



Ajurisdiction

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Abstract

Sociologists have long recognized the fragmentation our discipline's knowledge, but few explanations go beyond "new internalist" studies of practices. Abbott's scholarship in the topic areas of professions and disciplines is synthesized here to highlight a condition identified as "ajurisdiction," or, the absence of professional responsibility. Ajurisdiction explains sociological fragmentation by situating the development of sociology within broader historical contexts: first, within the history of the academic profession, in general; and, secondly, within wider systems of professions and power. Beginning with the origins of the social sciences in German legal science, this article tracks the historical interactions between professional and academic knowledge to explain sociology's ajurisdictional condition. The theoretical framework and concept positions the academic profession in a unique position in relation to abstract knowledge, a relation that affects the internal differentiation of knowledge between and within disciplines and professional faculties as demonstrated by the case of sociology and law.

Keywords Academic profession · Knowledge · Legal science · Professions · Social science · Universities

Sociologists have long recognized the fragmentation of sub-fields and scholarship within their discipline (Abbott 2001a; Burawoy 2005; Dogan and Pahre 1989; Holmwood 2010; Martin 2003; Stanley 2005). Sociology's fragmented fate is sometimes explained as resulting from the discipline's declining status, its inclusion of new voices, or as the normal pattern of disciplinary reproduction. Recent trends within the "new sociology of ideas" and related approaches to sociological studies of knowledge since the "practice turn" have dug deep into the archives and local histories of universities. However, we should remain attentive to broader,

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systemic relations beyond the university as well as the content and function of ideas within changing fields of power.

To that end, Andrew Abbott's (1981, 1988, 1999, 2001a, 2005b) scholarship in the topic area of professions and disciplines is synthesized here into a theoretical framework to highlight a condition identified as "ajurisdiction," or, the absence of professional responsibility. Ajurisdiction explains sociology's fragmented body of knowledge as a "remainder discipline," evidenced by situating the development of sociology within broader historical contexts: first, within the history of the academic profession, in general; and, secondly, within the wider system of professions and power. Tracing the historical origins of the social sciences in German legal science, this article notes the processual interactions between professional and academic knowledge help explain sociology's ajurisdictional condition. The theoretical framework and concept positions the academic profession in a unique position in relation to abstract knowledge—as both the profession claiming the monopoly rights of abstraction, but also as a profession itself. This particular relation in the field of professions affects the internal differentiation of knowledge between and within disciplines and professional faculties as demonstrated by the case of sociology and law.

New internalism vs. old functionalism

In recent years, the new sociology of ideas (NSI) has encouraged a shift toward "localist" and "contextualist" explanations for the organization and development of social knowledge (Camic et al. 2011; Camic and Gross 2004). These practice-oriented approaches, called here "new internalist," were necessary correctives to functionalist overgeneralizations, both affirmative and critical (e.g., A. W. Gouldner 1970; Mannheim 1985; Marcuse 1991; Parsons 1939). NSI draws on a range of influences—including Bourdieu (1977, 1996), Collins (1992), Gieryn (1983), Latour (1988), Abbott (see below), and others within sociology, as well as the "Cambridge School" of political thought; and Science, Technology and Society studies (STS), including "strong programme" relativism (Barnes 1977; Biagioli 1999; Bloor 1991; Knorr-Cetina et al. 2000; Skinner 2002); all associated with a broader sea-change within knowledge culture beginning with Kuhn (1962). Drawing on this "turn to practice," the historicist methodology of NSI opens up the purview of sociological histories of ideas to include not only interpretations of received canons, but also the complex world in which social scientists lived. Rather than interpret canonical ideas as timeless and universal, sociologists should understand political and social thought in terms of the debates and practices authors were actively engaged with at the time their texts were written.

However, three criticisms can be made of NSI's subsequent approach to researching academic knowledge: a.) neglect of content relative to sociological form; b.) neglect of external, non-academic environments and long-term, processual effects; c.) hasty dismissal of useful functionalist concepts. These are not fundamental to the turn to practice, but appear to be the result of initial framings within NSI against forms of critical theory, structuralism and related sociologies of knowledge that over-emphasized ideological and macro-sociological factors (e.g., Camic and Gross 2002). NSI provides a useful

methodological demand to be more attentive to local practices conditioning the development of academic knowledge, including sociology. But, NSI neglects content, including functional content, especially insofar as non-academic environments and long-term, processual effects are treated as external to the university.

This article suggests these limitations can be overcome by connecting Abbott's scholarship (Abbott 1988, 1999, 2001a, 2005b) in the topic area of disciplines to his other work on the system of professions, particularly if we include the content of professional work over a long-term. Unlike other approaches associated with the new internalism, Abbott's processualism (Abbott 2001b, 2016) leaves open the possibility that *content*, rather than sociological *form* alone, can make a difference within the trajectory of social knowledge, by noting the relationships between subjective and objective dimensions of professional practice. With this in view, we can then track the longer-term interactions between professions and academic disciplines that obtain and lose jurisdictional control over certain forms of knowledge, resulting in different functional and ideological outcomes. Professions' interactions with the world, inside and outside the university, establish certain functional relations—not because society “needs” or “requires” these recalibrations of order, as in the classical functionalist accounts; but, because certain professions and disciplines successfully claim (or lose or neglect) control over those knowledges, work areas, and practices resulting in practical, functional (and dysfunctional) effects in society.

The concept of jurisdiction therefore lends itself to a broader theoretical framework in which academic and professional knowledges are situated within particular relations in the modern era, especially after the growth of the modern research university in Germany and America in the nineteenth century. While the local interactions that occurred henceforth within the university explain the development of certain ideas and institutional patterns, there remains further scope through which jurisdictional and jurisdictional conditions across wider fields of power interpenetrate the local dynamics of the university. In particular, the concurrent consolidation of national and imperial states and market capitalist economies influenced the entire university system and encouraged or discouraged the consolidation of certain forms of knowledge in different historical contexts. In this instance, we are exploring these effects on sociology, but the concept and model overall should be useful for any sociologist of knowledge interested in the history of academic disciplines and professions.

The academic profession in the system of professions

In different texts, Abbott provides both a rigorous framework for understanding the “chaos of disciplines,” sociology in particular (Abbott 2001a), and an ecological understanding of the professions (Abbott 1988, 2005b). However, these two bodies of work have not been fully integrated into a single theoretical frame. This article argues that the fragmentation of academic sociology can be explained *sociologically* by situating the historical trajectory of the discipline—its processual development—within the institutional environment of the modern university. Such a study conforms to the methodological recommendations promoted by the “new internalism” in the sociology

of ideas, but differs in identifying a *functional* cause observable once the relationships among the academic professions within a broader system of professions are established.

Professions compete to establish jurisdiction over certain problem areas, which have both objective and subjective dimensions. Successful jurisdictional claims imply control over an area of work recognized by multiple audiences including state, clients, and the academy. And yet, there is an academic profession *within* the system—claiming the jurisdictional control over abstract knowledge itself. This dual role—as both subsystem and environment—positions the university in a unique societal position insofar as academic discourse is both the environment for many professional jurisdictional claims, while, at the same time, being an internally-differentiated system of disciplines competing for jurisdiction within.

The jurisdictional model of professions

For some time now, the sociology of professions has been interested in the establishment, maintenance, and competition over differentiated professional *jurisdictions* (Abbott 1988). According to one's preferred terminology, boundaries and occupational turf are established within and among systems, fields, networks, and ecologies of the professions themselves. Professions compete with other professions over the right to practice and to control particular work in relation to objectively and subjectively delimited problems.

The central phenomenon of professional life is thus the link between a profession and its work, a link I shall call jurisdiction. To analyze professional development is to analyze how this link is created in work, how it is anchored by formal and informal social structure, and how the interplay of jurisdictional links between professions determines the history of the individual professions themselves. (Abbott 1988, p. 20)

Obtaining the link between work and profession amounts to establishment of a successful jurisdictional relation, though these are never settled once and for all. Professions derive knowledge and legitimating values from their cultural environment, including the academy.

Indeed, the application of abstract knowledge can be said to define the distinction between professions and other occupational groups. Competition over jurisdiction involves the professional control of knowledge and skill through either *technique* or *abstraction*. Since the former can be delegated, the latter becomes the best identification of the special province of the professions. “Only a knowledge system governed by abstractions can redefine its problems and tasks, defend them from interlopers, and seize new problems [...] Abstraction enables survival in the competitive system of professions” (Abbott 1988, p. 9). The significance of abstraction in the professional system follows from the necessity to define *subjective* problems as *objective* jurisdictions. Certain problems do have objective, factual qualities and limits—however, these problems are open to cultural work that delimits subjective boundaries. For example, the weather or the body have objective foundations that are claimed by meteorology and medicine respectively.

However, in the blurred regions between, say, psychology and medicine, whether a problem is one of the mind or body becomes a matter for jurisdictional dispute. A successful profession renders a durable line demarcating one subjective interpretation of a set of problems, thereby making the subjective objective in the minds of various audiences, including the public, the law, and workplaces.

Most importantly for present purposes, academic knowledge provides *legitimacy*, as Abbott noted: “by clarifying its foundations and tracing them to major cultural values. In most modern professions, these have been the values of rationality, logic, and science. Academic professionals demonstrate the rigor, the clarity, and the scientifically logical character of professional work, thereby legitimating that work in the context of larger values” (Abbott 1988, p. 54). We can see here more or less the same outcome Parsons and Platt (1974) identified in *The American University*—affirmation of “cognitive rationality” and the shift from ascription to achievement—but now understood as a practical activity through which professionals secure and justify workplace jurisdiction, rather than a normative ideal motivating and constraining action in general.

On the one hand, the public tends to conflate academic and professional knowledge—assuming that a doctor’s prescription is equivalent to an outcome in an experimental trial, rather than a shot-in-the-dark diagnostic or a colligation of visible symptoms that may or may not be related to the underlying cause. It follows from this public misrecognition that jurisdictional assaults are pulled into the academic arena, since successful re-description of a treatment classification has the potential to remap boundaries of legitimate problems. A successful jurisdictional assault within an already saturated system of professions would initially have to convince at least two audiences—the public and the academy, with the former ultimately conferring authority over a particular kind of work through cultural acceptance (and market payment).

The public—be it a state board, or general public opinion—assumes clear boundaries among discrete, archetypal professions handling objectively-defined tasks. This reduction of possibilities becomes extended, codified, and specified much more formally within the legal system. Legal jurisdiction confers monopolistic control over particular tasks and payments via the legislature, courts, and administration, thereby making public acceptance much more durable and stable. Once these conditions are established it can be difficult to dislodge—and often the only recourse becomes intellectual challenge in the academy. Since a knowledge profession requires the justification of scientific rationality, it must establish logical validity within the academy while, at the same time, encouraging sufficient balance of inference wrapped in esoteric language accessible to the public (Baldamus 2010; L. Fleck 2012).

The status-conferring function of academic knowledge points to the special role of the academy and the academic profession, since *its* jurisdiction is linked to the ultimate *rights of abstraction* itself. To be sure, these rights are not secured absolutely, insofar as an academic diagnosis of invalid inference rarely bears with it binding legal authority. And yet, this only points to the peculiar role the academic profession performs within the overall system of professions—one deserving of further attention, which Abbott elaborated upon in his later work on “linked ecologies” (2005b) and the chaotic cultural churning of disciplines (2001a).

Situating sociology within the academic profession

Although the role of the academy as audience for jurisdictional claims figures prominently in *The System of Professions*, Abbott avoided writing explicitly about the academic profession in that book “to escape charges of navel gazing from non-academic readers and the sense of we-know-it-all-already among academics” (Abbott 1988, p. xiii). However, in later writing he returned to internal accounts of the development of the academy and disciplinary developments, in general, but with special attention dedicated to sociology as an exemplary case (Abbott 1999, 2001a). Abbott (2005b) refined the role of states and universities as environments for professions, replacing the audience model with the notion of linked, but differing ecologies. The linked ecology model provides a more fluid and dynamic account of the way in which changes in the professional system interact with and condition the academic ecology and vice versa.

The linked ecologies account benefits from Abbott’s earlier analysis of disciplines (2001a), which, he argued, develop synchronically and diachronically according to “self-similar” fractal patterns and cycles. Providing an explanation for social science’s “indexical” character, Abbott noted that many discursive divisions recapitulate themselves within. For example, age-old methodological distinctions between “quantitative/qualitative,” or “pure/applied” sociologies, are indexically reproduced within their respective wings: e.g., a “qualitative” quantitative wing vs. a “quantitative” quantitative wing (Abbott 2001a, p. 11). These synchronic, indexical divisions—self-similar on both the micro- and macro-level—are mobilized through time. First, these kinship-like splittings are grounded within lineages of descent—so, a given approach will trace a history back to, say, Marx, Weber, or Simmel to justify their contemporary theory and method as bona fide. This is especially important within sociology, which is unable to exclude any object (“location” in ecological terminology) as being *outside* the purview of sociological research.

Sociology, in short, is irremediably interstitial. In fact, this interstitiality undergirds sociology’s claims as a general social science, claims not necessarily justified by its contributions in theory, method, or substance. Rather sociology’s claim as the most general social science rests on its implicit and fuddled claim that no form of knowledge [about society] is alien to it. (Abbott 2001a, p. 6)

Situated between the arts and sciences, sociology recapitulates the broader relation between the natural sciences and humanities. This interstitial quality consigns sociology to an eternal recurrence in which key concepts are lost and refound under different names.

Abbott attributed this perennial renaming of core objects of sociological interest to *fractal cycling*, the second temporal element in his model of disciplinary splitting. Unlike knowledge-based professional training, which recapitulates structural differentiation in parallel to culturally “pure” patterns, chaotic disciplines tend to engage in intense conflict resulting in “sterile” lines becoming “remapped” onto a version of the ascendant line. These cycling cultural patterns proceed through time, non-dialectically, setting victorious, temporary

stabilizations up for future falls when the veritable contradictions of enemy occupation are rediscovered and renamed.

Yet, the persistent churning of these fractal cultural distinctions only *appears* chaotic, since the remarkably stable structural home of disciplines remains unmoved.¹ The appearance of chaos belies an underlying stability and order at the level of the university as a whole. Abbott noted the dually-institutionalized “basket structure” of American academia is stabilized at both the department level and through national disciplinary associations (Abbott 2001a, pp. 126–129). A suite of core disciplines are reproduced isomorphically according to the broad categories of undergraduate college majors fractally-mirrored in divisions amongst major journals, conferences, advocacy groups, and so forth. Academic professionals preserve reputations in each—department and discipline—thereby obtaining a diffuse, de-centered authority. Whilst new majors like comparative literature or linguistics very occasionally emerge, in general, the disciplinary structure of the American academy has remained remarkably consistent for the past century.

In addition to Abbott’s departments and disciplines, Fleck (2011) credited early twentieth-century American academic sociology’s international advantage to research agencies and philanthropists who insisted upon efficient project management, targeted goals, budgets, progress reports, and other accountability procedures. The dually-institutionalized basket structure Abbott delineated is, thus, triple: *faculty*, *disciplinary association*, and *external funding agencies* (Lybeck 2018). The academic professional becomes stabilized through reputational positions across these different structures, by addressing particular sets of clients and audiences, including students, external funding interests, and colleagues and peers. Various resources, including power, money, and esteem can be derived from each source; though, since all are limited, internally and externally, competition becomes especially fierce as one moves closer to the elite centers of the academic profession.

In large part, academics confer prestige advantages upon themselves via disciplinary associations, and such general credit in the field is a necessary status referent in departments. However, as Abbott’s (1999) analysis of the Chicago School showed, the fractal intellectual distinctions recognizable at the disciplinary level rarely map onto departmental divisions. We must, therefore, ground the mediation among department, discipline, and external funding agencies where they are reproduced in the workplace. As Abbott (1981) explained according to the general phenomena of “professional regression,” the elite of any profession gains internal status recognition by distancing themselves from practical work—in this case, teaching. Through subordination—for

¹ Abbott’s analysis of structural stability differs from more familiar theories of social reproduction such as Bourdieu (Bourdieu and Passeron 1990; Bourdieu 1977), due not least to Abbott’s processual view that “all is change” and it is *stability* that needs to be explained (as in the dual-basket structure of the university) (Abbott 2016). Further, as Abbott noted in a now well-known, but originally excised footnote to his “linked ecologies” article, his perspective differs from Bourdieu’s, since the latter’s underlying metaphor is fundamentally economic and relies primarily on relations of domination (Abbott 2005a). While economics and domination are elements within the processual approach, there are other factors at work as well, such as kinship-like lineages, non-hierarchical cycling, and so forth. Thus, when Abbott states the structure of academia remains the same, this is captured in a metaphor of groups turning left and right across a city, ultimately landing in the same place—as opposed to Bourdieu’s reproductive model that explains the persistence of a “state nobility” due to a more or less linear heritage running from *the noblesse du robe* to the contemporary elite credentialed by the *grande écoles* (Bourdieu 1996; Lybeck 2019).

example, that of nursing relative to medical doctors—professions defer cognitive authority for ultimate decision-making and inferential advice to more elite segments of the profession, while the practical tasks of treatment are delegated to the dominated profession. This can also occur within a profession. Within academia, the elite center thereby maintains an air of “purity” as they engage in logical abstraction and research for its own sake. Teaching becomes a subordinate sub-profession, or “semi-profession” to use Etzioni’s (1969) terminology, *within* the academic profession increasingly evaluated in terms of research alone.

We are now in the position to observe the contours of a structure in which the teaching wing of the academic profession is subordinate to the research elite of the profession. This puts more pressure on all academics to secure more external grants, while publishing more and more within their discipline’s top journals. These disciplinary resources become effective gate-keepers—lowering the drawbridge for trusted colleagues or graduate students socialized in the elite departments and embedded in the central professional network. For the prestigious research scholar interested in what Abbott calls “problem-portable knowledge”—that is, disciplinary knowledge capable of being applied to a range of problem-areas—there are few trade-offs. External research grants fund adjuncts or graduate students, while providing administrators and reputation rags the numbers they need. As long as scholars reward the top “researchers” in their field, administrators tasked to account for the value of their institution’s intellectual outputs will tally up publications in a discipline’s “top” journals. The division of disciplines means that every discipline and sub-discipline is able to reproduce its own hierarchies and doxic value patterns within.

However, Abbott contrasts problem-portable knowledge with the “problem-driven” knowledge typical of interdisciplinary scholarship. Problem-driven interdisciplinarity—whether in biotech, nanotech, etc. or in humanistic fields such as women’s studies, population studies, area studies, and so forth—does not undermine and balkanize the core disciplinary structure since, on the one hand, undergraduate education and majors are not problem-driven, but generalist. Second, and more importantly, “problem-based knowledge is insufficiently abstract to survive in competition with problem-portable knowledge” (Abbott 2001a, p. 135). Disciplinary knowledge addresses many different substantive problems and thereby manages to claim ultimate jurisdiction over the objects interdisciplinary study groups address. However, particularly with regard to the humanistic problem-driven scholarship associated with the cultural left, this mode of interdisciplinarity is associated with the *teaching* wing of the academic profession.

Abbott highlights the fractal structure of disciplines, using the case of academic sociology as an example, suggesting this relatively fragmented discipline mirrors aspects of the university-at-large divided between arts and sciences. Yet, whereas Abbott attributes disciplinary maintenance to their greater problem-portability, John Holmwood (2010) finds this observation incompatible with Abbott’s generalization from the case of sociology. In all other senses, the fragmented sociology—“a caravansary on the Silk Road” beleaguered by “bandit gangs of positivist, feminists, interactionists and Marxists” (Abbott 2001a, p. 6)—exhibits the very qualities of interdisciplinarity Abbott considers weak in others. Without a clear object, constantly recycling concepts, the discipline of sociology appears problem-driven, atheoretical, and chaotic.

It might be useful to think of sociology as a discipline existing in a state of ‘interdisciplinarity’ as a characteristic of its internal order, and not simply in its relations to other disciplines. This might explain why sociology has a self-understanding of itself as peculiarly open to interdisciplinarity. (Holmwood 2010, 646)

Extending Holmwood’s criticism, we can restate the question at the heart of this article: does sociology simply mirror the academic profession at large? But, if so, why is it more fragmented and weaker than other social sciences similarly situated between arts and science?

We are now in a position to identify a cultural and institutional structure in which sociology is situated within a broader context of disciplines and professions. Sociology is positioned between the arts and sciences and thereby reproduces the fractal complexity of the university as a whole. In fact, *contra* Abbott, sociology reproduces, not the university, but *the interdisciplinary remainder of the university*—what is left behind by more coherent disciplines. One might even suggest that sociology is the disciplinary version of the interdisciplinary “problem-driven” subjects. Further, this is no accident, for the long-term history of the university suggests sociology has been left with this chaotic remainder, not due to the internal dynamics of sociologists in action, but the broader relationship between professional knowledge and social science in general. We shall see that sociology’s fragmentation can be attributed to an absence of jurisdiction over problem areas: a condition defined here as “ajurisdiction.”

Jurisprudence and social science: forked paths

To establish a condition of absence—ajurisdiction—a historical explanation would identify a former presence of jurisdiction, which was subsequently lost as sociology retreated inward into its present state of disciplinary fragmentation. For the most part, academic sociology evolved “autonomously” from the profession from which it was originally developed (law); sociology’s fragmentation appears to reflect the discipline’s later lack of professional outlets, resulting in a “remainder discipline” of topic areas not covered elsewhere within the academic field. A similar explanation would come from comparison against an adjacent discipline, for example, by demonstrating economics’ concentration around a theoretical core concurrent with the discipline’s relative success in professionalizing itself in recent decades (for better or worse!) (Berman 2013; Fourcade 2006; Hirschman and Berman 2014; Mirowski 1989; Mitchell 2005). As the goal of this article is to illustrate a new concept and theoretical framework, not necessarily prove it outright, the latter comparative explanation is largely implied here, while one of several historical accounts is sketched below to highlight the jurisdictional interactions between law and sociology.

The following brief, inevitably potted history based on the authors’ extended analysis of the history of universities and social science in Germany and America since 1800 (Lybeck 2016, 2017a, b) provides the contours of the external environment in which sociological fragmentation takes place. The sequence can be summarized as follows: academic social science emerges from the professional faculty of law in Germany, then becomes institutionalized in America during the last third of the

nineteenth century. In this era, social scientists are central in establishing the jurisdiction of the academic profession, in general. Academic authority thus roots itself in notions of “science” and “academic freedom” ostensibly prevalent in Germany, thereby ensuring academics’ knowledge gained in esteem vis-à-vis the traditional professions. However, in the early twentieth century, becoming aware of competition in the field of professions and struggling to come to grips with increasingly complex legal issues across a federalizing nation, lawyers began to reclaim their jurisdiction over legal, governmental, and social reform—initially drawing social scientists into research-oriented sociological jurisprudence. However, sociologists by and large opted out of these and related projects, including expansive New Deal civil service reforms; at the same time, within law itself, progressive model law was replaced by positivist “restatement” projects, thereby ensuring that the normative dimensions of law did not get in the way of corporate regulation of the national, and then global capitalist economy. These jurisdictional maneuvers occurred largely outside the discipline of sociology itself, resulting in the ajurisdictional condition sociology exhibits today.

German historical jurisprudence and the origin of social scientific method

Most histories of modern universities project the present idea of academia backward, mythically believing, for example, that the arts and science disciplines within the philosophy faculties (offering doctorates in philosophy) were the “real” university. Professional faculties, like other applied fields, are accordingly deemed less “pure” and less relevant to the history of ideas. This is a grave error insofar as every philosophical field emerged from pre-existing professional faculties during the course of the nineteenth century as the medieval university transitioned to its modern form. Indeed, the very idea of a hierarchy of “pure” vs. other forms of knowledge began within the higher faculty of Theology, which sat as the “queen of the sciences” lordling over the others, including the doctors in the two other higher faculties of law and medicine, and the lower masters of philosophy, music, astronomy, and so on (Burke 2000; Clark 2006; Durkheim 2013).

Among the first to challenge this hierarchy, and the concept of purity accompanying it, was Kant in his 1798 tract: *The Conflict of the Faculties* (Kant 1992). Having faced censorship by the higher faculties, the philosopher argued that, unlike the “businessmen” in the professional faculties, chained to jurisdictional responsibilities, philosophers—the “free professors of law”—were the only scholars capable of autonomous critique. Inspired by such notions, a new generation of civil servants reformed Prussia after Napoleon’s victory over her in 1806; the University of Berlin institutionalized Kant’s vision, conferring the first PhD in 1810. The Stein and Hardenberg Reforms, as they are collectively known, responded to the pressures emanating from or in reaction to Napoleon’s Continental System. This necessitated flexibility in terms of both the Natural Law and Theological justifications for the existing legal framework. According to Kant’s planned outline for a new faculty consisting of “free professors of law,” a counterweight to the entrenched authority of jurists could be drawn upon without disrupting the authority of education the ministers themselves drew upon to gain the monarch, King Friedrich Wilhelm III’s confidence. In other words, the ascendance of the philosophical faculty to the rank of “doctor” should be understood, in context, as a *demotion of the legal and theological faculties*.

Thereafter, sociologists and historians trace the goings-on of these philosophers—mistakenly believing, for example, that Hegel was the center of attention (King and Szelenyi 2004; Marcuse 1941), or that Humboltian scientists immediately began accumulating falsifiable knowledge in laboratories (Ben-David 1971). These scholars consequently misrecognize how quickly the recently promoted philosophical faculty was put back into its place during the *Vormärz* period (1815–1848); Even before censorship intensified dramatically across Central Europe after the 1819 Carlsbad Decrees, philosophical approaches to law and other matters were dismissed as the hasty fantasies of French *philosophes* by conservative, historicist Romantics including the legal scientists surrounding Savigny, Eichhorn, Jacob Grimm, and others. (Crosby 2008; Reimann 1989b; Ziolkowski 2004).

Without space to trace here the meandering vines woven from Savigny's kernel (Lybeck 2015, 2017a)—through proto-, then racialized German nationalism; imperial conquest of Alsace-Lorraine and the consolidation of an ideal German university; to transfer of this ideal to the American Ivy League along with a vision of a trans-Germanic (Aryan) global civilization²—we can instead short-handedly refer to the views of Albion Small during the era most sociologists think of as the start of the discipline (cf Calhoun 2007). Small, the social-gospel-reformer turned discipline-builder at the University of Chicago received training in jurisprudence in Germany before returning to America to gain a PhD in political economy at Johns Hopkins. His *Origins of Sociology* (1924) noted that the emergence of sociology in the United States “appears as an inevitable phase of that expansion of a *demand for objectivity* in social science which found voice in Adam Smith, and which became the beginning of a program in the methodology projected by Eichhorn and Savigny and Niebuhr and Ranke” (Small 1916, p. 748). Savigny's “historical school” was among the first to recognize the importance of social “evolution,” which, writing before Darwin, the jurist had termed “continuity.” Small wrote,

One of the variations of the main thesis of the school was in the formula:

‘There is nothing completely isolated and separate in human existence, but everything must be considered as a member of a larger whole, from which it developed, and the understanding of which is essential to the understanding of the particular.’

If, without previous hint of its origin, anyone familiar with American sociology were asked to locate this sentence, he would have little doubt that it was written in the United States since 1883. It was a large part of the substance of American sociologists' argument for several decades. This sentence alone would be enough to impeach the presupposition of early

² Not only did the historical school of jurisprudence develop a rigorous method of analyzing both history and actually-existing societies for the first time; not only did legal scientists articulate and distribute roles in a nation-building project that integrated history, linguistics, anthropology, Classics, and political economy as adjunct disciplines related and subordinate to jurisprudence; the jurists successfully articulated a particular form of liberal conservatism that became ascendant within both Germany and the broader European educated middle-classes (Mannheim 1986). Positioned between the reactionary censorship of Austria's Metternich and the revolutionary terror of French Jacobinism, the German historical school navigated the Burkean course of liberal reformism, which recognized the need to further progress, while remaining attentive to tradition, custom, and religion.

American sociologists that they were originators of radically new ideas. On the contrary, every fundamental idea which the American sociologists mobilized in the earlier period had been promulgated generations and sometimes centuries before, but had not attracted attention enough to become a variant of traditional method in social science. (Small 1924, p. 56)

Well before sociologists were hired in universities, the advanced scholarship of German jurisprudence had been brought to America by conservative historians, political scientists, and the traditional learned profession of Law. Indeed, the university presidents who established the new American universities were social scientists themselves, drawing inspiration from the conservative vision of Franz Lieber, a German émigré political scientist and one of Tocqueville's informants (Brown 1951; Farr 1990; Lieber 1853).

Lieber's Kantian republicanism connected the telos of education to that of national (in fact, imperial) political development contributing to the jurist's remarkable popularity amongst Northern elites during and after the Civil War. In his inaugural address at Columbia, Lieber called for an American version of the institution that made Germany rise like a phoenix from the ashes after humiliation in 1806:

In less than seven years that maimed kingdom rose and became on a sudden one of the leading powers in the greatest military struggle on record, calling for unheard-of national efforts, and that great system of education, which rests like an arch of long span on the two abutments, the common school and the university, served well and proved efficient in the hour of the highest national need. (Lieber 1881, p. 332)

Inspired further by German unification after 1871, American university presidents visited the new University of Strassburg, founded as a model German university in annexed Alsace-Lorraine (Craig 1984). Strassburg introduced the *Seminarsystem*, a network of institutes and seminars, which were, for all intents and purposes, the first system of university departments. Also for the first time, university disciplines were formally split between arts and sciences, while, at the same time, a faculty of social science was established within the faculty of law. University presidents and academics, including Daniel Coit Gilman, John W Burgess, and G. Stanley Hall, carried the German model across the ocean and established German-style graduate schools on top of pre-existing colonial-era undergraduate colleges. This transfer, however, was not merely the formal adoption of German university structures, but involved the curriculum of German historical legal science, including the range of topic areas first forged by Savigny, followed by the Grimms and carried forward by Gneist, Mommsen, and now a range of American exchange students, many of whom went on to found the first departments in economics, sociology, and political science.

Thus, whereas social science was integrated with a broader historical jurisprudence curriculum in Germany, during the transfer of the German model to America as graduate schools, this curriculum was institutionalized as academic social science. For although American Law had yet to reform itself under Langdell (Kimball 2009), the legacy of colonial British universities persisted in America; the pre-existing faculty of law thereby blocked a complete translation of the German model of social science

connected to jurisprudence, except, notably at Columbia (Burgess 1934). Additionally, American social scientists wanted to establish their scientific authority vis-à-vis their professional rivals within the American Social Science Association (ASSA) (Furner 1975; Haskell 1977; Ross 1992).

Anti-formalism, expertise, and interprofessional rivalry

Established in Boston in 1865 amongst educated advocates of social reform, the ASSA was essentially a club discussing various issues relating to social improvement. As Haskell (1977, p. 87) explains, “‘Social science’ was understood by ASSA members to refer to the whole realm of problematic relationships in human affairs [...] new ventilation or drainage techniques for the city dweller; new legal forms for the industrial corporation; a new theory of rent or prices; a new way to care for the insane or to administer charity.” In other words, social science then was problem-oriented and practical.

The division of ASSA departments—education and art, health, trade and finance, social economy, and jurisprudence—reflected members’ roots in the traditional professional faculties of the university: theology, medicine, and law. The first generation of traditional professionals professed their interest in the esoteric authority of science, but remained more or less hobbyists and amateurs. In contrast, the next generation, trained in German law, history, and historical economics, engaged in empirical research and increasingly positioned themselves within the new university system. These scholars would go on to form the American Historical Association in 1884, the American Economic Association in 1885, the American Political Science Association in 1903, and the American Sociological Association in 1905. The emergence of so many specialties contributed to the ASSA’s reputation as having been the “mother of associations.”

Increasingly, the idealism of the ASSA’s founders was replaced by the “anti-formalism” of the second generation, now deployed to undermine the amateur expertise of the traditional professionals. “Advancement in social theory in the late nineteenth century repeatedly took this form: what once had been seen as causes were shown to be symptomatic reflexes of some deeper cause [...] the Association was rejected by the younger generation because it typically imputed independence to variables which the younger inquirers perceived to be interdependent” (Haskell 1977, p. 241). Reference to empirical, historical evidence, drawn from the academics’ exposure to German historical economics and related scholarship (Rodgers 2009; Herbst 1972) drew public policy discussions toward the greater complexities and occasionally counter-intuitive dynamics only the trained expert could reveal. Social scientists thereby undermined the assumptions of the hobbyists, on the one hand, and the over-exaggerations of muckraking journalists on the other.

In competition with the traditional professionals in law, medicine, the clergy, and philanthropy, academic social scientists drew upon the organicism and historicism of the German historical economics and legal science in which most of them had been trained. In Germany, economic scholarship reflected the adjunct function of philosophy in relation to law established in 1810 at the origin of the modern university. The establishment of more autonomous social science in America thus reproduced the structure originally envisioned by Kant, adapted by Savigny, and encouraged by Lieber’s vision of the university. The first generation of professionals in the ASSA, in fact, promoted the new American university, hoping their charitable work would be

drawn into the formal institutionalization of Johns Hopkins in Baltimore. Gilman and the second generation social scientists, however, sought to preserve the autonomy of philosophy vis-à-vis professions (Haskell 1977). They increasingly established boundaries between themselves (employed at the university) and those amateurs outside (Gieryn 1983). This tension became more severe as specialized disciplinary associations split and sub-split away from the mother association.

However, as Abbott's model of the fractal basket structure of the university suggests, it was not disciplinary associations alone that led to the consolidation of the academic system within the system of professions. Only when these disciplines were established within academic departments did the stabilization of disciplinary borders become set in stone—that is, only when both departments and disciplines reinforced one another. The foundation of the first sociology department in America reflected the broader trend toward autonomy and expertise within the social sciences. Indeed, sociology was a kind of catch-all term for the social sciences in general, a consequence of the Comtean ambition to be the queen of the sciences (Chriss 2006; Lybeck 2013). But, the broader ambition of sociology as the central discipline of a projected national university was quickly dispersed, nearly as soon as the department so named was established at the University of Chicago in 1895.

Small's first department bearing the title "Sociology" was a component of a tripartite division of political economy amongst economics, political science, and sociology to avoid overlap amongst professors covering similar topics. Sociology connected to the form of Christian socialism popular amongst the Chautauqua and lyceum circuits. Once the original division of political economy at Chicago was established, these were then reinforced by establishment of flagship academic journals. The *American Journal of Sociology* was the most popular due to its connection to clergy and philanthropic networks (Abbott 1999). This linkage of journal, department, and discipline was a central institutional element within the basket structure, making Chicago's division of German political economy most significant in the long term.

Still, while popular in a general sense amongst the public and genteel professionals at the ASSA and Chautauqua, sociology's ambitions were more circumscribed within academia, amounting to a more "organic" alternative to economics. As economics was itself composed of laissez-faire adherents and more institutionalist, historical academics, sociology became a kind of catch-all remainder for topics not covered by economics. Small himself narrowed the function of academic sociology to claim jurisdiction over only "understanding the group phenomenon": the social fact of collective sentiments and certain regularities in, for example, establishing in- and out-group patterns of identification (Small 1924). This disciplinary narrowing reflected a similar articulation in Columbian rival Franklin Giddings' scholarship into "consciousness of kind," and it would be many decades before a recognizable "Chicago School" emerged under the leadership of Park, Burgess, Thomas, and others (Abbott 1999; Bulmer 1986; Cortese 1995).³

³ Adjacent to these developments was the work of W.E.B. DuBois and others, including Jane Addams, working within social reform movements and universities more peripheral to the central academic networks being established at Chicago and elsewhere (Morris 2015; Deegan 1981). The history sketched here, therefore, presupposes this progressive history, but also highlights the flip side of what was going on within more conservative and central spaces within the history of social science, particularly those that connected with law. A wider survey would, however, account for the interactions between both trends occurring in Atlanta and Chicago beyond the university, in settlement houses, for example.

From 1892, Small promoted the variant of Christian socialism prevalent within the sociological movement of the time. According to Gross (2013, 2014) it was this reformist progressivism that contributed to the reputation of academics, sociologists in particular, as being at root “liberals” or “progressives.” However, as Ross recounts, Small shed his radicalism in favor of an essentially positivistic commitment to science for its own sake:

What happened between March 1896 and March 1897 to so sharply reverse Small’s stance? To some extent, what happened must have been his own attempt to reach definite conclusions on whether structural change was necessary [...] But if political pressures pushed Small into his activist stance initially, one might expect that they played a part in his retreat. What happened in late 1896 was the election McKinley, the defeat of Bryan, and with it, the sudden collapse of the widely feared radical threat. (Ross 1992, p. 135)

Certainly, there is merit to Ross’s explanation in the political trauma populists and socialists must have felt after the defeat of William Jennings Bryan (himself by no means an advocate of scientific principles!). However, we might equally note the longer trend beginning with Small’s arrival and first years at Chicago during which he gradually assimilated into the elite center of the academic profession—typically taking the side of the university administration in intra-academic disputes regardless of his personal feelings. Consider, for example, Harper’s treatment of Small on the issues of examinations. In 1900, he wrote Small requesting his presence at a dinner of the faculty of arts and sciences to discuss the matter:

I am hoping that you will take the right side of the question, namely, the importance of examinations, showing, of course, that examinations from a certain point of view are of no value, but from another point of view, especially in a large school or in a professional school, they are important. However, you will let me talk with you on this subject, for if you are not on the right side I should like to get another speaker.⁴

Here we can observe the manner in which early American university presidents maintained dictatorial control of their fiefdoms. Small was “selected” to have a seat at the table, but had he pushed or stepped out of line, he would have just as quickly been de-selected and replaced. It was this kowtowing that led Lester Ward to declare a conspiracy between Small and “Rockefeller” with the academic being described as a “mule,” “intellectually color-blind,” and “incapable of clear thinking” (Rafferty 2003, p. 259).

In other words, departmentally, sociology gained a seat at the table before the basket structure of the university system was consolidated, but neither discipline nor department were necessarily central to the academic profession as Gross and others have argued—perhaps inflating the self-importance of the discipline one has chosen. Rather, nearly from the start, sociology accepted its position as a remainder discipline claiming

⁴ Letter from Harper to Small, November 1900, Harper papers, Chicago, University of Chicago, Special Collections Research Center, Box V, Folder 24.

intellectual jurisdiction over topics not otherwise covered by adjacent disciplines in economics, political science, or, indeed, law itself.

The belated arrival of American legal science

Between 1869 and 1945 student enrolment in higher education increased from 61,000 to 1,677,000; degrees conferred increased from 9200 to 157,349; faculty increased from 5450 to 150,000; higher education institutions increased from 1768 to 3004; and funding increased from \$14,000,000 to a staggering \$1,169,394,000 in 2010 US dollars (Cohen and Kisker 2009).⁵ By the turn of the century, many Anglo-Saxon elites now looked on with dismay at the over-credentialization of American society. Expansion of higher education meant dilution of this exclusive authority. Soon the old elite turned against its increasingly educated brood. Especially suspect were the progressive sociologists and political economists dedicating themselves to the objective critique of the established order. However, the dissatisfaction of elites with the academic mills they helped install did not result in withdrawal from higher education all together. Rather, the solution to the Gilded Age crisis of authority had changed: instead of Kantian philosophers advising power, elites would re-institutionalize law as a scholarly profession, grounded in university education and legal science. Maintaining the authoritative principles of science would enable the enactment of law indirectly through statements that codified “black-letter” law in accordance with corporate interests.

In 1914, Wesley Newcomb Hohfield, Dean of Yale Law remarked: “More than ever before, the political and social sciences are winning their way to prominence and respect; and this movement includes the science of justice according to law” (Association of American Law Schools 1914, p. 136). The American Association of Law Schools (AALS) successfully lobbied students and the profession to expect and, eventually to require, a certified degree in law for admission to the bar. As the legal profession felt its historic elite status and jurisdictions under threat from low-cost legal service providers, immigrants, accountants, surveyors, and so on, they appealed to academic knowledge as the site of status privilege. To reclaim their turf, the lawyers redrew the boundaries among various objects it claimed jurisdiction over (Abbott 1988). This boundary work emerged alongside a number of settlements between, for example, the elite corporate lawyers and the lower-paid elements of the profession.

Although this story of the legal professions’ and law schools’ mutual, linked settlements to their problem of status and jurisdiction has been recounted many times (Abbott 1988; Rueschemeyer 1973; Schlegel 1985), rarely do sociologists address the content of what these law students actually learned. The Langdellian case-based method fulfilled a number of functions through which students could learn to mediate between the particular, conjunctural quality of the case and the generalities of law, justice, morality, and so on in the wider sense (Grossman 2007). An instinctive sense of the universal and the particular was engendered; all the while a sense of craftsmanship maintained the public notion that legal knowledge was a kind of black box.

⁵ Only the era of mass higher education that immediately followed this era of university transformation—due to the G.I. Bill and the postwar expansion of the American economy—witnessed a comparable expansion of the higher education sector.

Neither does observation of the socio-structural monopolization of professional authority via higher education engage with the content of the empirical research the academized legal science profession actually performed. Professors at elite law schools—Columbia, Yale, Johns Hopkins, and elsewhere—attempted to establish *social scientific* methods to ground the way the law was organized in legal practice and “experience” rather than in abstract, rational thought experiments. Contrasting their view as realist against the codificationists in German legal positivism (Holmes 1899; Reimann 1989a), these legal scholars effectively drew upon the prefigured discursive alternative that had already been developed as sociological critique by the comparativists and survey researchers in sociology, political economy, psychology, and philosophy. This included the sociological jurisprudence of Roscoe Pound, and to an extent the pragmatist legal philosophy of Oliver Wendell Holmes. (Hull 1997; Menand 1997; Pound 1999). Inspired by Dewey’s pragmatism, legal realists became less interested in law in the abstract, than the law in practice. Realists set themselves two “scientific” goals: a) predicting judicial decisions and b) prefiguring conflicts of law due to overlapping jurisdictions within the American common law system. Each involved consideration of the way law was *actually* practiced as opposed to how it should be made logical and coherent.

Further empirical legal realist research was encouraged by Yale’s president James Angell and the Law School Dean Robert Hutchins to draw upon the scholarship of the recent influx of social scientists to the college. Two sociologists, Dorothy Swaine Thomas (W.I. Thomas’s assistant at Chicago) and Emma Corstvet were assigned to the empirical studies of William O. Douglas on business failures, and Charles E. Clark’s study of the compensation auto accident victims received (Schlegel 1995, p. 99). The attention was on the practice of law—whether one could observe “justice” in action, rather than define justice, in general.

Interestingly, each attempt led to the dissatisfaction of the sociologists, who found the lawyers more inclined to twist the numbers to prove the argument they wished to make—replicating the legal argumentative strategy of the courtroom in empirical research. The legal scholars justified their distortion according to Progressive Era ideology emphasizing the need to make the case for reform of unjust practices. The data should serve the cause. The social scientists, however, had more tolerance for a long temporal scale; more important that they should know the empirics of what we were dealing with, and if that takes time, then so be it. Consequently, as legal realism entered Roosevelt’s New Deal administration, sociologists were among the last to take advantage of this expanded government work (Camic 2007). Sociologists were, at that stage, more concerned with establishing themselves within the academic community as a rigorous, empirical science and distanced their field of study from the more practical, professional, and policy interactions their peers in adjacent social sciences took advantage of.⁶ The reasons for this were rather complex and contingent, but they had to do with the decline of the social reform movement as a philanthropic base of financial support, the replacement of these social-gospel oriented sociologists with the more journalistic breed represented by Park and Burgess in Chicago and Giddings at

⁶ This detached orientation changed to an extent during the Second World War, when sociologists, including Morris Janowitz, Edward Shils, and others became involved in the war effort, particularly debriefing German prisoners of war (Shils and Janowitz 1948).

Columbia (Abbott 1999). At Columbia, further trends toward more statistical and “professional” social science drew sociologists more and more away from the practical dimensions of social reform and towards internal competition amongst academic camps (Camic and Xie 1994), not least the tensions between the “Chicago School” and everyone else, especially Columbia establishing the *ASR* in these decades. In other words: sociologists were more involved in “internal” struggles within their discipline, compared to their earlier engagement with “external” issues, resulting in a vacuum, or “ajurisdictional” space into which sociological jurisprudence, institutional economics, and related forms of knowledge entered in due course.⁷

At the same time, within the American Law Institute (ALI) founded by former Wall Street lawyer and Secretary of War, Elihu Root, conservative lawyers were effective in excluding progressive, sociological jurisprudence of legal realists from what was considered “academic.” The mechanism through which the legal positivists isolated the critical legal realists was via peer-review. Citing the proliferation of jurisdictional complexity and chaos across state, local, and Federal borders, the ALI recommended the production of “restatements” of the law in every field, including agency, conflict of laws, contracts, judgments, property, restitution, security, torts, and trusts (Lagemann 1992, p. 86). These clarifications and simplifications, in effect, codified the law “as it ‘really’ was.”

The legal realists, however, immediately voiced their concerns, since it had been their impression that the restatements would include more citations and references to controversies and internal debates. Indeed, the most “political” topics, such as rights of labor in conflict with capital and the scope of due-process for social legislation, were not even included as restatements. By providing authoritative syntheses of essentially positive “black letter” law without mention of the sociological dimensions of experience or conflict, the ALI’s restatements effectively excluded the further development of model law that could never obtain the authority of a restatement. In effect, this made the academic practices of the entire legal realist tradition seem trivial, idealistic, and the work of armchair cranks. Indeed, when the heterodox legal scholars were no longer needed to enact the ALI’s indirect codification project, Root condemned the “half-baked and conceited theorists in law schools [...] professors who think they know better what the law ought to be, and what political institutions of the country ought to be, than the people of England and America, working out their law through centuries of life” (quoted in Lagemann 1992, p. 90).

The effect of these two developments in legal science can be understood as resulting in two consequences: First, the legal realists successfully integrated their dedication to the empirical social effects of law in practice into the expanding federal state civil

⁷ This way of viewing the reasons why sociologists end up with less coherence vis-à-vis discrete objects of study and influence in terms of professional jurisdiction—that is, by suggesting these are mutually-reinforcing relational conditions—stands in contrast to the view of conflict theorists who interpret sociology’s relative neglect by policy-makers, for example, as being due to critical, unwelcome content (Collins 1992). While acknowledging the easier path toward “audience” recognition for economists seeking to advise policymakers over particular areas claimed by their jurisdiction, the unwelcome nature of sociological knowledge is not as convincing an explanation precisely because the fragmented nature of the knowledge would allow sufficient redundancies of topic-areas such that even a niche, more conservative group of sociologists could have gained policymaker’s ears. Exceptional examples, such as the influence of Anthony Giddens in Third Way Britain, for example, suggests this is an possibility that proves the rule—though this did not result in discrete policy areas over which sociologists would work as opposed to economists or public lawyers and so on.

service, channelling reform into bureaucratic commissions, where reasoned, empirically-based policy could be developed outside the fits and starts of the legislature. Secondly, the legal positivists at the ALI effectively codified the jurisdictional complexity of essential domains—especially the commercial code. Restatements enabled the gradual updating of aggregated cases and precedents, while nonetheless maintaining some standards upon which long-term investment could proceed. Although the holy grail of judicial prediction was never obtained, widely distributed access to restatements provided judges and legal counsels considerable coordination capacity, especially at the corporate level. Without lawyers' capacity to coordinate securely across state borders, the exponential increase of corporate power across the twentieth century would have been inconceivable. Corporate lawyers could draw conflicts into the boardroom and away from the public domain.

Meanwhile, the reduction of the role of legislatures in conditioning progressive social reform steered the adaptation of agency policy into easily corruptible commissions. As Berman (2013), Fourcade (2009), and others have noted increasingly in recent years, these commissions became populated by economists rather than lawyers by the 1970s and 1980s contributing to the neoliberal era. This can be explained internally, in part, with reference to the successful professionalization project of the economics discipline—which managed to create “avatars” of itself within the fields of consulting and government policy (Abbott 2005b). However, further reflection upon the changing organization of positive law and legal science during the turn of the twentieth century demonstrates that this professionalization was achieved in a context in which the legal profession removed—less cynically, deferred—indeterminable questions of justice from consideration. Economists' narrow, technocratic worldview reflected the evacuation of other normative concerns from the realm of both policy and legal practice.

Since the 1970s, progressive sociologists, like their heterodox economist and critical legal studies brethren, remained on the margins of this process, well and “autonomously” institutionalized within the academic system, but removed from practical and professional responsibility. Relative to lawyers, who successfully regained academic authority in the early twentieth century, just as Savigny re-established the role of jurists in *Vormärz* Germany, progressive sociologists were left “free” to reproduce their discourse with maximal autonomy, but with minimal performative effects.

Ajurisdiction: sociology's role in the academic profession

Unlike familiar histories of sociology, which suggest the discipline was established autonomously in the late nineteenth century (Calhoun 2007), inclusion of the “external” fields of professional education indicates that social science, in fact, emerged eighty-five years earlier within the professional faculty of law. One reason we tend to neglect this fact is that this tradition emerged in Germany for contextual reasons relating to the Napoleonic Wars and the *Vormärz* aftermath characterized by censorship and liberal conservatism. Later, in America, social science was institutionalized within philosophical rather than professional faculties for contingent reasons. Once established, sociology and law took different paths and trajectories. Occasionally,

these jurisdictions overlapped, resulting in collaboration (Schlegel 1995). However, for the most part, academic sociology evolved “autonomously” from the profession from which it was originally developed.

The dual role of the academic profession as both system and environment contributed to the relative autonomy of philosophical disciplines from professions. Yet, sociology is an extreme case insofar as sociological knowledge does not claim jurisdiction over any particular form of professional knowledge or practice. This condition is defined here as “ajurisdiction”—the disciplinary absence of (non-academic, external) professional responsibility. Contrasted with economics, political science, psychology, and other social sciences, sociology’s fragmentation appears to reflect the discipline’s lack of professional outlets, resulting in a “remainder discipline” of topic areas not covered elsewhere within the academic field. This was the result of paths not taken by sociology, compared to these adjacent disciplines, but also was caused by the consolidation of positive legal codes from the 1930s onward via the ALI and related work of lawyers—both professional and academic. Sociology’s condition of ajurisdiction is identified in relation to actual historical opportunities, which the discipline did not pursue in a sustained fashion. Although this article focused on law, similar historical narratives could retell the story from the vantage of Education or Social Work, other fields where sociologists were involved to lesser or greater degrees. (Deegan 1981; Durkheim 1956; Loader and Kettler 2002; Wilkinson 2014)⁸ Instead, sociological knowledge has developed largely within the academic profession—that is, “internally,” according to the knowledge interests of university teachers and students, rather than in relation to the work of professionals or even societal need.

We should, therefore, reflect further on the special role of the academic profession within the system of professions, since the academic profession alone can relate itself purely to the internal matters of abstract knowledge—justified in terms of the primary functions of teaching and research. But, as the case of economics, psychology, and other fields suggest, this need not be the only relationship academic disciplines have with their external environments. Indeed, identification of the condition of ajurisdiction and its relationship to fragmented knowledge suggests there is much to be gained from professional integration with societies and the public beyond the university.

What does sociology lack that other disciplines have? Compared to economists and political scientists, sociologists are more rarely asked for professional services (Bastow et al. 2014; Berman 2013; Fourcade 2009; Mitchell 2002). Greater professional and practical responsibility in these adjacent disciplines leads to consolidation of theory and method, while a heterodox remainder is either segregated or excluded (Becher and Trowler 2001). Sociologists are approached on an ad hoc basis for policy advice, but, due to the fragmentation of the discipline, these relations rarely translate into central theoretical development or knowledge accumulation. In practice, sociology remains a teaching discipline—in other

⁸ Such history would further highlight the role of gender in encouraging such patterns of exclusion of these more applied outlets from what was deemed “scientific” insofar as these professions were, like other “semi-professions” (Etzioni 1969) often more widely populated by women—just as the “teaching” wing of the academic profession today has become more dominated and precarious at the same time women have entered the profession in greater numbers.

words, an “avatar” of the dominated, lower-status fraction of the academic profession at large.

The development of the legal sciences ultimately had more bearing on the fragmentation of the lingering social sciences than the social sciences themselves. Sociology’s lack of professional outlet is the product of historical developments largely outside of the discipline or indeed of the philosophical faculty. We have seen that the evolution of legal science had more substantive effects on the organization of modern, corporate societies. The efforts of the ALI meant that restatements and codification practices left little room for pragmatic interpenetration of progressive discourse, generally. The conservative momentum within the legal profession meant that further progressive discourse became increasingly irrelevant. Sociology, in particular, figures here as an epistemological effect: a remainder of the philosophical faculty institutionalized as Kant’s enlightened ministers, once the need for their critical advice has passed.

There is no intrinsic reason the new internalist methodologies of NSI could not capture and explain these interdependent, processual relationships between disciplinary sociology and the wider system of professions (Lybeck 2019). After all, the summary above referred to events and practices that took place “on-the-ground” either in the university or the system of professions. However, if localist sociologists of knowledge, including NSI, hold the academic context constant, taking this structure for granted before delving into explorations in the contingent development of knowledge within pre-existing academic fields, we miss the interactions that become visible by retaining a view of the academic profession in the system of professions. Without a broader, systemic notion of the macro-sociological environment in which these internal dynamics occur, conditions such as *ajurisdiction*—the absence of a prior condition—would be unobserved. Similarly, in a comparative study of orthodox economics and a fragmented sociology, one could not explain the former’s relative coherence through the discipline’s sociological form alone. The functional content of economists’ ideas and their professional work within a broader field of professions and the wider economy are essential elements to understand why economics appears more coherent than sociology, the remainder discipline. Such an analysis would ultimately refer to the macrosociological and ideological context NSI discounts in favor of non-normative descriptions of academics interacting with one another *in situ*. Of course, recognizing this recommends we retain more elements of the old sociology of knowledge, which effectively positioned social knowledge in a wider context, even as we turn to more local interactions at the level of practice.

This article introduces one concept, “*ajurisdiction*,” which can be described and explained from a broader theoretical framework: one that recognizes the broader system of professions in which the academic profession is positioned in historically specific ways during the modern era. The concept and the framework, therefore, would have relevance beyond just the sociology of sociology or sociology of academic ideas. Rather, by recovering the functional and ideological effects of variations in trends related to the work, knowledge, and practices of professionals and academics, we might explore issues of wider significance including the relative value of the humanities and social science, in general, within and beyond the university.

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References

- Abbott, A. (1981). Status and status strain in the professions. *American Journal of Sociology*, 86(4), 819–835.
- Abbott, A. (1988). *The system of professions: Essay on the division of expert labour*. Chicago: University of Chicago Press.
- Abbott, A. (1999). *Department and discipline: Chicago sociology at one hundred* (1st ed.). Chicago: University Of Chicago Press.
- Abbott, A. (2001a). *Chaos of disciplines*. Chicago: University of Chicago Press.
- Abbott, A. (2001b). *Time matters: On theory and method* (1st ed.). Chicago: University Of Chicago Press.
- Abbott, A. (2005a). 'Ecologies and Fields'. unpublished footnote. <http://home.uchicago.edu/aabbott/Papers/BOURD.pdf>. Accessed 31 Oct 2018.
- Abbott, A. (2005b). Linked ecologies: States and universities as environments for professions. *Sociological Theory*, 23(3), 245–274.
- Abbott, A. (2016). *Processual Sociology*. Chicago: University of Chicago Press.
- Association of American Law Schools. (1914). *Proceedings*.
- Baldamus, W. (2010). *The Sociology of Wilhelm Baldamus: Paradox and Inference*. In M. Erickson & C. Turner (Eds.). Farnham: Ashgate Publishing, Ltd.
- Barnes, B. (1977). *Interests and the growth of knowledge*. London: Routledge and Kegan Paul.
- Bastow, S., Dunleavy, P., & Tinkler, J. (2014). *The impact of the social sciences: How academics and their research make a difference*. London: Sage.
- Becher, T., & Trowler, P. (2001). *Academic tribes and territories: Intellectual enquiry and the cultures of disciplines* (2nd ed.). Buckingham: Open University Press.
- Ben-David, J. (1971). *Scientist's Role in Society: A Comparative Study. First Printing*. Upper Saddle River: Prentice Hall.
- Berman, Elizabeth Popp. (2013). 'Thinking like an economist: The normative effects of a positive discipline in two U.S. policy domains'. Unpublished paper available from author.
- Biagioli, M. (Ed.). (1999). *The science studies reader* (1st ed.). London: Routledge.
- Bloor, D. (1991). *Knowledge and social imagery*. Chicago: University of Chicago Press.
- Bourdieu, P. (1977). *Outline of a Theory of Practice*. Cambridge. New York: Cambridge University Press.
- Bourdieu, P. (1996). *The state nobility: Elite schools in the field of power*. Cambridge: Polity.
- Bourdieu, P., & Passeron, J.-C. (1990). *Reproduction in education, society and culture*. London: SAGE.
- Brown, B. E. (1951). *American conservatives: The political thought of Francis Lieber and John W. Burgess*. New York: Columbia University Press.
- Bulmer, M. (1986). *The Chicago School of Sociology: Institutionalization, diversity, and the rise of sociological research*. Chicago: University of Chicago Press.
- Burawoy, M. (2005). Provincializing the social sciences. In G. Steinmetz (Ed.), *The politics of method in the human sciences: Positivism and its epistemological others*. Durham: Duke University Press.

- Burgess, J. W. (1934). *Reminiscences of an American scholar: The beginnings of Columbia University*. New York: Columbia University Press.
- Burke, P. (2000). *A social history of knowledge: From Gutenberg to Diderot*. New York: Wiley.
- Calhoun, C. (2007). *Sociology in America : A history*. Chicago: University of Chicago Press.
- Camic, C. (2007). On edge: Sociology during the great depression and the new Deal. In C. Calhoun (Ed.), *Sociology in America : A history* (pp. 225–280). Chicago: University of Chicago Press.
- Camic, C., & Gross, N. (2002). Review of Alvin Gouldner and the *Sociology of Ideas: Lessons from 'Enter Plato'*, by Alvin Gouldner. *The Sociological Quarterly*, 43(1), 97–110.
- Camic, C., & Gross, N. (2004). The new sociology of ideas. In J. R. Blau (Ed.), *The Blackwell companion to sociology* (pp. 236–249). Oxford: Blackwell Publishing Ltd..
- Camic, C., & Xie, Y. (1994). The statistical turn in American social science: Columbia University, 1890 to 1915. *American Sociological Review*, 59(5), 773–805.
- Camic, C., Gross, N., & Lamont, M. (2011). *Social knowledge in the making*. Chicago: University of Chicago Press.
- Chriss, J. J. (2006). The place of Lester Ward among the sociological classics. *Journal of Classical Sociology*, 6(1), 5–21.
- Clark, W. (2006). *Academic Charisma and the origins of the Research University*. Chicago: University of Chicago Press.
- Cohen, A. M., & Kisker, C. B. (2009). *The shaping of American higher education: Emergence and growth of the contemporary system* (2nd ed.). New York: Jossey-Bass.
- Collins, R. (1992). *Sociological insight: An introduction to non-obvious sociology* (2nd ed.). New York: Oxford University Press USA.
- Cortese, A. J. (1995). The rise, hegemony, and decline of the Chicago School of Sociology, 1892–1945. *The Social Science Journal*, 32(3), 235–254.
- Craig, J. E. (1984). *Scholarship and nation building: The universities of Strasbourg and Alsatian society, 1870–1939*. Chicago: University of Chicago Press.
- Crosby, M. B. (2008). *The making of a German constitution: A slow revolution*. Oxford: Berg Publishers.
- Deegan, M. J. (1981). Early women sociologist and the sociological society: The patterns of exclusion and participation. *The American Sociologist*, 16(February), 14–24.
- Dogan, M., & Pahre, R. (1989). Fragmentation and recombination of the social sciences. *Studies in Comparative International Development*, 24(2), 56–73.
- Durkheim, E. (1956). *Education and sociology*. The Free Press.
- Durkheim, E. (2013). *The evolution of educational thought: Lectures on the formation and development of secondary education in France*. London: Routledge.
- Etzioni, A. (1969). *The semi-professions and their organization: Teachers, nurses, social workers*. New York: Free Press.
- Farr, J. (1990). Francis Lieber and the interpretation of American political science. *The Journal of Politics*, 52(4), 1027–1049.
- Fleck, C. (2011). *A transatlantic history of the social sciences: Robber barons, the third Reich and the invention of empirical social research*. London: Bloomsbury Academic.
- Fleck, L. (2012). *Genesis and development of a scientific fact*. Chicago: University of Chicago Press.
- Fourcade, M. (2006). The construction of a global profession: The Transnationalization of economics. *American Journal of Sociology*, 112(1), 145–194.
- Fourcade, M. (2009). *Economists and societies: Discipline and profession in the United States, Britain, and France, 1890s to 1990s*. Princeton: Princeton University Press.
- Furmer, M. O. (1975). *Advocacy & Objectivity: A Crisis in the Professionalization of American Social Science, 1865–1905*. Lexington: Published for the Organization of American Historians by The University Press of Kentucky.
- Gieryn, T. F. (1983). Boundary-work and the demarcation of science from non-science: Strains and interests in professional ideologies of scientists. *American Sociological Review*, 48(6), 781–795.
- Gouldner, A. W. (1970). *The coming crisis of Western sociology*. New York: Basic Books.
- Gross, N. (2013). *Why are professors Liberal and why do conservatives care?* Cambridge: Harvard University Press.
- Gross, N. (2014). Comments on American sociology: From pre-disciplinary to post-Normal. *The American Sociologist*, 46(1), 11–17. <https://doi.org/10.1007/s12108-014-9245-6>.
- Grossman, L. A. (2007). Langdell upside-down: James Coolidge Carter and the anticlassical jurisprudence of Anticodification. *Yale Journal of Law & the Humanities*, 19, 149.
- Haskell, T. L. (1977). *The Emergence of Professional Social Science: The American Social Science Association and the Nineteenth-Century Crisis of Authority*. Champagne: University of Illinois Press.
- Herbst, J. (1972). *The German Historical School in American Scholarship: A Study in the Transfer of Culture*. Port Washington: Kennikat Press.

- Hirschman, D., & Berman, E. P. (2014). Do economists make policies? On the political effects of economics. *Socio-Economic Review*, 12(4), 779–811.
- Holmes, O. W. (1899). Law in science and science in law. *Harvard Law Review*, 12(7), 443–463.
- Holmwood, J. (2010). Sociology's misfortune: Disciplines, Interdisciplinarity and the impact of audit culture. *The British Journal of Sociology*, 61(4), 639–657.
- Hull, N. E. H. (1997). *Roscoe pound and Karl Llewellyn: Searching for an American jurisprudence*. Chicago: University of Chicago Press.
- Kant, I. (1992). *The Conflict of the Faculties*. Lincoln: University of Nebraska Press.
- Kimball, B. A. (2009). *Inception of modern professional education: C. C. Langdell, 1826–1906: C. C. Langdell, 1826–1906*. Chapel Hill: University of North Carolina Press.
- King, L. P., & Szelenyi, I. (2004). *Theories of a new class—intellectuals and power*. Minneapolis: University of Minnesota.
- Knorr-Cetina, K., Schatzki, T. R., & von Savigny, E. (Eds.). (2000). *The Practice Turn in Contemporary Theory* (1st ed.). London: Routledge.
- Kuhn, T. S. (1962). *The structure of scientific revolutions*. Chicago: University of Chicago Press.
- Lagemann, E. C. (1992). *The politics of knowledge: The Carnegie corporation, philanthropy, and public policy*. Chicago: University of Chicago Press.
- Latour, B. (1988). *The Pasteurization of France*. Cambridge: Harvard University Press.
- Lieber, F. (1853). *On civil liberty and self-government*. Philadelphia: Lippincott, Grambo and Co. <http://archive.org/details/oncivillibertyse01lieb>. Accessed 13 Jan 2015.
- Lieber, F. (1881). In D. C. Gilman (Ed.), *The miscellaneous writings of Francis Lieber*. Philadelphia: J.B. Lippincott <http://archive.org/details/miscellaneouswr00gilmgoo>.
- Loader, C., & Kettler, D. (2002). *Karl Mannheim's Sociology As Political Education*. New Brunswick: Transaction Publishers.
- Lybeck, Eric. (2013). 'Lester Ward and Patrick Geddes in early American and British sociology'. *History of the Human Sciences*, March.
- Lybeck, Eric. (2015). 'History of the concept of "Geist/Spirit"'. *International Encyclopedia of the Social and Behavioral Sciences*.
- Lybeck, E. (2016). Progressive sociology, conservative universities: Tracing the legacies of German legal science in American social science. In *PhD Thesis*. Cambridge: University of Cambridge.
- Lybeck, E. (2017a). Comparative-historical sociology as professional practice. *Human Figures*, 6(1).
- Lybeck, E. (2017b). The French revolution in Germany and the origins of sociology. *Historical Sociology*, 1.
- Lybeck, E. (2018). The coming crisis of academic authority. In T. Geelan, M. Hernando, & P. Walsh (Eds.), *From crisis to social change: Towards alternative horizons*. Basingstoke: Palgrave.
- Lybeck, E. (2019). *Nobert Elias and the sociology of education*. London: Bloomsbury Academic.
- Mannheim, K. (1985). *Ideology and utopia: An introduction to the sociology of knowledge*. San Diego: Harcourt Brace Jovanovich.
- Mannheim, K. (1986). *Conservatism: A contribution to the sociology of knowledge*. London: Routledge, Chapman & Hall, Incorporated.
- Marcuse, H. (1941). *Reason and revolution; Hegel and the rise of social theory*. London: Oxford University Press.
- Marcuse, H. (1991). *One-dimensional man : Studies in the ideology of advanced industrial society*. Boston: Beacon Press.
- Martin, J. L. (2003). What is field theory? *American Journal of Sociology*, 109(1), 1–49.
- Menand, L. (1997). *Pragmatism: A Reader*. New York: Vintage Books.
- Mirowski, P. (1989). *More heat than light : Economics as social physics, physics as Nature's economics*. Cambridge: Cambridge University Press.
- Mitchell, T. (2002). *Rule of experts: Egypt, techno-politics, modernity*. Berkeley: University of California Press.
- Mitchell, T. (2005). The work of economics: How a discipline makes its world. *European Journal of Sociology / Archives Européennes de Sociologie*, 46(02), 297–320.
- Morris, A. (2015). *The scholar denied: W. E. B. Du bois and the birth of modern sociology*. Berkeley: University of California Press.
- Parsons, T. (1939). The professions and social structure. *Social Forces*, 17(4), 457–467.
- Parsons, T., & Platt, G. (1974). *American University*. Cambridge: Harvard University Press.
- Pound, R. (1999). *The Spirit of the Common Law*. New Brunswick: Transaction Publishers.
- Rafferty, Edward C. 2003. *Apostle of Human Progress : Lester Frank Ward and American Political Thought, 1841–1913*. Lanham: Rowman & Littlefield Pub., Inc.
- Reimann, M. (1989a). Historical School against Codification: Savigny, Carter, and the Defeat of the New York Civil Code, *The American Journal of Comparative Law*, 37, 95.
- Reimann, M. (1989b). Nineteenth century German legal science. *Boston College Law Review*, 31, 837.

- Rodgers, D. T. (2009). *Atlantic crossings: Social politics in a progressive age*. Cambridge: Harvard University Press.
- Ross, D. (1992). *The origins of American social science*. Cambridge: Cambridge University Press.
- Rueschemeyer, D. (1973). *Lawyers and their society: A comparative study of the legal profession in Germany and in the United States*. Cambridge: Harvard University Press.
- Schlegel, J. H. (1985). Between the Harvard founders and the American legal realists: The professionalization of the American law professor. *Journal of Legal Education*, 35, 311.
- Schlegel, J. H. (1995). *American legal realism and empirical social science*. Chapel Hill: University of North Carolina Press.
- Shils, E. A., & Janowitz, M. (1948). Cohesion and disintegration in the Wehrmacht in world war II. *The Public Opinion Quarterly*, 12(2), 280–315.
- Skinner, Quentin. (2002). *Visions of politics: Volume 1*. Cambridge University Press.
- Small, A. W. (1916). Fifty years of sociology in the United States (1865-1915). *American Journal of Sociology*, 21(6), 721–864.
- Small, A. W. (1924). *Origins of sociology*. Chicago: The University of Chicago Press.
- Stanley, L. (2005). 'A child of its time: Hybridic perspectives on othering in sociology'. Text.Article. 30 September 2005. <http://www.socresonline.org.uk/10/3/stanley.html>. Accessed 07 Nov 2017.
- Wilkinson, I. (2014). On the task of making social inquiry aligned to caregiving: An invitation to debate. *Anthropology & Medicine*, 21(1), 87–99.
- Ziolkowski, T. (2004). *Clio the romantic muse: Historicizing the faculties in Germany*. Ithaca: Cornell University Press.

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