

Aulis Aarnio

* 14.5.1937 † 28.9.2023



Professor Emeritus of Civil Law Aulis Aarnio died on 28 September 2023 in Kangasala, at the age of 86. He was born in Kymi on 14 May 1937. Aarnio was elected a member of the Finnish Academy of Science and Letters in 1975.

Aulis Aarnio earned a Bachelor of Laws degree from the University of Helsinki in 1961, followed by a Licentiate of Laws degree in 1963. He defended his doctoral thesis *Perillisen oikeusasemasta* (“On the legal status of an heir”) in 1967. He was appointed Professor Extraordinary in 1970 and Professor of Civil Law in 1972 at the Faculty of Law, University of Helsinki. Aarnio’s doctoral thesis aimed to provide a systematic review of the status of an heir as the owner of an estate. It was theoretically modelled on the work of Simo Zitting, the supervisor of Aarnio’s licentiate and doctoral theses, concerning the rights and obligations of an owner, change of ownership and the question of determining the time of ownership transfer. This tied young Aarnio closely to analytical civil law and steered him early on towards the analysis and critical assessment of the linguistic conditions of estate law.

Aarnio’s second publication, a respite work, as was the practice of the day, or a so-

called qualifying monograph, was entitled *Kysymyksiä testamenttioikeuden alalta. Tutkimus eräistä oikeudellisen käsitteenmuodostuksen peruspiirteistä* (“Questions on the law of wills. A study on certain fundamental characteristics of legal concept formulation” 1969). The work was exceptional compared to normative legal dogmatics. Aarnio wished to contest the idea of legal concepts as accurate and definitive solutions to questions of interpretation. The theoretical background of the study lies in the works of Alf Ross, H. L. A. Hart, Kaarle Makkonen, Ludwig Wittgenstein and Georg Henrik von Wright. This study was linked to Aarnio’s 1971 work *Oikeudellisen ajattelun perusteista* (“On the bases of legal thinking”), which launched Aarnio’s career as a legal theorist.

Aarnio considered his third monograph uneven, but he attributed this to the research perspective. His idea was to show where the bridge lies between so-called analytical legal theory and the philosophical approach known as the ordinary language philosophy. The common thread in the work was the dominant role of moral judgement in legal argumentation. Aarnio had systematically tried to bridge the gap to reach the philosophers. Academician G.

H. von Wright had read the manuscript of the study and encouraged young Aarnio to publish it. Aarnio's collaboration with philosophers begun early, which is no doubt one of the reasons why his legal theory was so closely connected to various approaches in philosophy and the social sciences. As a scholar, Aarnio was very much both a legal philosopher and a legal theorist.

Aarnio's publications in legal theory continued in 1975 with *Laki, teko ja tavoite* ("Law, act and goal"). Its basic theory was highly Wrightian. The work relied on G. H. von Wright's classics *Norm and Action* and *Explanation and Understanding*. This work did not yet raise him to the podium of legal theory, but Aarnio was persistent. In 1977, he published *On Legal Reasoning*. This was an extensive synthesis of his legal thinking up until then, and the work was clearly meant to serve as his calling card in the international debate on legal theory. It also worked as such. Aarnio had established extremely close ties with Polish legal theorists. The most important among them was Jerzy Wróblewski. Wróblewski had already introduced the international community to Professor Kaarle Makkonen, whose doctoral thesis *Zur Problematik der juristischen Entscheidung* (1965) remains one of the most brilliant pieces of Finnish legal theory to this day. An even closer partner was Alexander Peczenik who had emigrated to Sweden and remained Aarnio's close colleague for decades.

Aarnio's significance in Finnish legal research was also essentially tied to his role as an educator for researchers. As a young professor, Aarnio gathered a wide circle of students (who later became friends) around him to share not only his personal academic vision on the research of legal

dogmatics and the theory of law, but also his belief in the significance of research. "Aarnio's circle" was exceptional in legal science in that it would later go on to produce a number of professors, scholars and practical experts in legal affairs in different fields. First-generation members of the circle were just under a decade younger than their mentor (Ahti Saarenpää, Heikki E. S. Mattila, Matti Mikkola, Rauno Halttunen). The second group, fifteen years younger than Aarnio, included Urpo Kangas and Markku Helin who would later become professors in the same field, and civil law specialists Thomas Wilhelmsson and Juha Pöyhönen (later Karhu). Chronologically, the last members joined the circle in the 1980s and 1990s (Niilo Jääskinen, Pekka Timonen, Pertti Välimäki, Raimo Siltala). The circle was never exclusive, but anyone interested in common themes was welcome to take part in the discussion. Consensus was not a requirement, but different ways of thinking and approaching topics were appreciated. In this way, Aarnio's legal thinking has lived on in Finnish legal research and in the instruction of legal science for a full generation ever since he stepped aside.

As Professor of Civil Law, Aarnio was responsible for instruction in family law and the law of inheritance and for authoring fundamental works in the field. These duties were time-consuming, but research steered him in a different direction and his fast publication rate also continued in the field of legal theory. The monograph series *Mitä lainoppi on?* ("What is jurisprudence?" 1977), *Legal Point of View* (1978), *Denkweisen der Rechtswissenschaft* (1979), *Oikeussäännösten tulkinnasta. Tutkimus lainopillisen perustelun rationaalisuudesta ja hyväksyttävyydestä* ("On the interpreta-

tion of statutes. A study on the rationality and acceptability of legal justification” (1982), *The Rational as Reasonable: A Treatise on Legal Justification* (1977), *Tulkinnan taito* (“The skill of interpretation”, 2006) and *Essays on the Doctrinal Study on Law* (2011) have left a permanent mark on Finnish legal theory.

Aarnio’s international significance is demonstrated by a Festschrift dedicated to him, *The Reasonable as Rational*, edited by Werner Krawietz, Robert S. Summers, Ota Weinberger and Georg Henrik von Wright (Duncker & Humbolt 2000). The common thread running through Aarnio’s work is analytical hermeneutics and an interest in justifying interpretations and legal argumentation. The doctrine of the sources of law, which he developed together with Alexander Peczenik, can be seen as a synthesis of argumentation theory, the audience theory adopted from Chaim Perelman and the scientific notion of legal dogmatics. Aarnio was involved in the activities of the international Bielefelder Kreis research team since 1983 and was a visiting professor at several universities both in Europe and the United States. Aarnio’s last great achievement was the

establishment of the Tampere Club in 2000. The club spent fifteen years debating the problems of democracy under the leadership of Aarnio.

Aarnio published a total of eight novels and autobiographical memoirs between 1992 and 2021, in addition to an impressive number of articles in Finnish and international journals during his research career. Against this background, it is no wonder that he did not have much time or interest in full-scale research in the field of his actual professorship. Instead, Aarnio made room for the next generation of scholars and focused on writing 20 plays for Ramppi Theatre, which he ran. He even played in the summer theatre in one of the roles he had written for himself, wearing preaching bands around his neck.

A man of many talents is an apt description of Aulis Aarnio and his role in the scientific community of legal science in Finland. During his “watch”, Finnish legal theory gained international recognition and the significance of legal dogmatics as a scientific profession grew in Finland. These achievements cannot be attributed to one man alone, but Aarnio’s contribution to both was immense.

*Urpo Kangas and
Pekka Timonen*

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