SOCIOMETRY OF LAW IN SCANDINAVIA*

by

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I. Introduction. Studies and research in the field of sociology of law. Legal theories which have either hampered or fostered the development of sociology of law.

The works referred to in this article are in many ways dissimilar. Some of them deal with problems that have been raised within legal theory, concerning for instance the enforcement of the social consequences of certain rules of law, their aim being to contribute to the solution of these problems through the application of interview surveys or other research techniques developed in the social sciences. Others have sociological or psychological theory as their frame of reference. They look at legal institutions from the point of view of detached observers of certain types of human activity. This makes for great differences both in the design of research programmes and in the interpretation of data. There is, however, no clear line of demarcation between the two approaches. Much of the research has been done by scholars who have been trained both in law and in the social sciences, and who are more or less engaged in both these worlds of thought.

The expression rettssosiologi ("sociology of law") has in the last 20 years come into use as a common denominator of these different kinds of work. It will be used in the same broad sense in this article, covering quantitative fact-finding related to legal theories as well as sociological and psychological research in legal institutions.

Crimes and other types of deviant behaviour have for a long time attracted the interest of social scientist. Eilert Sundt (1817–1875),¹ the pioneer of sociology and social statistics in Norway, devoted himself to the study of gypsies and other vagrants. He made numerous journeys in different parts of the country, collecting data on the way of life of these


¹ See Martin S. Allwood, Eilert Sundt, Oslo 1957.
people. Sundt paid much attention to their miserable social conditions, their crimes and immoral behaviour. He also made studies concerning drunkenness and immorality among the peasant population. Sundt's work was not, however, restricted to criminological problems, but covered much broader areas of social life.

In the course of the twentieth century, criminology has acquired the status of a separate science in all the Scandinavian countries, and considerable research has been done, and is still being done, in this field. The concepts "criminology" and "sociology of law" overlap to a great extent, when the latter expression is used in the broad sense indicated above. Criminological research will, however, be only briefly considered in this paper, the aim of which is to comment on the existing tendencies to extend the contact between law and social science to other fields than that of crime.1

It is only in the last 10–15 years that these tendencies have manifested themselves in an amount of research worth mentioning. But the ground was already prepared, as a result of changes in the attitudes towards law and legal reasoning that had emerged earlier.

Around the turn of the century, legal positivism had a firm foothold in all the Scandinavian countries. Great emphasis was laid on the formation of concepts and general principles. Deductions from such concepts and principles played an important role in legal reasoning. In this century there has been a marked reaction against positivism and conceptual jurisprudence. Among the earliest opponents can be mentioned Viggo Bentzon in Denmark and Fredrik Stang in Norway, both of whom have had a substantial influence on the later development of legal thinking in these countries. The most vigorous attack on the older schools of thought, came, however, from the Uppsala school of philosophy in Sweden. Under the leadership of brilliant scholars like Axel Hägerström, Vilhelm Lundstedt and Karl Olivecrona, the Uppsala

1 Historical and anthropological studies dealing with ancient law and primitive law have also been kept outside the framework of the present survey. This limitation is rather arbitrary, as many works in these fields – for instance the historical studies of Axel Hägerström, Karl Olivecrona, Svend Ranulf and C. W. Westrup, and the studies of E. A. Virtanen and others on Lapp and Karelian legal customs – are highly relevant to problems discussed in this paper.


3 See Olivecrona, op. cit. The most comprehensive account in English of Lundstedt's ideas is to be found in the posthumous work Legal Thinking Revised, Stockholm 1956.

4 Olivecrona's principal work in English is Law as Fact, Copenhagen and London 1939. See also his comments on the theories of Petrozhitsky, Sorokin and Timasheff in "Is a Sociological Explanation of Law possible?," Theoria Vol. XIV 1948.