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# Max Rheinstein

Gerhard Casper†

Chapter Seven of Max Weber's *Economy and Society* is entitled "Sociology of Law." Its data are taken from almost anywhere and any age. Its range is formidable, its German impenetrable at times even for the German reader. My first attempt to work through it was made in a deck chair on a boat from Bremerhaven to New York. I struggled for eight days, but, on arrival in New York, had to admit defeat. A few weeks later, however, while a student at Yale, I discovered the key to Finnegan's Wake—an annotated American edition of Weber's writings on the sociology of law. In its preface the editor stated his hope to have produced an English text "which is not only accurate but also more readable than the German original." This was obviously the book I needed. It was also my first encounter with Max Rheinstein.

In the preface, Max identified himself as having had "the privilege of attending classes of Max Weber's at the University of Munich." When he undertook *Max Weber on Law in Economy and Society*, Max Rheinstein was in his fifties, a scholar of world renown. The commitment to scholarship, and the generosity and loyalty expressed in his shouldering the burden of editing, introducing, annotating, and, jointly with his distinguished Chicago colleague Edward Shils, translating Weber were typical of Max. So was the splendor of the accomplishment.

In order to make the text fully intelligible and useful, Max wrote, it had to be commented upon. "As the readers will observe, the range of Weber's knowledge was phenomenal. . . . Weber draws upon Hindu, Chinese, Islamic or primitive Polynesian law just as well as on the legal systems of Rome, England, medieval Europe, or modern Germany, America, or France. In many, if not in most cases, he hints at the phenomena referred to rather than explain them." It was Max who did the explaining for us. Who else could have? The range of Max's knowledge was equally phenomenal. And it was available to his colleagues and students, without the slightest diminution, until his death at age seventy-nine.

In the preface to *Max Weber on Law in Economy and Society*, Max also queried how the reader can know whether Weber is correct

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in all those statements which he uses as the basis of his generalizations and conclusions. "They had to be checked and their sources had to be found . . . . Not even Max Weber could be expected to be infallible, but the number of serious mistakes turned out to be unbelievably small." Max checked Weber. But even Max Rheinstein cannot be expected to be infallible. Who will check Max's sources? Only Max could.

The Max Rheinstein bibliography includes some 350 titles covering his major substantive fields—family law, decedents' estates, and the conflicts of laws—as well as comparative law and legal theory. The bibliography attests not only to the universality of his knowledge and learning about substantive law, but also to his empiricist attitude towards legal scholarship. The latter is perhaps best expressed in his recent book, *Marriage Stability, Divorce and the Law* (1972). The work is concerned with how divorce law works, or rather does not work, in industrial societies of the twentieth century. The data are drawn from various countries and include almost everything of empirical importance, from legislation and statistics to complex cultural data not amenable to quantitative analysis.

In the world of the American law school which precariously pursues both "is" and "ought," Max was committed to being, in Weber's words, a teacher, not a leader. At what happened to universities the world over in the wake of the sixties, he looked with bemusement. Teaching did not, for Max, include politics. And a splendid teacher Max was, as can be measured by the admiration, friendship, and warmth which the generations of his former students express. Max was not only an important mediator for the many foreign students at the University of Chicago Law School, but he also transformed the teaching of foreign law to American students into a disciplined enterprise of high quality and seriousness. This was accomplished in the specialized courses of the Foreign Law Program as well as by the comparative perspective he provided in such "regular" courses as Conflicts.

One of the qualities which endeared Max to students and colleagues was his intellectual curiosity. Conversations with Max were never one-way. Max's eagerness to learn from the student usually surpassed the student's eagerness to learn from Max. His attitude was one of live and let live. He was friendly to the extent of being most reluctant to say anything critical of personal acquaintances. As Andreas Heldrich, of the University of Munich, recently wrote, "When he did express some cautious skepticism concerning a colleague, we knew that that unfortunate fellow had no redeeming feature whatsoever."

Max's scholarly curiosity and appetite for life, shared, supported, and gently watched over by Lilly Rheinstein, brought him to travel all over the world. Once asked by Ken Dam what he would have done had he not become a professor, he said: "Oh, I would have been a travel agent." Max filled the somewhat empty and sterile notion of a world citizen with color and richness. He could do so easily, because he had the one quality which I suspect is indispensable for bridging cultures: Max was a patriot, or to use a German expression, "ein Lokalpatriot." The two places where Max had his moorings were Munich, his home town, and Chicago, the city which had become his refuge from the Nazis. Most of his adult years were spent at the University of Chicago. In the best of its traditions, he was a member of the university community, not just the Law School. Merely by discovering every cultural event in town and not permitting it to take place without their participation, Max and Lilly contributed to making Chicago one of the great cultural centers of the world.

To Munich the Rheinsteins returned every summer—the "Royal Bavarian Capital" where he grew up during the last decades of 750 years of Wittelsbach rule. Looking back in a vignette entitled *Royal Bavarian*, Max wrote about his years spent in "Royal Bavarian" schools: "Judging from what life required in later years of change, uncertainty, demands and troubles, that schooling cannot have been bad. . . . [W]e learned to think, logically, autonomously and critically. We became conscious of the Great Tradition, acquired a sense of history and with that, perhaps, a degree of conservatism, but conservatism of the liberal, Royal Bavarian kind . . . ." In part, Max's humanism, zest for life, and his openness to the world reflected the vitality of his home town at the beginning of the century.

Weber's "Science as a Vocation" concludes with two famous sentences: "We shall set to work and meet the 'demands of the day,' as men as well as professionally. This, however, is plain and simple, if each finds and obeys the daimon who holds the fibers of *his* life." Max met the demands and found his daimon.