Em uma de suas *Tanner Lectures*, Habermas afirmou:

“What Weber described as the ´materialization´ of civil law, is today recognized as the wave of legal regulation associated with the welfare state. It has to do not only with the quantitative growth, with the increasing density and depth, of regulation in the legal provisions of a complex society. Given the interventionist requirements of an avowedly active government that both steers and compensates, the functions and internal structures of the legal system are altered as well. Law as a generalized medium is not only more widely utilized; the form of law also changes according to the imperatives of a new kind of requirement. Weber already had in view the regulatory law of the welfare state. This law is instrumentalized for the policies of a legislature that wants to meet demands for social justice with compensatory redistribution, stabilizing controls, and transforming interventions: **´With the emergence of modern class problems, there have arisen substantive demands upon the law from a part of those whose interests are involved (namely labor), on the one hand, and from the legal ideologists, on the other. They . . . call for a social law on the basis of such emotionally colored ethical postulates as *justice* or *human dignity*. But this renders the formalism of law fundamentally questionable.´** [Weber, *Economia e Sociedade*]. At this point the conceptual pair ´formal-substantive´ (or ´formal-material´) comes into play. With these concepts Weber shaped the relevant discussion up to the present day — and, in my opinion, steered it in the wrong direction.”

Explique por que, na visão de Habermas, a análise de Weber estava equivocada.