F Knapp's *The State Theory of Money* as "the most imposing work in the field and in its way solves the formal problem brilliantly" (Weber 1978: 78). Knapp's state theory of money finds the development of monetary systems as originating from the state itself through the

imposition of obligations in a chartal means of payment, that is, one issued by the state. Weber acknowledges this theory in its important legal aspects producing the institutional structure or the monetary system, with a catch, writing that “it is true that by law and administrative action a state can today ensure the *formal* validity of a type of money as the standard in its own area of power, provided it remains itself in a position to make payments in this money... but naturally this formal power implies nothing as to the *substantive* validity of money, that is, the rate at which it will be accepted in exchange for commodities” (Weber 1976: 178, original emphasis).

The operative distinction in this critique is between the *formal* institutional structure of the monetary system and its *substantive* aspects, being the material practices or the mental disposition of people in the operation of that system, in this case the resulting system of price determination. The specific institutional contexts in which this critique plays out are in exchange rates and inflation management. Weber accepts Knapp’s assertion that in normal conditions the material used for the production of money, metallic coins versus paper notes, does not affect the ability to technically maintain foreign exchange rates, but he does doubt the ability of those in political authority, showing some influence from Von Mises. On that point, he does become skeptical of some aspects of chartalism in the context of fiat currencies and the management of inflation. He argues that metallic or physically rooted medium impose “limits on the arbitrariness of monetary policy” (Weber 1978: 186). As it pertains to “fully ‘independent’” paper money, meaning a fiat currency system, Weber expresses his skepticism towards the monetary policymakers: “If the present [1920] absolute and abnormal obstructions be ignored, there unquestionably have been and still are certain factors tending to unlimited issue of paper money. In the first place, there are the interests of those in political authority... and there are also certain private interests. Both are not of necessity primarily concerned with the maintenance of stable foreign exchange rates” (*ibid*: 186). As such, Weber appears to accept the formal logic of chartal theories of money, but remains skeptical on the ground of the substantive conditions that he argues must follow for that formal logic to be operational. Despite this idiosyncratic reservation, it is clear that Weber understands the importance of the state in facilitating and providing the framework for important economic institutions

Presented here are elements of Weber’s analysis that move beyond a purely sociological understanding of his work that emphasizes his attention to, most notably, the legal-economic institutional evolution that produced the material institutions in the development of capitalism. Rather than being considered apart from his rationalization thesis of society, this evolutionary institutional analysis works within it to highlight the broad and multi-faceted theoretical approach that Weber takes in his work. What can be drawn out of this depiction is a kit of theoretical tools for an understanding of capitalist

development as a nexus at the center of several institutional developments. There are scholars who address this dimension of Weber's oeuvre, particularly the work of Richard Swedberg, but he does so by emphasizing 'capitalism' for Weber as a set of general, profit oriented activities rather than its role as a historically contingent economic system based on these very particular developments. Swedberg (1999) argues that Weber's theoretical formulations suggest that he did not think "capitalism with a capital 'c' exists—only different forms of capitalism" (575). He correctly points out that in the text he refers to in making this argument, Weber only speaks on "the principal modes of capitalist orientation of profit-making" and is not making a comment there on some coherent historical conception of capitalism itself (Weber 1976: 164-166). Swedberg expands on this in conjunction with some other ideal typifications used by Weber in other writings to draw out varying conceptions of rational capitalism, political capitalism, and traditional capitalism. However, in that particular section of *Economy and Society*, Weber only actually uses one of those, political capitalism, and it is in regard to those who produce profit from political organizations and/or transactions with them (*ibid*: 166).

However, it is argued here that Weber is not really referring to historical 'varieties' of capitalism that existed at one point or another, and instead he merely refers to aspects of capitalism, such as the profit-motive, that have existed at other points in time. In his own lectures on the history of economic and social conditions in the years 1919-1920, detailed in the posthumously published book *General Economic History*, he states that "while capitalism of various forms is met with in all periods of history, the provision of the everyday wants by capitalistic methods is characteristic of the occident alone and even here has been the inevitable method only since the middle of the 19th century" (Weber 1961: 207-208). However, it appears to be an artifact of language that he describes it as "capitalism of various forms" as a way of describing some narrow typifications of behavior as he did in the chapter cited by Swedberg (1999). In another chapter of *Economy and Society* titled "The Meaning and Presuppositions of Modern Capitalism," he grounds his own conception of capitalism in the rationalization thesis, and, peculiarly, the most forceful aspects emphasized necessary for capitalism here is capital accounting:

"Capitalism is present wherever the industrial provision for the needs of a human group is carried out by the method of enterprise, irrespective of what need is involved. More specifically, a rational capitalistic establishment is one with capital accounting, that is, an establishment which determines its income yielding power by calculation according to the methods of modern bookkeeping and the striking of a balance" (Weber 1961: 207).

It is an interesting point that he describes the practice of bookkeeping and 'rational accounting' as among the central characteristics of capitalism. However, while rational bookkeeping as a practice is considered "the most general presupposition" for it to exist, in order for this practice to take on significance it is grounded in something of a foundation institutional set that forms a context of practices, one that could be described by a nexus of developments in the law, economy, and the state. One example is his institutional description of the development of enterprise detailed at the beginning of this section.

In his *General Economic History*, Weber describes this foundational institutional set as having six central characteristics: (1) the appropriation of all physical means of production, (2) a freedom of the market – not in reference to an ideological conception of the 'free market' but instead simply the absence of 'arbitrary limitations' upon the existence of the markets, such as those present from the church or monarchies in previous historical periods, (3) rational technology, (4) calculable law, (5) free labor, and (6) the commercialization of economic life that implies the use of "commercial instruments to represent share rights in an enterprise" (Weber 1961: 208-209). On this sixth aspect, he takes one more interesting step: "the addition of this commercialization to the other characteristics of capitalism involves intensification of the significance of another factor not yet mentioned, namely speculation" (*ibid*: 209). In this respect, Weber grounds the existence of capitalism and its implied practices as inseparable from the reoccurring financial crises that plague this form of economic organization "from the moment when property can be represented by freely negotiable paper" (*ibid*: 214).

Hopefully this survey of Weber's writing on economic institutions has faithfully recreated the aspects of his writings that have not received as much attention in his legacy, although there are still many significant writings that there is no space to draw attention to here. The goal has been to depict Weber's writing on economic issues as one that centers itself around the development of modern legal institutions. This theme runs throughout Weber's work on the origination of enterprise structure, the development of bureaucracies and monetary systems, and the conditions of the economic system itself. In several ways, if not in content then in theoretical emphasis, Weber's writing on the economic system shares many similarities to those of two prominent figures in the old American Institutionalist traditions, John Commons and Thorstein Veblen. Section 3 will briefly lay out thematic similarities between the two, and then conclude the essay.

Section 3 – Weber’s Thematic Similarities to the American Institutionalists

In some respects, Max Weber and the American Institutional Economist make for a strange pairing. For one, they differ on philosophical grounds as Weber was very much a product of the Post-Kantian German intellectual environment at the turn of the 20th century, while the American Institutional tradition follows from the Pragmatist philosophies of Dewey and Pierce. These philosophical differences produced methodological divergences that lead Weber to often emphasize cultural factors as driving development and his categorization of action through *a priori* ideal typifications. Pragmatism as an anti-cartesian philosophy, on the other hand, rejected many of these notions that it might classify as idealist (Hedoin 2009: 181-183). Despite these seemingly fundamental differences in approach, it has been made clear that Weber cannot be reduced to cultural or idealist analysis and, as a result, he produced empirical and theoretical analysis that is commensurate with aspects of the Institutionalist writings. While the two share similarities in theme, it will be argued that some differences in analytical content make them particularly interesting to read in conjunction with one another.

Specifically, John Commons and Weber share an emphasis on the role of the state and developed legal systems for facilitating capitalist development; Commons specifically is widely considered to be the founder of the subfield known as law and economics. One of his most notable works, *The Legal Foundations of Capitalism*, provides for a brief summarization of his analysis of capitalist development. In this work, he produces a framework for understanding capitalist development that directly follows from several key common law rulings that were instrumental in the establishment and then dissolution of the guild system. To briefly convey the relevant themes in this work, he constructs a developmental double articulation through which the Common Law developed to subvert the power of monarchies and, through its rulings, established a basis for early economic rights that allowed the guild system to flourish (Commons 1957: 215-220). He deemed this stage an early “Defensive Capitalism” that, while incompatible with the modern industrial variety he came to understand, was a necessary development that established the institutional set for the latter’s development. In the second articulation that led to the dissolution of those guilds, he identifies the Common Law court cases known as the Slaughterhouse Cases that marked the end of charters given to guilds and opened up economic activity along lines amenable to a language of ‘liberty’ for economic subjects and a public purpose for the state (*ibid*: 224-228). This approach signifies the clear divergence in theoretical emphasis for the period with Commons focused on the maturation of the Common Law while Weber emphasized more the specific construction of enterprise, but at their core,

both rely on legal institutions to provide the institutional basis for economic activity of the capitalist variety.

Other scholars have also noted the thematic similarities in their work, with Coutu & Kirat (2011) citing them both as founders of an “economic sociology of law” (469-471). However, while noting Weber’s analysis of law, they fail to mention its pertinence for economics and do not cite the analysis found in HCP above. However, they do offer the unique contribution of detailing the evolutionary similarities in Commons’ analysis of Common Law development out of the middle ages and Weber’s developmental stages of legal practices, a subject unfortunately too nuanced to detail here (*ibid*: 484-485). For their own project they goes as far with the congruence of analysis to advocate for their “simultaneous use... in an effort to develop the theoretical bases and methodologies of the economic sociology of law. From this point of view, the sustained attention paid by both authors to the relationship between law and economy makes their assessment not only stimulating, but also particularly fruitful” (*ibid*: 495).

In addition to sharing the legal analysis of Commons’, Weber also shares many thematic emphases as the founder of Institutional Economics, Thorstein Veblen. Hedoin (2009) has pointed out the similarities shared in the evolutionary view of the two figures in their attention to ‘rationalization’ processes in society. However, again, there is thematic similarity with divergences in content. Hedoin specifically draws out Veblen’s rationalization process in the manner of new technical processes brought out by technological development that supersede traditional habits of thought. Veblen believed that “the discipline of the machine process enforces a standardization of conduct and of knowledge in terms of quantitative precision, and inculcates a habit of apprehending and explaining facts in terms of material cause and effect” (Veblen 1904: 37). This is clearly commensurate in some way with Weber’s notion of the European rationalization process as one emphasizing the growing role calculation and ‘economic rationalism,’ but there is an interesting divergence between the two when it comes to the role of money for the development of systemic practices.

As Hedoin (2009) points out, Veblen saw the pecuniary interests of financiers of industry as disrupting the technical industrial process; it was their orientation towards financial gain that perturbs the function and growth of the “logic of the machine process” that is characteristic of what he calls the ‘machine era’ (173-175). However, for Weber, the emergence of a robust monetary system provides the basis for rational economic calculation itself. For him, it is this set of pecuniary practices that induces habits of thought, in Veblen’s language, to make the world subject to calculation and thus produces its ‘disenchantment’ that pushes aside the traditional logos of the previous historical period. Kilpinen (2004) argues that Veblen and Weber have divergent process

of rationalization as a result of the aforementioned philosophical differences between the Post-Kantian philosophy of Germany and American Pragmatism. However, Hedoin (2009) argues that despite these differences,

“it nevertheless appears that their interests and problematics are similar: the institutions and their evolution. In this regard, the comparative study of Neo-Kantian and Pragmatist principles has to be intensified, notably because these philosophies have structured numerous works that can be integrated into an "institutionalist tradition" in opposition to the mainstream's positivism” (183).

This paper ends with a similar line of argumentation, advocacy that it is the thematic similarities with differences in analysis that makes Weber a figure who should be of notable interest for those working in the institutionalist tradition. It is through the investigation of these different analyses that new productive theoretical tools can be developed and utilized for a new historical period.

In summation, the writings of Max Weber cover a broad range of subjects and he approached each one with his unique theoretical frame that brought together both formal logics and their relative practices and mental dispositions. When bringing together his empirical and theoretical work, taking the law, bureaucracy, and institutional rationalization as its main themes, an interesting account of capitalist development emerges. The analysis presented here is still incomplete, but it may at least serve as a basis upon which future investigation can be pursued in economics, particularly for those who have high regard for the legacy of American Institutional thought.

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