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User-friendly Legal Science

A New Scientific Discipline

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Preface

Legal science can and should comply with the customary requirements as to scientificity. The fact that the doctrinal study of law is not a science has increased the popularity of the interdisciplinary approach and law-and-something disciplines. They rely on the theory arsenal of non-legal disciplines. One may ask whether there is an alternative that could make legal science stronger in the competition for scientific hegemony.

The purpose of this book is to define a new legal discipline as an alternative to law-and-something disciplines and the traditional interdisciplinary approach. Its point of view is how users can use legal tools and practices to reach their objectives in different contexts. We call this new discipline User-Friendly Legal Science.

User-Friendly Legal Science is a qualitative science. It is anchored in theories on scientificity, scientific theory building and scientific methods customarily used in social sciences. Its goal is interpretive understanding. It can use abduction and grounded theory. It can also be regarded as a design science that produces constructions. These concepts are common knowledge in qualitative research. The use of such tested standard parts makes it easier to develop User-Friendly Legal Science and increase its overall usability. However, User-Friendly Legal Science itself is designed as a legal discipline.

The framework of User-Friendly Legal Science can help to upgrade many existing legal areas into scientific disciplines in legal research and education.

Since this approach is new, a detailed account of the theory and methods of User-Friendly Legal Science might seem premature. But perhaps a book at this stage of the development of the discipline shows that there is an alternative.

Vaasa, Finland — Petri Mäntysaari

Contents

Chapter 1
Introduction

> If it becomes desirable to formulate any cognition as science, it will be necessary first to determine accurately those peculiar features which no other science has in common with it, constituting its characteristics; otherwise the boundaries of all sciences become confused, and none of them can be treated thoroughly according to its nature. (*Immanuel Kant*)[1]

> It is obvious that no matter how complete the theory may be, a middle term is required between theory and practice, providing a link and a transition from one to the other ... There are, for example, doctors or lawyers who did well during their schooling but who do not know how to act when asked to give advice. (*Immanuel Kant*)[2]

> Now the true and lawful goal of the sciences is none other than this: that human life be endowed with new discoveries and powers. (*Sir Francis Bacon*)[3]

Legal science is dominated by four broad approaches. The first was the doctrinal study of law. It has its roots in antiquity and uses legal rhetoric as its main method. The doctrinal study of law lacks scientificity and is secondary to the whims of politics, as was famously pointed out by Julius von Kirchmann in 1848.[4] The second approach was to combine the internal point of view[5] of legal dogmatics with an interdisciplinary approach. It was introduced around 1814 when Friedrich Carl von Savigny interpreted legal norms on the basis of a historical framework.[6] The third approach combines the interdisciplinary approach with an external point of view. This approach emerged after the founding of sociology by Max Weber and

[1] Kant I (1783), § 1.

[2] Kant I (1793), p. 61.

[3] Bacon F (1620), book I, aphorism 81: "Meta autem scientiarum vera et legitima non alia est, quam ut dotetur vita humana noviis inventis et copiis."

[4] von Kirchmann J (1848), p. 23: "As science takes the arbitrary as its object, it becomes arbitrary itself; three corrective words from the legislator, and entire libraries turn into maculature."

[5] Hart HLA (1961/ 2012), pp. 88–90.

[6] von Savigny FC (1814).

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others. Sociology provided a way to study law as the field of a non-legal discipline. In 1913, Eugen Ehrlich was the first to define the principles of the sociology of law.[7] This led to the development of a broad range of law-and-something disciplines in the twentieth century. The fourth approach is comparative. Comparative law started to flourish in continental Europe in the 1920s. While both the sociology of law and comparative law chose an external point of view, they had different knowledge interests and primary sources, and comparative law was not an interdisciplinary approach as such.

In the twenty-first century, much of normal legal science still has not exceeded the threshold of scientificity. First, the doctrinal study of law is unable to comply with the basic principles of scientific research. Since laws are a way to address conflicting interests and the outcome of political processes,[8] doctrinal research is just as political as it was when criticised by von Kirchmann, and the use of legal rhetoric, its core method, depends on subjective values and preferences.[9] Legal dogmatics lacks both statements that can be true or false[10] and scientific theory building. Second, if combined with the internal point of view, the interdisciplinary approach adds a new pool of arguments that might be perceived as legitimate without curing the fundamental problems of legal dogmatics as such. The new arguments could be historical, like the arguments used by Friedrich Carl von Savigny[11]; originate in economics, as they often do in modern legal science[12]; or have their roots in other scientific disciplines. Third, the law-and-something approach with its external point of view does not turn legal science into an independent science. In this case, law is regarded as a mere field of other scientific disciplines just as it was for Eugen Ehrlich and Max Weber. Fourth, while comparative law has scientific ambitions, its scope is limited to the comparison of sets of legal norms.

Due to the lack of scientificity, normal legal science is unable to prevail in the competition for scientific hegemony. 'It takes a theory to beat a theory',[13] but normal legal science has failed to produce theories about society outside the legal system.[14] Normal legal science has little to contribute to the scientific discourse of other disciplines. Legal science should have the means to compete with other

[7]Ehrlich E (1913), pp. 382–383.

[8]Heck P (1914); Stigler GJ (1971).

[9]For legal rhetoric, see White JB (2002), p. 1399; Perelman C (1977); Gast W (2015). For the effect of psychological types, see Novak M (2014).

[10]von Kirchmann J (1848); von Jhering R (1858); Larenz K (1966), p. 11; Ulen TS (2002).

[11]History was defined as the frame of reference even in von Jhering R (1858), pp. 75–76: "Denn die Geschichte selber ist, wie Hegel gesagt hat, das Weltgericht; die Sünden der Väter strafen sich an den Kindern, und wer in der Geschichte suchen will, was gut und böse, der wird es erkennen können an dem Segen, der auch hier auf der guten, und dem Fluch, der auf der bösen Tat ruht." Hegel GWF (1820/1821), § 343: "Die Geschichte des Geistes ist seine Tat, denn er ist nur, was er tut . . ."

[12]See already Holmes OW (1897).

[13]Kuhn TS (1970).

[14]For the problematic relationship between legal theory and practice, see, for example, Posner RA (2002), p. 1316; Jestaedt M (2006).

scientific disciplines on an equal footing and challenge them. There is too much one-way traffic[15] and too little two-way traffic.

If legal science does not produce useful scientific theories about societal reality, legal scholars and lawmakers feel forced to turn to other social sciences, such as sociology or economics, for guidance. This is certainly one of the factors that explain the increasing popularity of the interdisciplinary approach.[16] Unfortunately, the widespread use of the theories of other disciplines can result in a downward spiral that makes it even more difficult to upgrade legal science into an independent science. In the US, legal science is in the process of being marginalised as the scientific discipline of law professors.[17]

The lack of scientificity is not the only problem. Normal legal science is less useful than legal science could be even for two other reasons.

First, the doctrinal study of law, the core of normal legal science, does not seem to be able to do its job properly. Legal theory has failed to provide a sufficient basis for the rational interpretation and systematisation of legal norms, and the absence of useful theory building makes it more difficult to cope with the current problems of fragmentation of law,[18] legal pluralism and over-regulation. These problems seem to be connected. If legal norms are the only tool you know, you will end up with more regulation than society can bear.[19] Over-regulation is likely to increase the fragmentation of law and legal pluralism.

Second, normal legal science fails to serve the knowledge interests of the vast majority of people. While it is characteristic of normal legal science to focus on legal norms, most people are not interested in legal norms as such. Normal people have their own objectives and use legal things to reach them.

The root and cause of these ills seems to be the fact that normal legal science is too much limited to the study of legal norms. This is a problem for legal scholars as well, as was made clear by Julius von Kirchmann. The shorter the life span of legal norms, the weaker incentives there are to allocate time and effort to high-quality research about such an 'arbitrary object', and the stronger incentives there are to do short-term and well-paid advisory work. At the same time, there are stronger incentives to quit the study of useful legal norms and flee to the interdisciplinary approach or abstract theorising.[20]

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[15]Goodhart CAE (1997).

[16]See Grundmann S, Micklitz HW, Renner M (eds) (2015); van Gestel R, Micklitz HW, Rubin EL (eds) (2016).

[17]Holmes OW (1897), p. 469; Posner RA (2002), p. 1317; LoPucki LM (2016), pp. 506 and 538.

[18]Sieber U (2010), p. 171.

[19]Maslow AH (1966), p. 15: "I suppose it is tempting, if the only tool you have is a hammer, to treat everything as if it were a nail." See also Hayek FA (1944); Glendon MA (1991); Epstein RA (1992); Teubner G (2012). For an alternative to mandatory law, see, for example, Thaler RH, Sunstein CR (2008).

[20]See Posner RA (2002), pp. 1315 and 1323.

What all this means is that you need an alternative to legal dogmatics, the interdisciplinary approach and law-and-something disciplines. Moreover, you should preferably focus on something else than legal norms.

The purpose of this short book is to study legal phenomena from the user's perspective and build a new platform for legal science. We call it User-Friendly Legal Science.[21] Like other scientific disciplines, it has its own theoretical base. It has its core assumptions, its own field, its own research interests that one can call its orientation or point of view, its own methods and ambitions of conceptual rigour. Other disciplines have their own core assumptions, fields, points of view and methods.[22]

The core assumption of this new discipline is that people use legal tools and practices to reach their objectives[23] and that one can describe societal reality through the lens of the use of legal tools and practices evidenced in legal texts.[24]

The point of view of User-Friendly Legal Science is how users can use legal tools and practices to reach their objectives in different contexts. One can build theories to describe this kind of user behaviour.

The overall goal of User-Friendly Legal Science is interpretive understanding (Verstehen)[25] combined with problem solving (constructive research, design knowledge).[26] It represents the pragmatical school of thought.

User-Friendly Legal Science chooses a holistic research approach. By describing patterns,[27] the holistic approach can facilitate better understanding of complex societal phenomena such as the use of law and legal tools for the purpose of reaching private or societal goals. The holistic approach means that User-Friendly Legal Science is an area of qualitative research.[28]

User-Friendly Legal Science is thus a fundamentally new approach to the study of law. If accepted by the scientific community, the four previous approaches—the traditional doctrinal study of law, the interdisciplinary approach with an internal point of view, the interdisciplinary approach with an external point of view and comparative law—can be complemented by User-Friendly Legal Science in the future.

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[21] Mäntysaari P (2013).

[22] See, for example, Iggers GG (1988) on the paradigm of historical science. For the need to choose new reference points, see Latour B (2013) pp. 29–30.

[23] White JB (2002), p. 1397: "You learn the law in order to use it – in order to achieve a set of objectives, to establish and maintain a set of relations, to move yourself and others in a direction you wish to go, even to discover that direction." For examples of legal "framing devices" and "referencing devices", see Malloy RP (2004), pp. 6–8.

[24] Wittgenstein L (1953), § 1 and § 43.

[25] For sociology, see Weber M (1922). For other examples of the use of an interpretive approach in law, see Malloy RP (2004), pp. 56–57 and Grundmann S, Micklitz HW, Renner M (eds) (2015), p. 3.

[26] Simon HA (1967), pp. 14–15; van Aken JE (2004).

[27] For the pattern model of explanation, see Kaplan A (1964).

[28] In qualitative research, it is customary to use grounded theory. See Glaser BG, Strauss AL (1967), p. 18.

We can now turn to the benefits of theory building. Theory building can bring benefits in any discipline.[29] The choice of the point of view of User-Friendly Legal Science for legal theory building and research is no exception.

The theories of this new discipline seem to fill a gap as the 'middle term' between law and practice.[30] Generally, 'nothing is so practical as a good theory',[31] but some good theories are more practical than others.[32] As there is an immediate link between theory and practice in this new discipline, good user-friendly theories are useful for practitioners and predict behaviour to some extent.[33] They can predict behaviour because what is perceived as rational behaviour can work as a social norm. There is a social norm to want certain things in certain contexts and to do useful things to reach such objectives.[34]

Regulating society is a form of practice in the broad sense. User-friendly theories can help to see legal regulation and legal norms in a new light. It can be easier to assess the functions and quality of legal regulation and legal norms if the framework exists outside the normative system.[35]

We can list the societal and discipline-specific benefits of the new discipline. User-friendly theory building can make it possible to

- increase the relevance of legal science for a very large number of users of legal tools and practices[36];
- expand the area of legal science;
- build falsifiable theories that help to elevate legal science to a science;
- describe societal reality in the language of law and legal science[37];

[29]See, for example, Glaser BG, Strauss AL (1967), p. 3.

[30]Kant I (1793), p. 61: ". . . a middle term is required between theory and practice . . ." Edwards HT (1992–1993), p. 34: "While the schools are moving toward pure theory, the (law) firms are moving toward pure commerce, and the middle ground – ethical practice – has been deserted by both."

[31]Lewin K (1945), p. 129.

[32]van Aken JE (2004), p. 220.

[33]For economics, see Friedman M (1953), p. 15.

[34]Hydén H (2011), p. 122: "To put it in a nutshell, how does one get from 'is' to 'ought'? . . . Within the system under investigation, there is an in-built, taken for granted rationality that decides what is right and what is wrong." According to what is known as Hume's guillotine, it is not obvious how one can coherently move from descriptive statements to prescriptive ones. Hume D (1739), book III, part I, section I.

[35]Banakar R (2006), p. 78: "I argue, therefore, that legal scholars can break new grounds once they turn outwards, for only if they step outside law, they can view their undertaking in different, and perhaps new, lights."

[36]See also Hart HLA (1961/ 2012), p. 40 on the "puzzled man"; White JB (2002), p. 1397; Banakar R, Travers M (2005b), p. 134.

[37]For example, legal concepts can be regarded as "ideal-types" that can be made subject to an empirical investigation. Weber M (1949), p. 43 (a translation of Weber M 1913). For legal history, see Lobban M (2012), paragraph 29: "One of the tasks of the legal historian speaking to a wider historical audience is to remind them that the language which lawyers and legal officials use, and the operation of their institutions play a crucial part in the governance of society and in structuring private relations." For the traditional view, however, see Ross A (1958), p. 34.

- identify practical syllogisms that influence societal relationships[38];
- use legal science as a complement to economic sciences, sociology and other social sciences and as an alternative or better way to describe society;
- make legal science stronger in the battle for scientific hegemony[39];
- facilitate innovation[40];
- develop new areas of law that are functional and less path dependent than the traditional areas of law;
- improve the quality of regulation by giving information about the typical intentions of parties and the effect of different legal tools and practices[41];
- reduce the need for regulation as parties can be educated to use legal tools and practices themselves (self-regulation instead of regulation);
- improve the quality of the interpretation of norms and contracts by giving information about the parties' typical intentions in the relevant contexts and about the effect of different legal tools and practices[42];
- address the problem of legal pluralism by studying all relevant legal aspects from a well-defined user perspective (Sect. 3.4.3)[43];
- improve the scientificity of comparative law by providing a scientific way to study the functions of law;
- improve the quality of legal advice[44];
- increase the development of low-cost legal services for the public (by identifying the typical objectives of a particular classes of users in particular contexts and by describing how the objectives can be reached by legal tools and practices);
- create a more practice-ready curriculum[45];
- increase the shelf life of legal research; and

[38]von Wright GH (1971), p. 96. See, for example, Kusch N (2003), p. 350.

[39]Ross A (1958), pp. 331 and 328; Bourdieu P (1975), p. 19; Simon HA (1967), p. 15. Basedow J (2014): "What is often denounced as a wave of neo-liberalism that has flooded the world has in reality ensued from a mix of economic, political and comparative legal investigations."

[40]For innovation and the constructive approach, see Kasanen E, Lukka K, Siitonen A (1993), p. 246.

[41]Compare Ross A (1958), p. 334 on legal politics as a science: "... the principle of purity of science requires, that every political directive shall name the objectives and attitudes which are accepted as hypothetical premises guiding the theoretical researches and the practical conclusions ..." Critically on Ross' science Dalberg-Larsen J (2005), p. 47.

[42]Grundmann S, Micklitz HW, Renner M (eds) (2015), p. 4: "Von der Übersetzungsleistung der Rechtstheorie kann die Rechtsdogmatik profitieren: Sie kann sich mit Hilfe der Rechtstheorie ein genaueres Bild der gesellschaftlichen Kontexte Machen, in denen Rechtsregeln wirken."

[43]Dagan H (2011), p. xviii: "For legal realists, the profound and inescapable reason for doctrinal indeterminacy is the availability of multiple and potentially applicable doctrinal sources." Berman HJ (1983), p. 11: "The conventional concept of law as a body of rules derived from statutes and court decisions ... is wholly inadequate to support a study of a transnational legal culture."

[44]For management accounting theory, see Kasanen E, Lukka K, Siitonen A (1993), p. 252: "Truly functioning constructions have great commercial value."

[45]Dewey J (1938), Chapter 1; Saurama E, Julkunen I (2012), p. 61: "What Dewey wanted to do was to restore the value of the needs of practical life in the field of knowledge formation; although practice is uncertain, chaotic and volatile, it is nevertheless the reality within which people have to

- improve researchers' incentives to focus on legal research that fulfils the customary scientific requirements.

This leads us to methods. Theory and methods go hand in hand.[46] User-Friendly Legal Science has its own disciplinary requirements as regards methods. For example, its methods must reflect its point of view, and its primary sources must consist of the documentation of legal tools and practices.

Although User-friendly Legal Science has its own disciplinary requirements, the starting point is that one can use the customary methods of social sciences. This is necessary in order to ensure scientificity. Moreover, since User-Friendly Legal Science is a form of qualitative practice research, its methods can be influenced by the methods of other disciplines. The rich literature on the methodology of practice research is mainly interdisciplinary and can be shared by many different areas of social sciences.

This means that User-Friendly Legal Science can to some extent be eclectic in the use of theory and methods.[47] Eclecticism can be regarded as a good thing because it serves the pursuit of truth.[48]

While User-Friendly Legal Science is partly designed as a reaction to problems caused by the interdisciplinary approach (in addition to the lack of scientificity of doctrinal research), one can see that other social sciences play an important role in this new discipline as well. What is new is that the new point of view can lead to a more structured, rational and critical use of the theories of other social sciences.

User-Friendly Legal Science seems to be necessary. The use of legal tools and practices to reach private and societal objectives is a very large and important phenomenon that is part of everyday life. Studying it is a worthwhile research task in its own right. It does not really matter whether User-Friendly Legal Science is regarded as an example of the 'internal or external' view,[49] the study of 'law in action',[50] the study of 'the norms of law' or primarily the study of things that are not perceived as 'law'. It means primarily the study of behaviour. It does not matter whether user-friendly research fits in what is perceived as 'jurisprudential analysis', 'doctrinal study of law', 'sociology of law', 'legal politics' or something else. It is designed as a new legal discipline with its own point of view. Neither does it matter whether it is regarded as a 'true science' or 'a false science'.[51] This is of course provided that its ambitions are truly scientific and that it can comply with the

solve the problems they face." See also Simon HA (1967), p. 15 (on the organisational problem of professional schools); van Aken JE (2004), p. 219 (management research and business schools).

[46]See, for example, Banakar R, Travers M (2005a), p. 19.

[47]For interpretive management accounting research, see Elharidy AM, Nicholson B, Scapens RW (2008), p. 142. For legal history, see Duss V (2012), p. 989.

[48]See also Kaplan A (1964), § 1, p. 3.

[49]Hart HLA (1961/2012), pp. 88–90.

[50]Alf Ross divided the science of law into, first, legal dogmatics or jurisprudence that studies legal norms and, second, the sociology of law that studies law in action. See Ross A (1958), § 4; Dalberg-Larsen J (2005), p. 41.

[51]Bourdieu P (1975), pp. 38–39.

customary scientific requirements. The use of legal tools and practices to reach private and societal objectives should be studied because it makes sense to study what people do and help them in their lives.

Chapters 2–5 set out the general principles of User-Friendly Legal Science. Chapter 2 places User-Friendly Legal Science on the map of sciences by describing the nature of its theory building. Chapter 3 focuses on the choice of the research question, theories and methods. The choice of the research question is connected to the intended use of findings. The use of findings is discussed in Chap. 4. One of the ways to use findings is system building. Since system building is important for any science, it is discussed in Chap. 5.

Chapters 6–8 place User-Friendly Legal Science on the map of legal science. Chapter 6 discusses certain earlier attempts to make legal science more empirical. It explains how this new discipline differs from the earlier attempts and where its boundaries lie. In other words, Chap. 6 tells you what User-Friendly Legal Science is not. Chapter 7 focuses on anomalies[52] and applications. It provides examples of certain anomalies of normal legal science that could also be regarded as applications of the user perspective and redefined as disciplines of User-Friendly Legal Science. They include legal rhetoric, international law and commercial law. Moreover, Chap. 7 shows how several traditional legal disciplines could be upgraded into disciplines of User-Friendly Legal Science. In other words, Chap. 7 tells you what User-Friendly Legal Science might become. There is a summary of conclusions in Chap. 8.

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[52] Kuhn TS (1970), Chapter 6.

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Chapter 2
Core Concepts and Theory Building

2.1 General Remarks

In this book, User-Friendly Legal Science is defined as a scientific discipline. A scientific discipline has its own field, its own point of view (that is, research interests or orientation) and its own methods. Moreover, it has its own theories defining its characteristics. While theory building is free (Popper),[1] building theories is mandatory. The researcher should know how theories are generated (Glaser and Strauss)[2] and build the necessary theories. Theory building is not rocket science,[3] but you cannot build meaningful scientific theories without understanding their nature and function in scientific research.

Notions of Scientific Theories. All scientific research is theory based. The most important task of scientific disciplines is to produce new knowledge in the form of theories. Scientific theories describe external reality. There are different notions of scientific theories because there are different approaches to science. The most important approaches for our purposes include positivism, falsificationism and interpretive understanding. They will briefly be described below. One can say that a theory is a notion about why something is as it is (a cause-and-effect relationship) or how something is as it is (understanding).[4] A scientific theory (or model) must possess certain crucial characteristics.[5]

[1] Popper K (2005), number 30.

[2] Glaser BG, Strauss AL (1967), pp. 26–27 and 30.

[3] *Ibid*, p. viii: "Not everyone can be equally skilled at discovering theory, but neither do they need to be a genius to generate useful theory."

[4] For theory as a prognosis, see Popper K (2005) number 85. One can define even other goals for scientific research. Ronkainen S, Suikkanen A, Kunnari M (2014), p 98.

[5] For the assumptions crucial to the status of a model in financial research, see Ryan B, Scapens RW, Theobald M (1992), pp. 22–23.

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Generally, the different phases of the development of social sciences—the decline of positivism (logical empiricism) and the rise of qualitative and narrative research (understanding)—have equipped researchers with different methodological approaches and enabled them to design various kinds of useful scientific theories and disciplines.[6]

Positivism. Well-known early positivists include Sir Francis Bacon and David Hume (empiricism). In sociology, one can name August Comte (scientific sociology), Émile Durkheim (social facts), Paul Lazarsfeld (empirical sociology, mathematical sociology, multivariate analysis) and Robert K. Merton (middle-range theorising).[7] They are relevant as benchmarks for the purposes of this book.

Positivism looks to natural science for inspiration. For example, Durkheim argued that social facts can be studied as things by copying the methods of natural science.[8]

In practice, the forming and testing of hypotheses plays a big role in positivist research.[9] A hypothesis customarily is formed on the basis of existing theory. The hypothesis is then tested with data especially collected for the test.[10]

The purpose of middle-range theory was to integrate theory and empirical research. It was designed as a better alternative to both abstract theorising and too narrow empiricism that did not lead to successful theory building.

Falsificationism. Traditional positivism was criticised by Karl Popper,[11] who argued that scientific theories must be falsifiable. For example, statements that require value preferences are neither falsifiable nor scientific. Scientific theories can therefore be formed, applied, tested or falsified.

The conflict between positivism and falsificationism can be illustrated with neoclassical economics or 'mainstream economics'. Neoclassical economics is inspired by the positivism of natural science.[12] It has its own point of view. It rests on three assumptions: people are rational, individuals maximise utility and firms maximise profits, and people act independently on the basis of full and relevant information.[13] However, neoclassical economics has problems with falsifiability. First, although falsifiability is regarded as the defining characteristic of scientific theory, the confirmation of hypotheses seems to play a bigger role in

[6]Saurama E, Julkunen I (2012), p. 60.

[7]Merton RK (1968). See Boudon R (1991).

[8]Durkheim É (1894).

[9]Friedman M (1953), p. 7: "The ultimate goal of a positive science is the development of 'theory' or 'hypothesis' that yields valid and meaningful … predictions about phenomena not yet observed." National Academy of Sciences, National Academy of Engineering, Institute of Medicine (1992), 2 Scientific Principles and Research Practices, pp. 36–39.

[10]Ragin CC (1994), pp. 14 and 25.

[11]Popper K (2005), number 4.

[12]See Friedman M (1953), p. 4.

[13]Weintraub ER (2002); Ryan B, Scapens RW, Theobald M (1992), p. 27.

economics.[14] Second, neoclassical economics does not explain individual behaviour.[15] Third, some general theories are related to values and impossible to falsify.[16] Fourth, some theories can have normative and prescriptive elements.[17]

Interpretive Understanding. The problem of the positivistic approach is that it produces plenty of small facts and is rather unable to explain complex societal phenomena.[18]

An alternative to positivism is phenomenology. In sociology, Max Weber assumed that the most appropriate way to gain knowledge about the social world is through interpretive understanding (Verstehen).[19] Traditional positivism is often replaced by a holistic research approach and interpretative understanding in disciplines that describe complex societal phenomena (see Sect. 2.4).

Disciplinary Cultures in Science. In addition to different notions of scientific theories, there are different disciplinary cultures in science. According to Tony Becher, the disciplinary cultures are connected to differences relating to the subject matter and knowledge form of research.[20]

Becher distinguishes between four kinds of disciplinary areas: (1) the hard-pure (natural sciences such as physics), (2) the soft-pure (humanities and social sciences such as history and anthropology), (3) the hard-applied (science-based professions such as clinical medicine or engineering) and (4) the soft-applied disciplinary areas (social professions such as education). In soft-applied disciplinary areas, knowledge is holistic and results in understanding or interpretation.

The existence of different kinds of disciplinary areas reflects the difference between two kinds of scientific ideals. Gerard Radnitzky distinguishes between the logical-empiricist and the hermeneutic-dialectic schools of contemporary 'metascience' (that is, philosophy of science).[21] (a) It is characteristic of logical empiricism to reduce scientific research to what is quantifiable according to the principles of the unity of science (see Sect. 6.1). Its notion of causality is the same as in classical physics.[22] However, the reduction of reality to what is quantifiable means that there is an inherent conflict between logical-empiricist research and

[14]Posner RA (1990), p. 363. See also Friedman M (1953), p. 9: "Factual evidence can never 'prove' a hypothesis; it can only fail to disprove it, which is what we generally mean when we say, somewhat inexactly, that the hypothesis has been 'confirmed' by experience."

[15]See Ryan B, Scapens RW, Theobald M (1992), p. 58. According to Friedman M (1953), it does not matter.

[16]See, for example, Siems MM (2008); Boland LA (2003).

[17]For the agency theory, see Ryan B, Scapens RW, Theobald M (1992), pp. 54–55.

[18]Berglund L, Ney A (2015), p. 154.

[19]Weber M (1922).

[20]Becher T (1994); Auranen O (2014), p. 66. Svein Kyvik suggests that cognitive and social differences among disciplines have implications for publication practices. Kyvik S (1991); Auranen O (2014), p. 67.

[21]Radnitzky G (1970).

[22]Bohr N (1948).