

## PIONEERS IN NORDIC SOCIOLOGY OF LAW

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**Abstract:** Sociology of Law in the Nordic countries mainly grew up in the postwar period. It was associated with the beginnings of the welfare state establishment. Those mainly to be counted as pioneers are Vilhelm Aubert (1922-1988), Per Stjernquist (1912-2005) and Agnete Weis Bentzon (1918 -). Aubert dealt with topics as conflict resolution, equality before the law and the legal profession. Stjernquist's main interest was about law as a political instrument. Weis Bentzon's main contribution is related to laying the foundation for regulation of the Greenlandic society through a survey of the customs of the people of Greenland. Finally there is reason to mention Theodor Geiger (1891-1952), although he did not play the same role for the development of the Nordic Sociology of Law as the German. Geiger argued for including social norms for the understanding of social cohesion. The article presents the work of these scholars.

**Keywords:** Sociology of law; Nordic countries; Pioneers

## PIONEIROS NA SOCIOLOGIA NÓRDICA DO DIREITO

**Resumo:** A Sociologia do Direito nos países nórdicos cresceu principalmente no período pós-guerra. Foi associado com o início do estabelecimento do estado do bem-estar social. Aqueles que são principalmente considerados como pioneiros são Vilhelm Aubert (1922-1988), Per Stjernquist (1912-2005) e Agnete Weis bentson (1918-). Aubert lidou com temas como a resolução de conflitos, a igualdade perante a lei e a profissão jurídica. O interesse principal de Stjernquist foi sobre a lei como instrumento político. A contribuição principal de Weis Bentzon está relacionada com colocar a base para a regulação da sociedade Groenlândica através de um levantamento dos costumes do povo da Groenlândia. Finalmente, há razão para mencionar Theodor Geiger (1891-1952), embora ele não exercesse o mesmo papel para o desenvolvimento da Sociologia Nórdica do Direito como a alemã. Geiger argumentou para a inclusão de normas sociais para a compreensão da coesão social. O artigo apresenta o trabalho desses estudiosos.

**Palavras-chave:** Sociologia do Direito; Países nórdicos; Pioneiros.

### 1. Introduction: Welfare state law

Sociology of Law in Scandinavia mainly grew up in the postwar period and was associated with the beginnings of the welfare state establishment. This brought with it the growth of the public sector and hence a greater and somewhat different use of legal regulation. The welfare state called for the political management of human relationships in which the law was used as a policy instrument. On the who lewas awakenedan interest in the law's role in society in relation to the growth of lawduring and afterWorld War II.

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This is clearly part of Vilhelm Aubert's (1922-1988) and Per Stjernquist's (1912-2005) writings, but also in Agnete Weis Bentzon (1918 -), although in her case it was not so much about steering of the welfare state as the pursuit of laying the foundation for regulation of the Greenlandic society through a survey of the traditions of the people of Greenland. The survey was part of the effort to build up a formalized legal system in Greenland. There is also reason to mention Theodor Geiger (1891-1952). He was interested in including the social norms for understanding social cohesion.

There are several others who early devoted them self to the Sociology of law and hereby related issues. In Denmark, Alf Ross can be mentioned even though he had a more legal philosophical approach. His legal theoretical contributions have a true sociology of law relevance, which among other things inspired Jørgen Dalberg-Larsen in his thesis from 1977, *Rets Videnskabens Om Samfundsvidenskab (Legal science as Social science)*. In Finland Edvard Westermarck, philosopher and sociologist, made studies

of the Human Marriage, published as early as 1925. Westermarck also wrote a publication on *the Origin and Development of Moral Ideas*, 1906. He did not, however, get any followers who were prepared to develop the specific sociology of law perspective. In Norway, there were some scholars contemporary of Vilhelm Aubert having a bearing on sociology of law. Torstein Eckhoff and Knut Sveri were co-authors of the classic work within sociology of law entitled, *En lovisökelyset*, (A Law in Focus, see more below) published 1952. Eckhoff remained mostly a legal scholar, although his book 1971 on *Rettferdighet ved utveksling og fordeling av verdier* (Justice in Exchange and Distribution of Values) has a true sociology of law character. Sveri went on to criminology and therefore cannot be directly counted among the pioneers of Sociology of Law.

In Sweden Folke Schmidt conducted together with Lennart Geijer (later on Minister of Justice in the Social Democratic Government) a study, *Arbetsgivare och fackföreningsledare i domarsäte: en studie i rättsbildningen på arbetsmarknaden (Employers and trade union leaders in the judgment seat: a study on the creation of legal norms on the labor market)*. Folke Schmidt also has within his labor law studies conducted an empirical study on rural workers' working hours, which was characterized by a sociology of law interest in a limited sense. The empirical material was intended to illustrate the application of law, but without the social science explanation claims. As an antithesis to these last mentioned scholars in a Swedish context the Uppsala professor Torgny Segerstedt can be described. Segerstedt was a sociologist. But his writings on norms (Segerstedt 1938 and 1956) have a clear sociology of law relevance. However Segerstedt worked primarily in a socio-psychological tradition and therefore did not contribute to the establishment of the academic subject sociology of law. The first pure sociologist of law in Sweden was Hans Klette, whose study on drunken driving legislation (Klette 1970) represents a true sociology of law research approach. Klette was (1962) among one of the founders of the RCSL, Research Committee for the Sociology of Law.

Those mainly to be counted as pioneers within Sociology of law in the Nordic countries are the scholars I initially mentioned, Aubert, Weis Bentzon and Stjernquist. Geiger is also related, although he did not play the same role for the development of the Nordic legal sociology as the German. They have all contributed to the establishment of Sociology of law as an academic discipline. I will therefore in the continued depiction of the emergence of the subject in the Nordic countries concentrate on their contribution.

In a legal science perspective, one can say that the expansion of the public sector and the govern-

ment intervention that characterizes mixed economy changed the conditions of the dominant legal dogmatic perspective. Aubert introduced the difference between the norm-rationality and purpose rationality in decision making, in which he also made reference to Max Weber's distinction between *Wertrationalität* and *Zweckrationalität*. The legal dogmatic method is based on norm-rationality and requires clear norms / rules of law, what can be called for duty norms. These are characteristics of criminal and civil regulations. However, the postwar period was overwhelmed by administrative legislation which with its forward-looking character represented purpose model or a means-end model (Hydén 2002). Law specifies the goals it seeks to achieve and further provides the means to be used for the purpose. The legal dogmatic method is not suitable for this type of legal regulation. It fits sociology of law analyzes better with its focus on empirical studies of the actual outcome of the application of law.

## 2. What questions are asked?

These differ in the various writers that we will discuss here as representatives of classic Nordic sociology of law. This is not a unified theory tradition, although there are some common characteristics of the different authors. The statement of the issues and problems referred to will therefore be addressed in the context of the review of the respective authors.

### 2.1. Theodor Geiger (1891-1952)

#### 2.1.1. Background as a lawyer and sociologist

Theodor Geiger was of German origin. He received his doctorate in law in Germany, where he worked until 1933, when he was forced to flee because of his anti-Nazi views. Geiger who long had an interest in Scandinavia, fled first to Denmark. He became in 1938 in Aarhus Denmark's first professor of sociology. He lived in Denmark until 1943 and also received Danish citizenship. When the Germans marched into Aarhus 1943 Geiger was forced to flee to Sweden, where he came in contact with the Uppsala school's legal theory. Although he was not completely loyal to these ideas he shared a strong criticism of all metaphysical assumptions. Geiger talked himself about a sociological legal realism.

Geiger was mainly a sociologist. For instance he along with Torgny Segerstedt initiated a series Nordic Studies in Sociology and he was a founder in 1949 of the International Sociological Association (ISA). But he can also be considered to belong to the forerunners of the Nordic sociology of law by the 1947 published work *Vorstudien zu einer Soziologie des Rechts*, something he never followed up. Geiger had a left orientation as manifested in the book *Klassesamfundetistøbegyden (Class Society in the casting pot*, Köbenhavn, 1948).

#### 2.1.2. How is society possible?

Geiger was interested in overall issues of how a society is possible. He argued, inter alia that the law was a special kind of social order in which the central organs of power, the state apparatus, had taken

over the task of identifying violations of norms and issue penalties for them. According to Geiger a legal system is characterized of six properties, which he also uses as ideal typical standards (Geiger 1947:168). He talks about the need for

1. differentiated and structured significant social unit (Gross-Integrat) which is territorial autonomous,
2. administered by a central power, and
3. having monopolized reactive measures with respect to both orders and enforcement, and
4. that this will be done by a judicial body that is either identical to the central government or receiving delegation to represent the central government,
5. that the reactive activity is organized and regulated by formal procedural norms in which the reaction is applied, and
6. that this should be done through a standardization of the various expressions that the reaction can take in relation to breaches of the legal norm.

Geiger's way of arguing was free of historical examples. However he indicated that a legal system that exhibits these traits are the result of a society in which reactive measures have been transferred from a not organized publicity (*Gruppenöffentlichkeit*) to a special judicial body, be it a king or a Supreme Court judge, in a quest for structuring power (Geiger 1947:158 ff, 149 ff and 348 ff). He generated ideas and concepts from formal logic that could lead to possible explanations, such as the question of the emergence of legal institutions. They Geiger said must be assumed to have been introduced by the central government as an act of its government. He also said that a norm is maintained through sanctions, partly derived from earlier social practices and partly by inherited traditions which preceded the Act (Geiger 1947:181).

Geiger emphasizes something that can be likened to the need for a separation of powers. It is important to distinguish law and give its institutions, an independent position in relation to the central power (Geiger 1947:150). Only when we have a society of this nature, we can speak of a legal system, Geiger claimed (Geiger 1947:130). He imagines thus a necessary level of institutionalization for us to be able to talk about a legal system at all. Forces must be positioned (*Positionalisierung von Macht*) as the society undergo juridification. Geiger does not develop much how he imagines that the central power is emerging. He, however, tend to see it as an exogenous phenomenon, while he talks about a possible original state of "pure balance of power", which over time developed into legitimate legal conditions in which exploitation is regulated and recognized (Geiger 1947:149 f).

## 2.2. Agnete Weis Bentzon (1918 -)

### 2.2.1. Background in the form of interest in Greenland

Agnete Weis Bentzon is also counted as one of the pioneers of Nordic sociology of law. Between 1948-1949, she went along with Verner Goldschmidt in a kind of legal expedition to Greenland. The expedition was sent to map the Greenland customary law in order to lay the foundation for a special Greenlan-

dic law, primarily in criminal matters. The idea was to align with the essential elements of the Greenland legal culture in the process of modernization as it was intended to Greenland, after all, would undergo. In this way awakened Agnete Weis Bentzon's law interest for sociology of law. She has had a great influence on the development of Greenlandic legal system, among other things as secretary for the Greenlandic legal commission 1951-87, worked as a Judge at the regional court (Grønlandslandsret) in Nuuk 1963-64 and editor of Journal for Greenland's Legal System (Tidsskrift for GrønlandsRetsvæsen) 1965-75 and again 1986-92. System (Tidsskrift for GrønlandsRetsvæsen) 1965-75 and again 1986-92.

The Greenland study had clear legal anthropological traits, something she continued shown interest in over the years. Agnete Weis Bentzon interested mainly in the Greenland Procedure Code and in family and inheritance matters. 1968 she published the book *The Economic Administration of the Family and Property Rights in the West Greenlandic Society (Familiensøkonomiske Administration ogejendelenestil-hørsforholdi de västgrönländskesamfund)*. This presented the contents of the Greenland customary law on family life area while she pointed out where there was a need for deviations in the Greenlandic legislation in comparison with the Danish legislation. This book was 1969 defended for Dr. Juris in Norway. She thus became the first Danish woman dr. jur. She was also the first female lawyer in Denmark who became professor when she in 1974 was appointed professor at Roskilde University in social science with special focus on Sociology of Law. 1979 Agnete Weis Bentzon issued a book, *Law and Reforms*, which was based on a broad survey of the development of procedural law areas in Greenland from 1948 onwards. Agnete Weis Bentzon held service in Roskilde to 1988.

In 1950'erne she was inspired by lawyers and sociologists from the Nordic Summer University, including famous scholars such as Vilhelm Aubert, Torstein Eckhoff and Nils Christie, and since the development of women's law in the 1970's she has been part of this Nordic research environment. On an international level she has been a part of the academic milieu of Law and Society, Critical Legal Studies, Folklore and Legal Pluralism. From 1989 onwards - after retirement – an essential part of her research was geared towards African law in connection with the implementation of a series of missions for aid agencies, Danida and Norad. This resulted inter alia in the book *Habits and Bad Habits: are habits blocking development in Africa? (Sædvaner or uvaner: hindrar sedvana utvikling i Afrika)*, which came out at the Center for Development Research 1997.

### 2.2.2. Women's rights and legal culture

After her retirement as a 70-year-old she became enrolled at the Law faculty, Copenhagen University. Already at her work within Mothers help in 1950-58 she had received interest for women's rights, especially mother's social rights or lack of social rights. This is something that she has resumed after retirement by working with women's rights in a development perspective in the Third World. She came as a result of this interest also to engage in the concept of legal culture and what it means for law enforcement. Here you can refer to two anthologies about Legal Cultures (Weis Bentzon, Byrial, Koch, 2002 and Weis Bentzon & Odgaard 1997).

Agnete Weis Bentzon argues that law should not be seen as norms and principles independent from their social context (Odgaard 1999). She treats the theme of the relation between rights and duties in the

formal law and in the living law. Here Weis Bentzon follows up her interest and experiences from the earlier Greenlandic studies. She uses examples from Tanzania and Greenland showing that the introduction of legal transplants from the Western world has been contra-productive resulting in dissolution of fundamental values associated in local culture by paying attention to individual interests instead of Collective. Bentzon also discusses the problem of how individual and collective rights and duties are defined in the interplay between formal and informal law in a specific social context.

### 2.2.3. Peace Model versus Conflict Model

Examples that Weis Bentzon conveys is the difference between conflict resolution under customary principles and such carried on in Western legal systems. The former is according to Weis Bentzon forward-looking and take into account the consequences of the decision. This model is also called for peace model in that it seeks to restore peace among the disputants. The aim is to maintain a long-term functional society. Conflict solution is done with respect to the entire collective interests. The Western model is conflict-oriented. It is the specific conflict to be resolved. They are therefore retrospective and rule-oriented. This model, based on formal legal certainty, classifies legal facts in relation to definite rules about what is proven. The outcome of this decision is made on the basis of pre-determined rules and within the framework of what these rules provide for on a general level.

In the Western model, one can say that the conflict resolution has the aim of solving the acute conflict by formal legal reasoning, while the original conflict or conflict cause remains. Weis Bentzon also notes that the forward-looking, collective peace model presupposes a society that is limited and where everyone knows each other and where people are dependent on common resources. The backward-looking model built on the ideas of predictability becomes important in societies that are large scale and differentiated where people are anonymous and where social cohesion is threatened by conflicting interests, which must be dealt with in a different way.

## 2.3. Vilhelm Aubert (1922-1988)

### 2.3.1. Background: lawyer and sociologist

Vilhelm Aubert began his academic studies by studying law. After a law degree in 1946, he spent two years in the U.S., where he studied social sciences. Back in Norway, he was one of the initiators of the Norwegian Institute for Social Research, together with other known social scientists such as Arne Næss and Stein Rokkan. Aubert became professor of sociology of law at the Law Faculty in Oslo between 1963 and 1971. During this time, he made important contributions to the development of Sociology of law through publications such as *Similarity and Law* (Lighetogrett) (1963), *Sociology of law* (1968) and *The Social Functions of Law* (Rettenns sosiale funksjon) (1976). 1971 Aubert turned to the professorship in sociology, and the sociology of law professorship was taken over by Thomas Mathiesen, another important figure in the Nordic Sociology of Law. Aubert maintained professorship in sociology from 1971 until his death 1988. At the end of his career, Aubert returned to the issues of Sociology of law. He wrote a manuscript *Continuity and Development in Law and Society*, published posthumous in 1989 after completion of

his colleague, Torstein Eckhoff.

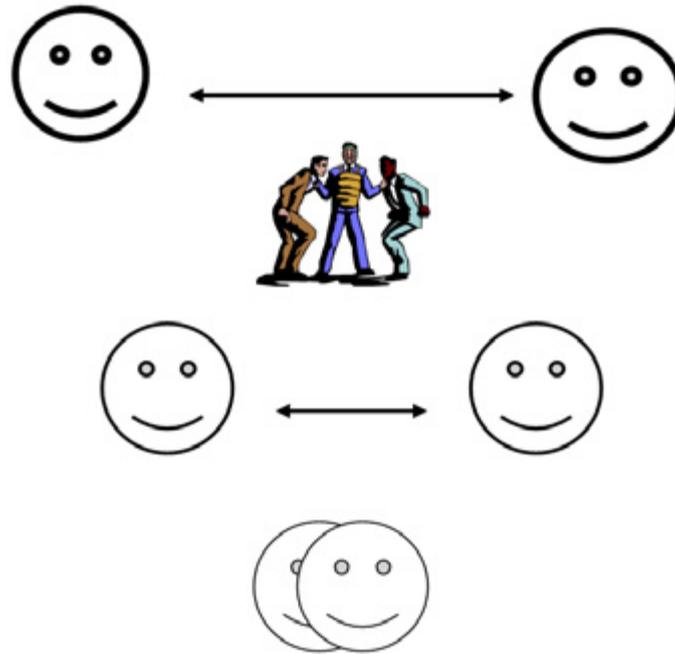
Aubert developed an early interest in sociology and especially with a focus on social psychology. As a manifestation of this, he wrote the book *Social interaction* issued 1966. But long before that, in 1952, he along with Torstein Eckhoff and Knut Sveri, made himself famous by the book *A Law in Focus* (En lovisökelyset) which was about the Norwegian housemaid Act. I'm going to – of all the Sociology of Law relevant areas Vilhelm Aubert has dealt with in his writing – comment on three, namely, conflict resolution, equality before the law and the legal profession.

### 2.3.2. Conflict Resolution

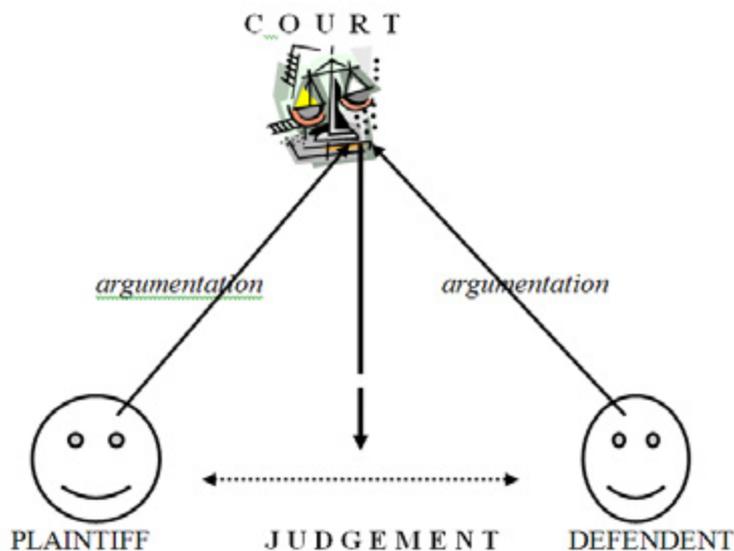
Aubert was interested, like Agnete Weis Bentzon, in conflict resolution. He among other things developed an interest in comparing science and jurisprudence. But he did also some important categorizations of conflicts and conflict solving strategies. With respect to different types of conflicts Aubert made a distinction between value-and interest conflicts.

These exhibit different characteristics. Value conflicts are about disagreement on how things should be valued, while interest conflicts are related to a shortage situation. Two or more persons, Aubert explains (Aubert 1976:171), want the same thing and this thing doesn't exist in unlimited amount which give rise to conflicts. What one gets has consequences for what the other or the others could get. Thus it reminds of a zero sum game, that what one wins the other lose. The sum of profit and loss is always Zero. In the interest conflict there is no disagreement about the value of the conflict matter. Quite the opposite, it is the shared evaluation of the value that leads to the conflict.

In the case of legal dispute resolution Aubert makes a distinction between conflict resolution in pair and in threesome. Here is a fundamental difference. Conciliation is a form of conflict resolution in pairs. This means that the parties themselves should try to get along. The advantage of this form of conflict resolution is that it is consensus-oriented. Each of the parties involved have to make efforts in order to seek a solution. This means that their discussion aimed at a rapprochement between their conflicting positions. The closer they get, the greater the possibility of a settlement. There are certainly some thresholds to be crossed. Once this has occurred remains so little of the original conflict that a solution is possible. Here we can see parallels to what Agnete Weis Bentzon above was talking about in terms of peace model. Mediation Institute, which uses a third party to get the parties to agree, has the same characteristics. See the following figure:



This model could be contrasted against judicial model. In this model, the Court is placed in the middle between the two parties. The role of the court is to get both parties' arguments. The result is that each side has reason to push their case as far as possible, i.e. putting forward everything that might speak to the party's favor. The argumentation thus leads to the parties diverge. This model leads to a situation where the parties are going farther and farther apart. If you are looking at it from the Court's point of view, one can claim the contrary, namely that each party seems to begin by presenting the arguments that strongest support their own position, which means that they are as far apart as possible. When the arguments run shorter, perhaps the parties come closer each other's view, but the original argumentation is still there with unabated strength. The Court model is thus conflict oriented and believes that a case to be solved is best illustrated if the parties are given space to enjoy complete freedom to develop their arguments. Thus, one can say that when a case has reached the courts, we have reached a point in the conflict resolution of no return. A third party, the court must in such cases step in and resolve the conflict. The court model appears graphically as the following figure:



### 2.3.3. Equality before the law.

An important theme in both sociology of law and criminology which Aubert at an early stage touched upon was the issue of equality before the law. He was particularly interested in the methodological considerations and objections that may be in the context. He said that it is not enough, as in many studies, to produce putative causes of disparities in sentencing. It must be proved, and this is where the law and science have the same requirements, albeit with different terminology. If similar cases are treated differently, says Aubert, the result can be related to various “natural” explanations, such that (1) the same case, after all, is not equal considering all legally relevant factors, (2) the diversity of the assessment can be seen as an occasional spread around a norm, and (3) there is a systematic influence of the factors that has no legal status, so-called extra judicial factors. This type of possible explanations must first be checked before starting to speculate about inequality before the law.

Given these possible objections Aubert says that there is reason to investigate variations between judges. Aubert refers to several studies in the United States about how the Supreme Court’s members have voted in controversial cases, for instance about civil rights. These studies have been able to demonstrate a relationship between political views and how judges have voted. It is clear, because the judges are appointed politically in the United States, that judges gather in two opposing camps, a conservative and a liberal block. Aubert concludes in this part as follows: It is clear that “(t)he study of the variations in the judgments by courts give an insight in the exchange of views that takes place in the intersection between the social system and the legal system”<sup>2</sup>. Aubert’s own interest in this problem was related to the question of how class and status-related conditions affect equality before the law. There will be a further complicating factor, says Aubert, that these differences are already embedded in legal structures. Aubert undertook a study on the criminal enforcement in connection with theft (burglary). After holding a number of intervening factors constant in the survey, Aubert stated that there was a statistically significant association between social background and the punishment imposed. There was also a big difference in terms of acquittals between social extremes categories.

### 2.3.4. The legal profession.

Finally, regarding Vilhelm Aubert, I want to mention his studies of the legal profession. It belongs to a default theme in more or less all introductory books in Sociology of Law. Still, not much research has been conducted on the subject, with the exception of Vilhelm Aubert. He spends one part of the book (IV) in his book *The Social Functions of Law* to the legal profession and the public administration. Aubert treats the historical development and can confirm that recruitment to the legal profession has always been done from the upper class, but that it originally existed two layers of lawyers, those who could and worked in Latin and those who had a more local connection. During the latter part of the 1800s, emphasizes Aubert, the legal profession dominated the Norwegian society. They were everywhere, in the parliament and government and public administration. Industry and business performed strongly during this time. The lawyers have been called midwives of the industrialization. The central role played by the legal profession in the large-scale industrialization initial stage can be seen in the light of the changing trust structure needed. The peasant society was founded on trust between people in close relationships, whereas the industrial

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<sup>2</sup> Ibid., s 238

society required a completely new trust structure that was able to create trust even in relationships that are impersonal and where people do not know each other. This became an important task for the law and its ideals of predictability and stability. As for the recruitment can be noted that within the legal profession, there is a high degree of auto-recruitment, i.e. those who set out a legal career tend to have one or two parents who are lawyers. It is also clear that from 1960 onwards, the proportion of women has increased gradually.

## 2.4. Per Stjernquist(1912-2005)

### 2.4.1. Background: Lawyer with interest in living law.

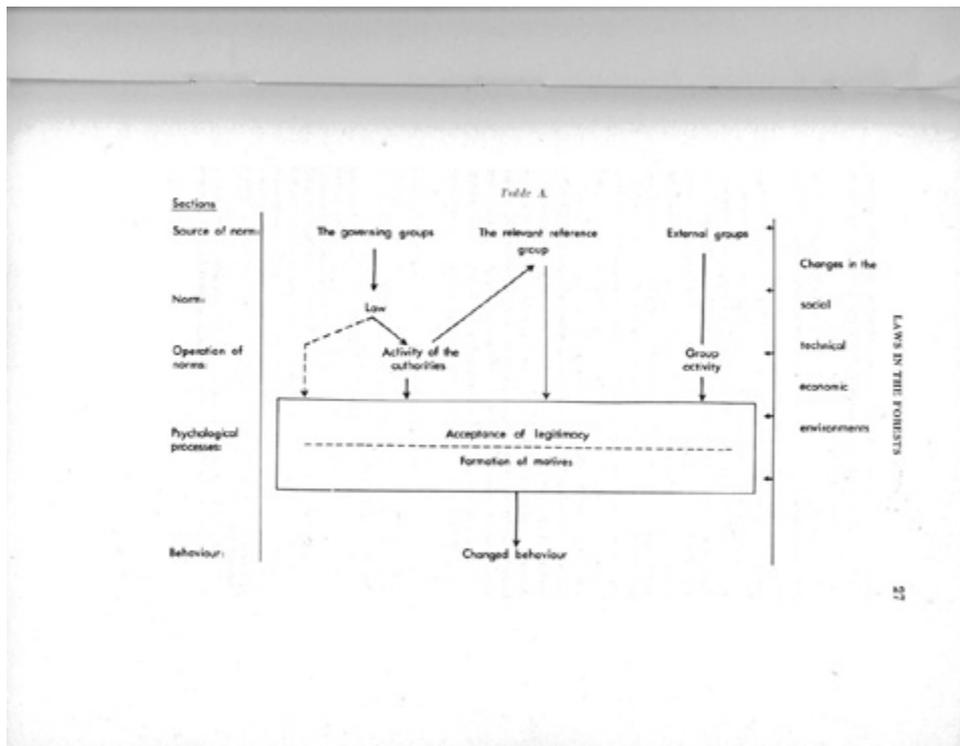
Per Stjernquist was originally professor of civil law at Lund University. He had an interest in land and natural resource issues. He was Vice-Chancellor of Lund University in the turbulent years around the 1968. He was known for his radical views and eventually broke free from the law faculty and formed the subject sociology of law in the second half of the 1960s. 1972, Sociology of Law was assigned status of separate subject with its own department at social science faculty, Lund University, something that is unique to the topic in an international perspective.

Stjernquist developed an early interest in political science the or yin the parts that contributed to the understanding of legal and political steering. Here one can refer to an article in Political Science magazine in 1952 called “Societal development and legal science field of work,” which was his inaugural lecture as professor of civil law. Stjernquist was inspired by Eugen Ehrlich’s work on “living law” but he took on the realization of the difference between a rule, modeled after doctrines and concepts, and on the other hand, how it is transformed in to the cultural environment in which it is used. In this way, he opened the door to acritically-oriented legal research, where the legal researcher’s task is not merely to legitimize the rule sin a traditional legal dogmatic way, but also to develop a science of legal rules and practical effects.

### 2.4.2. Legal advocacy processes.

Eventually Stjernquist become more and more interested in sociological theory with a bearing on the influence processes, how human behavior can be influenced. In his research he identified factors that together with the law affect people’s behavior. It led him to look for indications and ways to measure the various influencing factors that come into play. Stjernquist was interested in the study of the effects of laws and engaged in a kind of operational sociology of law. In an article published in 1963 featured Stjernquist a scientific model of how the law affects the changes in social behavior<sup>3</sup>. The model had evolved gradually since his first research approaches in the 1940 sand can be described as ground breaking for both sociology of law and implementation research. It was published again ten years later in what became his most famous book, *Laws in the Forest*, which became a Magnum Opus for him. The book came out 1973. The model is central to the understanding of Stjernquist’s interest in sociology of law.

<sup>3</sup> How are changes in social behavior developed by means of legislation?, iFestskrift till F Castberg, 1963



Stjernquist discern five different levels relevant to study for understanding the factors that influence the laws effects. The starting point is (1) the study of the extent to which behavior has changed/affected by the law addressees. Then Stjernquist claims that as scientist one must search for relevant influencing factors. These, he talks about in terms of norms. Important is then to study the (2) source of the norms which apply in the relevant field, and (3) the characteristics of these norms, and (4) how they operate. Lastly, Stjernquist means that there is reason to analyze (5) the psychological processes of the recipients, the law addressees, which occur sin the form of acceptance and the formation of motives.

#### 2.4.3. What influences individuals' motives?

Stjernquist believed that the formation of the individual's design must be affected by methods which can be reduced to four main types. He talks about 1) Try to actualize latent goal of the governed, such to persuade the individuals to understand what is useful to the min the long term, 2) Try to convince people that the new behavior better meet their overall needs, 3) Reward the new behavior by example financial aid or relief, 4) Punish the old behavior in one way or another.

The conclusion from Stjernquist's own study, which included the implementation of forestry legislation during the 1900s until 1960, was that the law it self had not had any direct guiding effect. It was rather activities from authorities, forestry boards, which had effects on forest owners' behavior. The law could thus be said to have had an indirect effect in that it legitimized for try person nell'actions. Stjernquist was one of the first to high light twit him implementation research there curing dilemma of supervisory personnel are expected to be have as both inspect or sand advisers, a choice between a harder more police line versus a softer line that bases its legitimacy on the supervisory staff assume the expert role. In Stjernquist's own study had been successful implementation by forestry staff preferably worked for the softer

line. Although the legislation program for better forest management were not accepted as such by forest owners, legal requirements by forestry personnel working in the field were accepted when they do not rely on or threatened with legal sanctions. The end result was thus that the land owners motives had changed and thus their behavior.

The actor-oriented approach Stjernquist represents in the understanding of laws impact is a matter of psychological processes. Competing views are explained in terms of other groups' social norms. This approach can in a social science perspective be complemented with an analysis of to the law and the legal steering competing norms at a macro level. The legal regulation does not take place in a normative vacuum. Recent research suggests that forest owners for this reason cannot be regarded as a uniform category (Appelstrand 2007). They represent interests that are influenced by different general norms, something that must be considered in the legal implementation process (Gunningham and Grabosky 2009).

### 3. Perspectives

#### 3.1. The evolution of the tradition of legal governance.

Sociology of Law has continued to have an interest in legal implementation, which also led to an interest in categorizations of different legal governance models and what characterizes them. Here you can see Phillip Nonet and Philip Selznick's discussion of responsive law and Gunther Teubner's concept of reflexive law (Nonet & Selznick 1978 and Teubner 1983). In both cases legal developments considered to have undergone stages of formal/autonomous law to substantive/material law and then switch to something Nonet-Selznick called for responsive law and Teubner labeled reflexive law. These concepts have been used extensively in Nordic sociology of law over the years (e.g. Dalberg Larsen 1983 and Hydén 1984).

#### 3.2. The Pioneers and their followers

Geiger had the ambition to follow up-which he regarded as preliminary-theoretical analyzes in the book *Vorstudien* with historical and empirical studies, including a book about class justice. But he was never given the opportunity to do so. After his death, Geiger had a greater influence on German sociology of law than Nordic. Here Heinrich Popitz and his school (Erhard Blankenburg, Gerd Spittler and Hubert-Treiber) can be mentioned<sup>4</sup>. Agnete Weis Bentzon has had many followers in the women's legal studies especially in a third world context (e.g. Hellum 1999). Vilhelm Aubert is the one who did the sociology of law known in Scandinavia. His broad and extensive writing has inspired the emergence of the discipline in Scandinavia. Per Stjernquist's most significant scientific contribution is the idea that the explanation of human behavior is related to the understanding of people's motives for their actions. Stjernquist argues for this approach in relation to the understanding of the implementation of law but it is equally valid in all social science fields.

Each of the pioneers has from a legal background moved towards sociology and social science. Both Aubert as Geiger ended their career as a professor of sociology. The common denominator that character-

<sup>4</sup> *Die Normative Konstruktion von Gesellschaft* (1980), Tuebingen: J.C.B. Mohr now published in *Allgemeine Soziologische Theorie*, (2011), (eds.) Jochen Dreher and Andreas Göttlich, Konstanz: Konstanz University Press

izes the development of the Nordic sociology of law pioneers is an outsider's perspective on law and legal phenomena. This would in itself take different forms depending on the knowledge of interest. Theodor Geiger was the one in this perspective who raised fundamental questions about what would normally be regarded as having a legal philosophical focus about what constitutes a legal system and what conditions a legal system is based on, but Geiger did it with a social science / sociological knowledge interest. Aubert, like Geiger had a sociological interest, focused on another important component for the legal system, the legal profession. Who became lawyers and what characterize these people? The issues of equality before the law and conflict resolution in general compared to legal conflict resolution are natural interest issues in an external perspective. Agnete Weis Bentzon showed interest by the Greenland study for the foundations of law (substratum), i.e the relationship between legal and social norms through custom. She was also interested in the role of law to the situation of women, resulting in the development of legal science in general. Per Stjernquist had a more pragmatic knowledge interest which manifested in his interest in legal steering. His overall knowledge interest was about how law as a political instrument could be made more efficient and accurate.

The Nordic pioneers in Sociology of law were not alone in developing an interest in the issues mentioned. Parallel and seemingly without interaction - even if cross-references occur - grew similar sociology of law issues, theories and methods in other parts of the world. In Europe, references can be made to the sociology of law that developed in Poland by Adam Podgorecki's works in Sociology of law (see e.g. Podgorecki 1973 and 1974) and in Italy by Renato Treves groundbreaking sociology of law writings (1968, 1977 and 1987). In both cases, a lively sociology of law developed in the wake of these pioneers. It seemed to have been influences between early sociology of law in Poland and Italy, while the Nordic sociology of law has largely developed in more isolation.

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