Disputes over Proceduralist and Reflexive Paradigms of Law—Analysis of Habermas’s Critique of Weber’s Legal Theory

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Abstract
With the emergence and development of the modern welfare state, classical liberal conceptions of the legal norm have been undermined to a great extent. This trend has provoked a heated debate between sociologists, political scientists and legal scholars. Since publication, Max Weber’s famous discussion of antiformal tendencies in modern law, in Economy and Society, has defined the terms of the debate over welfare state law. In response to the problems resulting from the law’s materialization, G. Teubner proposes a reflexive law model. J. Habermas offers his proceduralist paradigm of law and hopes it will satisfactorily answer the debates between the liberal, social-welfare and reflexive models. This paper hopes to show that Habermas’s paradigm proves to be a creative force while raising some questions.

Key Words: formal law, deformed law, reflexive law, proceduralist paradigm, social law