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LAW AND TRADITION

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The four of us came to Yale and the Law and Modernization Program by different routes. I'm going to describe my background because it explains how Dave and I complemented each other. Influenced by Russia's launch of Sputnik in fall of my senior year in high school and the fact that I was good at math and science, I majored in physics at Harvard. By the end of my second year, however, I realized I didn't want to be a scientist: I wasn't good enough, and it would be years before I could do original work. In spring 1960 I took David Riesman's SocSci 136 course: "American Character and Social Structure." It was transformative. The course addressed some of my most pressing personal concerns; for instance, we read Riesman's "The Lonely Crowd" and Paul Goodman's "Growing Up Absurd" (1960)— critiques of 1950s culture and pressures for conformity. Allowed to write on almost any topic for our term paper (the only requirement), I chose "Attitudes towards science and extra-scientific phenomena: an empirical study among Harvard students." (Looking back, I think I was seeking justifications for abandoning physics.) Riesman was a fellow of Quincy House, where I lived, and often had lunch with students, encouraging us to voice dissatisfactions with our Harvard education. My section man sent me a long, laudatory letter about the paper. (He was William Gamson, then writing about social movements in opposition to fluoridation, prefiguring today's anti-vaxers.) Even more important, Riesman wrote every student (perhaps a hundred of us) about our papers. His 3.5-page letter to me concluded: "One of the things which is most desirable about your paper is the topic itself, chosen and pursued with great originality." I was hooked.[2] I have always tried to emulate his eclectic, qualitative approach. (A lawyer with no formal training in sociology, he was Henry Ford II Professor of Social Sciences in the Social Relations Department.) The next year I took Paul Freund's undergraduate course on legal reasoning and felt immediately drawn to law's pilpul (despite having no background in Talmudic exegesis). I wrote a term paper for him on group libel—only to discover that Riesman had written a long article on the subject (1942)—which, Freund said disparagingly, was the last good thing he ever wrote. In my fourth year I took Talcott Parsons's first-year graduate course (presumptuously, since I had disdained undergraduate soc rel courses) and was not enamored his formalistic theorizing, which seemed devoid of content. At the

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[2] In her recent memoir. Sherry Turkle (2021, 200-03) writes that "Riesman was more than a mentor; he was a champion."

same time, I was becoming politically engaged, inspired by the sit-ins and freedom rides (which began in 1960 and 1961, respectively). Although 1950s apathy still pervaded Harvard (the only "demonstration" was a May 1961 protest against changing diplomas from Latin to English), I became active in Tocsin, which opposed above-ground nuclear testing and advocated for nuclear disarmament (doing research and participating in demonstrations in Boston and Washington). What may have clinched my choice of law over sociology graduate school, however, was Columbia's offer of a full-tuition scholarship (although it was little more than a thousand dollars at the time) and my failure to get a Woodrow Wilson Fellowship. Riesman had urged me to go to Yale Law School for its alleged social science orientation; but I chose Columbia to be close to my girlfriend. (Yes, reader, I married her[3]—and we're still happily together 58 years later.)

From the outset I was frustrated by the almost total lack of social context in law school courses. Criminal law was preoccupied with the "general part," such as the niceties of intent (can you attempt an impossible crime?); I wanted to know who was charged with what crimes and what happened to them in the criminal process, prison, and beyond. A courtly southern gentleman (Hardy Dillard, visiting "Baghdad on the Hudson" from Virginia) discoursed on offer and acceptance, but we never looked at an actual contract. (Stuart Macaulay's pathbreaking article on relations between car manufacturers and their dealers (1963) was published the next year and his book (1966) only after I had graduated.) After the required first-year classes I looked for those with a social science approach. Maurice Rosenberg just wanted students to replicate his recent book (1964) evaluating the efficacy of the pretrial conference (it perversely increased the length and expense of litigation). But I wasn't attracted by that kind of empirical legal studies *avant la lettre*. Wolfgang Friedmann, a German refugee who had studied with Julius Stone (1966) in Australia, taught a course on law and social change (1964), but I found it arid. The field of law and society was just emerging through informal contacts in Chicago and by piggybacking on the annual meetings of the APSA and ASA (see Abel 2013). The Berkeley Center for the Study of Law and Society had been created in 1961. But I was ignorant of both developments.

I had gone to law school to become a civil rights lawyer (my notion of public interest lawyering, a concept that developed a decade later). The summer after my first year I worked for Jack Weinstein, who had been my civil procedure teacher but now, on leave as Nassau County Attorney, was writing an amicus brief for *WMCA v. Simon*,[4] a companion of the landmark reapportionment case *Baker v. Carr*.[5] (Weinstein was appointed to the Eastern District of New York in 1967, where he sat until retiring in 2020 at 98, a year before his death—arguably the most progressive and courageous judge on the federal bench.) The summer after my

[3] Charlotte Bronte, "Jane Eyre."
[4] 370 U.S. 190 (1962).
[5] 369 U.S. 186 (1962).

second year I worked for Berl Bernhard, a politically-connected Washington lawyer who had been commissioned by the Association of the Bar of the City of New York to produce a book on civil rights law. I wrote a chapter on the travails of Rev. Fred Shuttlesworth (an associate of Martin Luther King Jr.), who was prevented by the abstention doctrine from obtaining release from prison through a federal habeas petition. Berl then invited me to work at the newly opened Jackson, Mississippi office of the Lawyers Committee for Civil Rights under Law after I took the New York bar exam in summer 1965. Although I found that experience profoundly moving, I had been seduced by academic success and the lure of Europe to pursue another path, which inevitably led to academia.

Although it is hard to imagine now, Africa in the early 1960s was a continent full of promise. I had attended a non-credit seminar on Africa in college, organized by Paul Sigmund (a political scientist who later moved to Princeton). I applied unsuccessfully to spend the summer of 1961 working on a volunteer project in Tanzania. In summer 1964 I took advantage of being in Washington to visit the Peace Corps (founded three years earlier); but with my law degree just a year away, I wasn't interested in their only offer: teaching English as a foreign language. I used the law school's option to take Graham Irwin's course on African history. And in my final semester I took African law with Arthur Schiller (who had studied Indonesian *adat recht* with Cornelis van Vollenhoven in Leiden), writing a paper on customary criminal procedure in Northern Nigeria. Schiller advised that the only way to study African law was with Tony Allott at the University of London's School of Oriental and African Studies. Having bummed around Europe in summer 1961, I was determined to live in England (being hopeless at languages). So when I got a two-year Marshall Scholarship to do a Ph.D. at SOAS, it was an easy choice (over a clerkship).

The SOAS African Law Department was even more disappointing than Columbia Law School. Although American legal education was devoid of social context, I had found the case method and Socratic classroom intellectually stimulating. (I was one of those annoying students with his hand always in the air, eager to answer a question or challenge the professor.) English legal education, by contrast, was aridly doctrinal and uncritical. (That was why English legal academics like Robert Stevens and William Twining studied in the US—and later founded the Law in Context series;[6] both, incidentally, spent time in Africa.) I soon stopped attending lectures (intended for those who had taken a first degree in law and were getting a diploma or certificate; I was the only doctoral student). And scholarship on African law (mostly by Allott, e.g., 1960; 1962) merely parsed statutes and high court cases, which said nothing about ordinary Africans' encounters with law. Allott had decided to emulate the American Law Institute's Restatement of Law (which seeks to unify the 50 jurisdictions and make incremental reforms) by producing a Restatement of African Law (with thousands

[6] Launched in 1970 and now maintained by Cambridge University Press, it has published 92 books.

of divergent customary laws). An African Law Department faculty member, Eugene Cotran, had "restated" the customary laws of crimes in Kenya (1963) in anticipation of their incorporation into the criminal code and was returning to Kenya to do the same for the laws of marriage and divorce, and succession and inheritance (Kenya 1968a; 1968b). For my doctoral dissertation, I decided to do the same for the law of civil wrongs. I spent my two years in London reading everything I could about Kenya and developing draft restatements of civil wrongs for each of its several dozen ethnic groups. I learned basic Swahili (required for a Foreign Area Fellowship to support my fieldwork in Kenya). And I read widely in anthropology, especially the emerging field of legal anthropology (e.g., Schapera 1938; Evans-Pritchard 1940; Fortes & Evans-Pritchard 1940; Llewellyn & Hoebel 1953; Middleton & Tait 1958; Gluckman 1955; 1965; Gulliver 1963; Van Velsen 1964; Bohannan 1967a). I also imbibed a romantic image of participant-observation from Casagrande (1964), Powdermaker (1967) and popularizers like Turnbull (1961; 1972).

In spring 1967 I returned to the US to interview for law teaching jobs. I had written some of my Columbia professors, leading Walter Gellhorn (a former president of the Association of American Law Schools, with a wide network) to contact several dozen law schools on my behalf, which produced interviews at Columbia, Yale, Harvard, Pennsylvania, UCLA, and Michigan. After my UCLA interview I flew up to Berkeley and cold-called Laura Nader, having devoured the special issue of the *American Anthropologist* she had edited on "The Ethnography of Law" (1965a). With typical generosity, she left a graduate seminar to run itself and spent an hour telling me about the Berkeley Village Law Project she directed. (She later responded warmly and helpfully to my fieldwork reports to the Foreign Area Fellowship Program, which Allott simply ignored.)[7] Harvard offered me only a post-graduate fellowship (Dean Griswold said I was too young, at 25, for a faculty appointment). At Yale I had the support of Guido Calabresi, who had taught me torts when he visited at Columbia, as well as interest from the university's Africanists. So this time I heeded Riesman's advice and accepted Yale's offer. I spent the summer in London, waiting for the birth of my first child (Laura, on August 11) and a visa for Kenya (which was delayed for months because the government had saved ten cents by sending it surface mail, which meant a slow boat around the Cape after Egypt closed the Suez Canal).

I spent the 1967-68 year in Kenya. Despite my romantic image of anthropological fieldwork, I chose to live in Nairobi, with a newborn baby and my wife writing her Ph.D. dissertation on English history; I also knew I preferred the cold medium of the written word over face-to-face interaction. I worked in isolation. The University of Nairobi had no law faculty (the white legal profession operated its own "law school," which just prepared practitioners); and its social scientists rebuffed my approaches. But Cotran introduced me to Tom Watts, the

[7] For documentation of her amazing mentorship, see Nader (2020).

African Courts Officer, who was eager to see the records of the courts he supervised used for research. Lord Lugard had devised the British colonial strategy of indirect rule in Northern Nigeria (2013), delegating political and legal authority to chiefs. But because Kenyan societies were acephalous, the colonial government created councils of elders to resolve disputes. By 1967, two years after independence, these had become African Courts, staffed by a literate judge who kept records in English (sometimes Swahili), advised by lay assessors. I began reading the relatively few appeals available in the Law Courts but quickly realized I wanted to read primary court records. Watts authorized me to bring them to Nairobi to read (and then be archived). I visited dozens of courts throughout the country and took verbatim notes on several thousand cases involving civil wrongs. I soon abandoned the restatement project and focused on analyzing how the primary courts decided cases. Recognizing that many more disputes were resolved outside the African Courts (anticipating what came to be known as the litigation pyramid), I hired five Kenyan students studying law in Dar es Salaam (the only East African law faculty), who spent their long vacation observing disputes and interviewing local authorities (see Abel 1981).

I began teaching at Yale in January 1969. Dave, whom I met when interviewing in June 1967, had written me in Nairobi later that fall, greatly excited about the $1 million grant he had gotten from USAID (worth about $8 million today). Displaying jejeune moral outrage, I responded I would never touch money from a government agency so deeply implicated in the Vietnam War. (Toward the end of my two years in London, anti-war sentiment had prompted me to explore a job at Sussex University's new Institute for Development Studies. And I wrote for the Fifth Anniversary Report of my Harvard class of '62: "to answer the inquiry into my feelings about the state of the nation—from my separation in time and distance it looks lousy. I have serious reservations about living in America.") But, of course, I blithely swallowed my scruples and happily accepted my Yale salary (which was about four times my graduate student stipend).

To earn my keep at Yale, I taught a second-semester torts course, which discussed defamation and privacy (I assigned some legal anthropology, e.g., Dean 1964; Peristiany 1966, Fürer-Haimendorf 1967, to raise questions about who sued, when, and why) and police-citizen contacts (about which there was a rich criminological literature). I also taught the basic torts course to a small section three times (one memorable because Hillary was in the class). Although Dave (and Henry Steiner) suggested I develop a social science approach to torts, I didn't attempt that until years later. Instead, I switched my substantive American law teaching to family law, which seemed more amenable to a social science approach. The first time I taught it out of the casebook edited by my colleagues Joseph Goldstein and Jay Katz (1965); but I had no expertise in their psychoanalytic approach. (In addition to being a lawyer, Goldstein was a lay analyst, having been analyzed by Anna Freud, and Katz was a psychiatrist). I then spent the 1971-72

academic practicing mostly family law with New Haven Legal Assistance Association. (Goldstein, on the LAA board of trustees, thought this was infra dig and a waste of time for a Yale faculty member.) When I taught the course the second time, I boldly entitled it "Family and State" (Abel 1982), declaring at the beginning of the 17-page syllabus: "this is not a course in law but in the sociology of law." I cavalierly dispensed with the casebook, instead assigning Karl Llewellyn (1932; 1933), Max Rheinstein (1972), and William O'Neill (1967) on divorce and many other books and articles by sociologists, political scientists and historians on the creation of family law norms, birth control (Dienes 1972), parental authority (Cohen et al. 1958), status competition (Gusfield 1963) and divorce courts (Marshall and May 1932; 1933; Gellhorn et al. 1954; Virtue 1956; McGregor et al. 1970) and lawyers (O'Gorman 1963). And I took students to watch the divorce process and brought to class lawyers and social workers from the New Haven courts. I also taught courses on dispute settlement in New Haven and innovation in the New York Police Department (with Richard Danzig).

But my primary intellectual interests were in African law and, increasingly, the sociology of law more generally. I offered courses on African legal systems (with a 100-page bibliography), a case study of the development of the Kenya legal system (based on my fieldwork, with a 35-page syllabus; Law and Modernization Program Working Paper No. 6), and African judicial systems (with another lengthy bibliography). Most of my students were African graduate students from Ghana, Nigeria, Ethiopia, Sudan, Uganda, Kenya and Tanzania. They came to Yale through a Rockefeller Foundation grant, which also paid for a trip I took to Ghana, Nigeria, Kenya and Tanzania (to supervise their fieldwork and recruit applicants).

In Fall 1970, Dave and I offered an ambitious lecture course: "Introduction to Theories of Law in Society." We said in the annual report that the course would "examine the literature of law and social science to explain its characteristics in, and relationship to, societies traditional or modern, static or rapidly changing." We began by reading Sybille van der Sprenkel's monograph on Chinese law (1966). Although neither of us knew anything about the subject, we felt that the striking contrasts it presented with American preconceptions about legal systems would stimulate students to think sociologically about variations in fundamental legal institutions and processes. I taught the first half on anthropological approaches: precursors like Maine (1905) and Durkheim (1964) classical works by Malinowski (1926; 1942), Radcliffe-Brown (1968), Fortes and Evans-Pritchard (1940) and Evans-Pritchard (1940); and contemporary legal anthropology by Gluckman (1968), Gulliver (1963; 1969), Gibbs (1969), Swartz (1966), LeVine (1959), Nader (1963; 1965b; 1969), and Schwartz (1954), among others (see Law and Modernization Program Working Paper No. 5). I appended lengthy bibliographies on anthropology, historical jurisprudence, evolutionary theories of law in society, Malinowski, Radcliffe-Brown and structural anthropology, Gluckman and the conflict school, political interpretations of law, psychological approaches to law,

and general works on anthropology and sociology of law. Donald Black (a Russell Sage fellow, see below) then introduced the emerging field of sociology of law, with readings by Jerome Skolnick (1965), Philip Selznick (Merton et al. 1965), Carl Auerbach (1966) and Karl Llewellyn (1930). Dave taught law in economy and economics: utilitarian theories (Bentham 1980); law in economics (Schumpeter 1954; Calabresi 1968; Davis & Whinston 1961; Demsetz 1967; Olson 1968; and a student paper by Duncan Kennedy "The Utilitarian Model of the Role of Private Law in Economic Change"); Marxist theories of law in economy (Renner 1949; Kelsen 1955; Schlesinger 1945); and most importantly Max Weber (1958; 1967; 1968; Parsons & Henderson 1964; Aron 2018; Bendix 1966; Lange 1963). This was my introduction to Max Weber, whose work deeply influenced my long article on disputing (discussed below) as well as my later work on the legal profession.) Dave taught it again in 1971 with Laura Nader (visiting from Berkeley).

In 1972 Dave and I redesigned the course we taught, renaming it "Comparative Legal Sociology." This was part of a broader reconceptualization of the field and the Program, whose objectives we restated in the Third Annual report: "to create and maintain an institutional structure within which studies can be conducted on various aspects of relationships between legal institutions and social, economic and political change in the Third World." This was what we now meant by the field of "law and modernization," which included comparative legal sociology, area studies of Third World legal systems, and policy studies of Third World legal problems. Comparative legal sociology, the core, was "a social science discipline allied with legal sociology, legal anthropology, comparative sociology and comparative politics on the one hand, and legal studies (jurisprudence, legal history) on the other…." The catalogue described comparative legal sociology as

the construction of theory which explains the differences between legal systems within a society and across disparate societies. In this course we will use such theorists as Hart, Weber, Durkheim and Maine to illuminate empirical studies drawn from Africa, Asia and Oceania as well as from Europe and the United States. We develop a concept of the legal system as a structure and process for the normative ordering of social action. It performs the functions of defining, applying, and changing norms in such fields as kinship, economic activity, and political behavior. We see to explain the variations between legal systems in terms of other social variables, such as differentiation bureaucratization etc. In doing so we hope to throw light on the relationship between "traditional" and "modern" legal systems.

After Dave left, I taught the course alone in my final semester (1974). I began by presenting structural/functional models of law in society (Hart 1961; Mayhew 1968; Hoebel 1964; Parsons 1964) as well as critiques of them (Mayhew 1971; Dahrendorf 1964; Fallers 1969). We then looked at norms from the perspective of multiple levels (Bohannan 1967b; Dicey 1905; Rheinstein 1972; Weber 1954; Dahrendorf 1968a) and conflict theories (Dahrendorf 1968b; Gusfield 1966; Diamond 1971) before

examining a wide variety of case studies of norm definition and change (Pospisil 1958, 1960, 1969; Leach 1959; Tanner 1970; Kaplan 1965; Schapera 1969). Next we turned to law as a means of social control (Etzioni 1968; Schwartz 1954; Rothman & Shapiro 1972) and of handling disputes (Abel 1974; Nader & Metzger 1963; Starr & Pool 1974; Nicholson 1973; Collier 1976; Galanter 1972; Tiruchelvam 1973). I concluded with macrosocial theories--Marxist (Marx 1859; 1871; Engels 1890-92; Pashukanis 1953; Vyshinsky 1953) and Weberian (Trubek 1972a; 1972b)--and American case studies (Horwitz 1971; Hurst 1964; Galanter 1974; Wanner 1974; Mayhew 1973).

I was also writing exclusively in these fields: a bibliography on customary law in Kenya (1969b), a preliminary presentation and analysis of the case materials I had collected in Kenya (1969a; 1970), a critical review essay of Rheinstein's book on divorce (1973a),[8] and an ambitious comparative theory of disputing, based on my Kenya data work and the anthropological literature (1973b). I declared at the beginning of the last that comparison was an essential component of social science (Id. 219):

Why study the legal systems of other times or places? Are there reasons beyond an antiquarianism or exoticism that seeks stimulation for a palate jaded by preoccupation with the minutiae of American law? The increased understanding to be gained by such intellectual exploration seems to me similar in origin to the pleasure any of us takes in travel. Differences of physical environment, modes of social intercourse, or patterns of culture awaken us to phenomena which at home are so familiar as to be almost invisible. When we resume our mundane round, the residue of such impressions compels us to recognize the contingency of our own ways and leads us to look for explanations.

That guided all my subsequent research (on informal justice, torts, lawyers, and the defense of the foundations of liberal democracy). The dispute process dominated both my scholarship and teaching at Yale (and I influenced others who made it their focus). I trace its centrality to "The Cheyenne Way," the collaboration between the legal realist Karl Llewellyn and the anthropologist E. Adamson Hoebel (1953), which analyzed what Llewellyn (with his fondness for neologisms) called "trouble cases." It is unsurprising that the case method of American legal pedagogy should have influenced law teachers; we need to understand how and why it was embraced by anthropologists (e.g., Gluckman, Bohannan, Gulliver, Fallers, Nader). Dave has described how his experience in US AID shaped his original conception of the Law and Modernization Program. My auto-didact's immersion in anthropology was equally influential but in the opposite direction. I naively saw pre-colonial societies and legal institutions as exemplifying a "state of nature." Several of my articles compared western legal institutions and processes unfavorably to my idealized notions of what they had displaced (1973b; 1979c),

[8] I naively patronized Rheinstein for writing a law book rather than a book about law—embarrassingly ignorant of the fact that he had been a student of and had translated Max Weber.

although I also wrote critically of efforts to institutionalize alternative dispute resolution in the U.S. (1979b; 1981b; 1982b).

The L&M Program (and to a lesser degree African studies) were my intellectual homes.[9] Robert Stevens, on the steering committee, had spent time in Dar es Salaam and was doing research on American law students (1973) and legal education (1983) (both of which would greatly influence me later). Bill Felstiner (who had just completed four years of foreign service in Turkey and India) moved from being an associate dean to L&M senior fellow and program director, immersing himself in the anthropological literature and publishing "Forms and Social Settings of Dispute Processing" as Working Paper No. 3, later turning it into an article (1974). Marc Galanter spent a year as a senior fellow, refining the pathbreaking article that became "How the 'Haves" Come Out Ahead" (1974; first published as the Program's Working Paper No. 7). Robert Stevens and he led a seminar on the legal profession (which I attended, although I only became interested in the subject after I started teaching "professional responsibility" at UCLA in 1974). Laura Nader and two of her students, Michael Lowy (who had done fieldwork in Ghana and became a close friend of Aki Sawyerr, who was visiting Yale from Ghana and later became Vice-Chancellor of the University of Ghana) and June Starr (who did fieldwork in Turkey), were in residence for a semester or year; and Laura organized a conference that brought all the participants in the Berkeley Village Law Project to Yale, as well as Max Gluckman and Jap van Velsen (see Working Paper No. 14). Other fellows included Tom Heller, who had done work on lawyers and development in Colombia ("Conflict, Lawyers and Economic Change," Working Paper No. 1)[10] and Francis Snyder (1981; see also "A Problem of Ritual Symbolism and Social Organization among the Diola-Bandial," Working Paper No. 2), who had done anthropological fieldwork in Senegal for his French doctorate. Yash Ghai (whom I had met in 1968, when he was dean of the law school at Dar es Salaam) was in residence. So was Robin Luckham, an English sociologist who had studied lawyers in Ghana (1981a; 1981c) and edited a collection of "natural histories" of social research (1981b). The program supported graduate students like Pnina Lahav (Israel), who did fieldwork on disputing in Haiti and law students, including Robert Pozen ("Public Corporations in Ghana: A Study in Legal Importation," Working Paper No. 8) and Rosser Brockman ("Customary Contract Law in Late Traditional Taiwan," Working Paper No. 11). I supervised the JSD dissertations of four African graduate students: H.W.O. Okoth-Ogendo (on Kenya land reform; he

[9] Despite the intellectual riches they offered, I remained somewhat marginal. I felt enormous pressure to teach new courses and produce scholarship for tenure. What little time was left I spent with my family: I arrived in November 1978 with a 15-month-old; my wife had our second child the following July (1969) and our third 18 months later (December 1971). And I chose to spend 1971-72 practicing full-time with New Haven Legal Assistance Association, while teaching half time in the evenings, and Spring 1973 on sabbatical in Palo Alto.

[10] As had Dennis Lynch (1981a, 1981b), another L&M fellow.

later became dean of the faculty of the University of Nairobi), Samson Ameh (customary law of inheritance and succession among the Igala of Nigeria), Salman M.A. Salman (the Sudanese judiciary) and Kofi Adinkrah (Ghana marriage law). I also supervised the JSD dissertations of Heleen Ietswaart (1981), a Dutch graduate student who went to Chile to study popular tribunals but was forced by the coup to switch to the labor inspectorate (and later taught in Nigeria and the Netherlands), and Boaventura de Sousa Santos, who published a long article based on it when I was editor of the *Law & Society Review* (1977; see also 1981).

Yale appointed the sociologist Stan Wheeler in 1968, the first tenured non-lawyer in an American law school and another reason I went there. The Russell Sage Foundation, where Stan had been working, funded a program at Yale that brought a host of young social scientists to the school: Donald Black ("The Mobilization of Law," Working Paper No. 15), Maureen Mileski, Malcom Feeley, Jerold Guben ("'The England Problem' and the Theory of Economic Development," Working Paper No. 9; he became a Program administrator), Bliss Cartwright, and Bob Kagan. (Sally Merry was doing an MA at Yale at the time.) Stan also arranged a visit by Vilhelm Aubert, the distinguished Norwegian sociologist of law. Dave, Donald Black and I convened a non-credit seminar on the philosophy of the social sciences, which included Mark Tushnet (a founding member of critical legal studies and its organizational backbone for years) and Nancy Gertner (later a criminal defense attorney and a federal District Judge in Boston).

The story of the tenure denials of Dave and me—which ended the program—has been told in detail by Laura Kalman (2005), who had access to faculty archives. The first to be denied tenure was Robert Hudec, who went to Minnesota and virtually created the field of international trade law. Sometime after that I convened a secret meeting of the untenured faculty: Dave, John Griffiths, Larry Simon, Lee Albert, and myself. My colleagues quickly decided against any kind of collective action and left, one by one, so no one would learn about the meeting. We were all picked off. After Dave left Yale in summer 1973, I inherited the L&M directorship for 1973-74. But I was distracted by my tenure review and then, after the Appointments Committee voted against me, by the search for another job. This being the end of the five-year grant, USAID sent officials to New Haven to observe the program in anticipation of an application for a renewal. During their visit I was assigned a Soviet-style minder (I think it was Quintin Johnstone) to make sure I never saw them alone. Johnstone took over the program, stripped it of any content, turned it into a means of financing foreign LL.M. students, and assured them it had been purged of "Marxists."

I moved to UCLA in summer 1974, where I taught African law a couple of times (and participated in the excellent African Studies Center) and edited five issues of *African Law Studies* (Numbers 12-16). But without African graduate law students or the prospect of visiting Africa (even further from Los Angeles than New Haven, and when my wife and I were raising three young children), I gave up Africa for

sociology of law (and was asked by Marc Galanter to edit volumes 11 and 12 of the *Law & Society Review*). I continued to work on disputing (1981d), publishing review essays (1978; 1979a) on Elizabeth Colson's "Tradition and Contract" (1978) and June Starr's "Dispute and Settlement in Rural Turkey" (1978), analyses of litigation in tribal and modern societies (1979b; 1979c; 1984), and essays on alternative dispute resolution (then being promoted by the Carter administration) (1979d; 1981b, 1981c), which culminated in my editing two volumes of critical comparative studies, many of them presented at the second CLS conference (1982b; 1982c; 1982d). I returned to teaching torts, developing my own critique, which drew on the emerging social scientific literature (1981e; 1982f; 1982g). But UCLA had hired me to teach professional responsibility, which the ABA had just required as its "solution" to the complicity of lawyers in the crimes of Watergate, from Nixon on down. And the course on the sociology of lawyers, which I developed (1997), combined with Phil Thomas's invitation to comment on the Report of the Royal Commission on Legal Services (1979) and then my collaboration with Philip Lewis in the Working Group for Comparative Study of Legal Professions, made the legal profession my focus for the rest of my academic career.

The five and a half years I spent at Yale were the foundation of my professional life. I developed a sociological approach to law teaching and scholarship and formed enduring friendships with colleagues. Although Yale showed itself then—as it had before[11] and has since—to be inhospitable to law and social science, it was a breeding ground for a field that has flourished, producing a multiplicity of journals and associations, whose international meetings attract thousands. I was lucky to have been present at the creation and just as glad to be part of the diaspora.

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[11] There is a story to be told about the experiences of Richard Schwartz, Jerome Skolnick and others, who were used by Yale faculty to produce co-authored casebooks in the 1950s and early 1960s (e.g. Donnelly et al 1962) and then dismissed.

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