

Jürgen von Kempfski as Philosopher of Law and Economics

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This paper is an exercise in the history of thought, and a contribution to the philosophy and methodology of law and economics.

The paper's main objective is a historical and rational reconstruction of some of the work of Jürgen von Kempfski (1910, Osnabrück – 1998, Berlin), a German lawyer and philosopher of social sciences who, starting from the 1950s laid the foundations of a possible version of "law and economics."

Jürgen von Kempfski studied philosophy, economics, mathematics and law at the universities of Freiburg and Berlin from 1930 to 1935. Then he worked as a freelance writer and from 1939 to 1945 he was consultant for international law at the German Institute for Foreign Policy Research. From 1945 as an independent scholar and from 1947 editor of the *Archiv für Philosophie* he joined the post-war intellectual life of (West)Germany. He wrote his PhD in 1951 in Frankfurt under Theodor W. Adorno on Charles Sanders Peirce and American Pragmatism. Published in 1952, this was the first systematic engagement with Peirce in the German philosophical community. But Kempfski then moved in different directions.

He has never gained a full-time academic job. After various teaching assignments and guest professorships, from 1961 he was Honorary Professor of Philosophy of Law and Social Philosophy at the University of Münster and from 1973 to 1988 Honorary Professor of Philosophy at the Ruhr University Bochum. In his last decade, living in Berlin, he remained active in publishing.

His collected papers were published in three volumes by Suhrkamp in 1991. There is much in those volumes that reflect his erudition and wide-ranging interests in the history of philosophy, social theory, law and politics; but not all are relevant for this project.

My rational reconstruction focuses on a selection of those papers, mostly in the second volume on "Law and Politics; Studies towards the unity of the social sciences", together with some more recent ones that were not collected, as well some unpublished writings.

As for the latter, I will rely on some material at the University of Bochum where his papers are held. In 1977-79, with funding from the Volkswagen Foundation, Kempfski started working on explicitly combining his contributions to economics and to legal theory. As far as I could establish this work has remained unfinished – probably because his request for the extension of funding was not successful.

Based on what we have and we can reconstruct, my main claim is that Kempfski's work can be read as a possible approach to the philosophical and methodological foundations of Law and Economics and can still be relevant for those interested in this line of research.

Kempfski's main interest was in developing a “structural” theory of law but, alongside this, he worked on the foundations of economics and social sciences in general. Based on various methods of formal logic he developed a form of analytical sociology (Hedstrom – Berman 2009), including a theory of action, and on this basis he aimed to integrate mainstream economics and a formal theory of (mostly private) law which he later developed into a “structural” theory, focusing on the type of relations represented by private law and their systemic interconnectedness.

Most of Kempfski’s work is written in German, and with reference to authors who are outside the mainstream or are in disparate fields and also remained outside the emerging Law and Economics discourse in Germany (Maurer 2025) - although his work also had some influence on the critical rationalist Hans Albert and others (see e.g. Albert 2012).

In a way this paper provides a substantive introduction for English speaking scholars to Kempfski’s thoughts on the philosophical and methodological foundations of law and economics (separately), but also on how a possible Law and Economics (as a joint interdisciplinary endeavour) would have looked like and, whether and in what ways Kempfski’s work can still be relevant. (A possible related idea is to publish a selection of those papers in English translation, with a substantive introduction.)

References

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