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Two Theorists of Action: Ihering and Weber

Abstract: Rudolf von Ihering was the leading German philosopher of law of the nineteenth century. He was also a major source of Weber's more famous sociological definitions of action. Characteristically, Weber transformed material he found: in this case Ihering's attempt to reconcile the causal and teleological aspects of action. In Ihering's hands these become, respectively, the external and internal moments of action, or intentional thought and the factual consequences of action. For Weber they are made into epistemic aspects of action, the causal and the meaningful, each of which is essential to an account of action, but which are logically and epistemically distinct. Ihering thought purposes were the products of underlying interests, but included 'ideal' interests in this category. Weber radicalized this by expanding the category and making it historically central. This radicalization bears on rational choice theory: if ideal interests have a large historical role independent of material interests, and are not fully explicable on such grounds as 'sour grapes', the methods appropriate to the study of the transformation of ideas, meaning genealogies in the Nietzschean sense, are central to the explanation of action.

Talcott Parsons' *Structure of Social Action* contained one truth of the hedgehog sort: that modern sociological theory was a response to the failings of utilitarianism as an account of central features of 'social' action, notably norms. Parsons thought he could identify a convergence in the responses to utilitarianism, a new implicit *Organon* that his book could make explicit. James Coleman's recent *Foundations of Social Theory,* advertised as the most important contribution to the subject in fifty years, is a kind of renovated utilitarianism. These books do constitute a kind of series, and the series may be extended back to earlier texts. The question, however, is what sort of series this is: is this a series of successive intellectual advances, or is it a circle? Is rational choice theory fundamentally a return to the *status quo ante* sociology, which shows that sociology was a theoretical excursion that added nothing and may be conveniently discarded? This is a conclusion which several recent works, notably Boudon's and Bourricaud's *Dictionary of Sociology,* have come close to endorsing. One may approach it

historically: return to the situation *ante* sociology and reconsider the departure that sociology represents.

Two closely related figures in the history of social thought, Weber and the philosopher of law Rudolf von Ihering, are crucial to an answer to this question. Ihering was perhaps the most persistent pursuer of the strategy of providing accounts of social practices which interpreted them as resting on agreements between persons with distinct interests.[1] This may be said to be the generic explanatory strategy of rational choice theory with respect to social norms. In Ihering's hands, the evolution of interests was the focus of discussion. The evolution of law, and particularly legal rights, was the primary explanandum. But Ihering had a great deal to say about social practices that were not legal, for reasons that lie at the core of the issue of the adequacy of utilitarianism.

Like Jon Elster today, Ihering grasped that the devices which the utilitarians employed to explain social institutions were insufficient - that there was, in Elster's language, an "unknown residual", leftover in the reduction of norms to self-interest. Ihering's arguments stressed the "insufficiency" of standard reductions of law to interests, while at the same time arguing, much like Elster, that the most visible and important facts about social norms, and particularly legal norms and legal authority, had to be understood as outcomes of, and partial resolutions of, conflicts of interests. Elster identifies another "unknown residual" in the shaping of subjective pretenses through the mechanism of adjustment to opportunities. Ihering approached this more directly by differentiating "material" and "ideal" interests and considering the means by which novel ideal interests came into being. Weber radicalized Ihering's thoughts on this subject (Turner/Factor 1987). But at the same time he reconstructed the concept of action that Ihering had formulated. This reconstruction is crucial to the problem of the status of normative ideas, and raises broader questions about the explanation of action and the explanatory status of rationalizations of action, and also about the epistemic status of assertions about the reasons and causes of an action.

1. Basic Accounts of Action

Zweck im Recht (Law as a Means to an End) is a child of its times with respect to its starting point, the problem of cause and teleology. Ihering embraces the "law of causality", that every change in the world sense is a consequence of an antecedent change, and extends it to movements of the will. But the psychological

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[1] The modern concept of interest may be attributed to Ihering, and Ihering himself claims it. In the last volume of the first edition of his *Spirit of the Roman Law* of 1865 (Part III, Division I) he put "Interest ahead of Will as the basis of law" (liii).

antecedents to action are purposes - "no *volition,* or, which is the same thing, no *action, without purpose*" (1968, 2). The concept of action is thus defined by the psychological fact of purpose: "purpose" is a *criterion* of "action". *Purpose* requires an idea of the future, which provides the object of willing, and thus requires understanding and the "category of possibility" (1968, 3, 6). This excludes a large range of behavior, such as habitual action, and the unconscious or "purposeless" actions of the insane. Action has an "internal stage", which begins with an act of ideation or representation of a possible future state which promises the subject greater satisfaction than his present state. These thoughts are conditioned by internal and external influences, but external influences do not have "direct power" over the will - they acquire power only by being converted into motives, and what motives they are converted to depends on the measure of resistance they find in the subject, which is to say, the good or bad will (1968, 8). Possible courses are presented to the will by the facilities of ideation and desire, and the will balances the reasons and chooses (1968, 8).

Ihering's account of the stages of action resolves the problem of cause and teleology: the *internal* stage is governed by the law of purpose; the external stage by the law of causality. The internal stage ends with the "resolution, the act by which the will relieves itself of further balancing" (1968, 15). The external stage begins here: the will requires the cooperation of natural laws in this stage. The will, however, is its own source of causal force, independent of the "law of causality". No one can be directly forced to will, though the will may be affected "immediately", for example, by means of psychological pressure (1968, 17). But the will must capitulate to this pressure to be affected by it.

The "law of purpose" that governs the internal stage is a bit mysterious. Ihering wants a "law" in the sense of a parallel to the Kantian category of causality. He finds it in the idea that "an act without a purpose is just as much an impossibility as is an effect without a cause" (1968, 9). To "prove" this as a "law" he proceeds in a Kantian way. He responds to the two objections he can conceive, the first being that we *may* be compelled to act, for example, by duty or by the law, the second that actions of the insane and actions that are so habitual we "no longer think in the course of doing them" (1968, 10) are nevertheless actions. His response is to point out that the term 'because' and 'in order to' may be used interchangeably in the case of action, but *only* where the reason it connects to the action is *intelligible as reason.* His discussion of this point is slight: he gives the example of a person who said he drank "because it rained yesterday" rather than "because I am thirsty". In this case, he says, there is no visible connection between the reason assigned and the drinking (1968, 10). Acting out of duty or legal compulsion is acting with a reason, hence it is action. Acting under physical compulsion or threat is also action in the sense of "an actual act of the will and not merely the outward appearance of such" (1968, 11). The Roman jurists, he points out, established that. Habitual action is also action with a purpose, but by repetition the purposes have been bound to the act to such

an extent that "the purpose has ceased to be a consciously perceptible element of the voluntary process" (1968, 15).

Weber's *Economy and Society* opens with a definition of sociology as a science which attempts the interpretive understanding of social action in order thereby to arrive at a causal explanation of its course and effects. Action is defined as behavior which the agent attaches subjective meaning to. The terms differ, and the emphasis in Weber's formulation in this particular text is on the epistemic problems the conception creates. But the model of action is almost identical. For Ihering, actions need have no visible manifestations. Similarly for Weber, for whom purely inward passivity, acquiescence, and omission are actions (1947, 88). For Weber, action is 'social' if it takes account of the behavior of others. But even inward acts may have this quality. Thus in an ultimate sense, action is inaccessible. For Ihering the inaccessibility is ontological: the will is a cause which is not caused. For Weber it is an epistemic matter: our interest is in intentional action, but intentions are ultimately epistemically inaccessible, though we may ordinarily find grounds for attributing them to agents.

Weber's terminology differs in one obvious respect. Where Ihering speaks of purposes, Weber speaks of meaning ["gemeinter Sinn"] interchangeably with 'purpose' (1947, 93-4). One reason for this is that he wishes to make an epistemic point about understanding which holds both for propositions and for actions. But when he discusses explanatory understanding, by which he means understanding of motives, he uses meaning ["gemeinter Sinn"]. His point with respect to motives, however, is that they may be subdivided into rational and emotional, and in this respect he deviates from Ihering in a potentially significant way.

Ihering's aim was to make sense of law, to discern its underlying rationality, but to do so historically. For him, however, the fundamental problem was the transformation of egoism into law. Fundamentally he was a contractarian, who believed that an equilibrium of interests of the sort that underlies contracts underlies the law. But he also saw that interests evolved, both in the objective sense and with respect to subjective convictions about interest, that interests could be artificially created, and that judgments of self-interest could be in error. Consequently he believed in objective interests. But he conceded that subjective interests or the conviction of interest is decisive in actually or proximally bringing about agreement in wills between persons making contracts. The state was a special kind of contract in which force was justified by virtue of the fact that it was 'indispensable' to the realization of the contract. It may be noted that this form of argument vitiated Ihering's whole argument, because his reasoning here was itself legalistic, which is to say it presupposed the body of practices it was used to justify. But we need not be concerned with this flaw yet - it turns out to be much more widespread.

When Ihering discusses simplest contractual phenomena he notes the role of what he calls "business eloquence" in bringing about a conviction of interest. There is of course a legal issue here: the distinction between fraud, a bringing

about of a conviction of interest on the basis of lies, which annuls a contract, and the kind of persuasion which does not. Persuasion need not merely promote artificial interests: it may aid one in the discovery of one's self-interests. Ihering makes little of this distinction, doubtless because he thinks that the raw facts of interest so widely predominate, and the interests at issue are so numerous, that fundamental errors about self-interest are not terribly significant. One list of interests he gives includes "entertainment, distraction, pleasure, vanity, ambition, social considerations, etc." (1968, 30). He adds more: satisfying the demands of duty and security from the dread of ennui. Suffice to say that these serve to make his point about the pervasive role of "interest" in social life. The diversity of the list itself represents a *de facto* abandonment of the utilitarian idea of a felicific calculus with a single scale. But it also represents a dilution of the explanatory power of the concept of interest: interest becomes, potentially, not a fixed factor which explains diverse purposes, but a term that is the virtual equivalent of the specific purposes for which one acts.

The distinction between objective interests or purposes and subjective ones is also open to a self-undermining extension. If "interests" can be made subjectively convincing without being in accordance with objective interests, could it not be that all or all of the operative interests in a given domain are artificial in this sense? The explanatory significance of objective interests or purposes would disappear utterly in such a case. Yet Ihering gives no grounds for believing that this could not occur, or indeed was not the general condition of social life and law. Doubtless he believed that this was not a real issue, because there would be genuine (but not general) *de facto* constraints on the process of creating the conviction of interest for artificial interests that would preclude the wholesale rise of novel artificial interests. He was himself greatly concerned with the genealogy of such things as moral feelings and judicial sense, which he explained by habit-uation and the emergence of novel mutual interest in the continuation of practices or customs, such as tipping.

But this implicit constraint did not concern Weber, for reasons that are evident from Ihering's own account of the concept of interest and of the ide-ational representations of future possible states which promise greater satisfaction of interests (1968, 7). Ihering sees that these representations may involve rewards that are purely 'ideal', such as honor. Elsewhere he speaks of ideal *interests* in contrast to material interests. In a famous passage, Weber asserts that

"Not ideas, but material and ideal interests, directly govern men's conduct. Yet very frequently the 'world images' that have been created by 'ideas' have, like switchmen, determined the tracks along which action has been pushed by the dynamic of interest. 'From what' and 'for what' one wished to be redeemed and, let us not forget, 'could be' redeemed, depended upon one's image of the world." (Weber 1946, 280)

This is exactly Ihering's point. But Ihering made little of it, because to do so would undermine his contractarian account of law and legal evolution. He con-

sidered law to rest on a specific fixed interest: peace. He might have believed that "honor" was not fundamental or equivalent to self-preservation and other such familiar utilitarian motives. He may have supposed that history taught this, and that the lesson was that human motive was so composed that the causally dominant motives are pacific, the motive of honor incidental or peripheral. He may instead have supposed that "business eloquence" and its variants had its limits and that even if human nature, and human motivation, was fundamentally plastic, the means for transforming it were limited in ways which limited the kinds of transformations of motive that are possible.

In the particular succession I have identified here, between Ihering and Weber, the motivations for the change may be traced to Nietzsche's *Daybreak*. Nietzsche inverted the genealogical story in which the pacific interests were 'rational' and dominant, and turned the utilitarianism virtues into a product of a long genealogy, governed by particular transformative processes of decay and degeneration. The process is familiar to modern rational choice thinkers. The slave morality of Christianity is sour grapes on a grand scale: the beliefs facilitate necessary substitutions of satisfactions. Nietzsche also expanded the notion of transformation, treating ideals as matters of invention: in a memorable passage he writes of the factory in which ideals are fabricated.

2. The Epistemic Problem

Ihering had attempted to discern the purposes behind action, so that the actions of animals, the habitual actions, and the like, could be treated as purposive. Weber considered these imputations of purpose unwarranted, and sought some narrower, epistemically justifiable, grounds for making imputations. Thus he drew the boundaries of action more narrowly, considering habitual behavior to be on, indeed to define, the borderline of the category of action proper. At the same time, however, he insisted on the extent to which ordinary human behavior is habitual. So although the domain to which purpose applies shrinks for Weber, the shrinkage occurs largely in theory. In practice, individual purposes and meanings, may be rather freely attributed by the device of ideal-types.

To understand this, it is useful to begin with the case of a consciously intended action in which there is clear and unproblematic evidence of some sort of intention, such as a statement of intention contemporaneous with the event. The centrality of this kind of case in the law is evident, as is the fact that legal decisions must be made on the basis of imperfect approximations to this ideal: confessions, indirect evidence of intention, such as flight, and circumstantial evidence of a conduct that cannot be interpreted as innocent. These considerations are familiar to readers of the opening pages of *Economy and Society* as well.

Weber's approach is to identify three paradigms of action. One is the fully inten-
tional type, which he calls rational action. The others are not fully intentional,
and border on the domain of caused, meaningless, conduct. Habitual actions are
treated as such a borderline case. Ihering handled this case differently, by
denying that lack of a conscious intention made an act purposeless. Weber's other
polar case is conduct which is purely reactive or emotional - here again, the roots
of the distinction in legal issues of responsibility is evident.

Individual interests may be readily fit into this set of distinctions. They are
the source of conscious ends, which may be either ultimate or intermediate, that
is to say ends that are, or provide means to, other ends. But actions with clear
conscious intentions are rarities. Most conduct is habitual or causally determined
by bodily needs and the like. If one is permitted to discern hidden purposes in
these actions and quasi-actions, one can perhaps also construct chains of purposes
of a utilitarian type, and see these various actions and quasi-actions as contribut-
ing to some larger or collective purpose, or arrange them in relation to one
another in a way which exhibits them as satisfying purposes of a larger, collective
kind. One may even then identify mechanisms by which these arrangements
change and adapt to circumstances through feedback mechanisms, as Ihering did
in his account of law.

Weber blocked this kind of reasoning by a simple but disputable methodolo-
gical rule: purposes could be attributed to conduct if and only if the agent or
someone acting similarly *explicitly* adopted these purposes as values. In these
cases, the fully intentional act provided the ideal-type from which the actual
conduct of individuals deviated, by being partly habitual or partly reactive or
emotional - in short, by falling into the region between these three polar ideal-
types. This rule is a harsh check on teleological fantasies.

By applying this check, one sees that social teleological analysis and much
else besides requires one or another kind of loosening of the standards by which
intentions are attributed. Ihering loosened them in one direction. Put in modern
terms, intentional attributions are subject to a great deal of underdetermination.
For Ihering, an attribution of purposes had to be made to fit with the observable
features of conduct, of course. But this rule did not reduce the underdetermina-
tion of intentional attributions by much. So he was free to select from the possi-
ble imputable purposes by reasoning circularly, on the basis of the larger social
ends he thought he could discern in legal evolution, and attributing to agents as
their 'real' interests and motives the ones that served the larger social ends he
could observe being fulfilled.

Rational choice theory depends on loosening as well, but in practice the
loosening is even more radical. Purposes are attributed to the actions that make
up aggregated patterns of action, and this is done either without regard to the
evidence of actual individual intention or through the weak requirement of
'plausibility' of attributions. The real test for these attributions is that they
'explain' the aggregate pattern they are constructed to explain *as rational choices*

of individual agents. In itself this is a stringent test, sufficiently stringent that many patterns, such as the act of voting, appear to be beyond explanation, at least if one chooses to regard voting as instrumental, and to suppose that individuals have some sort of relatively coherent set of at least partially transitive preferences which allow for the substitution of ends.

Weber's approach is different in a decisive respect that shows its closer kinship to the law. For Weber, the problem is to match up what Ihering calls the external aspects of an action with an ideal model of an act with a particular intention. The matching process is essentially one in which the interpreter has a large set of possible types, corresponding to possible intentions, to which fit the observed features of the act. The intelligibility of the act is a matter of relations of adequacy internal to the model of the action itself. Decisions are a subcategory of intelligible action. Ideals of rational decision-making can serve in rational reconstructions of particular complex actions, such as military decision-making in battle. But actions which may be characterized by comparison to the pattern of a simple intentional act do not require such an interpretation, nor do they need to be connected to higher or more ultimate purposes unless these connections are part of the consciousness of the individuals in question. Needless to say, a transitively coherent set of ends has no role in Weber's analysis, *save where* coherent ends are part of a conscious ideal or conscious situation of choice. This is a crucial difference with respect to analyses which rest on the marginalist idea of substitution, such as the 'sour grapes' pattern of explanation. But it derives from Weber's chosen model of action explanation, which does not involve such further ends.

Weber's refusal to consider such further ends reflects his epistemic reservations about the imputation of purposes. Whether these are warranted, and what status is to be accorded his choice of a framework of action explanation, are questions that arise between Ihering and Weber as well. Weber presents his conception of sociology and of action as a set of definitions that might be found useful, as a possible mode of description that one may select over other possible descriptive frameworks. It happens that this is the one that suits our interests as historians or as human scientists, as 'chemical' descriptions do not. The concept of interest-relativity Weber uses here may itself be traced to Ihering, for it was Ihering who stressed the interest-relative character of legal descriptions, which he understood in a neo-Kantian manner as abstractions from more primary stuff, and for which there are alternative schemes of abstraction reflecting different interests. But Ihering seems to have considered his discussions of purpose and human agency to be concerned with reality prior to abstraction into the specifically abstractive mode of the law, as indeed he was forced to if he wished to give a non-circular account of the genesis and character of this mode of abstraction: the human world was for him inherently or ontologically a world of purpose. Weber is more radical in his consideration of alternatives; the non-telic world of physical science description is also an alternative. Ihering is perhaps not so different in

substance. When he says that the fundamental idea of *Zweck im Recht* is "that purpose is the creator of the entire law; that there is no legal rule which does not owe its origin to a purpose, i.e., to a practical motive" (1968, LIV), he is concerned with the human domain, as defined by the human will, and the ways this domain is formed by the law. Weber differs only in not taking 'will' as a given but as, so to speak, frame-dependent. But for the relevant purposes in the human sciences, the intentional idiom is ineliminable and irreducible for Weber as for Ihering. Juristic purposes are among the possible frame-creating purposes which pertain to this domain and to which Weber repeatedly contrasts the cognitive purposes of sociology and history (1947, 90, 101; cf. Lask 1950).

Ihering is more explicit about the ontological irreducibility of will to its causal determinants. For Weber, assertions about free will are unwarrantable metaphysical choices. But on interest-relative grounds we may simply concern ourselves with facts described intentionally, and if so our explanatory problems are already framed in terms of the formation of intentions and the consequences of intentional actions. In Ihering, in any event, the will is merely a place-holder; there is no volition without purpose, so there is no causally relevant autonomous phenomenon of will. It becomes, for Ihering, merely a name for the power to form purposes (1968, 6-7). Moreover, the question of the character of the will becomes, for Ihering, a matter of interests. He notes that the question of will is different for the jurist than for the psychologist (1968, 12-13), and remarks that the psychologist's claims are not fundamental. Emil Lask, Weber's younger contemporary, commented on these issues and identified Ihering as the originator of the approach to the philosophy of law that recognizes a "concept-forming spirit inherent in the law" (1950, 30) which governs the ascent from the pre-scientific idiom to legal description. Weber's was simply a different ascent, governed by a different concept-forming spirit or interest.

Interest-relativity at this level, however, creates more difficulties than it solves. The problem for Ihering was, in part, to justify the claims of the law in an absolute, or at least non-interest-relative, way. The utilitarians also wished to justify institutions. There was a way out of this for Weber. Gustav Radbruch, his friend and peer, treated the problem of adherence to the law as a matter of valuative choice. The ideal of adherence to the law happens to be implicated in most of the other choices ordinary people make, because most life goals require a legal order for their realization. But the choice is, in an ultimate sense, optional: Tolstoy served as his example of the Christian rejection of the law. Weber did not suppose that his analyses justified institutions or practices, and thus avoided this particular problem over relativity. Like Radbruch, he did not consider the law to be open to scientific justification, or justification from individual objective interests, as Ihering did, or indeed justification at all. Obedience, for him, was a matter of decision, of commitment to the institution as a value or for the value it serves.

What holds for justification holds also for explanation. The project of explaining institutions in terms of interest is a project motivated by the idea that interests are more substantial, fundamental, and fixed than the things they explain - institutions, norms, beliefs, and the like. The Marxian theory of superstructure is another project of this kind. Rational choice models are a less ambitious project with a partly parallel structure: there is the same explanatory asymmetry, though the favored starting point in this case is individual preferences and decisions.

To explain a subversion of rationality such as the joint alteration of preferences and beliefs - to believe the grapes are sour and choose some other good - in the face of the unattainability of some preferred end requires at least some given preferences, which are to be adjusted. Whether these preferences are taken to derive merely from contingencies, such as acculturation, or from something more basic, such as human nature, is a matter of intellectual strategy. The notion of preferences, however, forces the question of the status and nature of the preferences. If this mode of analysis is to be employed, there must be preferences to be modified. They may be 'revealed' by the decision patterns of the agent, which is to say imputed circularly as necessary conditions for the decisions, or they may be assumed to correspond to some sort of fact that is more fundamental than preferences.

'Objective interests' is one more such fundamental fact: failure to act in accordance with these interests may then be treated asymmetrically as intellectual 'error'. The concept defines an asymmetric explanatory structure in which the fixed and unproblematic character of the normal case is assumed, and only deviations from it are explained. Weber was sensitive to such explanatory asymmetries, and this was one of the reasons for his doctrine of ideal-types. He could say that conformity to the ideal-type *explained* nothing. Ideal types of intentional actions did provide the link of intelligibility which Ihering had called the law of purpose which governed the internal stage of action. But for Weber, as for Ihering, the explanations had also to be causally adequate. For Weber, this meant that any imputed intentions had to have probable causal consequences for the imputation to serve as an explanation.

In one key aspect, however, Weber's account of action introduces a new asymmetry. The affect of Ihering's and Weber's successive liberalizations of the concept of interest is to substitute for a single, fundamental explanatory asymmetry a large set of explanatory asymmetries. Each appeal to an ultimate value in an explanation of an act is an appeal to something which, in the Weberian scheme, has no further explanation. Each 'value', accordingly, is the final term in the explanations that appeal to them.

Many of Weber's successors considered this inadequate, and sought to provide alternative accounts. In general, these implicitly rejected his identification of the normative realm with those values which had explicitly been formulated and were accepted as ideals. Why did Weber himself not consider 'ultimate values' to be unsatisfactory as explanatory facts? The answer to this question is doubtless to

be found in his own practice. Although Weber did not provide a *general* theory
of values, such as Ihering's, he was nevertheless greatly concerned, as Ihering
was, with the historical development of ideals. In particular, he sought to provide
accounts of the practical consequences of ideals and the ways in which these
practical consequences affected the development of the ideals. He thought of
these as specific historical accounts, however, not as elements of a general theory
of values or value transformation.

3. Intelligibility, Invention, and Reception

It may be questioned as to whether the devices he used to account for these
changes in ideals were adequate, or whether thinking of the normative realm
solely in terms of ideals and habits is sufficient (cf. Turner/Factor 1990). But it is
evident that this model gives Weber a distinctive historical vision, definitely at
variance with Ihering's rationalistic evolutionism. Weber seldom says much
about the fabrication of ideals, but in *The Protestant Ethic,* we are given a
glimpse of the factory in which they are made. The thesis of the study depends on
the idea of the originality of the conjunction of the ideas of 'worldly callings' and
'predestination'. Predestination was then interpreted pastorally to serve as a
sanction for behavior in accordance with the worldly calling of the believer. The
dogma was ultimately habitualized over several centuries to become the distinc-
tively Protestant demeanor and attitude toward life.

Weber says little about the conditions under which such doctrines are received
and accepted or rejected. His account of charisma identifies one kind of persua-
sion, in which the persuasive force of the ideals is connected to the process by
which the charismatic leader is tested and brings success - success in terms of his
own beliefs and pronouncements - to his followers and his cause. This is not an
account of the initial persuasive power of ideals. But it is a radical extension of
the notion of "business eloquence" as it appears in Ihering, and it proceeds by
ignoring the notion that the primary basis for the success of a sales pitch is that it
reveals interests that the purchaser possessed but did not recognize. These two
changes mean that the *de facto* constraints or changes in ideals which governed
Ihering's account disappear in Weber.

Because of Weber's insistence that the normative realm consists of no more
than conscious value-choice and habitualized forms of these choices, no other
normative constraints figure in his account. So, in theory at least, the range of
contingency in the formation of preferences is wide: it is possible for people to be
persuaded of ideals of all sorts, given the right kind of leader, and there are few
if any limits enforced by 'natural' interests or preferences. Consecrated death on
the battlefield, indeed, is given as an example of an end which bestows ultimate

meaning on life. But it is difficult to reconcile this preference, which undoubtedly has motivated many persons, with any utilitarian or quasi-utilitarian account of action. To be sure, one may come to the conviction of the value of consecrated death on the battlefield through the process of substitution of beliefs and preferences Elster calls 'sour grapes'. But if the process of substitution in the realm of ideals permits such radical transformations of prior preferences, it constrains nothing and thus explains nothing. The constraints, and hence the explanation, must be found elsewhere - if there are indeed constraints at all.

Weber's account of action, Ihering's as well, allow for this lack of constraint because of the openness of the 'inner' moment in action, governed only by what Ihering calls the law of purpose. Weber is much more cautious about the absolute freedom of the will, though characteristically the caution is epistemic. Rather, Ihering says that the will is bound only by the limits of the intelligibility of reasons for actions. This is in any case not a real constraint but a constraint on the acceptability of explanations of actions called intentional. Weber accepts this constraint - it is what he means by "adequacy at the level of meaning". But he points out that "conscious motives" may well, even to the agent himself, be misleading with respect to the actual causes of the behavior in question (1947, 97). Such behavior is on one of Weber's 'borderlines' between action and causally determined behavior. The epistemic peculiarity of this case, as with other cases in Weber's classification of action, is that the category in which conduct is placed depends on the true explanation of the act. If the real cause is hidden, it will remain hidden unless no sense may be made of the behavior by matching to permissible ideal-types - the permissible ideal types being those in which, in their pure form, involve conscious intentions. Implicitly, these can serve to make sense only of unconscious aims or habitual actions in which the fact of unconsciousness of the admixture of habit can be accounted for appropriately. But accounting for them seems to require knowledge of real, non-interest relative causal facts.

Whether one considers the constraints imposed by the requirement of adequacy on the level of meaning here to be constraints on conduct or constraints on possible explanation, it is evident that little is constrained. Yet there are two kinds of considerations which this discussion reveals which might be extended, and if extended would provide constraints both on possible explanations and possible modes of behavior. The consideration of intelligibility, especially when it is relaxed to allow for deviations from the model of consciously intended action in the direction of admixtures of habit and emotional reaction, seems very weak. But it may be strengthened by a set of considerations to which Weber adverts, but which he does not elaborate.

As we have seen, Weber grasps, as any successor of Nietzsche would, that rationalizations are given for customs (1947, 123), that reasoned actions become routinized and then habitual, and more generally that historical transformations of ideas follow more or less typical patterns. But Weber does not, except in his discussions of the conditions for preserving charisma, say much about the ways

in which either the invention or reception of ideals is constrained. Yet it is
evident, and evident from his own accounts of the messages of the Hebrew
prophets, that the reception of novel ideals is constrained by the consideration of
what is intelligible to the hearer. It is also evident that the formation of ideas is
constrained by the intellectual traditions and circumstances of the innovator, by
the raw material, so to speak, available to the factory in which ideals are made.
The pragmatic aspects of the reproduction of ideals and habits, on which Weber
briefly comments in connection with Gabriel Tarde's theory of imitation, provide
yet other constraints.

Ihering's law of purpose, and Weber's more cumbersome replacement for it,
are given some substantive force through these constraints. Purposes and beliefs
do not arise and are not received randomly or merely through 'sour grapes' sub-
stitution. They are intelligible, in the full sense of being accepted as genuine
grounds for action and belief, only to persons with the appropriate training or
upbringing and within a certain historical mental horizon of choice. Put simply,
it is the constraints of tradition, a category Weber tries to reductively eliminate in
favor of habit (Turner/Factor 1990), that would put some explanatory force into
the model of action Weber constructs. The limits to our understanding of the
invention and adoption of ideas and ideals are to be found in the limitations of the
genealogical accounts we may give of them. These are 'retail constraints', in
contrast to the wholesale constraints of the theory of 'superstructure' or of the
evolution of rights. But they are constraints nevertheless.

4. Afterword

The century of sociology, the period between 1880 and 1980, saw the develop-
ment of an extraordinary set of strange doctrines devised to reconcile the collec-
tive facts of the state, law, and social institutions with the facts of intentional
action as understood pre-scientifically. Some of the most influential attempts
were renovations of the conception of intentional action itself. Others posited
collective analogues, such as Tönnies' 'social will' and Durkheim's 'collective
conscience', to individual intention. Others, like Parsons and the behaviorists,
sought to replace the intentional idiom entirely. Rational choice theory, as I have
suggested, is an attempt to relax the epistemic requirements of individual inten-
tional attributions and substitute the consideration of consistency with aggregate
patterns of action. Each of these revisions (and indeed the Kantian notion of will
itself) are attempts to revise the language of intention so that something (logical
consistency, in Kant) does the explanatory or constraining work that intentional
talk alone does not do.

These attempts are doomed to failure. The gravitational pull of the intentional idiom is such that theorizations, renovations, and replacements do not have much value beyond the special explanatory purposes for which they are constructed. In this respect, Weber was correct to specify his purposes and the limited, purpose-relative significance of the results he could achieve, and to avoid the circularity which would have been produced, for example, by an attempt to explain or justify institutions as such, which would have required a base in a concept of action which could itself be independently validated. There are no such grounds. These are only, as he saw, ungroundable interests or preferences, or else circular arguments such as Ihering's.

The question with which I began can perhaps be answered in these terms. Parsons' scheme and rational choice theories are attempts to go beyond the limitations of the intentional idiom, in the former case by replacing it with a novel descriptive vocabulary of 'orientation', in the latter by relaxing and replacing the constraints on attributing reasons for actions. They are a series in the sense that they are a series of failures. The intentional idiom resists theorization and improvement, as it prevents our abandoning it.

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