Law & Social Inquiry
Journal of the American Bar Foundation

Law & Social Inquiry
Volume 40, Issue 1, 1–28, Winter 2015

Law's Social Forms: A Powerless Approach to the Sociology of Law

Sida Liu

Since the law and society movement in the 1960s, the sociology of law in the United States has been dominated by a power/inequality approach. Based on a sociological distinction between the forms and substances of law, this article outlines a "powerless" approach to the sociology of law as a theoretical alternative to the mainstream power/inequality approach. Following Simmel and the Chicago School of sociology, this new approach analyzes the legal system not by its power relations and patterns of inequality, but by its social forms, or the structures and processes that constitute the legal system's spatial outlook and temporality. Taking a radical stance on power, this article is not only a retrospective call for social theory in law and society research, but also a progressive effort to move beyond US-centric sociolegal scholarship and to develop new social science tools that explain a larger variety of legal phenomena across the world.

INTRODUCTION

Power is pervasive in the legal system. So is it in law and society research. Since the beginning of the law and society movement in the United States in the 1960s (Friedman 1986), power and inequality have been at the heart of this research enterprise. The rise of neo-Marxian and critical perspectives in the 1970s to 1980s further strengthened the attention on legal ideology, domination, and resistance in the field. Sociolegal researchers question unequal access to justice in dispute resolution (Galanter 1974; Feeley [1979] 1992; Kritzer and Silbey 2003), investigate gender and racial inequalities in the legal profession (Hagan and Kay 1995; Wilkins and Gulati 1996, 1998; Reichman and Sterling 2004), explore the hegemony and ideology in legal consciousness (Merry 1990; Ewick and Silbey 1998; Silbey 2005), trace the mobilization of rights in workplaces and social movements (Scheingold [1974] 2004; McCann 1994; Sarat and Scheingold 1998; Albiston 2010), and so on. In all those subfields of law and society research, a persistent skepticism of "law on the books" is often associated with a strong emphasis on unequal justice and the power dynamics of "bargaining in the shadow of the law" (Mnookin and Kornhauser 1979, 950; Erlanger, Chambliss, and Melli 1987).

Sida Liu is an Assistant Professor of Sociology and Law at the University of Wisconsin–Madison and Faculty Fellow at the American Bar Foundation. An earlier version of the article was presented at the American Sociological Association's 108th Annual Meeting in 2013. The author thanks Maria J. Azocar, Daniel Blocq, Elizabeth H. Boyle, Joseph A. Conti, Lauren B. Edelman, Nathan P. Ela, Matthew S. Erie, Mauricio García-Villegas, Daanika Gordon, Alexandra Huneeus, Douglas W. Maynard, Calvin Morrill, Kwai H. Ng, Kim L. Scheppele, Gay W. Seidman, Carroll Seron, Susan S. Silbey, Yang Su, Mark C. Suchman, Erik Olin Wright, and anonymous reviewers for their comments, which have significantly improved the article. Please direct all correspondence to Sida Liu, Department of Sociology, University of Wisconsin–Madison, 8128 William H. Sewell Social Sciences Building, 1180 Observatory Drive, Madison, WI 53706; Tel: (608) 262-2082; Fax: (608) 265-5389; E-mail: sidaliu@ssc.wisc.edu.

Yet this enduring focus on power and inequality overshadows a risky fact. As the scholarly trajectory of "law and society" moves from social science disciplines toward a more or less autonomous interdisciplinary field, it has gradually drifted away from its central theoretical foundations, mostly notably in social theory, and become a large agglomeration of empirical studies with a thin theoretical core. In his review essay on the law and society movement in 1986, Lawrence M. Friedman already issued a warning on this atheoretical orientation:

> Law and economics offers hard science; CLS [critical legal studies] offers high culture and the joy of trashing. The law and society movement seems to have nothing to sell but a kind of autumnal skepticism. The central message seems to be: It all depends. Grand theories do appear from time to time, but they have no survival power; they are nibbled to death by case studies. There is no central core. (Friedman 1986, 779)

Three decades later, this comment remains a strong self-critique for sociolegal scholars. The stagnation in theoretical development is accompanied by a practical crisis: while the Law & Society Association's annual meetings have drawn an increasingly large number of participants internationally, in both US law schools and social science disciplines law and society research has been struggling to maintain its status, especially after the recent retirements of many founding members of the field (Edelman 2013).

What is the future of law and society? Does the field still have, or need, a theoretical canon? What are the possible new approaches for studying law in action? Not surprisingly, these important and challenging questions have been raised frequently in recent conferences and informal exchanges among sociolegal researchers (Edelman 2013; Seron, Coutin, and Meeusen 2013). In this article, I critically review the dominant "power/inequality" approach in law and society research and then outline a "powerless" approach as a theoretical alternative to it. I argue that the sociology of law, as the intellectual core of the law and society movement, should reflect on its critical turn in the 1970s to 1980s and resituate itself in classical and contemporary social theories, particularly those theories concerning social structures and social processes. This is not only a retrospective call for social theory in law and society research, but also a progressive effort to move beyond US-centric sociolegal scholarship and to develop new social science tools that explain a larger variety of legal phenomena across the world.

Since Max Weber's classic typology of legal thought, sociologists of law have long recognized that modern legal systems have a certain degree of formal rationality (Weber 1978, 654–58). Yet the power/inequality approach directs most of its attention to the substantive aspect of law, that is, the prevailing notions of justice and equality in society as well as the patterns of domination and resistance associated with them. The powerless approach to the sociology of law that I seek to develop here focuses instead on the formal aspect of law, that is, the shape of the legal system and the social structures and processes that constitute its spatial and temporal dimensions. The powerless metaphor is not to suggest that this alternative approach pays no attention to power whatsoever, but to emphasize that power needs to be situated in these formal dimensions of law in

order to understand its structural and processual limits. In other words, I am taking a radical stance on power in this article mainly for the sake of theoretical contrast, but it is important to recognize that these two approaches are not incompatible, but complementary for achieving a comprehensive and integrated sociological understanding of the legal system.

In the rest of the article, I first trace the rise of the power/inequality approach in law and society scholarship and then proceed to discuss two related components of the powerless approach, namely, law as social structure and law as social process. For analytical purposes, I revisit a number of classic law and society studies to illustrate the distinction between the forms and substances of law as well as the various ways in which law's social forms can be studied, with or without the combination of power/inequality. My goal is not to develop a full-fledged theoretical framework in this exploratory article, but to offer some preliminary thoughts on the potential of such a powerless approach for future law and society research.

THE RISE OF THE POWER/INEQUALITY APPROACH

To a large extent, the US law and society movement in the 1960s constitutes the origin of contemporary sociolegal scholarship. This movement, with both legal scholars and social scientists as key participants, began without a clear theoretical agenda. Legal realism (Pound 1931, 1942; Fisher, Horwitz, and Reed 1993), which demystifies normative beliefs about legal institutions, is often regarded as the movement's intellectual predecessor (Schlegel 1995; Silbey 2002; Skolnick 2012). Its main legacy was to challenge lawyers' formalistic visions of law and to use methods of behavioral sciences to study law and address social problems. Or, as Friedman puts it, the law and society movement was "a science (or a would-be science) about something thoroughly nonscientific" (Friedman 1986, 766). Except for the common recognition of the gap between "law on the books" and "law in action," there was no consensus on what this "would-be science" should look like, theoretically or methodologically. Many research projects were directed toward issues of policy concerns, such as law and development (Trubek and Galanter 1974; Merryman 1977) or access to justice (Cappelletti and Garth 1978; Rhode 2004). Early law and society projects were actively supported by generous grants from the Russell Sage Foundation, which "sought to explore ways in which the legal profession might, or might not, provide leadership for progressive social change" (Silbey 2002, 861). Not surprisingly, inequality and social justice became the central themes of this movement (Galanter 1974; Scheingold [1974] 2004; Auerbach 1976).

Although the law and society movement was the intellectual product of a progressive era, the theoretical foundations of the power/inequality approach in the sociology of law can be traced back to classical social theory. Max Weber's sociology of law, for instance, stems from his broader theoretical framework on power and domination. Weber argues that power must be legitimized to become authority, and rational-legal authority, as one of the three major types of legitimate domination, is the most common way of legitimizing power in modern society (Weber 1978, 215). In Marxian social theory, law is even more prominently associated with the domination of the ruling class. It is often characterized as a hegemonic social structure that reflects the economic base

and reinforces bourgeois ideology in capitalist society (Cain 1974; Turk 1976; Stone 1985), though some neo-Marxian theories also argue for the relative autonomy of the law (Balbus 1977). Resistance to state law, accordingly, contributes to the formation of class consciousness against the dominant bourgeoisie.

Both the Marxian and Weberian perspectives have been influential on law and society research in the United States (Silbey 1985). Weber's sociology of law is interpreted as a core theoretical foundation for the law and development literature (Trubek 1972; Ewing 1987; Feldman 1991) and his writings on social closure lead to the market control theory of the legal profession (Larson 1977; Abel 1988, 1989). Through a detour to neoinstitutionalism in organizational analysis (Powell and DiMaggio 1991), Weber's iron cage metaphor is embedded in the concept of legal endogeneity for describing the construction of legal rational myths by courts and organizations (Suchman and Edelman 1996; Edelman, Uggen, and Erlanger 1999). Meanwhile, the rise of neo-Marxian theories in the 1970s provided a strong basis for the emergence of various types of critical theories on law in the next two decades, particularly those focusing on gender, racial, and class inequalities (Chambliss and Seidman 1971; Collins 1982; Trubek 1984; Trubek and Esser 1989; Weisberg 1993; Harris 1994; Crenshaw 1995).

Besides Weber and Marx, another influential social theorist in the formation of the power/inequality approach is Michel Foucault. Foucault's unique understanding of power is groundbreaking because it is not the coercive power exercised on one social group by another, but a relational and pervasive force that shapes our thoughts and behavior (Foucault 1980). Legal and other social institutions in modern society, accordingly, become disciplinary sites for the normalization of panoptic surveillance and the construction of docile bodies (Foucault [1975] 1977). This postmodern perspective, together with the neo-Marxian perspective, led to a powerful theoretical move in sociolegal scholarship in the 1970s to 1980s, namely, the rise of critical legal studies (CLS) and the formation of the Amherst School.

In its early years, CLS was mostly an intellectual movement in British and American legal academia (Trubek 1984). Its critical interpretations of legal texts present a fundamental challenge to the liberal legalist tradition and its focus on ideology and legal consciousness has a close affinity with the neo-Marxian perspective, embodied in the wide use of concepts such as hegemonic consciousness and reification (Gramsci 1971; Lukács 1971). Although CLS has many representatives in law and society research (Abel 1980; Gordon 1984; Trubek 1984), it was the Amherst Seminar on Legal Ideology and Legal Process in the 1980s that most explicitly connected CLS with sociolegal studies (Mather and Yngvesson 1980–1981; Silbey 1985; Silbey and Sarat 1987; Merry 1990). The Amherst scholars break away from the instrumental approach in the earlier gap studies, which often shares liberal legal ideology and centers on the effectiveness of law in action (Trubek and Esser 1989; Gould and Barclay 2012). Instead, they seek to reconstruct the sociology of law as an interpretive cultural approach that conceives law as an emergent social structure from everyday life. It embodies hegemony and ideology in society and contains both elements of domination and seeds of resistance (Merry 1990; Silbey 2005).

The Amherst tradition is not the only sociolegal perspective that puts power and inequality at the heart of scholarship. Marc Galanter's (1974) path-breaking essay on

the advantages of repeat players in litigation, for example, establishes an enduring theme for understanding inequality in the legal process. Indeed, much of the law and society scholarship begins with the assumption that "law is not free" (Macaulay 1984, 152) and emphasizes the costs and barriers in using the legal system. Nevertheless, by situating their scholarship in the critical theories of Marx, Foucault, and CLS, the Amherst scholars generated a cultural turn in law and society research and provided a clear and solid theoretical foundation for the power/inequality approach. Together with other sociolegal scholars, they built a key bridge between critical social theory and empirical research on law.

Since the 1990s, the power/inequality approach has proliferated in various areas of sociolegal scholarship. Empirically, it has been strengthened by the scholarly and policy concerns of gender, racial, and class inequalities in the United States. Struggles for equal employment opportunity and affirmative action, for instance, have become a popular topic in the literature (Burstein 1991; Edelman, Erlanger, and Lande 1993; McCann 1994; Albiston 2010). Galanter's (1974) essay has also generated many later studies on the advantages of the "haves" in litigation in various institutional and social contexts (Kritzer and Silbey 2003; Conti 2010). Meanwhile, the legal consciousness scholarship has been extended from ethnographies in New England to a global enterprise for understanding legal hegemony and resistance (Merry 2000, 2006; Nielsen 2000; Silbey 2005). Research on the legal profession, at least the North American part of it, has also put gender and racial inequalities at its center (Hagan and Kay 1995; Wilkins and Gulati 1996, 1998; Reichman and Sterling 2004; Heinz et al. 2005; Kay and Gorman 2008).

The dominance of the power/inequality approach leads to several consequences for law and society as an academic field. First, it gives much of the scholarship a strong ideological orientation of being progressive and critical. The almost uncontested presence of power and inequality in the literature has become not only an effective means for contemporary sociolegal researchers to dismantle the dominant ideology in legal academia, but also a continuous constraint for them to explore alternative ways of doing law and society research. To some extent, becoming a law and society scholar implies a departure from the liberal conceptions of law and a conversion to a more or less critical perspective.

Second, underneath the ideological radicalization is the gradual reduction of the field's theoretical core. As law and society grows interdisciplinary, research has become increasingly topic driven, centering on empirical issues rather than theoretical debates (Edelman 2013). As Richard L. Abel recently observes, during 1996–2009 the approximately 300 articles published in the *Law & Society Review* "identified little pure theory" (Abel 2010, 11). This is in sharp contrast to the 1970s to 1980s, when theoretical formulations and interpretations constituted much of the law and society scholarship. Is it because sociolegal theories have matured to the extent that no further advancement is necessary? Or is it because law and society scholars are lost in the interdisciplinary ocean and do not make as much effort to situate their empirical work in political, sociological, or anthropological theories as before? Or, relatedly, is it because the social science disciplines themselves have become less interested in theory? In my view, the second and third possibilities are more plausible and the dominance of the power/inequality approach has strengthened this atheoretical orientation by limiting the scope

of "the sociolegal imagination," to borrow C. Wright Mills's (1959) classic term in describing the problem of sociology half a century ago.

Lastly, the power/inequality approach is, to a large extent, a historical product of the progressive intellectual movements in the United States from legal realism to CLS and it still fits much of the research and policy agendas in contemporary US law and society. However, this approach does not necessarily provide the most effective analytical tools for studying legal systems in other social contexts. For example, while gender and racial inequalities have been an enduring theme in understanding US society and its legal system since the civil rights movement, in many other countries the legal discourses are more concerned with development, human rights, institutional transplants, judicial reforms, religious and ethnic conflicts, and so on (Miyazawa 2001; García-Villegas 2006; Couso, Huneeus, and Sieder 2010; Atuahene 2011). Needless to say, critical sociolegal scholarship that adopts the power/inequality approach widely exists in non-US contexts (Zhu 1995; Santos 2002; Comaroff and Comaroff 2006), but it has never achieved the same level of dominance as in the United States. Even when US law and society scholars go abroad to study law in action in other societies, their perspectives often shift to reflect the nature of those social contexts (Galanter 1989; Trubek et al. 1994; Ginsburg and Moustafa 2008; Hagan and Rymond-Richmond 2009), yet the theoretical canon of law and society research seems to be based predominantly on US scholarship (Seron, Coutin, and Meeusen 2013).

Therefore, to advance law and society scholarship further in the twenty-first century requires a reflection on its theoretical foundations, particularly the alternative perspectives on law in action overshadowed by the power/inequality approach. I argue that this reflection should start from classical social theory, particularly Max Weber's distinction between formal and substantive law and Georg Simmel's writings on social forms. The next section outlines the fundamental assumptions of this powerless approach.

THE FORMS AND SUBSTANCES OF LAW: A SOCIOLOGICAL DISTINCTION

When social scientists observe a legal system from the outside, what do they see? Depending on the researchers' disciplinary backgrounds and theoretical tastes, vastly different things can be discovered. For sociologists at least, law can be seen as substances such as power, capital, norms, and sanctions, or as forms such as structures, processes, space, and temporality. While the power/inequality approach devotes its attention almost exclusively to the substantive aspects of law, the powerless approach focuses on its formal aspects.

The concepts of form and substance used in this article originate primarily from Weber's (1978) well-known definitions of formal and substantive law in his typology of legal thought. The substances of law refer to the individual actions and institutional patterns related to normative ideals of law such as liberty, justice, and equality. Examples of such substantive actions and patterns include advantages of repeat players in litigation (Galanter 1974), political lawyering for basic legal freedoms (Halliday and Karpik 1997), legal mobilization in the workplace (McCann 1994), and social con-

struction of legal consciousness (Ewick and Silbey 1998). The forms of law, in contrast, refer to the social structures and social processes that constitute the spatial outlook and temporality of the legal system. The dispute pyramid (Felstiner, Abel, and Sarat 1980–1981; Miller and Sarat 1980–1981), two hemispheres of the bar (Heinz and Laumann 1982), recursivity of legal change (Halliday and Carruthers 2007), and spatial mobility of law practitioners (Liu, Liang, and Michelson 2014) are all good examples of such social forms of law.

To some extent, my distinction between the forms and substances of law parallels the theoretical opposition between legal formalism and legal realism in jurisprudence (Kennedy 1976; Weinrib 1988; Posner 1990), but there are important differences. The formalism/realism opposition is primarily about the sources of rules and legal reasoning—as Richard A. Posner puts it, "form referring to what is internal to law, substance to the world outside of law" (Posner 1990, 40). The fundamental difference between formalism and realism, accordingly, is whether or not law is "internally coherent" and "can in any significant sense be differentiated from politics" (Weinrib 1988, 951). In contrast, the forms and substances of law in the sociological sense are both external to the legal system and in opposition to "law on the books." Forms constitute the spatial and temporal shape of the legal system, while substances fill this shape with power relations. Neither is concerned with the content of legal rules or the logic of legal reasoning.

Every legal system has its forms and substances—they are complementary in defining the social characteristics of law. However, it is important to note that the forms of law can be analyzed separately from its substances. This point can be illustrated by a revisit to Felstiner, Abel, and Sarat's (1980–1981) classic essay on the emergence and transformation of disputes. In the first part of that essay, the authors trace the process of social construction from unperceived injurious experience (unPIE) to perceived injurious experience (PIE) to grievance and, eventually, to dispute—the three key mechanisms in this process are labeled "naming, blaming, claiming." Then they proceed to discuss the subjects and agents of transformation (parties, choice of mechanisms, ideology, reference groups, etc.), all of which can potentially influence the likelihood that a PIE would become a dispute. Applying the form/substance distinction to this study, it is evident that the first part of that essay presents a processual social form (i.e., naming, blaming, claiming), whereas the second part fills in this form with substances. The two parts are complementary in explaining the social construction of disputes but they are conceptualized and analyzed separately, though still in the same essay.

Social forms like the naming-blaming-claiming process widely exist in law and society scholarship, but they are largely overshadowed by the substantive concerns of rights, inequalities, and injustice. The powerless approach proposed in this article is an effort to bring social forms to the forefront of sociolegal studies. Constructing this new approach naturally leads us back to Georg Simmel's (1950, 1971) sociological theory as a starting point. Simmel's vision of formal sociology is the geometry of social sciences, which focuses on the forms of social life and the social interaction that produces them. These social forms can be as micro as dyads and triads or as macro as bureaucratic hierarchies and global networks. The Simmelian tradition, though not as prominent as its Marxian, Durkheimian, or Weberian counterparts, remains influential in

contemporary social theory (Levine, Carter, and Gorman 1976; Levine 1989, 1991; Martin 2009) and subfields of sociology such as social psychology (Schwartz 1967; Hogg and Abrams 1998), urban sociology (Park and Burgess [1921] 1969; Park, Burgess, and McKenzie 1967), and social network analysis (Granovetter 1973; Emirbayer and Goodwin 1994; Portes 1998). In law and society research, however, with the exception of Donald Black's (1976) behavioral theory of law, few explicit efforts have been made to utilize Simmel's unique sociological perspective in analyzing law in action.

What are the social forms in the legal system? This is the first question to be asked in a Simmelian inquiry on the sociology of law. There are two basic types of social forms: one is structural and the other is processual. The structural forms of law are relatively institutionalized social structures, such as the administrative hierarchy of the judiciary, the hemispheres of the bar, or the ranking order of law schools. The processual forms of law are dynamic patterns of interaction, such as the tournament of law firm growth, the recursivity of legal change, or the spatial mobility of law practitioners. Structure and process are arguably related, but the relationship between them is a perennial chicken-and-egg problem in social theory. Structural functionalists emphasize the structural constraints on social action (Parsons 1937, 1951; Luhmann [1984] 1995), whereas symbolic interactionists demonstrate how social structures are produced by interaction (Goffman 1959, 1974; Blumer 1969). In the next two sections of the article, I discuss a number of existing theoretical perspectives and empirical studies associated with the structural and processual forms of law, as well as the potential of developing a powerless approach from some of them.

Skeptics of the powerless approach might raise a reasonable doubt: Can these social forms exist independently of substances, particularly power and inequality in the legal system? If not, then how can this approach be called a powerless one? My answer to this question is as follows: the social forms of law must exist simultaneously with law's substances, such as power relations and patterns of inequality, but they cannot be reduced to merely functions or consequences of those substances. The formal shape of the legal system not only has a certain degree of autonomy from its substances, but also exercises structural and processual constraints on the system's power dynamics. The problem with the power/inequality approach is precisely that it makes too salient the legal system's substances to the extent that it often takes for granted the formal structures and processes in which those substances are embedded. The powerless approach fully acknowledges the importance of power relations for studying law in action, but it aims at understanding the legal system by finding the persistent structural and processual forms of law that transcend the particularistic and critical orientations in contemporary law and society research.

LAW AS SOCIAL STRUCTURE: FROM FUNCTIONALISM TO SPATIAL ANALYSIS

To argue that law is a social structure is hardly an exciting idea for sociolegal scholars. Ever since Durkheim ([1893] 1984) and Parsons (1937, 1951), structural functionalism has been a major theoretical paradigm in many areas of sociology, including the sociology of law. Few law and society textbooks fail to mention it in the text.

Nonetheless, with the notable exception of Heinz and Laumann's (1982) structural analysis of the Chicago bar, empirical studies explicitly following structural functionalism are scarce in the contemporary law and society literature.

In spite of the wide recognition of its theoretical value, why is structural functionalism so unpopular in empirical sociolegal research? A historical reason is perhaps that its conservative ideological orientation is not appealing to the progressive members of the law and society movement in the United States. Indeed, the rise of neo-Marxian and critical theories in the 1970s was an intellectual rebellion against the dominance of the Parsonian functional approach in social sciences in the 1950s to 1960s. Yet a less prominent but equally important reason is that the central objects of study in structural functionalism are the social forms of law, not law's substances. While the US law and society movement has focused on the power dynamics of law in action, it has largely taken for granted the structural forms of the legal system itself. In his book *Law as a Social System*, Niklas Luhmann (2004), a leading European functional theorist, offers a harsh but insightful critique on this ignorance of law's social structure as an object of sociolegal inquiry:

> Sociologists observe the law from outside and lawyers observe the law from inside. Sociologists are only bound by their own system that, for instance, might demand that they conduct "empirical research". Lawyers, likewise, are only bound by their system; the system here, however, is the legal system itself. A sociological theory of law, therefore, would lead to an external description of the legal system. However, such a theory would only be an adequate theory if it described the system as a system that describes itself (and this has, as yet, rarely been tried in the sociology of law). . . . So far, however, in this exercise, only problematic formulae have been advanced, such as "law and society", which formulae promote the misconception that the law could exist outside society. (Luhmann 2004, 59)

Luhmann's vision of the sociology of law is fundamentally different from the US law and society movement. He emphasizes the importance of describing the legal system as a system that describes itself, or what he calls an autopoietic system in his general social theory (Luhmann [1984] 1995). It is not a system that takes in raw materials from the environment to create a new structure, which is different from the system itself, but a system organized as a network of processes that produce its own components, their positions, and the boundaries between system and environment. As an autopoietic system, the legal system is operatively closed but cognitively open. Through mechanisms such as functional specification, binary coding, and programming, law becomes a "historical machine in the sense that each autopoietic operation changes the system, changes the state of the machine, and so creates changed conditions for all further operations" (Luhmann 2004, 91).

Luhmann's theory is a rare effort by a social theorist to explain the legal system's structural forms systematically. To many law and society scholars, however, it seems excessively abstract. Luhmann excludes not only power and inequality from his theoretical framework, but also actors and social action. The "historical machine" of law functions by itself without any human agency, which seems surreal from an empirical standpoint. This extreme position on human agency makes Luhmann's social system

theory hard to operationalize in empirical research. Similar orientations are also found in the work of other German functional theorists such as Gunther Teubner (1983, 1993).

But it would be erroneous to make a general statement that structural functionalism is incompatible with empirical sociolegal research. In fact, one of the most acclaimed law and society studies, *Chicago Lawyers* (Heinz and Laumann 1982), explicitly adopts a Parsonian functional approach in analyzing the social structure of the Chicago bar. By contrasting the two hemispheres of the bar and explaining this structural division by client types (i.e., corporate clients vs. personal clients), Heinz and Laumann demonstrate that the legal profession is structurally differentiated according to its functions in the broader social structure.

Is Heinz and Laumann's structural-functional approach a powerless one? Arguably, the two-hemisphere thesis is about the structural inequality of the bar and the legal profession's power deference to its clients. Nevertheless, their approach to the legal system is notably different from the power/inequality approach outlined above. Instead of studying substantive problems in the legal profession such as unequal justice (Auerbach 1976) or gender discrimination (Kay and Gorman 2008), it aims at describing the basic structural forms of the legal profession through a social network analysis. In this sense, it belongs to the powerless approach that focuses on the social forms of law. It is a great example of how a study on social forms can have important implications for understanding power and inequality within the profession. In the Chicago Lawyers II study two decades later (Heinz et al. 2005), however, this formal tendency is mixed with substantive concerns such as income, gender and racial inequalities, career patterns, and job satisfaction. As a result, the *Urban Lawyers* book becomes an encyclopedia of the US legal profession, but its theoretical orientation also shifts to a more eclectic position from the previous study.

Structural functionalism is not the only social theory available for understanding the structural forms of law. The legal system can be conceptualized as a functional machine without human agency, but it can also be seen as a social space. A good example of this spatial perspective is Pierre Bourdieu's field theory (Bourdieu 1987, [1992] 1996; Bourdieu and Wacquant 1992). The Bourdieusian field is both a force field and a playing field for individual actors in it (Gorski 2013). On the one hand, actors are constrained by their habitus, or systems of dispositions, which are the product of their structural positions and life experiences in the field; on the other hand, based on their habitus, actors can also utilize various types of capital to achieve more dominant positions and higher status in the field. The primary form of interaction in the field is power struggles, which produce dominance and subordination between actors. In other words, structure, agency, and power are closely intertwined in defining the Bourdieusian field.

In the sociology of law, Yves Dezalay is perhaps the strongest proponent of Bourdieu's social theory. In an early study on the globalization of the corporate law market, Dezalay and his coauthors apply the concept of field to explain the structural integration within the European, North American, and Asian legal services markets (Trubek et al. 1994). Dezalay and Garth's (1996, 2002, 2010) seminal studies on international commercial arbitration as well as legal elites in Latin America and Asia also explicitly adopt the Bourdieusian approach, making extensive uses of Bourdieu's

highly flexible concept of capital. In a recent review article, Dezalay and Madsen (2012, 433) call for a Bourdieusian "reflexive sociology of law" as a potential future approach for law and society research.

Dezalay and Garth's application of Bourdieu's social theory, particularly in the two more recent books (Dezalay and Garth 2002, 2010), has a tendency of overemphasizing human agency and minimizing the field's structural constraints on individual actors. In their analyses, the force field of law is not as important as the playing field, or actors' utilization of legal and social capital in achieving economic and political status. Stories of the legal elite in various countries are told without being connected to the structural constraints of the juridical field (Bourdieu 1987). Although such a structural map of the field is outlined in their earlier study on international commercial arbitration (Dezalay and Garth 1996), a full-fledged Bourdieusian spatial analysis of the legal system remains a work in progress.

The brief discussion on field theory illustrates an important point, that is, the forms and substances of law are complementary and they can be fully integrated into the same theoretical framework. Power and structure are the flesh and bones in the Bourdieusian field, not only coexisting but also inseparable from each other. Accordingly, field theory is a structural theory about social space, but it is not a powerless theory.

What if we take a more radical step from Bourdieu and develop a spatial theory of law that focuses on social forms and separates power from them? In existing sociolegal scholarship, Donald Black's (1976, 1993, 2002) behavioral theory of law most closely resembles this approach. Black argues that law varies with its location and direction in multiple dimensions of the social space, including vertical, horizontal, cultural, corporate, and normative elements. Nevertheless, his insistence on doing "pure sociology" (Black 2000, 343) leaves no room for actors or interaction in the theory. As a result, the behavioral theory of law becomes a social geometry mainly concerned with the measurement of social distance, such as his proposition that "law is a curvilinear function of relational distance" (Black 1976, 40–46).

The powerless approach that I propose here is also orientated toward a spatial theory of law, but it is a social space with actors, locations, and social interaction. To develop such a theory, I draw insights from human ecology of the Chicago School of sociology (Park and Burgess [1921] 1969; Park, Burgess, and McKenzie 1967; McKenzie 1968; Abbott 1999, 2005). Ecological theory and field theory have much in common in their approaches to social space, but they differ significantly in terms of power. In the most abstract sense, both theories define social space by actors and locations (or "agents" and "positions" in Bourdieu's vocabulary), as well as by the relations that associate them (Bourdieu and Wacquant 1992, 97–99; Abbott 2005, 248). A social space is different from a Parsonian social system (Parsons 1951) because actors in the social space are not constrained by their functions and roles, but by their locations.

Human ecology conceptualizes society as an ecological system in which actors interact with one another and shape their environment through interaction. Following Simmel (1971), Park and Burgess propose interaction as "the fundamental social process" (Park and Burgess [1921] 1969, 280) for both persons and groups. Like field theory, ecological theory characterizes "a social structure that is less unified than a machine or an organism, but that is considerably more unified than is a social world made up of the autonomous, atomic beings of classical liberalism or the probabilistically

interacting rational actors of microeconomics" (Abbott 2005, 248). The fundamental difference between the two theories, however, is that ecology is not a power model, but an equilibrating model that proposes that the competitive and equilibrating forces prevail regardless of how powerful individual actors may be (Abbott 1988, 135).

The application of ecological theory in sociolegal research begins with Andrew Abbott's (1986) historical analysis of the interprofessional competition among law-related professions in England and the United States. Using the concept of "jurisdictional conflict" (Abbott 1986, 187), Abbott argues that legal professions develop not autonomously, but by turf battles with one another and with other professions. In *The System of Professions*, Abbott (1988) further develops this interactional perspective into an ecological theory of professions in which professions claim jurisdictions in the social space of work based on their knowledge and expertise. In comparison to the Bourdieusian juridical field, the system of professions is not a space of power and domination, but an interactional space for actors to compete with one another and constitute various jurisdictional settlements.

At the heart of this theory is the social construction of jurisdictional boundaries between professions. Although Abbott constructs a highly systematic theoretical framework, the framework does not provide sufficient analytical tools for characterizing the processual dynamics of professional turf battles. Following the same tradition and adapting two general sociological concepts, my study on Chinese lawyers (Liu 2008, 2011, 2012) demonstrates how the structural fragmentation of the legal services market, as an ecological system, is produced by the boundary work (Gieryn 1983; Lamont and Molnár 2002) and exchange (Blau [1964] 1986; Emerson 1976) of legal professions and their state regulatory agencies. In a recent article, this ecological perspective is further developed into a processual theory of the legal profession (Liu 2013).

Ecology is essentially a powerless perspective. It seeks to understand the structures of social space by examining the various social processes that produce these structures. The Chicago School sociologists acknowledge the existence of power and inequality in ecologies, but their primary concern is on social forms, such as jurisdictions of legal professions (Abbott 1986) or patterns of exchange between lawyers and state officials (Liu 2011). Following this tradition, the spatial theory of law that I envision in this article takes a radical stance on power dynamics in the legal system. Unlike the Bourdieusian juridical field, it does not emphasize power struggles among legal actors, but focuses on locating legal and nonlegal actors in the social space of law and measuring their social distances and processes of interaction.

Like the juridical field and the legal ecology, the social space of law has its actors and locations. Regardless of variations in their names across societies and cultures, legal actors usually include lawyers, judges, prosecutors, law enforcement officers, legislators, legal scholars, and the like. Locations in the social space of law have two levels: niches (Hannan and Freeman 1977, 1989; Hawley 1986) and jurisdictions (Abbott 1988). Niches are the macrostructural sites where law in action takes place, such as the legislature, judiciary, legal services market, or criminal justice system. Jurisdictions are legal actors' occupation of specific work locations in a given niche, such as lawyers' jurisdiction of advocacy in the judicial niche or police officers' jurisdiction of criminal investigation in the criminal justice niche. The social structure of the legal system, accordingly, is shaped by the ways legal actors are located in various niches and

jurisdictions. Each actor may have multiple jurisdictions in the entire social space of law, but in every given niche one actor occupies at most one specific jurisdiction. The social distances between legal actors are constituted in the process of locating them in niches and jurisdictions.

To make sense of this new conceptual framework for theorizing law as a social space, it is helpful to compare it with another recently developed concept in the law and society literature: the legal complex, defined as "a cluster of legal actors related to each other in dynamic structures and constituted and reconstituted through a variety of processes" (Karpik and Halliday 2011, 220). Although the definition of the legal complex appears similar to the social space of law, it primarily aims at explaining the collective action of legal professionals, not the social forms of the legal system. The legal complex is "action oriented" and "oriented toward specific issues" (Karpik and Halliday 2011, 221), whereas the spatial theory of law that I outline here primarily aims at understanding the legal system's formal shape by analyzing the structural configuration of its actors and locations. Actors in the legal complex are clustered for the purpose of mobilization, but not necessarily located in niches with specific jurisdictions.

The central problem for the social space of law, therefore, is how to locate legal actors in different niches with their respective jurisdictions. It is important to note that locations in this social space are not fixed preexisting positions, but are constantly being constructed and reconstructed by the mobility and interaction of actors as well as broader environmental forces. Jurisdictions in the legislative niche, for example, shift according to the expertise of legal actors participating in the law-making process as well as the political climate that drives legislative reforms (Halliday and Carruthers 2007; Liu and Halliday 2009). In other words, the process of constructing the relations between actors and locations "*constitutes* and *delimits* both actors and locations" (Abbott 2005, 248). To capture the full dynamics of how legal actors and their locations are bundled together requires an inquiry into the social processes that produce the spatial outlook of the legal system as well as the temporality of legal change. This inquiry leads us to the next section of the article.

LAW AS SOCIAL PROCESS: FROM INTERACTION TO TEMPORALITY

In the sociology of law, social structure has received more scholarly attention than social process, both in theory and in empirical studies. Social theorists as different as Luhmann and Bourdieu nevertheless share the assumption that the social structures of law are fundamental to the operation of the legal system and they both generate and constrain the processes of legal change (Bourdieu 1987; Luhmann 2004). Empirically, structural analyses, with or without the combination of power, also prevail in the law and society literature on lawyers, courts, and criminal justice (Galanter 1974; Heinz and Laumann 1982; Trubek et al. 1983; Hagan 1989). The processual perspective, in contrast, seems to have been mostly adopted in ethnographic studies at the micro level (Merry 1990; Sarat and Felstiner 1995; Ewick and Silbey 1998). Little effort has been made to explain how the social processes of law produce its macro social structures.

How to study law as social process? There are at least three ways. The obvious one is to study the processes of legal change (Chambliss 1979; Watson 1983; Halliday and Carruthers 2007). The second way is to examine micro social interaction in the workplaces of legal actors, such as lawyer-client interaction (Sarat and Felstiner 1995), dispute resolution in court (Merry 1990), or the office work of lawmakers (Latour [2002] 2010). The most challenging but potentially fruitful way is to investigate how various social processes and their temporality produce the legal system's macro social structures. This third way remains undeveloped in the law and society scholarship, but it would provide the crucial theoretical link between process and structure, the two main types of social forms. The task of this section is twofold: first, to critically review the two existing processual perspectives; second, to explore the third perspective as a core component of the powerless approach and a complement to the spatial theory of law proposed in the previous section.

Although it seems self-evident that legal change is a social process, not all sociolegal theories on legal change are processual theories, that is, theories focusing on the formal processes of change rather than its substantive causes or underlying driving forces. Conflict theory, for instance, is a structural perspective that seeks to understand legal change from the ideological contradictions and class struggles in the macro social structure (Chambliss and Seidman 1971; Chambliss 1979). Similarly, legal anthropologists and historians often trace the shift of cultural norms beneath the transformation of legal institutions (Friedman 1969; Moore 1973; Watson 1983). Despite their different theoretical assumptions, these theories explain legal change by linking it to social institutions with certain structural mechanisms or cultural practices. The underlying theoretical orientation is to understand legal change by finding the substantive driving forces behind it, causally or narratively.

In contrast to this substantive orientation, another set of theories explains legal change by tracing its formal social processes. A good example is the "Great Man model" (Dicey 1905, 17–47; Macaulay, Friedman, and Mertz 2007, 186), which argues that legal change often originates from the idea of an individual and then is gradually adopted by his followers, the public, and, eventually, legislators. In this model, there is no substantive driving force (e.g., class struggles or cultural norms) as in the conflict or cultural theories, but only a social process that demonstrates the formal path of legal change. A more recent example is recursivity theory (Halliday and Carruthers 2007; Halliday 2009; Liu and Halliday 2009), which analyzes legal change as a recursive process characterized by indeterminacy, contradictions, diagnostic struggles, and actor mismatch. These four characteristics are called "mechanisms" by the authors, but they are essentially descriptive concepts that present the social forms of recursivity.

It is curious why so few general theories have been formulated to study the social forms of legal change. In the prolific literature on law and development (Trubek and Galanter 1974; Merryman 1977; Tamanaha 1995; Garth 2002, 2003), for example, substantive concerns about the causal link between legal institutions and economic growth are prevalent, but little has been written on the formal social process by which legal institutions emerge and transform. Even in recursivity theory, which most closely resembles a formal theory in existing scholarship, three of the four mechanisms (indeterminacy, contradictions, and actor mismatch) are descriptions of the general

characteristics of legal change—only diagnostic struggle is a dynamic concept that describes a specific social process.

A more promising place to look for social process is the ethnographic studies that examine interaction between actors in the legal system and beyond. In fact, the Amherst scholars have always put legal process at the center of their approach to law in everyday life, though their view of process is closely associated with power and ideology. Sarat and Felstiner's (1995) study of lawyer-client interaction in divorce lawyers' offices exemplifies this approach. Their ethnography clearly demonstrates how lawyers establish control over their clients by destroying the formal image of law, emphasizing their local connections, and constructing the client as an acceptable self to the legal process. Power is at the heart of this study, but often overlooked is the fact that the authors also provide a processual framework for understanding how formal law, legal actors, and laypersons interact in lawyers' everyday practice. The two social processes identified in this study, namely, the deconstruction of formal law and the reconstruction of the client, can be observed in the everyday work of many types of lawyers across cultural contexts (Nelson 1988; Flood 1991; Liu 2006; Michelson 2006) and they do not necessarily reflect a particular ideological standpoint.

Similarly, for Sally Engle Merry's (1990) classic study on lower court justice, *Getting Justice and Getting Even*, much scholarly attention has been paid to her definition of legal consciousness and typology of discourses in dispute resolution, but the social process by which "problems" are interpreted as "cases" that Merry (1990, 88–109) closely analyzes in the book has largely been ignored by later studies. Like the naming, blaming, and claiming framework (Felstiner, Abel, and Sarat 1980–1981) discussed above, this social transformation from problems to cases is crucial for understanding the judicial process in lower courts. By the same token, one could also analyze the inverse transformation from cases to problems in the enforcement of judicial decisions (Gordon 2013). In most of their ethnographies, however, the Amherst scholars have devoted more efforts to studying the power dynamics of legal process than to theorizing its social forms.

The Amherst approach to legal process suggests that power and process can coexist within the same theoretical framework, but an inherent weakness of this approach is that it limits the scope of analysis to social interaction in micro-level sociolegal settings, such as a lower court, a divorce lawyer's office, or a residential community. Despite Susan S. Silbey's (2005) call for bridging the micro world of individuals and macro theories of legal hegemony, legal ideology, and the rule of law, few empirical studies on legal consciousness have made this micro-macro linkage. The problem, in my view, lies precisely in the lack of analytical tools for characterizing the social processes by which individuals' legal consciousness both structures and is structured by legal hegemony and ideology in society. Ewick and Silbey's (1998) concept of legality, though theorized in a sophisticated manner, is too abstract and static for this task.

How would the powerless approach theorize law as social process? As the central concerns of this approach are on law's social forms, two related tasks must be completed. The first is to identify the social processes that have the capacity of bridging micro interactions of legal and nonlegal actors and macro social structures of the legal system. And the second is to explain the temporality of those social processes and their structural effects.

For the first task, a good example from existing scholarship is Luhmann's (2004, 173–210) concept of "binary coding," which describes a coding scheme of the legal system that provides a positive value (legal) and a negative value (illegal). Binary coding is a micro process that can be found in the everyday work of legal actors, but it is also a macro structural scheme by which the autopoietic system of law maintains its boundaries. Another example from Luhmann's (2004, 173–210) vocabulary is "programming," which creates rules on how the values "legal" and "illegal" are allocated and what is right or wrong with respect to them. Both concepts are social processes inherent and fundamental to the production of the legal system's social structures.

The problem of these Luhmannian concepts, again, is that they describe the operation of the legal system as if no actors exist in it. This structural-functional orientation limits the capacity of system theory for explaining social action and interaction. Arguably, any social theory that emphasizes structure and process would limit the role of agency to some extent, but it does not have to remove actors from its conceptual framework as Luhmann does. If the legal system is conceptualized as a social space consisting of mutually constitutive actors and locations, as outlined in the previous section, then its social processes must involve legal and nonlegal actors and focus on locating these actors in particular niches and jurisdictions.

In the legislative niche, for instance, a key social process is diagnostic struggle (Halliday and Carruthers 2007; Liu and Halliday 2009), by which various actors holding different diagnoses of a problem (Abbott 1988) compete for legislative inputs in the social production of statutory law. Whereas recursivity theory focuses on the recursive nature of diagnostic struggles, it overlooks the fact that the structural configuration of the legislative niche is also constituted by the settlement of jurisdictions in the process of diagnostic struggles. Depending on the validity of their diagnoses and the outcome of these struggles, actors settle into different jurisdictions in the niche. These jurisdictions are not fixed, but constantly changing as legislative cycles proceed—a marginal diagnosis in an earlier cycle may gain momentum in a later cycle as relevant legislative actors expand the scope of their constituencies and political allies. The structural outlook of legislature, such as the hollow core in US national policy making (Heinz et al. 1993), is constituted as a result of such diagnostic struggles.

In comparison to the salience of diagnostic struggles in the legislative niche, the shape of the judicial niche is produced by a more complex set of social processes. This is because the social relations between actors and locations in litigation are more heterogeneous than the social relations in lawmaking. In his classic essay "Why the 'Haves' Come out Ahead?" Marc Galanter (1974) argues that the legal system is composed of four basic elements: rules, courts, lawyers, and parties. In this scheme, courts are defined as "a set of institutional facilities" within which rules are applied to specific cases, lawyers are "a body of persons with specialized skills" in rules and courts, and parties are "persons or groups with claims they might make to the courts in reference to the rules" (Galanter 1974, 96). Galanter's scheme provides not only a basis for his widely cited discussion on "repeat players" and "one-shotters" later in the essay, but also a basic analytical framework for understanding the formal shape of the judicial niche in the social space of law.

Following Galanter's framework, social processes in the judicial niche can be classified into three broad types of interaction: lawyer versus lawyer, party versus party,

and lawyer versus party. Both lawyers and parties can be further disaggregated according to case types and their division of labor. First, Galanter's definition of lawyers is a broad one that includes at least judges, attorneys, prosecutors, and other legal actors in litigation. In some countries, lawyers (in the narrower sense) can be further distinguished into multiple groups based on a division of labor, such as barristers and solicitors in England (Abel-Smith and Stevens 1967; Abel 1988), *avocat* and *avoués* in pre-1972 France (Karpik [1995] 1999), or *bengoshi* and judicial scriveners in Japan (Ota and Rokumoto 1993). Second, parties in litigation also vary according to case types, such as plaintiffs and defendants in civil cases, or victims and defendants in criminal cases. All these heterogeneous categories of actors make social interaction in the judicial niche extremely complex.

Yet this complex niche has its inherent social forms. The nature of litigation makes its formal structure a classic Simmelian triad (Simmel 1950, 1971), in which the judge serves the role of the arbitrator or mediator. In such a triadic dispute resolution structure (Sweet 1999), at least three types of social processes can be observed, namely, competitive cooperation, boundary work, and exchange. Competitive cooperation is a classic Chicago School sociological concept that refers to the simultaneously competitive and cooperative nature of human interaction (Park and Burgess [1921] 1969, 559). It can be well applied to characterize the interaction between lawyers on both sides of the litigation: lawyers compete for the attention of judges (and the jury, in some contexts) in trial but they also need to cooperate with each other in order to resolve the dispute, such as plea bargaining in criminal cases or mediation in civil cases (Maynard 1984; Merry 1990; Mather, McEwen, and Maiman 2001). In those cases without legal counsel, competitive cooperation can also be applied to describe the interaction between two lay parties, though the processual dynamics in this situation are somewhat different. Because lay parties do not share the same legal expertise, it is often more difficult for them to cooperate than for two legal professionals.

The lawyer-party interaction is mainly characterized by boundary work, a social process by which an actor defines its social boundaries vis-à-vis other actors (Gieryn 1983; Lamont and Molnár 2002; Liu 2013). As Sarat and Felstiner's (1995) ethnographic study demonstrates, in talking to their clients, lawyers often distinguish themselves from both the unpredictable and accident-prone court and the legally inexperienced client. By doing so, they construct the social boundaries of their professional identity as insiders of the legal system, different from the court but well connected to it. The judge-party interaction follows a similar pattern of boundary work, but sometimes in the opposite direction: judges often discredit the ability of lawyers in order to uphold their authority in front of litigants (Merry 1990; He and Ng 2013). Finally, the lawyer-judge interaction is mainly characterized by the exchange of information and resources, sometimes during a long period of law practice in the same locality. My study on Chinese lawyers, for example, suggests that a symbiotic relationship is formed through negotiated and reciprocal exchanges between lawyers and judges, which shapes the social structure of the Chinese legal services market as a whole (Liu 2011).

Why are these complex social processes important? It is because they can help us answer some interesting but unexplored sociolegal questions on dispute resolution. To continue using Galanter's essay as an example, the distinction between repeat players and one-shotters has been firmly established in the sociolegal scholarship (Kritzer and

Silbey 2003), but we still know little about the social process by which an actor in litigation becomes a repeat player. It is often assumed that repeat players are parties "who are engaged in many similar litigations over time" (Galanter 1974, 97) and, because of this simple and static fact, they enjoy many advantages in litigation. But what happens during those "many similar litigations over time"? How do the interactions between legal and nonlegal actors transform in this process? A one-shotter may find her interactions with legal professionals full of confusions and disappointments because of the boundary work of lawyers and judges (Ewick and Silbey 1998). However, as this person experiences litigations repeatedly, the social boundaries between her and judges/lawyers would become less rigid and their interactions would gradually shift toward exchange or competitive cooperation. It is precisely through this transition that this one-shotter eventually becomes a repeat player.

Therefore, studying the various patterns of social interaction in litigation has the potential of changing the "haves/have-nots" distinction from a static typology to a dynamic process. By doing so, we can learn much about the social construction of repeat players as well as the sources of their advantages. Similarly, such a processual perspective can also help us understand how judges and lawyers gain their expertise and respective jurisdictions in the triad of litigation through competitive cooperation, boundary work, exchange, and other social processes. A full-fledged processual analysis of litigation patterns is beyond the scope of this article, but I hope to have demonstrated its feasibility and potential in future research.

Besides the legislative and judicial niches, the powerless approach can also be applied to study other niches in the social space of law, such as criminal justice or the legal services market. My research on China provides an empirical example of how the two processes of boundary work and exchange produce the legal services market's fragmented social structure (Liu 2008, 2011). More recently, I have expanded this analytical framework into a processual theory by adding two other social processes, diagnostic struggle and migration, to account for the legal profession's expertise and mobility. This processual framework explains not only the development of legal professions in various national contexts, but also the relationship between lawyers and globalization.

Finally, in the criminal justice niche, the division of labor among police officers, prosecutors, and judges is structured by the procedural sequence of criminal investigation, prosecution, and trial. The formal structure of this sequence varies between Continental and Anglo-American legal systems, but the social processes that constitute the relations among the three legal actors are similar. In comparison to the competitive cooperation between lawyers on the two sides of civil litigation, interaction among judges, prosecutors, and police officers in criminal justice is better characterized as coordination, a social process by which actors with different interests and resources organize together to achieve the same goal. Informal coordination among police officers, prosecutors, and judges is prevalent in the criminal process (Feeley [1979] 1992). In some countries, such as China, there are even formal institutions (e.g., the adjudication committee) responsible for coordinating the three judicial and law enforcement agencies in important and difficult cases (He 2012; Li 2012). Defense lawyers, in contrast, are often marginalized in the criminal justice system, particularly in Continental law countries (Hodgson 2005; McConville 2011). Their interaction with police

officers or prosecutors is more competitive and sometimes even confrontational. It is through these social processes that actors in the criminal justice niche are located in their respective sociological jurisdictions in the workplace, which are more or less different from their legal jurisdictions in criminal procedural laws.

The identification of a number of social processes that both characterize the micro interaction between legal actors and shape the macro structure of the legal system is only the initial step in theorizing law as social process. The next step is to explain the temporality of those processes and their structural effects. Historical sociologist William H. Sewell, Jr. (1996) distinguishes three types of temporality: teleological, experimental, and eventful. Among the three, teleological and experimental temporalities assume either causal homogeneity or causal independence through time, whereas eventful temporality "assumes that social relations are characterized by path dependency, temporally heterogeneous causalities, and global contingency" (Sewell 1996, 264). In the conceptualization of eventful temporality, social life is composed of "countless happenings or encounters in which persons and groups of persons engage in social action" and events are defined as "that relatively rare subclass of happenings that significantly transform structures" (Sewell 1996, 262).

The powerless approach that I propose here embraces the eventful view of temporality because the social processes that produce law's social structures are not universal causal mechanisms, but contingent and path-dependent concepts that transcend the "general linear reality" (Abbott 2001, 37). To study law's social forms is to discover structural and processual patterns in the legal system, not to build an autopoietic system or a teleological path. All the abstract social processes identified above must be situated in the temporality of social life, constructed and transformed by the events happening in everyday legal practice. Such events can be as micro as an individual lawyer's defense of her client in court or as macro as the breakdown of the entire legal system of a country during political change (Markovits 1992), but all of them have transformative capacities for shaping law's formal structures.

Let me use the example of lawyers' mobility to illustrate how eventful temporality plays out in empirical sociolegal research. In existing scholarship, the mobility of lawyers is mostly considered an issue of status attainment, such as the partnership tournament in law firms (Galanter and Palay 1991) or the more recent in-house counsel movement (Nelson and Nielsen 2000; Wilkins 2012). Few studies adopt a processual perspective to examine how and why lawyers move across geographic locations and institutional contexts. One reason for this research vacuum is the lack of analytical tools for explaining the temporality of lawyers' spatial and hierarchical movements. Social scientists' intellectual preference for universal structural patterns often undermines the discovery of contingent events that trigger or transform the processes of mobility in the legal profession.

In a recent article, Liu, Liang, and Michelson (2014) use the case of Chinese migrant lawyers to develop a spatial mobility framework for explaining the social process of lawyer migration. They argue that migration is both a structured and a structuring process: on the one hand, lawyer migration is generated by the structural inequalities in the geographical or social space of the legal profession; on the other hand, the spatial mobility of individual lawyers has the potential of producing or reinforcing the profession's macro social structure. For the case of Chinese lawyers,

large-scale migration to a few urban centers occurred in the early to mid-2000s due to both income inequalities across the country and a triggering event of professional regulation, namely, the abolition of local restrictions on lawyer migration by the Administrative License Law. After a large number of migrant lawyers had rushed to metropolises such as Beijing and Shanghai, many of them were stuck in the bottom of the bar, yet the success stories of notable migrant lawyers have drawn more followers from the provinces and made lawyer migration a more or less self-perpetuating process.

Although this case study is only a preliminary step in developing a processual theory of lawyers' mobility, it suggests two key theoretical points. First, the substances of law, such as income inequalities in the legal profession, can generate social processes such as lawyer migration, but they are insufficient for explaining the temporality of those processes. Second, the processual form of lawyer migration is shaped by numerous events, including both macro events such as national legislative changes and micro events such as individual lawyers' assimilation into, or attrition from, an urban bar. These events are neither causally connected nor statistically predictable, but contingent on the particular social contexts in which lawyer migration, or other social processes of law, takes place. In other words, to study the processual forms of law is not to construct a stage model or a lifecycle (Abbott 1995), but to discover the contextual dynamics of particular legal systems.

The difference between this eventful temporality perspective and existing sociolegal scholarship can be illustrated by comparing it with two theories discussed above, namely, transformation of disputes (Felstiner, Abel, and Sarat 1980–1981) and recursivity of legal change (Halliday and Carruthers 2007; Halliday 2009; Liu and Halliday 2009). The naming, blaming, claiming framework is essentially a stage model, in which the transformation of disputes occurs step by step following a fixed sequence and leading to a dispute pyramid. Recursivity theory resembles a life-cycle model, in which legal change happens in a cyclical pattern characterized by four universal mechanisms. However, if we adopted the perspective of eventful temporality, the process of legal change would consist of a series of events such as a legislative meeting, a presidential speech, or a public protest, all of which have the potential of generating or transforming the recursivity of lawmaking. Diagnostic struggles, the basic social process in legislation, must be situated in those events in order to understand their processual dynamics. By the same token, the transformation of disputes consists of not only the "subjects and agents of transformation" that Felstiner, Abel, and Sarat (1980–1981, 639) identify, but many contingent events that constitute the contexts and turning points for the working of abstract social forms such as naming, blaming, and claiming.

In sum, all the social processes identified above, such as competitive cooperation, boundary work, exchange, or coordination, must be situated in the sequence of contingent events to produce the macro structures of law. This is to say, the social space of law cannot be properly theorized without understanding its temporality. Temporality contextualizes social processes, gives them a formal shape (e.g., a sequence or a cycle), and links them to the legal system's macro social structures. The social forms of law, therefore, have both a spatial dimension and a temporal one. To study these two dimensions is to recognize that all the substances of law, such as power, inequality, rights, and justice, are ultimately bound by space and time.

CONCLUSION

It is hard to imagine a legal system without power. It is possible, however, to construct a sociological theory of law without power. In this article, I have critically reviewed the rise and dominance of the power/inequality approach in law and society research and presented some preliminary thoughts on the possibility of developing a powerless approach to the sociology of law. This powerless approach is based on a sociological distinction between the forms and substances of law and it seeks to understand the legal system by examining its social forms, namely, the social structures and social processes that constitute its spatial outlook and temporality.

The powerless approach fully acknowledges the importance of power and other substantive issues in the legal system, such as freedom, equality, justice, human rights, and so on. But it argues that these substantive concerns should not become the overwhelmingly dominant approach of studying law from the lens of social science. All social science theories create blind spots and it is precisely in the blind spots of one perspective that alternative perspectives emerge and transform the theoretical landscape of a research field. What is the shape of a legal system? How do the structures of legal institutions emerge and transform over time? How are the social processes of law embedded in historically contingent events? Many such interesting and fundamental questions concerning law's social forms need to be asked in future law and society research and to answer them may require a more or less different set of discourses and analytical tools than those with which contemporary law and society researchers are familiar.

Following Georg Simmel and the Chicago School of sociology, I have conceptualized the legal system as a social space with niches and jurisdictions, constituted and transformed by temporally contextualized social processes. Although this is only the crude prototype of a full-fledged theory, the discussions in the previous pages have been oriented toward a spatial theory of law that sticks to the "law in action" tradition but breaks away from the critical perspective of legal realism. Yet this new spatial theory is also different from Donald Black's (1976, 1993) social geometry of law because it incorporates both actors and temporality into its framework but does not seek to develop a "pure sociology" that "meets the highest standard of science" (Black 2002, 104). Arguably, this is a radical departure from the conventional wisdoms in the field, yet my ultimate goal is not to construct another abstract sociological theory of law, but to establish the theoretical scaffolding for understanding empirically the legal system's formal shape and how it changes over time.

For decades, law and society research has been dominated by US-centric scholarship originating from the progressive social movements of the 1960s, which makes power and inequality the central concerns of the field. As sociolegal scholarship becomes more international, however, the mismatch between the dominant power/inequality approach and the empirical realities of non-US social contexts is increasingly salient. The powerless approach emphasizes contexts and temporality, but its intellectual foundation is less contingent on the exceptional history of US law and society. Instead, it is an open invitation for sociolegal scholars across the world to study the formal shape of law from their own cultural and historical contexts. With a lineage from classical and contemporary social theories, a global orientation, and, hopefully, some interest from the law and society community, the powerless approach can be powerful.

REFERENCES

Abbott, Andrew. 1986. Jurisdictional Conflict: A New Approach to the Development of the Legal Professions. *American Bar Foundation Research Journal* 11:187–224.

——. 1988. *The System of Professions: An Essay on the Division of Expert Labor*. Chicago, IL: University of Chicago Press.

——. 1995. Sequence Analysis: New Methods for Old Ideas. *Annual Review of Sociology* 21:93–113.

——. 1999. *Department and Discipline: Chicago Sociology at One Hundred*. Chicago, IL: University of Chicago Press.

——. 2001. *Time Matters: On Theory and Method*. Chicago, IL: University of Chicago Press.

——. 2005. Linked Ecologies. *Sociological Theory* 23:245–74.

Abel, Richard L. 1980. Redirecting the Social Studies of Law. *Law & Society Review* 14:805–29.

——. 1988. *The Legal Profession in England and Wales*. Oxford: Blackwell.

——. 1989. *American Lawyers*. Oxford: Oxford University Press.

——. 2010. Law and Society: Project and Practice. *Annual Review of Law and Social Science* 6:1–23.

Abel-Smith, Brian, and Robert B. Stevens. 1967. *Lawyers and the Courts: A Sociological Study of the English Legal System: 1750–1965*. Cambridge, MA: Harvard University Press.

Albiston, Catherine R. 2010. *Institutional Inequality and the Mobilization of the Family and Medical Leave Act: Rights on Leave*. New York: Cambridge University Press.

Atuahene, Bernadette. 2011. Paying for the Past: Redressing Past Property Violations in South Africa. *Law & Society Review* 45:955–89.

Auerbach, Jerold S. 1976. *Unequal Justice: Lawyers and Social Change in Modern America*. New York: Oxford University Press.

Balbus, Isaac D. 1977. Commodity Form and Legal Form: An Essay on the "Relative Autonomy" of the Law. *Law & Society Review* 11:571–88.

Black, Donald. 1976. *The Behavior of Law*. New York: Academic Press.

——. 1993. *The Social Structure of Right and Wrong*. New York: Academic Press.

——. 2000. Dreams of Pure Sociology. *Sociological Theory* 18:343–67.

——. 2002. The Geometry of Law: An Interview with Donald Black. *International Journal of the Sociology of Law* 30:101–29.

Blau, Peter M. [1964] 1986. *Exchange and Power in Social Life*. New Brunswick, NJ: Transaction.

Blumer, Herbert. 1969. *Symbolic Interactionism: Perspective and Method*. Englewood Cliffs, NJ: Prentice-Hall.

Bourdieu, Pierre. 1987. The Force of Law: Toward a Sociology of the Juridical Field. *Hastings Law Journal* 38:805–53.

——. [1992] 1996. *The Rules of Art: Genesis and Structure of the Literary Field*, trans. S. Emanuel. Stanford, CA: Stanford University Press.

Bourdieu, Pierre, and Loïc Wacquant. 1992. *An Invitation to Reflexive Sociology*. Chicago, IL: University of Chicago Press.

Burstein, Paul. 1991. Legal Mobilization as a Social Movement Tactic: The Struggle for Equal Employment Opportunity. *American Journal of Sociology* 96:1201–25.

Cain, Maureen. 1974. The Main Themes of Marx' and Engels' Sociology of Law. *British Journal of Law and Society* 1:136–48.

Cappelletti, Mauro, and Bryant Garth. 1978. Access to Justice: The Newest Wave in the Worldwide Movement to Make Rights Effective. *Buffalo Law Review* 27:181–292.

Chambliss, William J. 1979. On Lawmaking. *British Journal of Law and Society* 6:149–71.

Chambliss, William J., and Robert B. Seidman. 1971. *Law, Order, and Power*. Boston, MA: Addison-Wesley.

Collins, Hugh. 1982. *Marxism and Law*. Oxford: Oxford University Press.

Comaroff, Jean, and John L. Comaroff. 2006. *Law and Disorder in the Postcolony*. Chicago, IL: University of Chicago Press.

Conti, Joseph A. 2010. Learning to Dispute: Repeat Participation, Expertise, and Reputation at the World Trade Organization. *Law & Social Inquiry* 35:625–62.

Couso, Javier, Alexandra Huneeus, and Rachel Sieder. 2010. *Cultures of Legality: Judicialization and Political Activism in Latin America*. Cambridge: Cambridge University Press.
Crenshaw, Kimberlé, ed. 1995. *Critical Race Theory: The Key Writings that Formed the Movement*. New York: New Press.
Dezalay, Yves, and Bryant G. Garth. 1996. *Dealing in Virtue: International Commercial Arbitration and the Construction of a Transnational Legal Order*. Chicago, IL: University of Chicago Press.
——. 2002. *The Internationalization of Palace Wars: Lawyers, Economists and the Transformation of Latin-American States*. Chicago, IL: University of Chicago Press.
——. 2010. *Asian Legal Revivals: Lawyers in the Shadow of Empire*. Chicago, IL: University of Chicago Press.
Dezalay, Yves, and Mikael R. Madsen. 2012. The Force of Law and Lawyers: Pierre Bourdieu and the Reflexive Sociology of Law. *Annual Review of Law and Social Science* 8:433–52.
Dicey, Albert V. 1905. *Lectures on the Relation Between Law & Public Opinion in England During the Nineteen Century*. London: Macmillan.
Durkheim, Emile. [1893] 1984. *The Division of Labor in Society*, trans. W. D. Halls. New York: Free Press.
Edelman, Lauren B. 2013. The Sociologies of Law in Sociology Departments, Law Schools, and Law and Society. Paper presented at the American Sociological Association's 108th Annual Meeting, August 12, New York.
Edelman, Lauren B., Howard Erlanger, and John Lande. 1993. Internal Dispute Resolution: The Transformation of Civil Rights in the Workplace. *Law & Society Review* 27:497–534.
Edelman, Lauren B., Christopher Uggen, and Howard S. Erlanger. 1999. The Endogeneity of Legal Regulation: Grievance Procedures as Rational Myth. *American Journal of Sociology* 105:406–54.
Emerson, Richard M. 1976. Social Exchange Theory. *Annual Review of Sociology* 2:335–62.
Emirbayer, Mustafa, and Jeff Goodwin. 1994. Network Analysis, Culture, and the Problem of Agency. *American Journal of Sociology* 99:1411–54.
Erlanger, Howard S., Elizabeth Chambliss, and Marygold S. Melli. 1987. Participation and Flexibility in Informal Processes: Cautions from the Divorce Context. *Law & Society Review* 21:585–604.
Ewick, Patricia, and Susan S. Silbey. 1998. *The Common Place of Law: Stories from Everyday Life*. Chicago, IL: University of Chicago Press.
Ewing, Sally. 1987. Formal Justice and the Spirit of Capitalism: Max Weber's Sociology of Law. *Law & Society Review* 21:488–512.
Feeley, Malcom M. [1979] 1992. *The Process is the Punishment: Handling Cases in a Lower Criminal Court*. New York: Russell Sage Foundation.
Feldman, Stephen. 1991. An Interpretation of Max Weber's Sociology of Law: Metaphysics, Economics, and the Iron Cage of Constitutional Law. *Law & Social Inquiry* 16:205–48.
Felstiner, William, Richard Abel, and Austin Sarat. 1980–1981. The Emergence and Transformation of Disputes: Naming, Blaming, and Claiming . . . *Law & Society Review* 15:631–54.
Fisher, William W. III, Morton J. Horwitz, and Thomas A. Reed, eds. 1993. *American Legal Realism*. Oxford: Oxford University Press.
Flood, John. 1991. Doing Business: The Management of Uncertainty in Lawyers' Work. *Law & Society Review* 25:41–72.
Foucault, Michel. [1975] 1977. *Discipline and Punish: The Birth of the Prison*, trans. A. Sheridan. New York: Vintage Books.
——. 1980. *Power/Knowledge: Selected Interviews and Other Writings, 1972–1977*, ed. C. Gordon. New York: Pantheon Books.
Friedman, Lawrence M. 1969. Legal Culture and Social Development. *Law & Society Review* 4:29–44.
——. 1986. The Law and Society Movement. *Stanford Law Review* 38:763–80.
Galanter, Marc. 1974. Why the "Haves" Come Out Ahead: Speculations on the Limits of Legal Change. *Law & Society Review* 9:95–160.
——. 1989. *Law and Society in Modern India*. Oxford: Oxford University Press.
Galanter, Marc, and Thomas Palay. 1991. *Tournament of Lawyers: The Transformation of the Big Law Firm*. Chicago, IL: University of Chicago Press.

García-Villegas, Mauricio. 2006. Comparative Sociology of Law: Legal Fields, Legal Scholarships, and Social Sciences in Europe and the United States. *Law & Social Inquiry* 31:343–82.

Garth, Bryant G. 2002. Building Strong and Independent Judiciaries Through the New Law and Development: Behind the Paradox of Consensus Programs and Perpetually Disappointing Results. *DePaul Law Review* 52:383–400.

——. 2003. Law and Society as Law and Development. *Law & Society Review* 37:305–14.

Gieryn, Thomas F. 1983. Boundary-Work and the Demarcation of Science from Non-Science: Strains and Interests in Professional Ideologies of Scientists. *American Sociological Review* 48:781–95.

Ginsburg, Tom, and Tanir Moustafa, eds. 2008. *Rule by Law: The Politics of Courts in Authoritarian Regimes*. New York: Cambridge University Press.

Goffman, Erving. 1959. *The Presentation of Self in Everyday Life*. New York: Anchor Books.

——. 1974. *Frame Analysis: An Essay on the Organization of Experience*. New York: Harper & Row.

Gordon, Daanika. 2013. Legal Means, Extralegal Ends: Constructing the Role of the Legal System in Drug Treatment Court. Paper presented at the American Sociological Association's 108th Annual Meeting, August 12, New York.

Gordon, Robert W. 1984. Critical Legal Histories. *Stanford Law Review* 36:57–125.

Gorski, Philip S. 2013. Bourdieusian Theory and Historical Analysis: Maps, Mechanisms, and Methods. In *Bourdieusian Theory and Historical Analysis*, ed. P. S. Gorski, 327–66. Durham, NC: Duke University Press.

Gould, Jon B., and Scott Barclay. 2012. Mind the Gap: The Place of Gap Studies in Sociolegal Scholarship. *Annual Review of Law and Social Science* 8:323–35.

Gramsci, Antonio. 1971. *Selection from the Prison Notebooks*, trans. and ed. Q. Hoare and G. N. Smith. London: Lawrence and Wishart.

Granovetter, Mark. 1973. The Strength of Weak Ties. *American Journal of Sociology* 78:1360–80.

Hagan, John. 1989. *Structural Criminology*. Piscataway, NJ: Rutgers University Press.

Hagan, John, and Fiona Kay. 1995. *Gender in Practice: A Study of Lawyers' Lives*. New York: Oxford University Press.

Hagan, John, and Wenona Rymond-Richmond. 2009. *Darfur and the Crime of Genocide*. New York: Cambridge University Press.

Halliday, Terence C. 2009. Recursivity of Global Normmaking: A Sociolegal Agenda. *Annual Review of Law and Social Science* 5:263–89.

Halliday, Terence C., and Bruce G. Carruthers. 2007. The Recursivity of Law: Global Norm-Making and National Law-Making in the Globalization of Corporate Insolvency Regimes. *American Journal of Sociology* 111:1135–1202.

Halliday, Terence C., and Lucien Karpik, eds. 1997. *Lawyers and the Rise of Western Political Liberalism: Europe and North America from the Eighteenth to Twentieth Centuries*. Oxford: Clarendon Press.

Hannan, Michael T., and John Freeman. 1977. The Population Ecology of Organizations. *American Journal of Sociology* 82:929–64.

——. 1989. *Organizational Ecology*. Cambridge, MA: Harvard University Press.

Harris, Angel P. 1994. Forward: The Jurisprudence of Reconstruction. Symposium: Critical Race Theory. *California Law Review* 82:741–85.

Hawley, Amos H. 1986. *Human Ecology: A Theoretical Essay*. Chicago, IL: University of Chicago Press.

He, Xin. 2012. Black Hole of Responsibility: The Adjudication Committee's Role in a Chinese Court. *Law & Society Review* 46:681–712.

He, Xin, and Kwai H. Ng. 2013. Pragmatic Discourse and Gender Inequality in China. *Law & Society Review* 47:279–310.

Heinz, John P., and Edward O. Laumann. 1982. *Chicago Lawyers: The Social Structure of the Bar*. New York: Russell Sage Foundation.

Heinz, John P., Eward O. Laumann, Robert L. Nelson, and Robert H. Salisbury. 1993. *The Hollow Core: Private Interests in National Policy Making*. Cambridge, MA: Harvard University Press.

Heinz, John P., Robert L. Nelson, Rebecca L. Sandefur, and Edward O. Laumann. 2005. *Urban Lawyers: The New Social Structure of the Bar*. Chicago, IL: University of Chicago Press.

Hodgson, Jacqueline. 2005. *French Criminal Justice: A Comparative Account of the Investigation and Prosecution of Crime in France*. Oxford: Hart.

Hogg, Michael A., and Dominic Abrams. 1998. *Social Identifications: A Social Psychology of Intergroup Relations and Group Processes*. London: Routledge.
Karpik, Lucien. [1995] 1999. *French Lawyers: A Study in Collective Action, 1274 to 1994*, trans. N. Scott. Oxford: Clarendon Press.
Karpik, Lucien, and Terence C. Halliday. 2011. The Legal Complex. *Annual Review of Law and Social Science* 7:217–36.
Kay, Fiona, and Elizabeth Gorman. 2008. Women in the Legal Profession. *Annual Review of Law and Social Science* 4:299–332.
Kennedy, Duncan. 1976. Form and Substance in Private Law Adjudication. *Harvard Law Review* 89:1685–1778.
Kritzer, Herbert M., and Susan S. Silbey, eds. 2003. *In Litigation: Do the "Haves" Still Come Out Ahead?* Stanford, CA: Stanford University Press.
Lamont, Michèle, and Virág Molnár. 2002. The Study of Boundaries in the Social Sciences. *Annual Review of Sociology* 28:167–95.
Larson, Magali S. 1977. *The Rise of Professionalism: A Sociological Analysis*. Berkeley, CA: University of California Press.
Latour, Bluno. [2002] 2010. *The Making of Law: An Ethnography of the Conseil d'Etat*. Cambridge: Polity Press.
Levine, Donald N. 1989. Simmel as a Resource for Sociological Metatheory. *Sociological Theory* 7:161–74.
——. 1991. Simmel and Parsons Reconsidered. *American Journal of Sociology* 96:1097–1116.
Levine, Donald N., Ellwood B. Carter, and Eleanor Miller Gorman. 1976. Simmel's Influence on American Sociology. *American Journal of Sociology* 81:813–45, 1112–32.
Li, Ling. 2012. The "Production" of Corruption in China's Courts: Judicial Politics and Decision Making in a One-Party State. *Law & Social Inquiry* 37:848–77.
Liu, Sida. 2006. Client Influence and the Contingency of Professionalism: The Work of Elite Corporate Lawyers in China. *Law & Society Review* 40:751–82.
——. 2008. Globalization as Boundary-Blurring: International and Local Law Firms in China's Corporate Law Market. *Law & Society Review* 42:771–804.
——. 2011. Lawyers, State Officials, and Significant Others: Symbiotic Exchange in the Chinese Legal Services Market. *China Quarterly* 206:276–93.
——. 2012. Palace Wars Over Professional Regulation: In-House Counsel in Chinese State-Owned Enterprises. *Wisconsin Law Review* 2012:549–71.
——. 2013. The Legal Profession as a Social Process: A Theory on Lawyers and Globalization. *Law & Social Inquiry* 38:670–93.
Liu, Sida, and Terence C. Halliday. 2009. Recursivity in Legal Change: Lawyers and Reforms of China's Criminal Procedure Law. *Law & Social Inquiry* 34:911–50.
Liu, Sida, Lily Liang, and Ethan Michelson. 2014. Migration and Stratification: The Spatial Mobility of Chinese Lawyers. *Law & Policy* 36:165–94.
Luhmann, Niklas. [1984] 1995. *Social Systems*, trans. J. Bednarz, Jr. with D. Baecker. Stanford, CA: Stanford University Press.
——. 2004. *Law as a Social System*, trans. K. A. Ziegert. New York: Oxford University Press.
Lukács, Georg. 1971. *History and Class Consciousness: Studies in Marxist Dialectics*. Cambridge, MA: MIT Press.
Macaulay, Stewart. 1984. Law and the Behavioral Sciences: Is There Any There There? *Law & Policy* 6:149–87.
Macaulay, Stewart, Lawrence Friedman, and Elizabeth Mertz. 2007. *Law in Action: A Socio-Legal Reader*. New York: Foundation Press.
Markovits, Inga. 1992. Last Days. *California Law Review* 80:55–129.
Martin, John L. 2009. *Social Structures*. Princeton, NJ: Princeton University Press.
Mather, Lynn, Craig A. McEwen, and Richard J. Maiman. 2001. *Divorce Lawyers at Work: Varieties of Professionalism in Practice*. Oxford: Oxford University Press.
Mather, Lynn, and Barbara Yngvesson. 1980–1981. Language, Audience, and the Transformation of Disputes. *Law & Society Review* 15:775–822.

Maynard, Douglas W. 1984. *Inside Plea Bargaining: The Language of Negotiation*. New York: Plenum Press.
McCann, Michael W. 1994. *Rights at Work: Pay Equity Reform and the Politics of Legal Mobilization*. Chicago, IL: University of Chicago Press.
McConville, Mike. 2011. *Criminal Justice in China: An Empirical Inquiry*. Cheltenham, UK: Edward Elgar.
McKenzie, Roderick D. 1968. *On Human Ecology*, ed. A. H. Hawley. Chicago, IL: University of Chicago Press.
Merry, Sally E. 1990. *Getting Justice and Getting Even: Legal Consciousness Among Working-Class Americans*. Chicago, IL: University of Chicago Press.
——. 2000. *Colonizing Hawai'i: The Cultural Power of Law*. Princeton, NJ: Princeton University Press.
——. 2006. *Human Rights and Gender Violence: Translating International Law into Local Justice*. Chicago, IL: University of Chicago Press.
Merryman, John Henry. 1977. Comparative Law and Social Change: On the Origins, Style, Decline, and Revival of the Law and Development Movement. *American Journal of Comparative Law* 25:457–91.
Michelson, Ethan. 2006. The Practice of Law as an Obstacle to Justice: Chinese Lawyers at Work. *Law & Society Review* 40:1–38.
Miller, Richard E., and Austin Sarat. 1980–1981. Grievances, Claims, and Disputes: Assessing the Adversarial Culture. *Law & Society Review* 15:525–66.
Mills, C. Wright. 1959. *The Sociological Imagination*. New York: Oxford University Press.
Miyazawa, Setsuo. 2001. The Politics of Judicial Reform in Japan: The Rule of Law at Last? *Asian-Pacific Law & Policy Journal* 2:89–121.
Mnookin, Robert H., and Lewis Kornhauser. 1979. Bargaining in the Shadow of the Law: The Case of Divorce. *Yale Law Journal* 88:950–97.
Moore, Sally Falk. 1973. Law and Social Change: The Semi-Autonomous Social Field as an Appropriate Subject of Study. *Law & Society Review* 7:719–46.
Nelson, Robert L. 1988. *Partners with Power: The Social Transformation of the Large Law Firm*. Berkeley, CA: University of California Press.
Nelson, Robert L., and Laura B. Nielsen. 2000. Cops, Counsel, and Entrepreneurs: Constructing the Role of Inside Counsel in Large Corporations. *Law & Society Review* 34:457–94.
Nielsen, Laura Beth. 2000. Situating Legal Consciousness: Experiences and Attitudes of Ordinary Citizens About Law and Street Harassment. *Law & Society Review* 34:1055–90.
Ota, Shozo, and Kahei Rokumoto. 1993. Issues of the Lawyer Population: Japan. *Case Western Journal of International Law* 25:315–32.
Park, Robert E., and Ernest W. Burgess. [1921] 1969. *Introduction to the Science of Sociology*. Chicago, IL: University of Chicago Press.
Park, Robert E., Ernest W. Burgess, and Roderick D. McKenzie. 1967. *The City*. Chicago, IL: University of Chicago Press.
Parsons, Talcott. 1937. *The Structure of Social Action*. New York: McGraw Hill.
——. 1951. *The Social System*. Glencoe, IL: Free Press.
Portes, Alejandro. 1998. Social Capital: Its Origins and Applications in Modern Sociology. *Annual Review of Sociology* 24:1–24.
Posner, Richard A. 1990. *The Problem of Jurisprudence*. Cambridge, MA: Harvard University Press.
Pound, Roscoe. 1931. The Call for a Realist Jurisprudence. *Harvard Law Review* 44:697–711.
——. 1942. *Social Control Through Law*. New Haven, CT: Yale University Press.
Powell, Walter W., and Paul J. DiMaggio, eds. 1991. *The New Institutionalism in Organizational Analysis*. Chicago, IL: University of Chicago Press.
Reichman, Nancy J., and Joyce S. Sterling. 2004. Sticky Floors, Broken Steps, and Concrete Ceilings in Legal Careers. *Texas Journal of Women and the Law* 14:27–76.
Rhode, Deborah L. 2004. *Access to Justice*. New York: Oxford University Press.
Santos, Boaventura de Sousa. 2002. *Toward a New Legal Common Sense*, 2nd ed. London: Butterworths.

Sarat, Austin, and William L. F. Felstiner. 1995. *Divorce Lawyers and Their Clients: Power and Meaning in the Legal Process*. New York: Oxford University Press.
Sarat, Austin, and Stuart A. Scheingold, eds. 1998. *Cause Lawyering: Political Commitments and Professional Responsibilities*. New York: Oxford University Press.
Scheingold, Stuart A. [1974] 2004. *The Politics of Rights: Lawyers, Public Policy, and Political Change*. Ann Arbor, MI: University of Michigan Press.
Schlegel, John H. 1995. *American Legal Realism and Empirical Social Science*. Chapel Hill, NC: University of North Carolina Press.
Schwartz, Barry. 1967. The Social Psychology of the Gift. *American Journal of Sociology* 73:1–11.
Seron, Carroll, Susan Bibler Coutin, and Pauline White Meeusen. 2013. Is There a Canon of Law and Social Science? *Annual Review of Law and Social Science* 9:287–306.
Sewell, William H. Jr. 1996. Three Temporalities: Toward an Eventful Sociology. In *The Historical Turn in the Human Sciences*, ed. T. J. McDonald, 245–80. Ann Arbor, MI: University of Michigan Press.
Silbey, Susan S. 1985. Ideals and Practices in the Study of Law. *Legal Studies Forum* 9:7–22.
——. 2002. Law and Society Movement. In *Legal Systems of the World: A Political, Social, and Cultural Encyclopedia*, ed. H. M. Kritzer, Vol. II: E–L, 860–63. Santa Barbara, CA: ABC CLIO.
——. 2005. After Legal Consciousness. *Annual Review of Law and Social Science* 1:323–68.
Silbey, Susan S., and Austin Sarat. 1987. Critical Traditions in Law and Society Research. *Law & Society Review* 21:165–74.
Simmel, Georg. 1950. *The Sociology of Georg Simmel*, trans. and ed. K. H. Wolff. Glencoe, IL: Free Press.
——. 1971. *Georg Simmel on Individuality and Social Forms*, ed. D. N. Levine. Chicago, IL: University of Chicago Press.
Skolnick, Jerome H. 2012. Legacies of Legal Realism: The Sociology of Criminal Law and Criminal Justice. *Annual Review of Law and Social Science* 8:1–10.
Stone, Alan. 1985. The Place of Law in the Marxian Structure-Superstructure Archetype. *Law & Society Review* 11:577–88.
Suchman, Mark C., and Lauren B. Edelman. 1996. Legal Rational Myth: The New Institutionalism and the Law and Society Tradition. *Law & Social Inquiry* 21:903–41.
Sweet, Alec Stone. 1999. Judicialization and the Construction of Governance. *Comparative Political Studies* 32:147–84.
Tamanaha, Brian Z. 1995. The Lessons of Law-and-Development Studies. *American Journal of International Law* 89:470–86.
Teubner, Gunther. 1983. Substantive and Reflexive Elements in Modern Law. *Law & Society Review* 17:239–86.
——. 1993. *Law as an Autopoietic System*, trans. R. Adler. Oxford: Blackwell.
Trubek, David M. 1972. Max Weber on Law and the Rise of Capitalism. *Wisconsin Law Review* 1972:720–53.
——. 1984. Where the Action Is: Critical Legal Studies and Empiricism. *Stanford Law Review* 36:575–622.
Trubek, David M., Yves Dezalay, Ruth Buchanan, and John R. Davis. 1994. Global Restructuring and the Law: Studies of the Internationalization of the Legal Fields and the Creation of Transnational Arenas. *Case Western Law Review* 44:407–98.
Trubek, David M., and John Esser. 1989. Critical Empiricism in American Legal Studies: Paradox, Program, or Pandora's Box? *Law & Social Inquiry* 14:3–52.
Trubek, David M., and Marc Galanter. 1974. Scholars in Self-Estrangement: Some Reflections on the Crisis in Law and Development Studies in the United States. *Wisconsin Law Review* 1974:1062–1102.
Trubek, David M., Austin Sarat, William L. F. Felstiner, Herbert M. Kritzer, and Joel B. Grossman. 1983. The Costs of Ordinary Litigation. *UCLA Law Review* 31:72–127.
Turk, Austin. 1976. Law as a Weapon in Social Conflict. *Social Problems* 23:278–91.
Watson, Alan. 1983. Legal Change: Sources of Law and Legal Culture. *University of Pennsylvania Law Review* 131:1121–57.

Weber, Max. 1978. *Economy and Society*, ed. G. Roth and C. Wittich. Berkeley, CA: University of California Press.

Weinrib, Ernest J. 1988. Legal Formalism: On the Immanent Reality of Law. *Yale Law Journal* 97:949–1016.

Weisberg, D. Kelly, ed. 1993. *Feminist Legal Theory: Foundations*. Philadelphia, PA: Temple University Press.

Wilkins, David B. 2012. Is the In-House Counsel Movement Going Global? A Preliminary Assessment of the Role of Internal Counsel in Emerging Economies. *Wisconsin Law Review* 2012:251–304.

Wilkins, David B., and G. Mitu Gulati. 1996. Why Are There So Few Black Lawyers in Corporate Law Firms? An Institutional Analysis. *California Law Review* 84:493–625.

——. 1998. Reconceiving the Tournament of Lawyers: Tracking, Seeding, and Information Control in the Internal Labor Market of Elite Law Firms. *Virginia Law Review* 84:1581–1681.

Zhu, Suli. 1995. *Fazhi ji qi Bentu Ziyuan* [*The Rule of Law and its Local Resources*]. Beijing: China University of Political Science and Law Press.