# The Epistemology of Pure Sociology

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Sociologists lack clarity and consensus about their scholarly mission. Some are purely and coldly scientific, some morally or politically critical, and some warmly or sentimentally humanistic. Their ultimate concerns include the True, the Good, and the Beautiful.[1] Others are not explicit or even self-conscious about what they seek to accomplish, and still others combine various styles—scientific, critical, and humanistic—and are difficult or impossible to classify at all. Their discourse is cacophonous. The utterances of some are uninteresting to others, and their assessments of one another commonly seem completely misdirected.

Reactions to my own work are often remarkably irrelevant or otherwise inappropriate as well.[2] In the following pages, I therefore outline the epistemology of my work[3]—its primary mission, the standards by which it should

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For comments on an earlier draft, the author thanks M. P. Baumgartner and Roberta Senechal de la Roche. In addition, he thanks Richard Leo for organizing a symposium on *The Social Structure of Right and Wrong* (San Diego: Academic Press, 1993) at the annual meeting of the Law and Society Association in Phoenix, Arizona, June 1994, and Howard S. Erlanger for editing and publishing a revised version of the symposium. The following essay elaborates the author's presentation in Phoenix and also includes portions of a lecture entitled "On Being Epistemologically Incorrect," presented at the University of Lund, Sweden, October 1994, and portions of a lecture entitled "The Sociology of Law and the Death of the Person," presented at the Kobe Conference on Socio-Legal Studies, Kobe, Japan, August 1995.

1. These concerns correspond to three "action orientations" delineated by Talcott Parsons in *The Social System* 12–14, 327 (Glencoe, Ill.: Free Press, 1951) ("Parsons, *Social System*"). For an elaboration, see Donald Black, "Social Control as a Dependent Variable" (orig. pub. 1984), in *The Social Structure of Right and Wrong* 19–21, esp. n.34 (San Diego: Academic Press, 1993) ("Black, 'Social Control'; "Black, *Right and Wrong*").

2. See, e.g., the political labels applied to my work, discussed in the section below entitled "Epistemological Shock." See also David M. Frankford, "Donald Black's *Social Structure of Right and Wrong*: Normativity without Agents," 20 *Law & Soc. Inquiry* 787 (1995).

3. Epistemology is the philosophy of knowledge, including its nature and evaluation. See, e.g., R. Harré, *The Philosophies of Science: An Introductory Survey* 2, 5–8 (London: Oxford University Press, 1972).


0897-6546/95/2003-0829$01.00

be evaluated, and the paradigm it implies.[4] In so doing, I note various characteristics of my work pertinent to its evaluation. Finally, I speculate about why readers sometimes find my sociology disturbing or even "shocking" or "crazy": Such reactions apparently occur not only because people apply inappropriate standards to my writings or do not understand them, but also because my work inevitably violates conventional conceptions of reality. In this sense, I cannot avoid being epistemologically incorrect.

## WHO AM I?

I am a scientist. I study variation in reality.[5] As a theoretical sociologist, I seek to order variation in social reality.[6] I employ a strategy of pure sociology—without psychology—that specifies how social life varies with the shape of social space.[7] My book *The Behavior of Law*,[8] for example, contains theoretical formulations that predict and explain the quantity and style of law in various locations and directions in social space, such as between parties at various elevations and with various directions in vertical space, at various distances in relational and cultural space, with various locations and directions in corporate and normative space. In this sense, the social structure of a case predicts and explains how it will be handled.[9] *The Social Structure of Right and Wrong* similarly contains formulations that predict and explain diverse aspects of conflict beyond law, such as vengeance,

4. A paradigm is a strategy of explanation that guides a branch of science. The term first appeared in Thomas S. Kuhn, *The Structure of Scientific Revolutions* 10 (Chicago: University of Chicago Press, 1962) ("Kuhn, *Scientific Revolutions*").

5. Science is the study of variation in reality. A variation is a difference, and reality is that which is said to exist. See Donald Black, "A Strategy of Pure Sociology" (orig. pub. 1979), *in id.*, *Right and Wrong* 158 ("Black, 'Pure Sociology' "). Compare Ludwig Wittgenstein, *Tractatus Logico-Philosophicus* 13 (orig. pub. 1921), trans. D. F. Pears & B. F. McGuinness (2d ed. London: Routledge & Kegan Paul, 1971) ("Wittgenstein, *Tractatus*").

6. A theory is an explanation. An explanation orders a fact with a general proposition. A fact is an observable aspect of reality, and to order a fact is to show that it obeys a pattern. As a branch of science, therefore, the mission of theoretical sociology is to order differences in the observable aspect of social reality. I further seek to formulate theory from which it is possible to deduce—and thereby predict—patterns of social variation. On the nature of a fact, compare Wittgenstein, *Tractatus* 7. On scientific explanation as logical deduction, see Richard Bevan Braithwaite, *Scientific Explanation: A Study of the Function of Theory, Probability and Law in Science* (orig. pub. 1953) (New York: Harper & Row, 1960); Carl G. Hempel, "Aspects of Scientific Explanation," *in id.*, *Aspects of Scientific Explanation and Other Essays in the Philosophy of Science* 331 (New York: Free Press, 1965); George C. Homans, *The Nature of Social Science* ch. 1 (New York: Harcourt, Brace & World, 1967).

7. The "shape of social space" and other concepts in this section will be elaborated in later sections. I shall also describe my strategy as a geometry of social life.

8. New York: Academic Press, 1976 ("Black, *Behavior of Law*").

9. For further details on "the social structure of a case," see Donald Black, *Sociological Justice* 7–18 (New York: Oxford University Press, 1989) ("Black, *Sociological Justice*").

avoidance, negotiation, and various forms of intervention by third parties. It explores the structural relativity of morality.[10]

How, then, should my writings be evaluated? Scientifically. Scientists of all kinds commonly use the following criteria to evaluate theoretical formulations: (1) testability, (2) generality, (3) simplicity, (4) validity, and (5) originality. In the next section, I discuss these criteria and apply them to my work.

## HOW TO JUDGE MY WORK

### Is It Testable?

At least since the philosopher Karl Popper published *The Logic of Scientific Discovery* in 1934,[11] it has been widely recognized that a scientific theory should ideally be, as he put it, "falsifiable."[12] Although Popper himself suggests that a theory should be recognized as scientific *only* if it is capable of being tested,[13] even those with a less exclusive conception of science would not deny the superiority of testable over untestable ideas. A theory is always more valuable if it is possible, in principle, to prove it wrong.

To be testable, a theory must be predictive. A prediction need not prophesy the future of anything, but is simply an empirical pattern—something observable—logically implied by the theory. The predicted pattern might be something that occurred in the distant past, such as a pattern of punishment in ancient Greece or Rome, or it might be something that will not occur until an experiment is performed in a laboratory. If such a prediction is not possible, the theory is not testable: It cannot be proven false. Finally, for a theory to be testable it must be stated in a quantitative language, so that its predictions can be evaluated by measuring—counting—something.[14] If nothing can be counted, the theory cannot be tested. And if it cannot be tested, its validity is forever unknowable.

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10. For a detailed overview of *Right and Wrong*, see Roberta Senechal de la Roche, "Beyond the Behavior of Law," 20 *Law & Soc. Inquiry* 777 (1995).

11. The English translation (from German) appeared in 1959 (New York: Basic Books).

12. Karl Popper, *The Logic of Scientific Discovery* 40 (2d ed. New York: Harper & Row, 1968) ("Popper, *Logic*"). See also Murray Gell-Mann, *The Quark and the Jaguar: Adventures in the Simple and the Complex* 78–79 (New York: W. H. Freeman, 1994) ("Gell-Mann, *Quark and Jaguar*").

13. Popper, *Logic* 40.

14. Quantitative measurement need not entail a determination of precise differences (interval measurement), but might be as simple as a determination of whether more or less of something occurs (ordinal measurement), or merely whether something occurs at all (nominal measurement).

One philosopher remarks that we cannot speak of a "fact"—let alone the validity of a theory—without quantification: "The function of numbering and measuring is indispensable even in order to produce the raw material of 'facts' that are to be reproduced and unified in theory." Ernst Cassirer, *Substance and Function and Einstein's Theory of Relativity* 115 (punctua-

In *The Behavior of Law*, I thus propose that *law varies directly with relational distance*.[15] One implication is that cases (such as criminal homicides) involving strangers attract more law (such as more punishment) than cases involving intimates (such as spouses, lovers, or friends). And they do. We can readily observe, for example, that the probability of capital punishment for homicide in modern America is far greater in cases between strangers than in cases between intimates.[16] Because another pattern is, in principle, also possible (such as greater severity in cases involving intimates than strangers), the formulation qualifies as testable. It could conceivably be proven wrong.

My work as a whole contains numerous formulations about diverse aspects of law and other modes of handling conflict that are readily testable. Unfortunately, the same can rarely be said of theoretical work in the sociology of law and related subjects.[17] In fact, little theory exists at all, testable or not. Testable theory is also rare in sociology more generally. Apart from Emile Durkheim's work on several subjects, including legal evolution,[18] the considerable body of so-called classical theory from the early years of sociology is largely impossible to falsify.[19] The theory of Karl Marx[20] is untestable,

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tion edited) (orig. pub. 1910 & 1921), trans. William Curtis Swabey & Marie Collins Swabey (Chicago: Open Court, 1923); see also *id.* at 116.

15. Black, *Behavior of Law* 40–46. "Relational distance" refers to the degree to which people "participate in one another's lives," measurable, for example, with "the scope, frequency, and length of interaction" between them, "the age of their relationship, and the nature and number of links between them in a social network." *Id.* at 40–41. In this formulation, "law" refers to the quantity of governmental social control—the amount of governmental authority applied to a particular case. This quantity increases, for example, with a call to the police, an arrest, a lawsuit, a victory for the prosecution or plaintiff, and the severity of a remedy. *Id.* at 2–3. The pattern I formulate is actually curvilinear, with law decreasing at the smallest and greatest distances in relational space, such as within families or friendships and between different societies or tribes. Within a single society such as modern America, however, the relationship is direct. For further details on my quantitative conception of law, see *id.*, "A Note on the Measurement of Law" (orig. pub. 1979), *in id.*, *The Manners and Customs of the Police* 209–17 (New York: Academic Press, 1980).

16. E.g., Samuel R. Gross & Robert Mauro, "Patterns of Death: An Analysis of Racial Disparities in Capital Sentencing and Homicide Victimization," 37 *Stan. L. Rev.* 58–59 (1984).

17. But see, e.g., Marc Galanter, "Why the 'Haves' Come Out Ahead: Speculations on the Limits of Legal Change," 9 *Law & Soc'y Rev.* 95 (1974); M. P. Baumgartner, "Social Control from Below," *in* Donald Black, ed., *Toward a General Theory of Social Control*, vol. 1: *Fundamentals* 331-39 (Orlando, Fla.: Academic Press, 1984) ("Baumgartner, 'Social Control from Below' "); John Griffiths, "The Division of Labor in Social Control," *id.* at 37 ("Griffiths, 'Division of Labor in Social Control' ").

18. Emile Durkheim, *The Division of Labor in Society* (orig. pub. 1893), trans. George Simpson (New York: Free Press, 1964) ("Durkheim, *Division of Labor*").

19. Classical theory may even *be* classical—unchanged and unchallenged—largely because it is untestable. To be untestable, however, is not necessarily to be unimportant. The theories of Charles Darwin and Sigmund Freud are commonly regarded as untestable, for example, but few would question their importance. And scientists do not necessarily discard a theory simply because its testability is not immediately obvious. In physics, for instance, many recognize the potential importance of a new conception of elementary particles known as superstring theory. In this conception (developed by John Schwarz and Michael Green,

for example, and so is most of Max Weber's[21] and Georg Simmel's.[22] The same applies to the work of later theorists such as Talcott Parsons,[23] Niklas Luhmann,[24] Jürgen Habermas,[25] Michel Foucault,[26] Pierre Bourdieu,[27] Anthony Giddens,[28] Peter Berger,[29] and Erving Goffman.[30] All these theorists mainly offer conceptions, classifications, and interpretations rather than testable formulations. Sociological theory, old or new, contains few ideas capable of being wrong.

## Is It General?

Scientists also judge theory by the empirical diversity it addresses—its generality. The greater the diversity, the better the theory: Science craves generality.[31] The greatest glory is enjoyed by theoretical scientists whose

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among others), the behavior of particles is regarded as the vibration of strings extending throughout the universe. Virtually all physicists agree that superstring theory, if workable, will be revolutionary, yet no one can yet specify how the theory might be tested or even whether it will ever yield testable implications at all. See, e.g., Sheldon L. Glashow (with Ben Bova), *Interactions: A Journey through the Mind of a Particle Physicist and the Matter of This World* 330–35 (New York: Warner Books, 1988) ("Glashow, *Interactions*"); John Schwarz, *quoted in* P. C. W. Davies & Julian Brown, eds., *Superstrings: A Theory of Everything?* 84 (Cambridge: Cambridge University Press, 1988).

20. E.g., Karl Marx & Friedrich Engels, *Basic Writings on Politics and Philosophy*, ed. Lewis S. Feuer (Garden City, N.Y.: Anchor Books, 1959) ("Marx & Engels, *Basic Writings*").

21. E.g., Max Weber, *The Theory of Social and Economic Organization* (orig. pub. 1922), trans. A. M. Henderson & Talcott Parsons (New York: Free Press, 1947) ("Weber, *Theory of Social and Economic Organization*").

22. E.g., Georg Simmel, *The Sociology of Georg Simmel* (orig. pub. 1908), trans. Kurt H. Wolff (New York: Free Press, 1950) ("Simmel, *Sociology*").

23. E.g., Parsons, *Social System* (cited in note 1).

24. E.g., Niklas Luhmann, *A Sociological Theory of Law* (orig. pub. 1972), trans. Elizabeth King & Martin Albrow (London: Routledge & Kegan Paul, 1985) ("Luhmann, *Theory of Law*").

25. E.g., Jürgen Habermas, *Legitimation Crisis* (orig. pub. 1973), trans. Thomas McCarthy (Boston: Beacon Press, 1975).

26. E.g., Michel Foucault, *Discipline and Punish: The Birth of the Prison* (orig. pub. 1975), trans. Alan Sheridan (New York: Pantheon Books, 1977).

27. E.g., Pierre Bourdieu, *Outline of a Theory of Practice* (orig. pub. 1972), trans. Richard Nice (Cambridge: Cambridge University Press, 1977).

28. E.g., Anthony Giddens, *The Constitution of Society: Outline of a Theory of Structuration* (Cambridge: Polity Press, 1984) ("Giddens, *Constitution of Society*").

29. E.g., Peter L. Berger & Thomas Luckmann, *The Social Construction of Reality: A Treatise in the Sociology of Knowledge* (orig. pub. 1966) (Garden City, N.Y.: Anchor Books, 1967) ("Berger & Luckmann, *Social Construction of Reality*"); see also James Davison Hunter & Stephen C. Ainlay, eds., *Making Sense of Modern Times: Peter L. Berger and the Vision of Interpretive Sociology* (London: Routledge & Kegan Paul, 1986).

30. E.g., Erving Goffman, *The Presentation of Self in Everyday Life* (Garden City, N.Y.: Doubleday, 1959); *id.*, *Behavior in Public Places: Notes on the Social Organization of Gatherings* (New York: Free Press, 1963) ("Goffman, *Behavior in Public Places*").

31. The philosopher Ludwig Wittgenstein speaks of the "craving for generality" in science as a "contemptuous attitude toward the particular case." "The Blue Book," in *The Blue and Brown Books* 17–18 (orig. pub. 1958) (New York: Harper & Row, 1965). However appropriate for scientists it might be, he regards generality as an inappropriate preoccupation for

formulations reach previously unattained levels of generality. Examples are Isaac Newton, Charles Darwin, and Albert Einstein: Newton was the first to formulate theory applicable to the behavior of both celestial and earthly matter (his theory of gravitation, for example), Darwin formulated a theory applicable to all plants and animals (his theory of natural selection), and Einstein—among other things—formulated a theory applicable to the behavior of both matter and light (his general theory of relativity).

My theory of law applies to all conflicts, civil and criminal, at all stages of the legal process, in all societies, in all historical periods, wherever law is found. It also applies to legal variation in entire communities and societies, including the evolutionary emergence of law itself. No comparably general theory of law has previously been attempted, and no theory of law more general is presently imaginable. Thus, for instance, my relational distance principle (noted in the previous section) predicts and explains such diverse patterns as the lower likelihood of a call to the police when a crime is committed between intimates rather than strangers and, at subsequent stages, the lower likelihood of an arrest, a prosecution, a conviction, and a severe punishment.[32] The same principle predicts and explains not only the handling of all crimes but the handling of all civil cases, such as the lower likelihood of a lawsuit for negligence when an allegedly liable party is a friend or relative of the injured party or for breach of contract when an allegedly liable party has a longstanding relationship with the injured party.[33] It predicts and explains patterns such as these in all societies and times where litigation occurs. It also explains why small bands of hunter-gatherers, where everyone is intimately acquainted with everyone else, have the least law—virtually none—while communities and societies with the weakest structures of intimacy (such as modern America, with its high degree of social fluidity) have the most.

My formulations about law may even be restated to apply to a vastly larger universe: the likelihood and degree of intervention by third parties of any kind, authoritative or partisan.[34] Just as law varies directly with rela-

philosophers. *Id.* See also Ray Monk, *Ludwig Wittgenstein: The Duty of Genius* 338, 449 (New York: Free Press, 1990).

32. For pertinent evidence, see respectively Linda S. Williams, "The Classic Rape: When Do Victims Report?" 31 *Soc. Prob.* 459 (1984); Richard Block, "Why Notify the Police: The Victim's Decision to Notify the Police of an Assault," 11 *Criminology* 555 (1974); Donald Black, "The Social Organization of Arrest," 23 *Stan. L. Rev.* 1097–98 (1971); Vera Institute of Justice, *Felony Arrests: Their Prosecution and Disposition in New York City's Courts* 23–52 (New York: Vera Institute of Justice, 1977); Lynda Lytle Holmstrom & Ann Wolbert Burgess, *The Victim of Rape: Institutional Reactions* 246–47 (orig. pub. 1978) (New Brunswick, N.J.: Transaction Books, 1983).

33. See, respectively, David M. Engel, "The Oven Bird's Song: Insiders, Outsiders, and Personal Injuries in an American Community," 18 *Law & Soc'y Rev.* 551 (1984); Stewart Macaulay, "Non-contractual Relations in Business: A Preliminary Study," 28 *Am. Soc. Rev.* 55 (1963).

34. For a typology of third parties and details on various amounts of intervention, see Donald Black & M. P. Baumgartner, "Toward a Theory of the Third Party" (orig. pub. 1983),

tional distance, for example, so does every form of intervention: *Third-party intervention varies directly with relational distance*.[35] The likelihood and degree of authoritative intervention thus increases along a continuum of relational distance between the adversaries, from therapy to mediation, arbitration, and adjudication.[36] Closer adversaries are more likely to seek mediation than arbitration or adjudication, for instance, and third parties are more likely to mediate than arbitrate or adjudicate closer conflicts. Partisan intervention increases along the same continuum, with the least between the most intimate adversaries and the most between the least intimate adversaries: Closer adversaries seek and attract less partisanship—people who take sides—than distant adversaries. A marital conflict, for instance, attracts less partisanship than, say, a conflict between acquaintances or strangers. Self-conflicts—between people and themselves—are the closest conflicts of all, and the least likely to involve the intervention of anyone. When they do, however, the most likely mode of intervention is therapy.[37] Every dimen-

*in* Black, *Right and Wrong* 95–124 (cited in note 1) ("Black & Baumgartner, 'Theory of the Third Party' "). See also Black, *id.*, chs. 7–8. The authoritativeness of third parties includes their degree of formalism (use of rules), decisiveness (one-sidedness), coerciveness (use of force), and punitiveness (use of pain and deprivation as a remedy). *Id.* at 145–49. The partisanship of third parties refers to their degree of support for one side of a conflict against the other. Black & Baumgartner, *id.* at 98.

35. As noted earlier, the association between law and relational distance is curvilinear, declining at both the smallest distances (such as within families) and the greatest distances (such as between societies). The same applies to the relationship between law and cultural distance and law and differentiation (functional interdependence). As indicated in the text above, however, the intervention of third parties obeys a linear principle. The most intervention is predicted between people who are the most distant (culturally as well as relationally) and the most independent, while the least is predicted between those who are the closest and most interdependent. See also the formulations pertaining to therapy and conciliation in Black, *Behavior of Law* 29–30, 47–48, 78–79, 98–99.

36. Other degrees of authoritativeness are identifiable as well: A friendly peacemaker does not address the substance of the conflict, but merely intervenes in a positive fashion, such as by stepping between the parties and making a joke. See Black & Baumgartner, "Theory of the Third Party," at 108–10. A repressive peacemaker does not address the substance of the conflict either, but instead handles it as an offense in itself, such as by punishing both parties. *Id.* at 116–17. On the continuum of authoritativeness, friendly pacification lies between therapy and mediation, while repressive pacification lies beyond adjudication. The former should therefore be most likely to occur when the adversaries are highly intimate, such as close friends or relatives, while the latter should be most likely to occur when the adversaries are extremely distant, such as different tribes or societies. Repressive pacification may also occur when the third party has no information about the social relationship between the adversaries.

The Black & Baumgartner typology does not place therapy directly on the continuum of authoritativeness, but classifies it separately as a mode of intervention not explicitly concerned with conflict at all. *Id.* at 98, 119–21; see also Black, "Social Control," at 9–10, 15–16 (cited in note 1).

37. See *id.*, *Behavior of Law* 47; Allan V. Horwitz, *The Logic of Social Control* 81–83 (New York: Plenum Press, 1990) ("Horwitz, *Social Control*"); but compare *id.*, *The Social Control of Mental Illness* 35–47 (New York: Academic Press, 1982) ("Horwitz, *Mental Illness*"). Self-intimacy is variable and measurable in the same fashion as intimacy between people: The more time people spend with themselves, for example, the greater is their intimacy with themselves. The greater the scope of activities in which they participate with themselves—alone—the greater is their self-intimacy as well. On the measurement of relational distance,

sion of social space associated with the behavior of law is similarly associated with the intervention of third parties of all kinds. Cultural distance, functional independence, and inequality between the adversaries increase the likelihood and degree of both authoritative and partisan intervention, for example, as does the social superiority of the complainant over the alleged wrongdoer.[38]

Various formulations in *The Social Structure of Right and Wrong* also predict and explain the handling of conflict in all societies, with or without law, in all settings of those societies. A principle of social repulsion, for instance, predicts and explains moralistic behavior, including the authoritativeness of third parties: *Moralism is a direct function of social remoteness and superiority*.[39] This formulation implies that the formalism, decisiveness, coerciveness, and punitiveness of third parties increase with their relational and cultural distance from the adversaries and their social elevation above the adversaries, while any degree of relational, cultural, or vertical closeness to the adversaries encourages informality, compromise, voluntariness, and helpfulness. Therapists and mediators, for example, normally are closer than arbitrators and judges.[40] Because closer and more equal adversaries themselves seek and attract less intervention by third parties (noted above), the

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see Black, *Behavior of Law* 40–41. In modern America, for instance, people who live alone are more likely to receive psychiatric care—a pattern consistent with the positive relationship between therapy and self-intimacy. See, e.g., Simon Dinitz, Mark Lefton, Shirley Angrist, & Benjamin Pasamanick, "Psychiatric and Social Attributes as Predictors of Case Outcome in Mental Hospitalization," 8 *Soc. Prob.* 327 (1961); see also Black, *Behavior of Law* 119–20. In the Western world, moreover, the social structure of the self has been changing: People have become increasingly intimate with themselves. Various forms of psychotherapy—including self-therapy—have therefore proliferated. Compare Horwitz, *Mental Illness* ch. 8; *id.*, "Therapy and Social Solidarity," *in* Donald Black, ed., *Toward a General Theory of Social Control*, vol. 1: *Fundamentals* 211 (Orlando, Fla.: Academic Press, 1984); Anthony Giddens, *Modernity and Self-Identity: Self and Society in the Late Modern Age* 70–74, 185–87 (Cambridge: Polity Press, 1991) ("Giddens, *Modernity and Self-Identity*"). Self-intimacy increases self-attention of all kinds. In this sense, the self is a quantitative variable, and historically its magnitude has grown. Compare, e.g., Norbert Elias, *The Civilizing Process*, vol. 1: *The Development of Manners* 190–91, 245–63 (orig. pub. 1939), trans. Edmund Jephcott (New York: Urizen Books, 1978) ("Elias, *Manners*"); Lionel Trilling, *Sincerity and Authenticity* (Cambridge: Harvard University Press, 1972); Peter L. Berger, Brigitte Berger, & Hansfried Kellner, *The Homeless Mind: Modernization and Consciousness* 83–96 (New York: Vintage Books, 1973); Charles Taylor, *Sources of the Self: The Making of Modern Identity* (Cambridge: Harvard University Press, 1989); Giddens, *Modernity and Self-Identity*.

38. By "inequality" and "superiority" I refer to differences in various dimensions of social status, such as wealth, integration, conventionality, and respectability. For an explication of these and other pertinent variables, see generally Black, *Behavior of Law* chs. 2–6.

39. *Id.*, *Right and Wrong* 144.

40. If little or no intimacy exists at the beginning of a therapeutic or mediation relationship, it normally develops as the relationship with the therapist or mediator evolves—more so in the former than the latter, and more so in both than in a relationship with an arbitrator or judge.

social location of third parties in relation to the adversaries varies directly with the social location of the adversaries in relation to each other.[41]

In addition, a principle of social gravitation predicts and explains who takes whose side: *Partisanship is a joint function of the social closeness and superiority of one side and the social remoteness and inferiority of the other.*[42] Intimate superiors thus attract more partisanship and distant inferiors less, while social locations equidistant from the adversaries constitute a neutral zone where the likelihood and degree of any partisanship is low.[43] Recall, too, that adversaries intimate with each other attract especially little partisanship from anyone. Formulations such as these apply at once to all relationships involving individuals or groups, including relationships between entire societies. In other words, they apply throughout the social universe. This degree of generality in testable formulations is unprecedented not only in the sociology of law and related subjects but in sociology as a whole.[44]

41. Since the relational distances between the third party and the adversaries and between the adversaries themselves vary together, the authoritativeness of the intervention is a direct function of the area of the triangle formed by the distances between the three. Compare Black & Baumgartner, "Theory of the Third Party," at 123; Black, "Social Control," at 15–16. The relational distance between the adversaries and their partisans also varies directly with the relational distance between the adversaries: Closer adversaries tend to have closer partisans than more distant adversaries. As noted below, a greater degree of closeness to either adversary is associated with partisanship itself.

42. *Id.*, *Right and Wrong* 127.

43. *Id.* at 134–35. See also Black & Baumgartner, "Theory of the Third Party," at 123.

44. One (otherwise positive) critic seems to regard *The Behavior of Law* as *too* general: "It strikes me as sacrificing wisdom to elegance. . . . No doubt this is a matter of taste, but I am more enlightened by theories less abstract than . . . Black's." R. Stephen Warner, "What Should We Be Doing?" 9 *Perspectives* 9 (1986) (Newsletter of the American Sociological Association's Theory Division). But the abstraction of science inheres in its generality, and if a formulation orders the facts as well or better than anything else, it cannot be too general. We do not criticize Newton or Einstein for being too general or abstract. But a formulation that overstates its empirical jurisdiction (the facts to which it applies) is subject to criticism as an overgeneralization. And a formulation that understates its theoretical jurisdiction (the theory of which it is an implication) is subject to criticism as well—as an undergeneralization. An example of an undergeneralization would be an explanation of legal leniency in cases of domestic violence or acquaintance rape that focuses entirely on, say, the gender of the victim (usually female) or the particular society in which the leniency is observed (such as modern America). It would be an undergeneralization because the principle that law varies directly with relational distance orders not only the same facts as well or better, but also does so where the victim is male in legal life everywhere. (See my discussion of evidence in the section entitled "Is It True?" below.) The fields of anthropology and history contain many undergeneralizations.

I must add that science has nothing to do with "wisdom" or "enlightenment"—beyond the ordering of the facts. We therefore do not criticize Newton or Einstein for failing to provide wisdom or enlightenment about the physical universe. The fundamental meaning of reality—society, culture, life, the universe, or nature itself—is unknowable by science. See, e.g., Leszek Kolakowski, *The Alienation of Reason: A History of Positivist Thought* 3–4 (orig. pub. 1966), trans. Norbert Guterman (Garden City, N.Y.: Doubleday, 1968); see also Mark A. Schneider, *Culture and Enchantment* (Chicago: University of Chicago Press, 1993).

## Is It Simple?

It is often said that the ultimate purpose of science is to simplify reality—to find underlying patterns where reality first appears more complicated if not completely incomprehensible.[45] The more concisely such patterns are formulated, the more the goal of simplicity—also known as parsimony—is realized. Science loves simplicity and despises complexity.

Physicist Murray Gell-Mann (who predicted the existence of elementary particles called "quarks" and named them with a word from James Joyce's *Finnegans Wake*) notes that "It is not simple to define 'simple.' "[46] He nevertheless measures the simplicity of a description very simply with its length: The shorter it is, the greater the simplification.[47] One form of scientific simplification is a theory: "A theory is formulated as a simple principle or set of principles, expressed in a comparatively short message. . . . It is a compressed package of information."[48] The shorter it is, then, the more a theoretical formulation simplifies reality. For a formulation to be simple in this sense, however, does not mean it is simple-minded, superficial, or obvious. Far from it. A simple formulation is appreciated only when it achieves as much as a more complex formulation. The astronomer Nicholas Copernicus, for example, theorized that the earth revolves around the sun (rather than the reverse) not because it ordered existing observations better than the prevailing theory of Claudius Ptolemy—it did not—but rather because it promised to do so more simply: "He could plead only that his conception threw the facts of astronomy into a simpler and more harmonious mathematical order."[49] Not until 60 years later was the Copernican theory empirically confirmed as superior to the Ptolemaic theory.[50]

The discovery of previously unknown simplicity is a revelation, a breakthrough to a new level of understanding. Biologist Francis Crick (who co-discovered the molecular structure of DNA, a key to understanding how organisms inherit characteristics) speaks of the "deep simplicity" that theoretical science seeks but only occasionally discovers,[51] and Gell-Mann simi-

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45. Gell-Mann, *Quark and Jaguar* ch. 7 (cited in note 12).

46. *Id.* at 28.

47. *Id.* at 30–34.

48. *Id.* at 77, paraphrasing Stephen Wolfram.

49. Edwin Arthur Burtt, *The Metaphysical Foundations of Modern Science* 38 (italics omitted) (orig. pub. 1952) (rev. ed. Garden City, N.Y.: Doubleday, 1954) ("Burtt, *Metaphysical Foundations*").

50. *Id.* at 51; see also Stephen F. Mason, *A History of the Sciences* ch. 3 & p. 46 (orig. pub. 1956) (rev. ed. New York: Collier Books, 1962) ("Mason, *History of Sciences*"); Thomas S. Kuhn, *The Copernican Revolution: Planetary Astronomy in the Development of Western Thought* 168–72 (Cambridge: Harvard University Press, 1957) ("Kuhn, *Copernican Revolution*").

51. Francis Crick, *What Mad Pursuit: A Personal View of Scientific Discovery* 6 (New York: Basic Books, 1988) ("Crick, *Mad Pursuit*"). He also expresses pessimism about the degree to which biological phenomena are susceptible to simplification. *Id.*, ch. 13. Whether

larly speaks of the quest for an "underlying simplicity."[52] Scientists commonly describe simplicity of this kind as "elegant" or even "beautiful," an aesthetic evaluation of both the theoretical formulation itself and the symmetry of nature it reveals: "What is beautiful in general and therefore beautiful in science is harmony, order, simplicity, a quality of cleanness."[53] Here science resembles art.[54]

Albert Einstein, probably the most illustrious scientist in history, is often praised for the parsimony and elegance of his formulations.[55] One biographer thus remarks that "The essence of Einstein's profundity lay in his simplicity; and the essence of his science lay in his artistry—his phenomenal sense of beauty."[56] Einstein's son noted that he "had a character more like that of an artist than of a scientist as we usually think of them."[57] His evaluations of colleagues were primarily aesthetic as well: "The highest praise for a good piece of work was not that it was correct nor that it was exact but that it was beautiful."[58] His strongest criticism was "ugly." As one

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any aspect of reality can be simplified, however, is matter of faith, not fact. And the greatest scientists have the most faith.

52. Gell-Mann, *Quark and Jaguar* 17.

53. Howard E. Gruber, "Darwin's 'Tree of Nature' and Other Images of Wide Scope," *in* Judith Wechsler, ed., *On Aesthetics in Science* 123 (Cambridge, Mass.: M.I.T. Press, 1978) ("Wechsler, *Aesthetics in Science*"). To return to Copernicus, for example:

> As Copernicus himself recognized, the real appeal of sun-centered astronomy was aesthetic rather than pragmatic. To astronomers the initial choice between Copernicus' system and Ptolemy's could only be a matter of taste, and matters of taste are the most difficult to define or debate. Yet, as the Copernican Revolution itself indicates, matters of taste are not negligible. The ear equipped to discern geometric harmony could detect a new neatness and coherence in the sun-centered astronomy of Copernicus, and if that neatness and coherence had not been recognized, there might have been no Revolution.

Kuhn, *Copernican Revolution* 171. But Gruber also suggests that nature can be beautiful because of the "spectacle of complexity" and "wildness" it presents, and even that an "erotic strain in science" is associated with this dimension of nature. He proposes that such a strain is noticeable, for example, in the work of Charles Darwin. Gruber at 123–24, 133–35.

54. The reverse applies as well: The English painter Francis Bacon thus sounds like a theoretical scientist when he suggests that important paintings "abbreviate" reality to achieve a "sophisticated simplicity." *Quoted in* David Sylvester, *The Brutality of Fact: Interviews with Francis Bacon* 176 (orig. pub. 1975) (3d enlarged ed. New York: Thames & Hudson, 1988). Also: "One constructs an artificial structure by which one can trap the reality of the subject-matter." *Id.* at 180. Some artists speak of a search for truth as well. The Italian-Swiss sculptor Alberto Giacometti, for example, often said that "what interested him was not art but truth," that "it was by means of style that works of art attain truth," and that "truth alone was of enduring consequence." James Lord, *Giacometti: A Biography* 99, 518; see also 307 (New York: Farrar, Straus & Giroux, 1985). And the Spanish painter Salvador Dalí spoke of his own work as "a raw and bloody hunk of truth." Salvador Dalí, *Diary of a Genius* 125 (orig. pub. 1964), trans. Richard Howard (New York: Prentice Hall Press, 1965) ("Dalí, *Diary*").

55. His general theory of relativity, for example, provides a model of gravitation in an equation of nine notations. See Gell-Mann, *Quark and Jaguar* 87–88 (cited in note 12). His theory of the equivalence of energy and mass is even shorter: $E = mc^2$.

56. Banesh Hoffmann (with the collaboration of Helen Dukas), *Albert Einstein: Creator and Rebel* 3 (New York: Viking Press, 1972). See also 18 & 176 ("Hoffmann, *Albert Einstein*").

57. H. A. Einstein, *quoted in* G. J. Whitrow, ed., *Einstein: The Man and His Achievement* 19 (New York: Dover, 1967) ("Whitrow, *Einstein*").

58. *Id.*

colleague recalled, "When I put down a suggestion that seemed to me cogent and reasonable, he did not in the least contest this, but he only said, 'Oh, how ugly.' As soon as an equation seemed to him to be ugly, he really lost interest in it. . . . He was quite convinced that beauty was a guiding principle in the search for important results in theoretical physics."[59] And he was right. The simplest and most aesthetically pleasing formulations most effectively order the facts: "For reasons nobody seems to understand, the more elegant and simple your scheme is, the more success it seems to have. The whole history of physics over the last two or three hundred years, going back to Newton, shows that very clearly."[60] Perhaps the English poet John Keats understood the affinity between science and art when he declared that " 'Beauty is truth, truth beauty,'—that is all ye know on earth, and all ye need to know."[61]

Although physical science often employs mathematics to achieve simplicity and elegance, testable formulations in sociology normally appear in ordinary language. But they can still be highly parsimonious. Durkheim's evolutionary proposition that the ratio of compensatory law to penal law increases as a direct function of the division of labor,[62] for example, illustrates the considerable degree of theoretical simplicity that can be achieved with words alone. So do my own formulations. One of my aspirations in *The Behavior of Law* was to show sociologists the high degree of simplicity achievable in falsifiable theory at a level of generality hardly imaginable before it appeared.[63] And it may well contain the most falsifiable theory about the most social variation in the fewest words ever written. Compare the tangled jungles of verbiage so often produced by modern theoretical sociologists such as Talcott Parsons,[64] Niklas Luhmann,[65] and Anthony

59. Hermann Bondi, *quoted in id.* at 82.

60. John Schwarz (co-founder of superstring theory), *quoted in* Michio Kaku & Jennifer Trainer, *Beyond Einstein: The Cosmic Quest for the Theory of the Universe* 195 (Toronto: Bantam Books, 1987) ("Kaku & Trainer, *Beyond Einstein*"). Another respected physicist, Hermann Weyl, once remarked that he chose beauty over the existing evidence to guide his scientific beliefs: "My work always tried to unite the true with the beautiful; but when I had to choose one or the other, I usually chose the beautiful." *Quoted in* S. Chandrasekhar, *Truth and Beauty: Aesthetics and Motivations in Science* 65 (Chicago: University of Chicago Press, 1987). And Weyl's instincts were good. In one case, for example, his aesthetically based formulation was ultimately confirmed after being "ignored" by the physics community for "some 30 years." *Id.* at 66. See also generally Wechsler, *Aesthetics in Science*; K. C. Cole, *Sympathetic Vibrations: Reflections on Physics as a Way of Life* ch. 10 (orig. pub. 1984) (Toronto: Bantam Books, 1985).

61. John Keats, "Ode on a Grecian Urn," *in* Elliott Coleman, ed., *Poems of Byron, Keats and Shelley* 413 (orig. pub. 1819) (Garden City, N.Y.: International Collectors Library, 1967).

62. Durkheim, *Division of Labor* (cited in note 18).

63. Since my formulations apply to the handling of all cases, criminal and civil, at all stages of the legal process, across societies and history (including evolutionary patterns), they are, for example, vastly more general than Durkheim's proposition about the evolution of legal remedies.

64. E.g., Parsons, *Social System* (cited in note 1).

65. E.g., Luhmann, *Theory of Law* (cited in note 24).

Giddens[66]—leaving aside the largely untestable character of their work. Yet it is sometimes said that the difficulty and even obscurity of sociological prose attracts greater attention and respect than simplicity and clarity. If so, the standards are not scientific.

My own writings are occasionally evaluated with a standard entirely aesthetic—as art. "I read your poem," said one colleague, referring to *The Behavior of Law*, and others recite what they call my "poetic" or "lyrical" writings to their students. Another even suggests that "most of the positive evaluation" of my work is "aesthetic": "People appreciate its elegance and simplicity, the awesome scope of its vision, the graceful symmetry of its arguments," and he himself reports being "reminded of great art" when reading it.[67] But such reactions ignore a crucial question: whether my formulations are right or wrong. Even if beauty is truth, scientific truth must be demonstrated by a test of the facts. Beauty is not enough. If my work is art, it is not art alone: My poems are testable.[68]

## Is It True?

Because so much sociological theory is untestable, the question of the degree to which it conforms to the facts—its validity—is moot. It cannot be judged as right or wrong. Yet in science a wrong theory is generally better than an untestable theory.[69] To be wrong is better because at least it demonstrates what reality is *not*—it eliminates something—which is better than demonstrating nothing at all.[70] A wrong theory might also inspire a fruitful reformulation. Understandably, therefore, one of the harshest criticisms eminent physicist Wolfgang Pauli might direct at a colleague's theory was that it was "not even wrong."[71]

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66. E.g., Giddens, *Constitution of Society* (cited in note 28).

67. Thomas J. Bernard, "The Black Hole: Sources of Confusion for Criminologists in Black's Theory" 9 (presented at annual meeting of American Society of Criminology, Miami, Fla., Nov. 1994).

68. If my formulations are correct, however, it might be said that law itself is beautiful.

69. One exception would be an untestable theory that includes an important innovation of a conceptual nature—a new way of looking at reality. It might raise the level of generality at which aspects of reality are conceived, for example, or it might identify aspects of reality previously unknown. Talcott Parsons thus raised the level of generality of sociological discourse, while Erving Goffman identified various features of face-to-face interaction largely unrecognized before his work. Yet their writings yield few testable formulations or implications. See, e.g., Parsons, *Social System*; Goffman, *Behavior in Public Places* (cited in note 30).

70. The philosopher Francis Bacon long ago remarked that "Truth emerges more readily from error than from confusion." *Novum Organum* (orig. pub. 1620), *quoted in* Kuhn, *Scientific Revolutions* 18 (cited in note 4).

71. Wolfgang Pauli, *quoted in* Ed Regis, *Who Got Einstein's Office? Eccentricity and Genius at the Institute for Advanced Study* 195 (Reading, Mass.: Addison Wesley, 1987) ("Regis, *Einstein's Office*").

Ludwig Wittgenstein effectively suggests that most of philosophy is "not even wrong": "Most of the propositions and questions to be found in philosophical works are not false but

We now know, for example, that Durkheim's theory of legal evolution (noted above) is wrong, yet arguably it has contributed more to the sociology of law than any theory whose validity is unknowable. It illustrates how a sociological theory of law can be formulated in a testable fashion—a contribution in itself. And by testing it we have learned, for instance, that the simplest societies are actually less penal than more complex societies—the reverse of his theory.[72] In fact, I once regarded Durkheim's theory as a model explanation of legal variation—though I knew it was wrong.[73] But the best theories are also right. How, then, do my own formulations withstand a test of the facts? Do they survive?

My theoretical work is testable with any and all facts that fall within its logical space. Since the formulations apply to legal and other modes of handling conflict in all societies and settings, empirical evidence from throughout the world and across history is relevant. Such evidence is readily available, and the weight of this evidence strongly supports my formulations. For example, the principle that law varies directly with relational distance is testable with any evidence whatsoever that tells us whether cases attract more law between comparatively distant people than between comparatively intimate people when other relevant factors are constant, including the nature of the conflict (an intentional homicide, a rape, a particular kind of accidental injury, etc.) as well as other features of the case structure specified by other formulations in the theory (the various statuses of the parties, their cultural distance, whether they are individuals or organiza-

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nonsensical. Consequently we cannot give any answer to questions of this kind, but can only point out that they are nonsensical." Wittgenstein, *Tractatus* 37 (cited in note 5).

72. See, e.g., Richard D. Schwartz & James C. Miller, "Legal Evolution and Societal Complexity," 70 *Am. J. Soc.* 159 (1964); Stephen Spitzer, "Punishment and Social Organization: A Study of Durkheim's Theory of Penal Evolution," 9 *Law & Soc'y Rev.* 613 (1975). In fact, Durkheim was doubly wrong: The simplest societies are not only less penal but also less compensatory than more complex societies. See Donald Black, "Compensation and the Social Structure of Misfortune" (orig. pub. 1987), *in id.*, *Right and Wrong* 62 n.6 ("Black, 'Compensation' "). Conflicts in the simplest societies are more commonly handled in a conciliatory style. Avoidance—a curtailment of interaction between the adversaries—is frequent as well. Without adequate anthropological evidence, Durkheim relied primarily on available information about Australian Aborigines, an unusual case of a simple society where the violation of taboos reportedly might result in capital punishment. See, e.g., W. Lloyd Warner, *A Black Civilization: A Social Study of an Australian Tribe* (orig. pub. 1937) (rev. ed. New York: Harper, 1958); M. J. Meggitt, *Desert People: A Study of the Walbiri Aborigines of Central Australia* (Sydney: Angus & Robertson, 1962).

73. Another model was anthropologist Max Gluckman's proposition that the conciliatory style of law is more likely when a conflict occurs in a "multiplex"—multi-stranded—relationship (such as a marital relationship) than in a single-stranded relationship (such as a relationship that is exclusively economic). Max Gluckman, *The Judicial Process among the Barotse of Northern Rhodesia* 19–21 (orig. pub. 1955) (2d ed. Manchester: Manchester University Press, 1967). See also *id.*, "African Jurisprudence," 75 *Advancement of Science* 443–44 (1962). But I later subsumed Gluckman's proposition in a more general formulation: *Remedial law varies inversely with relational distance* (where "remedial" refers to both conciliatory and therapeutic styles and "relational distance" refers to various dimensions of intimacy, including the multiplexity of a relationship. Black, *Behavior of Law* 47–48. His proposition is therefore obsolete.

tions, etc.).[74] One confirmation of my formulation, for instance, is that in Houston, Texas, strangers who kill each other attract dramatically more punishment than intimates who kill each other.[75] The anthropologist who conducted the study apparently knew nothing of my work, but that in no way damages the study's value as scientific evidence. On the contrary: Because it precludes the possibility of a favorable or unfavorable bias, evidence not obtained to test the theory—naive evidence—is arguably even superior to evidence expressly obtained to test the theory. My theory is similarly testable with a considerable body of naive evidence concerning the handling of other cases in other places in modern America, including other crimes and civil matters of various kinds,[76] and also the handling of diverse cases from throughout the world and across history, including classical India,[77] Imperial China,[78] medieval Europe,[79] colonial Africa,[80] and modern Japan[81]—to mention a few examples.[82] The same principle predicts and explains the frequently reported tendency of tribal and peasant people every-

74. See generally Black, *Behavior of Law*.

75. Henry P. Lundsgaarde, *Murder in Space City: A Cultural Analysis of Houston Homicide Patterns* 90–92, 224–29, 232 (New York: Oxford University Press, 1977).

76. See, e.g., the studies on criminal and civil justice cited earlier in the section entitled "Is It General?"

77. In the ancient Code of Manu (compiled sometime between the third century B.C. and the third century A.D.), for example, the fine for stealing crops such as fruits and vegetables is halved in cases where the thief and the victim have a "connexion." *The Laws of Manu* ch. 8, sec. 331, p. 312 (orig. pub. 1886), trans. Georg Bühler (New York: Dover, 1969). On the Code's origin, see Robert Lingat, *The Classical Law of India* 87–96 (orig. pub. 1967), trans. J. Duncan M. Derrett (Berkeley: University of California Press, 1973).

78. The punishment for theft outside the family is more severe than for theft within the family, for example, and is "graduated inversely to the closeness of relationship" within a family. Derk Bodde & Clarence Morris, *Law in Imperial China: Exemplified by 190 Ch'ing Dynasty Cases, with Historical, Social, and Juridical Commentaries* 38 (italics omitted) (Cambridge: Harvard University Press, 1967); T'ung-tsu Ch'u, *Law and Society in Traditional China* 67–68 (Paris: Mouton, 1961). In cases within the family, the thief was also exempted from the usual practice of having the offense tattooed on his forearm and (for repeat offenders) face. *Id.* at 68. For more details on tattooing, see Bodde & Morris, *id.* at 96–97.

79. In 14th-century England, for example, juries were twice as likely to convict strangers as local residents, and strangers accused of theft were "almost sure" to be convicted. Barbara A. Hanawalt, *Crime and Conflict in English Communities, 1300–1348* at 54 (Cambridge: Harvard University Press, 1979).

80. Among the Arusha of colonial Tanganyika (now part of Tanzania), for example, people who lived "more than a few miles apart" and those who were "distantly linked patrilineally" were more likely to litigate their disputes. P. H. Gulliver, *Social Control in an African Society: A Study of the Arusha, Agricultural Masai of Northern Tanganyika* 204 (italics omitted); see also 205–6 (Boston: Boston University Press, 1963).

81. For instance, litigation between Japanese who live in different villages is more likely than litigation between those who live in the same village. Takeyoshi Kawashima, "Dispute Resolution in Contemporary Japan," *in* Arthur T. von Mehren, ed., *Law in Japan: The Legal Order of a Changing Society* 43–45 (Cambridge: Harvard University Press, 1963).

82. Other evidence is cited in M. P. Baumgartner, "The Myth of Discretion," *in* Keith Hawkins, ed., *The Uses of Discretion* 131–36 (Oxford: Oxford University Press, 1993) ("Baumgartner, 'Myth of Discretion' "); see also Black, *Behavior of Law* 40–46.

where to avoid law[83] and, as noted earlier, the virtual absence of law among hunter-gatherers, the most intimate societies in human history.[84]

My formulation about law and relational distance thus enjoys enormous empirical support, so much that it arguably qualifies as a sociological law of law. When I refer to my work as "theoretical," then, I do not mean it has yet to be tested against empirical evidence. Rather, I use the word "theory" as it is used in physics and other sciences: "When a physicist talks about a theory, he does not mean a hunch, guess, or unproven hypothesis. He means a logical system of ideas that ties together a large number of observations of the real world into a coherent and understandable pattern."[85] Only nonscientists think of theory as mere speculation, unsupported by evidence.[86] Hence, it is possible that some nonscientists—such as lawyers—have misunderstood my work. So let me be clear: Much of my theoretical work enjoys so much empirical support that its validity is nearly unquestionable. Let anyone anywhere assemble a collection of cross-cultural, historical, and contemporary evidence that shows otherwise. The sad truth, however, is that those who are antagonistic or agnostic toward my theoretical work rarely address its validity.[87] Instead, most are either uninterested in science, unfamiliar with the empirical evidence pertinent to my formulations, or both. Most legal sociologists (and, for that matter, lawyers) devote themselves almost exclusively to the legal life of their own society—usually modern America—and are therefore incompetent to evaluate the broader applicability and validity of my formulations. Yet relevant evidence continually accumulates in the anthropological, historical, and sociological literature, and opportunities for further testing of my formulations continually expand.[88]

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83. See, e.g., Jane Fishburne Collier, *Law and Social Change in Zinacantan* 55–57 (Stanford, Cal.: Stanford University Press, 1973); Peter Just, "Conflict Resolution and Moral Community among the Dou Donggo," *in* Kevin Avruch, Peter W. Black, & Joseph A. Scimecca, eds., *Conflict Resolution: Cross-cultural Perspectives* 109 (New York: Greenwood Press, 1991).

84. See. e.g., John Middleton & David Tait, eds., *Tribes without Rulers: Studies in African Segmentary Systems* (orig. pub. 1958) (New York: Humanities Press, 1970); Max Gluckman, *Politics, Law and Ritual in Tribal Society* ch. 3 (New York: New American Library, 1965); Simon Roberts, *Order and Dispute: An Introduction to Legal Anthropology* (New York: Penguin Books, 1979).

85. Glashow, *Interactions* 51 (cited in note 19).

86. See Gell-Mann, *Quark and Jaguar* 90–91 (cited in note 12).

87. See, e.g., Frankford, 20 *Law & Soc. Inquiry* (cited in note 2); Warner, 9 *Perspectives* (cited in note 44).

88. Explicit tests, applications, and extensions of my work are increasingly available as well. See, for example (in alphabetical order), M. P. Baumgartner, "Law and Social Status in Colonial New Haven, 1639–1665," *in* Rita J. Simon, ed., *Research in Law and Sociology: An Annual Compilation of Research* 153 (Greenwich, Conn.: JAI Press, 1978); Baumgartner, "Law and the Middle Class: Evidence from a Suburban Town," 9 *Law & Hum. Behav.* 3 (1985); *id.*, *The Moral Order of a Suburb* (New York: Oxford University Press, 1988) ("Baumgartner, *Moral Order of a Suburb*"); *id.*, "Myth of Discretion"; Marian J. Borg, "Conflict Management in the Modern World-System," 7 *Soc. Forum* 261 (1992); Mark Cooney, "Evidence as Partisanship," 28 *Law & Soc'y Rev.* 833 (1994); Griffiths, "Division of Labor in Social Control" (cited in

Even the most successful theories, however, normally require many years of testing. Watson and Crick's structural model of DNA as a double helix was published in 1953, for example, but its validity was not firmly established until the early 1980s: "It took over twenty-five years for our model of DNA to go from being only rather plausible, to being *very* plausible, . . . and from there to being virtually certainly correct. Even then it was correct only in outline, not in precise detail."[89] Einstein's special theory of relativity, published in 1905, "was initially followed by icy silence from the scientific community,"[90] and his famous formulation of the equivalence of energy and mass—$E = mc^2$—part of his 1905 work, "was not verified experimentally until the 1930s."[91] His general theory of relativity, published in 1916, successfully predicted the bending of light during a solar eclipse in 1919, but was not supported experimentally until 1959, nearly half a century after its publication.[92]

Because of their extremely high level of generality and correspondingly diverse implications and applications, my formulations may likewise require many years of testing before they can achieve widespread acceptance. Meanwhile, bear in mind that, contrary to popular opinion, successful theories in science rarely pass every test. Because some evidence is "bound to be misleading if not plain wrong," a theory claiming to order all the evidence

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note 17); Horwitz, *Mental Illness* and *Social Control* (both cited in note 37); Candace Kruttschnitt, "Social Status and the Sentences of Female Offenders," 15 *Law & Soc'y Rev.* 247 (1980–81); *id.*, "Women, Crime and Dependency: An Application of the Theory of Law," 19 *Criminology* 495 (1982); Calvin Morrill, "The Management of Managers: Disputing in an Executive Hierarchy," 4 *Soc. Forum* 387 (1989); *id.*, "Vengeance among Executives," *in* James Tucker, ed., *Virginia Review of Sociology*, vol. 1: *Law and Conflict Management* 51 (Greenwich, Conn.: JAI Press, 1992); *id.*, *The Executive Way: Conflict Management in Corporations* (Chicago: University of Chicago Press, 1995); Jeffery Mullis, "Medical Malpractice, Social Structure, and Social Control," 10 *Soc. Forum* 135 (1995); Michael L. Radelet, "Executions of Whites for Crimes against Blacks: Exceptions to the Rule?" 30 *Soc. Q.* 529 (1989); Robert M. Rigoli, Andrew W, Miracle, Jr., & Eric D. Poole, "Law and Social Control in China: An Application of Black's Thesis," 9 *Criminal Just. Rev.* 1 (1984); Roberta Senechal de la Roche, "Collective Violence as Social Control," 11 *Soc. Forum* (forthcoming, 1996); *id.*, "The Sociogenesis of Lynching," *in* W. Fitzhugh Brundage, ed., *Lynching in the South* (Chapel Hill: University of North Carolina Press, forthcoming) ("Senechal de la Roche, 'Sociogenesis of Lynching' "); Matthew Silberman, *The Civil Process: A Detroit Area Study* (Orlando, Fla.: Academic Press, 1985); William G. Staples, "Law and Social Control in Juvenile Justice," 24 *J. Research Crime & Delinq.* 7 (1987); James Tucker, "Employee Theft as Social Control," 10 *Deviant Behav.* 319 (1989).

89. Crick, *Mad Pursuit* 73–74 (cited in note 51).

90. Abraham Pais, *Einstein Lived Here* 140 (New York: Oxford University Press, 1994) ("Pais, *Einstein Lived Here*"); see also Jeremy Bernstein, *Einstein* 102 (New York: Viking Press, 1973) ("Bernstein, *Einstein*").

91. Pais, *Einstein Lived Here* 70.

92. Kaku & Trainer, *Beyond Einstein* 34 (cited in note 60). In 1965, physicist J. Robert Oppenheimer noted that the general theory of relativity was still "not well proved experimentally." J. Robert Oppenheimer, "On Albert Einstein," *in* A. P. French, ed. *Einstein: A Centenary Volume* 44 (Cambridge: Harvard University Press, 1979); see also D. W. Sciama, *in* Whitrow, *Einstein* 40 (cited in note 57).

might even be "open to suspicion."[93] Successful theories also commonly require refinements of various kinds. Expect, therefore, to encounter occasional findings inconsistent with my formulations. Expect them to require minor modifications. But a wholesale falsification of the theory already seems almost inconceivable.

## Is It New?

A theory should not only be readily testable, maximally general, elegantly simple, and empirically valid, but also new, creative, surprising—unlike anything previously known. The importance of being original is so fundamental that it may be taken for granted and not even mentioned when scientific ideals and standards are listed. Yet science is obsessed with newness.[94] The worst insults hurled at scientific work therefore include such epithets as trite, trivial, derivative, conventional, and commonsensical. The same applies to scientific criticism itself: The best raises new issues previously unnoticed or ignored, while the worst raises issues already familiar to virtually everyone. Original scientists usually are well aware of the conventional criticisms of their work, and knowingly disregard them.

When it first appears, however, originality may be unpopular and even professionally damaging.[95] It may be attacked by conventional scientists, and all the more by nonscientists. In fact, the degree to which a scientific work provokes controversy and hostility is a direct function of its originality. And although the most original work ultimately wins the greatest recognition, the speed of recognition is an inverse function of its originality. Fast recognition thus indicates conventionality more than originality. Fast recognition also tends to be short-lived, while recognition that comes more slowly and grudgingly is likely to be greater and more lasting. Fast recognition is the scientific kiss of death.

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93. Crick, *Mad Pursuit* 60, paraphrasing James Watson.

94. Here again science resembles art, but only modern art. Modern artists—the successful ones—often speak of their preoccupation with new ideas. When excited by his own originality, for example, Salvador Dalí wrote of having an "intellectual erection." Dalí, *Diary* 139 (cited in note 54). On the other hand, the English painter Francis Bacon once described himself as "absolutely castrated" when he found himself bereft of inspiration after moving to a new and more comfortable studio. He therefore returned to his old and squalid studio, where he remained the rest of his life. Andrew Sinclair, *Francis Bacon: His Life and Violent Times* 251 (New York: Crown, 1993) ("Sinclair, *Francis Bacon*").

95. Speaking of modern painting (and particularly the work of the American Jackson Pollock), art critic Clement Greenberg once remarked that "All profoundly original art looks ugly at first." Jeffrey Potter, *To a Violent Grave: An Oral Biography of Jackson Pollock* 80 (orig. pub. 1985) (Wainscott, N.Y.: Pushcart Press, 1987). Francis Bacon "used to say that he liked his paintings being called ugly" and "was much more pleased when some people really hated his paintings than when they liked them. There might, after all, in that case, be something there." Sinclair, *Francis Bacon* 250. Likewise, sociological work that does not upset anyone probably is not very important.

My general theory of law attracts opposition from those with conventional perspectives such as the view that law is an affair of rules and logic, indifferent to the social structure of the cases (such as the relational distance between the parties), that the law of each society is unique and cannot be understood apart from its historical and cultural context, and that law is a product of subjective meanings and free will and cannot be predicted and explained scientifically at all.[96] To suggest that law behaves according to the same principles everywhere, and that these principles are sociological, is a modern heresy. It is socially unacceptable. And the greatest disgust and indignation is undoubtedly found among the clergy of the legal system—lawyers. But why should it be otherwise? Lawyers are not scientists.

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If you wish to criticize my work, tell me you can predict and explain legal and related behavior better than I can. Tell me my work is not as testable as something else, tell me it is not as general as something else, tell me it is less elegant than something else, tell me that it has already been published, or just tell me it is wrong. Tell me something relevant to what I am trying to accomplish—something scientific. But do not tell me it differs from how law has always been understood in the past. Do not tell me it is unlike the sociology of the past. Science cares nothing about the past, and neither do I.

## THE PARADIGM

The five criteria outlined above—testability, generality, simplicity, validity, and originality—provide an epistemological checklist with which scientific theory should be evaluated. I have noted characteristics of my work pertinent to these criteria, such as the highly general and yet readily testable nature of my formulations. My work may realize these ideals more successfully than any body of sociological theory on any subject, legal or otherwise. Now I turn to another subject: my paradigm.[97] A paradigm is a strategy of explanation—a framework—that guides a branch of science. My paradigm differs drastically from earlier paradigms in sociology and is, I believe, scientifically superior to all of them. In particular, it avoids several shortcomings of earlier sociology: (1) psychology, (2) one-dimensionality, (3) units of analysis, (4) anthropocentrism, and (5) teleology.

96. See, e.g., Frankford, 20 *Law & Soc. Inquiry* (cited in note 2).

97. Thomas Kuhn, a historian of science, argues that the major changes in the history of science—"scientific revolutions"—have been changes in paradigms. See generally Kuhn, *Scientific Revolutions* (cited in note 4).

## The Purification of Sociology

At least since Emile Durkheim's *Rules of Sociological Method* a century ago,[98] sociologists have said that sociology is the science of social life, that social life does not reside in the minds of individuals, that it must be understood in its own terms, and that the mission of sociology therefore differs from psychology's. Social reality is not psychological reality: It has no thoughts, no feelings, and no attitudes. It is not located in human heads. It is external, beyond the individual, beyond subjectivity, beyond mind. It is a reality unto itself.

Yet Durkheim did not achieve what he advocated.[99] Nor has anyone else. Despite endless protests to the contrary, sociology is saturated with psychology. Durkheim even defines the subject matter of sociology—"social facts"—in a psychological fashion,[100] and his writings on such topics as suicide, morality, and religion are riddled with psychological reasoning.[101] He is, in fact, a social psychologist. So too are all the so-called fathers of sociology, such as Max Weber, Karl Marx, and Georg Simmel. All address social phenomena, of course, but all continually examine the psychology of these phenomena as well, whether the subjective meaning of authority and religion,[102] the motivation for capitalism and revolution,[103] or the phenomenology of love, secrecy, and money.[104]

The distinctive mission of sociology has been pursued with cosmetics alone—mere words. With attractive packaging and aggressive advertising, sociologists make believe they are different from social psychologists. But most are not. They have expropriated and exploited the concept of THE SOCIAL itself, and they have recklessly and thoughtlessly applied it to sub-

98. Emile Durkheim, *The Rules of Sociological Method* (orig. pub. 1895), trans. Sarah A. Solovay & John H. Mueller (Chicago: University of Chicago Press, 1938) ("Durkheim, *The Rules*").

99. See George C. Homans, "Contemporary Theory in Sociology," *in* Robert E. L. Faris, ed., *Handbook of Modern Sociology* 970–71 (Chicago: Rand McNally, 1964).

100. He speaks of "social facts" as, for example, "ways of acting, thinking, and feeling, external to the individual, and endowed with a power of coercion, by reason of which they control him." Durkheim, *The Rules* 3.

101. See, respectively, Emile Durkheim, *Suicide: A Study in Sociology* (orig. pub. 1897), trans. John A. Spaulding & George Simpson (Glencoe, Ill.: Free Press, 1951); *id.*, *Moral Education: A Study in the Theory and Application of the Sociology of Education* (orig. pub. 1925), trans. Everett K. Wilson & Herman Schnurer (New York: Free Press, 1961); *id.*, *Professional Ethics and Civic Morals* (orig. pub. 1950), trans. Cornelia Brookfield (Glencoe, Ill.: Free Press, 1958); *id.*, *The Elementary Forms of the Religious Life* (orig. pub. 1912), trans. Joseph Ward Swain (New York: Collier Books, 1961) ("Durkheim, *Religious Life*").

102. E.g., Weber, *Theory of Social and Economic Organization* esp. pts. 1, 3 (cited in note 21); *id.*, *The Protestant Ethic and the Spirit of Capitalism* (orig. pub. 1904–5), trans. Talcott Parsons (New York: Charles Scribner's Sons, 1958) ("Weber, *Protestant Ethic*").

103. E.g., Marx & Engels, *Basic Writings* (cited in note 20).

104. E.g., Simmel, *Sociology* esp. pt. 4 (cited in note 22); Gianfranco Poggi, *Money and the Modern Mind: Georg Simmel's "Philosophy of Money"* (Berkeley: University of California Press, 1993).

jects not distinctively sociological at all. They have robbed it of meaning. They have sown confusion across the social sciences.

Consider, for example, *The Structure of Social Action*, by Talcott Parsons,[105] *The Social Construction of Reality*, by Peter Berger and Thomas Luckmann,[106] and *Foundations of Social Theory*, by James Coleman.[107] All claim to provide a theoretical program for sociology, and yet all are replete with psychological assumptions, assertions, and implications. Parsons focuses completely on the action of individuals endowed with free will and never once addresses social action at all. His book would more accurately be called *The Structure of Personal Action*. The others are overwhelmingly individualistic and psychological as well. Berger and Luckmann's should be called *The Subjective Construction of Reality*, and Coleman's should be *Foundations of Individual Theory*. Examples of the misuse and abuse of the concept of THE SOCIAL could be multiplied endlessly. Social science itself would more accurately be called psychological science. In the 1960s, in fact, sociologist George Homans observed that all of sociology's explanations were psychological and that truly sociological theory did not exist.[108] He dismissed the distinctiveness of sociology as a myth.[109] But sociologists did not defend themselves. They gave up. They surrendered their subject matter without a fight. They gave THE SOCIAL to psychology.[110]

My work, however, is different. It is radically sociological. It contains no psychology whatsoever and entirely eliminates the individual from its formulations. It proves Homans wrong. Consider, for example, the principle stated earlier: *Law varies directly with relational distance*. It contains no assumptions, assertions, or implications about the human mind or even human beings as such. In this sense, it is *pure* sociology.[111] It restores THE

105. Talcott Parsons, *The Structure of Social Action: A Study in Social Theory* (New York: McGraw-Hill, 1937).

106. Berger & Luckmann, *Social Construction of Reality* (cited in note 29).

107. James S. Coleman, *Foundations of Social Theory* (Cambridge: Harvard University Press, 1990).

108. George C. Homans, "Bringing Men Back In," 29 *Am. Soc. Rev.* 809 (1964); *id.*, *The Nature of Social Science* chs. 2–3 (New York: Harcourt, Brace & World, 1967) ("Homans, *Social Science*").

109. Homans (in *Social Science* at 63) does not argue that sociology without psychology is impossible, but only that it seems unlikely to occur:

> It is conceivable that at some time in the future—perhaps tomorrow morning—a sociological proposition will be discovered that is general, insofar as it applies to all social groups and aggregates, that has great power in explaining social phenomena, and that cannot itself be derived from psychological propositions. If it were discovered, all argument would fall down before the fact. I am certainly not against sociologists' trying to discover such a proposition, and I can find no line of reasoning that will demonstrate, before the fact, that it will not be discovered. I just do not believe, extrapolating from past experience, that this is going to happen—but the future is a long time.

110. But see Bruce H. Mayhew, "Structuralism versus Individualism: Part I, Shadowboxing in the Dark," 59 *Soc. Forces* 335 (1980); *id.*, "Structuralism versus Individualism: Part II, Ideological and Other Obfuscation," 59 *Soc. Forces* 627 (1981).

111. See Black, "Pure Sociology" (cited in note 5).

SOCIAL to its proper owner: sociology. It attains a degree of sociological purity previously unknown and probably unimagined. It is more Durkheimian than Durkheim. Far more.

Many sociologists dislike my work because it is too sociological.[112] They criticize it for ignoring the subjective meaning of social phenomena, for example, and for ignoring the problem of free will.[113] Yet one of my central ambitions was always to do exactly what they criticize. I sought to create a pure sociology for its own sake, simply because it had never been done and because its scientific value was unknown.

I now believe that the radically unpsychological nature of my work is a primary reason it so successfully meets the goals of scientific theory outlined earlier: Because my formulations require no psychological knowledge of anyone, they are easily tested by outward observation and direct measurement. The generality and simplicity of my formulations would also be difficult (if not impossible) to achieve if they addressed the nature of human subjectivity—how everyone thinks and feels—in all the societies, historical periods, and situations to which they apply. And originality? Pure sociology is so new it is shocking.[114] By contrast, the psychology of social life commonly pursued in modern sociology is completely conventional and surely the first strategy anyone lacking scientific consciousness would embrace. Finally, since an assessment of a theory's validity requires its testability—more difficult if subjectivity must be observed and measured—here again psychology weakens rather than strengthens the analysis of human behavior. Assumptions or assertions about anything in the human mind introduce a fog of uncertainty into any formulation.

In short, my work purifies sociology. Pure sociology does not concern itself with the psychology of anything. The age-old colonization and domination of sociology by psychology has outlived its usefulness. A preoccupation with subjectivity subverts our interests, aborts our mission, and damns our future. Despite endless preliminaries and pronouncements, we have yet to establish our scientific sovereignty. In the name of sociology, therefore, I declare independence from psychology.

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112. The Surrealist painter Salvador Dalí described a similar relationship with his fellow Surrealists: "I was such a conscientious student of Surrealism that . . . I was finally expelled from the group because I was too Surrealist." Dalí, *Diary* 10 (cited in note 54). He also frequently remarked that "The only difference between the Surrealists and me is that I am a Surrealist." *Quoted in* Gilles Néret, *Salvador Dalí: 1904–1989* at 55, trans. Catherine Plant (Cologne: Benedikt Taschen, 1994) ("Néret, *Dalí*"). Likewise, the only difference between most sociologists and me is that I am a sociologist.

113. This applies not only to those with advanced training in sociology, but also to anyone else who participates in the creation or evaluation of sociological discourse. See, e.g., Frankford, 20 *Law & Soc. Inquiry* (cited in note 2).

114. See below, "Epistemological Shock."

## Beyond One-Dimensional Theory

My strategy synthesizes earlier strategies. It includes in a single paradigm a number of contributions from the history of sociology, but excludes psychological and other elements that might compromise its scientific integrity, contaminate its purity, or damage its symmetry. The key to the synthesis is a multidimensional conception of social space—a geometry of social life—with vertical, horizontal, symbolic, corporate, and normative dimensions.[115] These dimensions incorporate and harness the explanatory power of diverse theories and variables. The vertical dimension—the distribution of wealth—incorporates Marxian theory and economic theories and variables of other kinds; the horizontal dimension—the distribution of intimacy, interdependence, and integration—incorporates much of Durkheimian theory, network theory,[116] and morphological theories and variables of other kinds; the symbolic dimension—the distribution of culture—incorporates cultural theories and variables of various kinds; and so on. My multidimensional conception of social space incorporates entire traditions of sociology.

Because it synthesizes so much of the sociological past, my paradigm is extremely comprehensive. And because it harnesses the explanatory power—the capacity to order the facts—of all the theories and variables it incorporates, my paradigm is more powerful than any of its ancestors alone. For example, Marxian theory explains virtually everything with the distribution of a single form of wealth—ownership of the means of production—and ignores everything else. Network theory explains virtually everything

115. For an elaboration, see Black, "Pure Sociology." See also *id.*, *Behavior of Law* (cited in note 8). For a different conception of social space, see Pierre Bourdieu, *Distinction: A Social Critique of the Judgement of Taste* esp. pt. 2 (orig. pub. 1979), trans. Richard Nice (Cambridge: Harvard University Press, 1984) ("Bourdieu, *Distinction*"); *id.*, "Social Space and Symbolic Power" (orig. pub. 1987), trans. Loïc J. D. Wacquant, 7 *Soc. Theory* 14 (1989). Bourdieu speaks of various fields of social activity as social spaces—political space, economic space, religious space, juridical space, scientific space, the space of sports, the space of arts, etc.: "In highly differentiated societies, the social cosmos is made up of a number of . . . relatively autonomous social microcosms, i.e., spaces of objective relations." Pierre Bourdieu & Loïc J. D. Wacquant, *An Invitation to Reflexive Sociology* 97 (Chicago: University of Chicago Press, 1992); see also *id.* at 93–94; Bourdieu, *Distinction* 451–53; *id.*, "The Force of Law: Toward a Sociology of the Juridical Field" (orig. pub. 1986), trans. Richard Terdiman, 38 *Hastings L.J.* 816, 828 (1987).

Georg Simmel also uses geometrical concepts. See, e.g., Simmel, *Sociology* (cited in note 22). See also E. V. Walter, "Simmel's Sociology of Power: The Architecture of Politics," *in* Kurt H. Wolff, ed., *Essays on Sociology, Philosophy and Aesthetics* 152–55 (orig. pub. 1959 as *Georg Simmel, 1858–1918*) (New York: Harper & Row, 1965). And see Harold E. Pepinsky, *The Geometry of Violence and Democracy* chs. 3, 5 (Bloomington: Indiana University Press, 1991). On the varieties of space and the use of geometry in physics, see Douglas R. Hofstadter, *Gödel, Escher, Bach: An Eternal Golden Braid* 456–57 (New York: Basic Books, 1979). On the use of geometry in science more generally, see Carl G. Hempel, "Geometry and Empirical Science," 52 *Am. Mathematical Monthly* 7 (1945).

116. See, e.g., S. D. Berkowitz, *An Introduction to Structural Analysis: The Network Approach to Social Research* (Toronto: Butterworths, 1982).

with the distribution of a single form of intimacy—social linkages—and ignores everything else. Marxian theory thus lacks the explanatory power of network theory, and vice versa. Both are one-dimensional. But my paradigm incorporates the distribution of wealth (of all kinds) and the distribution of intimacy (of all kinds) within its vertical and horizontal dimensions of social space and thereby harnesses the explanatory power of both.

My paradigm also contains new explanatory variables—new locations, directions, and distances in social space not previously conceptualized in a geometrical language, such as the radial location of a phenomenon (its nearness to a center of social participation), its cultural direction (from one level of conventionality to another), and its normative distance (between one level of respectability and another).[117] These new variables provide more explanatory power. And, if appropriate, my paradigm can readily accommodate more variables—even more dimensions of social space—in the future. Despite its comprehensiveness, however, the conceptual architecture of the paradigm is extremely simple: a multidimensional space in which social life of all kinds can be precisely located and explained. Any sociological theory that ignores any dimension of social space is now obsolete.

## Beyond Microcosms and Macrocosms

Sociological theory usually explains human behavior with the characteristics of a particular unit of analysis, such as the person, encounter, community, city, region, or society. Most theory focuses on the microcosm (a person in a particular situation) or the macrocosm (a larger formation such as a society, region, or community).[118] Explanations derive from the characteristics of these units. Litigation, for example, is typically explained with personal characteristics such as the perceptions, attitudes, beliefs, and experiences of those involved in legal life, on the one hand, or societal characteristics such as economic conditions, political organization, cultural patterns, or legal traditions on the other.[119] A person or society may thus be

117. See especially Black, *Behavior of Law*.

118. See generally K. Knorr-Cetina & A. V. Cicourel, eds., *Advances in Social Theory and Methodology: Toward an Integration of Micro- and Macro-Sociologies* (Boston: Routledge & Kegan Paul, 1981); Randall Collins, "On the Microfoundations of Macrosociology," 80 *Am. J. Soc.* 984 (1981); *id.*, *Theoretical Sociology* ch. 11 (San Diego: Harcourt Brace Jovanovich, 1988); Jeffrey C. Alexander, Bernard Giesen, Richard Münch, & Neil J. Smelser, eds., *The Micro-Macro Link* (Berkeley: University of California Press, 1987); Stephan Fuchs, "On the Microfoundations of Macrosociology: A Critique of Macrosociological Reductionism," 32 *Soc. Perspectives* 169 (1989); Jonathan H. Turner, *The Structure of Sociological Theory* ch. 32 (orig. pub. 1974) (5th ed. Belmont, Cal.: Wadsworth, 1991) ("Turner, *Sociological Theory*").

Some units of analysis may not be small enough to qualify as microcosms or large enough to qualify as macrocosms. Examples are organizations such as firms and universities and domains of social activity such as sciences and sports.

119. See, e.g., Leon H. Mayhew, *Law and Equal Opportunity: A Study of the Massachusetts Commission against Discrimination* (Cambridge: Harvard University Press, 1968); Laura Nader,

regarded as more or less litigious. We likewise hear of violent and nonviolent persons and societies, contentious and peaceful persons and societies, religious and secular persons and societies, and so on.[120] But are persons and societies the key to sociological explanation? Are microcosms and macrocosms the sources of human behavior? My paradigm suggests otherwise.

I explain human behavior with the shape of social space. Social space is neither small nor large, neither a microcosm nor a macrocosm, neither a person nor a society. Its size is variable. Its boundaries are variable. Its duration is variable. The shape of social space is defined and measured by the social characteristics of everyone involved in every instance of human behavior, whether a suicide or soccer game, a conversation, election, act of sexual intercourse, corporate takeover, riot, robbery, gift, marriage, migration, resignation from an organization, murder, musical performance, religious ritual, revolution, war, or scientific publication.[121] Each instance of human behavior, large or small, has its own multidimensional location and direction in social space. Each has a social structure. Each has a geometry. Every conflict, for example, has a vertical location—higher or lower—measured by the economic standing of everyone involved. And every conflict has a vertical direction—downward, upward, or lateral—measured by the economic standing of the complainant and the alleged offender. A lawsuit brought by a wealthy person against someone a bit less wealthy, for instance, has both a high elevation and a downward direction. A case might similarly be high and upward, high and lateral, low and downward, low and lateral, downward and distant (from a high to a low elevation), upward and distant (from low to high), and so on. The same case has a radial location and direction—outward (from the center), inward (from the margin), or lateral—measured by the social participation of everyone involved. A lawsuit brought by an integrated individual such as an employed family person against a marginal individual such as an unemployed vagrant has an outward direction, for example, while a case in the opposite direction would be inward. Every conflict also spans a greater or lesser distance in relational

ed., *Law in Culture and Society* (Chicago: Aldine, 1969); John Owen Haley, "The Myth of the Reluctant Litigant," 4 *J. Japanese Stud.* 359 (1978); *id.*, *Authority without Power: Law and the Japanese Paradox* (New York: Oxford University Press, 1991); Richard L. Kagan, *Lawsuits and Litigation in Castile, 1500–1700* (Chapel Hill: University of North Carolina Press, 1981); Jethro K. Lieberman, *The Litigious Society* (New York: Basic Books, 1981); Clifford Geertz, "Local Knowledge: Fact and Law in Comparative Perspective," *in id., Local Knowledge: Further Essays in Interpretive Anthropology* 167 (New York: Basic Books, 1983); Lawrence M. Friedman, *Total Justice* (New York: Russell Sage Foundation, 1985); Sally Engle Merry, *Getting Justice and Getting Even: Legal Consciousness among Working-Class Americans* (Chicago: University of Chicago Press, 1990).

120. Here and below I use "persons" and "societies" as shorthand references to any and all social microcosms and macrocosms.

121. The same applies to relatively stable patterns of human behavior, such as systems of social stratification and kinship, forms of religion and government, or styles of decoration and dance.

and cultural space: It might be relationally close (between intimates) or distant (between acquaintances or strangers); culturally close (homogeneous) or distant (heterogeneous). Its corporate structure might be organized (between groups) or individualized (without groups). And so on. The social characteristics of all the third parties—partisan or nonpartisan—similarly define the social location and direction of a conflict: Each third party may be higher, lower, or equal to each adversary in various ways, relationally and culturally close or distant from each, and so on. All these locations and directions together comprise the multidimensional shape of social space of each conflict—its social structure.[122] And the social structure of a conflict—the conflict structure—predicts and explains its fate.[123] Some structures attract greater or lesser amounts of law, for example, greater or lesser amounts of violence, greater or lesser amounts of negotiation, mediation, avoidance, therapy, sorcery, or whatever. My paradigm identifies not litigious persons and violent persons or litigious societies and violent societies, but litigious structures and violent structures. There are dangerous structures and trustworthy structures, explosive structures and kind and gentle structures.

Consider, for example, the social structure of litigation: A distant case (between strangers) attracts more law than a close case (between intimates), a downward case (against an inferior) more than an upward case (against a superior), an outward case (against a marginal) more than an inward case (from a marginal), a heterogeneous case (across cultural locations) more than a homogeneous case (within a cultural location), and so on.[124] Relationally and culturally distant structures are also more violent than those

122. As implied above, the social structure of a conflict does not necessarily refer to the characteristics of a relationship between individuals. The parties might be families, clans, organizations, tribes, nations, or other formations in various combinations. Nor does it necessarily refer to a relationship in which the parties have direct contact, such as the contact involved in a criminal victimization or an accident. People might, for example, gossip or otherwise aggress against someone with whom they never have had or will have direct contact.

123. See Black, "Social Control," at 14–19 (cited in note 1); *id.*, *Sociological Justice* 7–8 (cited in note 9).

124. See generally *id.*, *Behavior of Law*; *id.*, *Sociological Justice* esp. ch. 1. My paradigm applies not only to variation in the quantity of law (the filing of a lawsuit, its success, the severity of a remedy, etc.) but also to variation in other elements of the legal process, including its style (penal, compensatory, conciliatory, etc.), system of liability (relative, strict, corporate, etc.), and procedures (degree of formalism, coerciveness, adversariness, etc.). On the theory of legal styles, see generally *id.*, *Behavior of Law*; *id.*, "Compensation" (cited in note 72); *id.*, "Social Control," at 6–9. On the theory of liability, see *id.*, "Compensation." On the theory of procedure, see *id.*, *Sociological Justice* 91–94 (formalism); *id.*, *Right and Wrong* 145–48 (formalism, decisiveness, and coerciveness); *id.*, "Social Control of the Self" (orig. pub. 1992), *in id.*, *Right and Wrong* 65–73 (adversariness); Baumgartner, "Social Control from Below," at 334–36 (cited in note 17) (procedural modes in general); Griffiths, "Division of Labor in Social Control" (cited in note 17) (differentiation); compare David Sciulli, "The Scope of Donald Black's Positivist Approach to Law and Social Control," 20 *Law & Soc. Inquiry* 817–25 (1995).

that are closer, and so are those containing independent groups.[125] Beyond litigious or violent structures we can identify conciliation structures (where negotiation or mediation is more likely),[126] avoidance structures (where a curtailment of interaction is more likely),[127] therapeutic structures (where help is more likely),[128] gossip structures,[129] feud structures,[130] lynching structures,[131] riot structures,[132] war structures,[133] and so on.[134]

Beyond conflict, we can specify the shape of social space that explains human behavior of other kinds, including aesthetic structures (where vari-

125. Donald Black, "The Elementary Forms of Conflict Management" (orig. pub. 1990), *in id., Right and Wrong* 74–79 ("Black, 'Elementary Forms' "); *id., Right and Wrong* 144; see also Baumgartner, *Moral Order of a Suburb* (cited in note 88); Senechal de la Roche, 11 *Soc. Forum*, and *id.*, "Sociogenesis of Lynching" (both cited in note 88).

126. See Black, *Behavior of Law* 29–30, 47–48, 78–79 (cited in note 8); Black & Baumgartner, "Theory of the Third Party," at 122–23 (cited in note 34); Black, "Elementary Forms," at 83–88; *id., Right and Wrong* 144–49.

127. See M. P. Baumgartner, "Social Control in Suburbia," *in* Donald Black, ed., *Toward a General Theory of Social Control*, vol. 1: *Selected Problems* 79 (Orlando, Fla.: Academic Press, 1984); *id., Moral Order of a Suburb* chs. 3–4; Black, "Elementary Forms," at 79–83.

128. See generally Horwitz, *Mental Illness*; see also *id., Social Control* ch. 5 (both cited in note 37).

129. As a form of social control, gossip is the handling of a grievance by an informal hearing *in absentia*—in the absence of the alleged offender. Black, "Elementary Forms," at 86. Pure gossip is a final hearing of a case, preliminary gossip is a hearing that might lead to other social control, and postmortem gossip is a hearing after other social control. Pure gossip is most likely when the third parties and the alleged offender form an isosceles triangle of social distance (relational, cultural, and vertical), the third parties equidistant from the alleged offender. In addition, pure gossip varies directly with the social distance between the third parties and the alleged offender and inversely with the social distance between the third parties themselves. Gossipers thus tend to be intimate, homogeneous, and equal in social status, and they are most likely to gossip about those who are equally and maximally distant from both.

130. Feuding is a form of self-help, the handling of a grievance by aggression. The classic feud is an even exchange of killings over a period of time, each side keeping score and openly reciprocating each loss it suffers. The parties are groups such as clans, families, or gangs. A structural model of the classic feud includes the following elements: (1) intermediate relational distance between the parties (neither strangers nor close associates), (2) relational segmentation between the parties (divided by a social chasm, without cross-links), (3) functional independence of the parties (lack of division of labor), (4) solidarity of each party (intimate and homogeneous), (5) homogeneity between the parties (same ethnicity), and (6) equality between the parties (similar size and resources). For descriptions of the classic feud, see the literature cited in *id.*, "Elementary Forms," at 75. On the theory of self-help, see *id.* at 74–79. Narrow the distances in the model by reducing the relational separation and independence of the parties, and the reciprocity and continuity of the violence declines. Increase the distances (including cultural and vertical distances), and the violence becomes more indiscriminate and warlike.

131. See Senechal de la Roche, 11 *Soc. Forum*, and *id.*, "Sociogenesis of Lynching."

132. See *id.*, 11 *Soc. Forum*.

133. For a comment on the social structure of war, see note 130 on feuding above. See also Black, "Elementary Forms," at 75–78.

134. In modern societies such as the United States, a considerable amount of conduct defined as criminal involves the handling of conflict as well. To this degree, conflict structures of various kinds explain crime. See Donald Black, "Crime as Social Control" (orig. pub. 1984), *in id., Right and Wrong* 27–46. For more examples of conflict structures, see generally *id., Right and Wrong*.

ous forms and styles of art are more likely),[135] epistemological structures (where various ideas are more likely to succeed),[136] theoretical structures (where various explanations are more likely),[137] and supernatural structures (where various gods and spirits are more likely to participate). In modern life, for instance, the behavior of God is predictable from the shape of social space. He does not participate in every aspect of a person's life to the same degree, nor does He participate equally in every aspect of a society. He participates only when people call upon Him—when they pray or perform rituals—and when He chooses to do so. God is a variable.[138] As a third party in

135. See *id.*, "Pure Sociology," at 168–69 (cited in note 5).

136. An idea is a statement about the nature of reality. Each idea is a quantitative variable, measurable by its degree of success—the truth and importance attributed to it in formal and informal modes of recognition such as publication, citation, and written or oral expressions of appreciation. The magnitude of an idea depends on the shape of social space where it occurs. In an earlier work, I introduce the theory of ideas and propose, for example, that the magnitude of an idea varies "inversely with the relational distance between its source and audience" and "directly with the status of its source and inversely with the status of its audience." *Id.* at 166–67.

An implication is that, empirically speaking, a particular idea is neither true nor important in a universal or absolute sense, but rather varies in its truth and importance across various locations and directions in social space. We can thereby specify the structural relativity of truth and knowledge. Since my own social closeness and elevation are greater in relation to students in sociology than to professors of law, for example, my theory of ideas predicts that my theory of law will be more successful among the former than the latter. And it is. If and when law professors adopt and promulgate my theory of law, however, its recognition in law schools will increase.

137. A theory of explanatory behavior specifies the shape of social space where various theories occur. Thus, in sociology, deterministic theories—which explain human behavior with environmental forces—tend to be downward and distant in relation to the behavior explained, whereas voluntaristic theories—which explain human behavior as a free choice—tend to be lateral or upward and close. The crime of poor people is normally explained deterministically, for example, whereas white-collar crime by businesspeople, politicians, and professionals is normally explained voluntaristically. See, e.g., Delos H. Kelly, ed., *Criminal Behavior: Text and Readings in Criminology* pt. 3 (2d ed. New York: St. Martin's Press, 1990); Gilbert Geis, ed., *White-Collar Criminal: The Offender in Business and the Professions* pts. 2–3 (New York: Atherton Press, 1968).

138. God is, moreover, a quantitative variable: The more He intervenes in anything, the greater He is. He presently participates in various domains of Western life, for example, but His degree of participation has steadily declined since the Middle Ages. The philosopher Nietzsche thus spoke prematurely when he announced that "God is dead." Friedrich Nietzsche, *Thus Spoke Zarathustra: A Book for All and None*, First Part (orig. pub. 1883), *in* Walter Kaufmann, ed./trans., *The Portable Nietzsche* 124 (New York: Viking Press, 1954) ("Kaufmann, *Portable Nietzsche*"). He has merely become less active. In this sense, religion itself—the supernatural dimension of social life—has declined. Because some sociologists measure religion with the participation of people in religious organizations or with beliefs reported in interviews rather than the participation of gods in human life (including disease, death, and disaster), they sometimes conclude that religion has not declined at all, or even that it has increased. For instance, Stark and Bainbridge primarily examine participation in religious organizations and argue that "the amount of religion remains relatively constant." Rodney Stark & William Sims Bainbridge, *The Future of Religion: Secularization, Revival and Cult Formation* 3 (Berkeley: University of California Press, 1985). See also Roger Finke & Rodney Stark, *The Churching of America, 1776–1990: Winners and Losers in Our Religious Economy* esp. ch. 1 (New Brunswick, N.J.: Rutgers University Press, 1992). For a similar argument based primarily on interviews, see, e.g., Daniel Bell, "Religion in the Sixties," 38 *Soc. Research* 454–56 (1971). Bell also argues that because the human need for religion is constant, any decline in religion

the handling of conflict, for example, He is more active in an upward direction (against superiors) than in a downward direction (against inferiors)—a tendency of supernatural spirits in general.[139] Supernatural life of every kind is socially specific: It is not constant across persons and societies. It has specific locations and directions in social space. It has a social structure.[140]

The shape of social space provides a better explanation—a better ordering of the facts—than microcosms or macrocosms. Why? Because the precise location of social life is not persons or societies. People who use law or violence or God are not litigious or violent or religious in all the social settings in which they participate. Nor are litigious or violent or religious societies litigious or violent or religious in all their settings. On the contrary: Only particular conflicts with particular structures—particular locations and directions in social space—attract law or violence or God. To understand such phenomena as a consequence of persons or societies is in-

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can only be temporary. Daniel Bell, "The Return of the Sacred? The Argument on the Future of Religion," *in The Winding Passage: Essays and Sociological Journeys, 1960-1980* at 346–54 (orig. pub. 1977) (Cambridge, Mass.: Abt Books, 1980).

139. Witchcraft, sorcery, the evil eye, love potions, and other forms of covert aggression and competition by supernatural means tend to be used by people who are relatively weak or unsuccessful—women in patriarchal societies, widows, spinsters, slaves, subordinates, poor people, social isolates, etc. Such people are more likely to be accused of supernatural misconduct as well. On witchcraft and sorcery, see, e.g., Elizabeth Colson, *The Makah Indians: A Study of an Indian Tribe in Modern American Society* 225–28 (Manchester: Manchester University Press, 1953); John Beattie, "Sorcery in Bunyoro," *in* John Middleton & E. H. Winter, eds., *Witchcraft and Sorcery in East Africa* 30–32 (New York: Frederick A. Praeger, 1963); Asen Balikci, *The Netsilik Eskimo* 175 (Garden City, N.Y.: Natural History Press, 1970); Keith Thomas, "The Relevance of Social Anthropology to the Historical Study of English Witchcraft," *in* Mary Douglas, ed., *Witchcraft Confessions and Accusations* 59–64 (London: Tavistock, 1970); H. C. Erik Midelfort, *Witch Hunting in Southwestern Germany, 1562–1684: The Social and Intellectual Foundations* 184–85 (Stanford, Cal.: Stanford University Press, 1972); William Ian Miller, "Dreams, Prophesy and Sorcery: Blaming the Secret Offender in Medieval Iceland," 58 *Scandinavian Stud.* 110–16 (1986). On the evil eye, see, e.g., Alan Dundes, ed., *The Evil Eye: A Casebook* (orig. pub. 1981) (Madison: University of Wisconsin Press, 1992). On love potions, see, e.g., Bonnie B. Keller, "Marriage and Medicine: Women's Search for Love and Luck," 26 *African Soc. Research* 489 (1978). See also generally Edgar V. Winans & Robert B. Edgerton, "Hehe Magical Justice," 66 *Am. Anthropologist* 745 (1964); Ruth Martin, *Witchcraft and the Inquisition in Venice: 1550–1650* esp. chs. 3, 6 (New York: Basil Blackwell, 1989). Those who outperform their rivals or otherwise enjoy success may also be suspected of supernatural practices. See, e.g., Clyde Kluckhohn, *Navajo Witchcraft* 110–11, 119–20 (orig. pub. 1944) (Boston: Beacon Press, 1967); Jeanne Favret-Saada, *Deadly Words: Witchcraft in the Bocage* 135, 207 (orig. pub. 1977), trans. Catherine Cullen (Cambridge: Cambridge University Press, 1980).

140. Gods and other spirits do not merely participate in the management of right and wrong, but also provide diverse services such as the restoration of health, protection from danger, economic prosperity, and a pleasant afterlife. These supernatural services obey principles of their own. For example, whereas supernatural aggression is comparatively unlikely between intimates, the opposite applies to supernatural help such as the restoration of health or protection from danger. See Black, *Behavior of Law* 56–58 (cited in note 8). More generally, religion is a direct function of social solidarity—relational and cultural closeness. Compare Durkheim, *Religious Life* (cited in note 101), where social solidarity is formulated as a direct function of religion. Religion also is a direct function of social stratification. It hardly exists among egalitarian hunter-gatherers, for example, but is highly developed and active in ancient civilizations with monarchs, aristocrats, commoners, and slaves.

herently and incurably limited as an explanatory strategy. It is not sufficiently precise and cannot adequately explain variation in the quantity of law, violence, religion, or anything else. Because it is present—observable and measurable—everywhere, the shape of social space is superior to every unit of analysis in sociology, whether a society, organization, or person. Everything that occurs in every unit of analysis has a specific location and direction in social space, as does everything that occurs between these units, whether societies, organizations, or persons, any combination of these units, or anyone or anything else involved in any kind of social life. Because everything has a social geometry, my paradigm applies everywhere. The unit of analysis disappears in social space.[141]

Both microcosms and macrocosms are partially blind. The sociology of the microcosm is nearsighted, and the sociology of the macrocosm is farsighted. Both are lost, unable to locate the source of social life. Microcosms overpersonalize everything, and macrocosms oversocietalize everything. Only the shape of social space explains everything where it actually occurs.

But what should we explain? What is our subject matter?

## Beyond People

In the Middle Ages, science was anthropocentric. People were regarded as the center of the physical universe and everything it contains: "Man was in every sense the center of the universe. . . . The entire world of nature was held not only to exist for man's sake, but to be likewise immediately present and fully intelligible to his mind."[142] Medieval astronomers, for example, believed that the sun and stars revolve around man's earth in order to illuminate the sky for man's enjoyment.[143] Man was the only active force in the universe.[144] Medieval conceptions such as these now seem primitive and preposterous. Yet a similar style of thought is still found in modern sociology. It is still medieval. It is still anthropocentric. It still makes man—peo-

141. Anthropologist Gregory Bateson refers to the selection of an inappropriate unit of analysis as an "epistemological error," and notes that it may have practical as well as scientific implications. Gregory Bateson, "Pathologies of Epistemology" (orig. pub. 1971), *in Steps to an Ecology of Mind* 483–87 (New York: Ballantine Books, 1972). I suggest that all the traditional units of analysis in sociology are epistemologically mistaken. They weaken not only our ability to predict and explain social variation but also our ability to change the world for practical purposes. Those who wish to change the handling of legal cases, for example, must first recognize that the handling of the cases is associated with their location and direction in social space. See generally Black, *Sociological Justice* (cited in note 9). Those who wish to change the level of violence of any kind must similarly recognize the shape of social space from which it arises. They will have less success if they understand violence only as a product of particular people, societies, or other traditional units of analysis.

142. Burtt, *Metaphysical Foundations* 18 (cited in note 49).

143. *Id.* at 19.

144. *Id.* at 18.

ple—the center of the social universe.[145] But my paradigm abandons medieval sociology's obsession with people. It eliminates the individual as the active force in human behavior. It removes people from the center of the social universe.

The subject matter of sociology is something distinctively sociological, something with its own ontology—its own existence—something unlike people in the ordinary sense. It is social life. In particular, it is the behavior of social life: social variation. I thus entitled one of my books *The Behavior of Law* to describe the subject matter of legal sociology: legal variation. How law itself behaves, not how people behave, is what I sought to understand. I similarly speak of the behavior of art to refer to aesthetic variation such as the behavior of music, the behavior of literature, the behavior of painting, the behavior of furniture, the behavior of clothing, the behavior of automobiles, and so on.[146] The sociology of religion addresses the behavior of gods and other forms of supernatural life, political sociology the behavior of the state and other forms of government, economic sociology the behavior of money and other forms of wealth, and the sociology of knowledge the behavior of ideas of various kinds, such as the behavior of philosophy, the behavior of science, the behavior of theory, and the behavior of sociology itself. The social universe contains countless forms of social life, and we can study all their behavior in its own terms. In the history of scientific thought, this is a new subject matter—a new dependent variable, something new to explain, a new form of life.

My paradigm implies not only a new conception of our subject matter but a new conception of human behavior itself. It drastically revises our conception of human action and completely reverses our conception of human behavior. Instead of the action of people as such—persons and groups—human behavior becomes the action of social life: social action. And instead of a characteristic of human beings with their own propensities, human behavior becomes a characteristic of social beings with their own propensities.[147] Just as a call to the police or a lawsuit is the behavior of law (an increase of law in a specific location and direction in social space), so a visit to a physician is the behavior of medicine (an increase of medicine),[148] singing a song the behavior of music, buying a book the be-

145. Compare Elias, *Manners* 251–61 (cited in note 37).

146. By the behavior of furniture, clothing, and automobiles I refer to variation in their design.

147. Compare, for example, the claim of sociologist Randall Collins that only individuals can be "*active* agents" and that only individuals "*do* anything." Collins, 80 *Am. J. Soc.* at 989 (italics in original) (cited in note 118). Sociologist Michael Hechter similarly asserts that "individuals do all the acting." "Introduction," *in* Michael Hechter, ed., *The Microfoundations of Macrosociology* 4 (Philadelphia: Temple University Press, 1983).

148. See Black, "Pure Sociology," at 164–65 (cited in note 5).

havior of money, or praying to God the behavior of God Himself.[149] People lose their place of prominence to a completely different form of life: social life. Social action replaces individual action. Human behavior becomes the behavior of social life. People disappear.

My paradigm not only provides sociology with a new ontology of social life—a new conception of its subject matter and a new conception of human behavior—but also yields a new theoretical language and logic with new explanatory possibilities. It becomes possible to formulate the principles of social life itself, principles indifferent to time, place, and person. In my theory of law, for example, calls to the police, arrests, lawsuits, verdicts, and remedies in court are not conceptualized as the behavior of people (such as complainants, police officers, lawyers, or judges), but as the behavior of law itself. All these seemingly diverse events by diverse people with diverse psychologies now become instances of the same phenomenon: law. In each case, something attracts law. Law increases. Law acts. I therefore explain what is normally regarded as the behavior of all these people in all these situations with a single theory of the behavior of law. I formulate when law is attracted to particular locations and directions in social space and when it is repelled, when it is severe and when it is lenient, when it is penal and when it is compensatory or conciliatory or therapeutic. I abandon the people.

The elimination of people radically simplifies human reality: Whereas the explanation of human behavior previously required an understanding of all the human beings involved, now it requires only an understanding of the social beings involved. Whereas the explanation of legal behavior such as calls to the police, arrests, lawsuits, verdicts, and remedies previously required an understanding of the behavior of particular citizens, police, lawyers, judges, and juries, for example, now it requires only an understanding of the behavior of law—a single phenomenon that everywhere obeys the same principles. As noted earlier, for instance, law is more attracted to conflicts across longer distances in relational space than to conflicts across shorter distances: It varies directly with relational distance.[150] And it does so everywhere, in all societies and settings, whether the agents are citizens, police officers, lawyers, judges, or juries. Law is a natural phenomenon with its own patterns of behavior. Just as matter and light behave according to

149. Praying to God is analogous to calling the police, especially when God is asked to provide help: The prayer increases God's involvement in a particular location and direction in social space—both where the prayer itself occurs and where He is asked to intervene (such as against a particular person who has allegedly victimized another person in a specific location and direction in social space). Just as a call to the police increases the involvement of law even if they do not exercise their authority when they arrive, so a prayer for help increases God's involvement even if He apparently does not comply or if His compliance is unknown.

150. Here again I mention only one example from a large number of principles I have formulated. For more illustrations, see generally *id.*, *Behavior of Law* (cited in note 8); *id.*, *Sociological Justice* (cited in note 9); and *id.*, *Right and Wrong* (cited in note 1).

the same principles throughout the physical universe, so law behaves according to the same principles throughout the social universe. Where the shape of social space remains the same, social life behaves the same. People do not matter.

## The End of Teleology

Medieval science was not only anthropocentric but teleological: It explained everything as a means to an end. Natural phenomena of all kinds were explained with the ends of God, man, or the phenomena themselves: The paths of planets were explained as the pursuit of their own peculiar destinies, for example, rain was explained with its contribution to the growth of crops beneficial to humanity, and both were part of God's larger plan. Everything was explainable, and every explanation was teleological. Everything accomplished an end or purpose or need of someone or something in the universe.[151]

Teleology has long since disappeared from physical science, but it still pervades sociology. Here again, sociology is still medieval. Human behavior of all kinds is still explained primarily as a means to an end, conscious or not, rational or not, effective or not, proper or not. Teleology is the superparadigm of sociology, its fundamental logic, the logic of human behavior itself.[152] How people behave—what they do—is explained as a pursuit of their goals or preferences, for example.[153] Or it is assumed that their goals or preferences explain how people behave, and the goals or preferences are explained.[154] Or their goals or preferences are assumed, and their behavior is explained as a rational means to those goals or preferences.[155] Or their goals or preferences are assumed, and their behavior is explained as a consequence of the opportunities available to them.[156] Or their goals or

151. See generally Burtt, *Metaphysical Foundations* 18–19.

152. By "superparadigm" I refer to a master framework that underlies a number of different strategies of explanation, each of which is so fundamental that it qualifies as a paradigm in itself. See Kuhn, *Scientific Revolutions* 10 (cited in note 4). Among the paradigms in sociology are phenomenology, rational choice theory, Marxian and neo-Marxian theory, and functionalism. For examples of these and other strategies of explanation, see the references in the remaining footnotes of the present section.

153. E.g., Jack D. Douglas, *The Social Meanings of Suicide* (Princeton, N.J.: Princeton University Press, 1967); Jack Katz, *Seductions of Crime: Moral and Sensual Attractions of Doing Evil* (New York: Basic Books, 1988).

154. E.g., Weber, *Protestant Ethic* (cited in note 102); Walter B. Miller, "Lower Class Culture as a Generating Milieu of Gang Delinquency," 14 *J. Soc. Issues* 5 (1958).

155. E.g., Mancur Olson, Jr., *The Logic of Collective Action: Public Goods and the Theory of Groups* (New York: Schocken, 1968); Michael Hechter, *Principles of Group Solidarity* (Berkeley: University of California Press, 1987) ("Hechter, *Group Solidarity*").

156. E.g., Harrison C. White, *Chains of Opportunity: System Models of Mobility in Organizations* (Cambridge: Harvard University Press, 1970); Lawrence E. Cohen & Marcus Felson, "Social Change and Crime Rate Trends: A Routine Activity Approach," 44 *Am. Soc. Rev.* 588 (1979).

preferences are assumed, and their behavior is explained as an adaptation to their lack of opportunities.[157] Or goals or needs are attributed to social systems, and behavior is explained with its contribution to the fulfillment of those goals or needs.[158] Or goals or interests are attributed to particular segments of societies and groups, such as those with and without wealth or authority, and behavior is explained with its contribution to those goals or interests.[159] And so on. Virtually all sociological theory is teleological to some degree. But not mine.

My paradigm abandons teleology. It has no concern whatsoever—no assumptions, propositions, implications, or connotations—with ends of any kind, whether goals, values, needs, functions, interests, intentions, motives, purposes, or preferences of anyone or anything, whether persons, groups, societies, institutions, procedures, or policies. Instead, it merely predicts and explains what happens, how social life actually behaves, without regard to whether it contributes to anything—whether it has particular consequences, whether it is supposed to happen, or whether it works. My theory of law, for example, predicts and explains the behavior of law, and that is all. It says nothing whatsoever about the ends of law, the purposes of law, the functions of law, the interests promoted or undermined by law, or the preferences of anyone involved in law. It says nothing about the effectiveness of law.[160] It says nothing about justice. It is totally unteleological.

But why not be teleological? Because it is bad science. The ends of people are not directly observable. We cannot observe the subjective goals or preferences of individuals, for example,[161] nor the goals or needs of social systems such as societies, organizations, or institutions, nor the goals or interests of particular segments of society. The ends of people are no more observable than the ends of God or planets. In this regard, therefore, teleological theory is not factual. It is metaphysical.[162] The ends of people must be assumed or imputed, introducing uncertainty—ignorance—into the heart of any teleological theory and limiting the degree to which it can be applied or falsified.

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157. E.g., Robert K. Merton, "Social Structure and Anomie," 3 *Am. Soc. Rev.* 672 (1938); Ted Robert Gurr, *Why Men Rebel* (Princeton, N.J.: Princeton University Press, 1970).

158. E.g., Kingsley Davis & Wilbert E. Moore, "Some Principles of Stratification," 10 *Am. Soc. Rev.* 242 (1945); Kai T. Erikson, *Wayward Puritans: A Study in Sociology* (New York: John Wiley & Sons, 1966).

159. E.g., Marx & Engels, *Basic Writings* (cited in note 20); Randall Collins, *Conflict Sociology: Toward an Explanatory Science* (New York: Academic Press, 1975).

160. See Donald Black, "The Boundaries of Legal Sociology," 81 *Yale L.J.* 1086 (1972).

161. See, e.g., Hechter, *Group Solidarity* 184–85.

162. Nietzsche rejects teleology as a form of philosophy:

> Man is not the effect of some special purpose, of a will, and end; nor is he the object of an attempt to attain an "ideal of humanity" or an "ideal of happiness" or an "ideal of morality." It is absurd to wish to devolve one's essence on some end or other. We have invented the concept of "end": in reality there is no end.

Friedrich Nietzsche, *Twilight of the Idols: Or, How One Philosophizes with a Hammer* (orig. pub. 1889) *in* Kaufmann, *Portable Nietzsche* 500 (cited in note 138).

Teleological theory also tends to be value-laden, even moralistic. Whether people have particular goals or preferences, and whether their behavior is a means to those ends, is morally significant. It colors their behavior, whether the ends are regarded as morally bad, good, or neutral. If the ends are bad, so is the behavior. If a person's behavior is explained as a means to self-aggrandizement, revenge, or hedonistic or sadistic pleasure, for example, the moral significance likely to be imputed to the behavior is clear—it is negative—and yet such motivations are unobservable and untestable.[163] What, then, is the difference between explaining and complaining? Between sociology and ideology? The same applies to teleological explanations of group and institutional behavior. If legal behavior is explained as a means of advancing the interests of the ruling class, for instance, the moral significance likely to be imputed to the behavior is negative, while the explanation is again untestable and incapable of falsification.[164] If the ends are regarded as good or neutral, however, the behavior loses at least some of its blameworthiness. If a person's behavior is explained as the pursuit of justice, an effort to help others, or a result of social pressure, for instance—all equally unobservable and untestable—what is the difference between explaining and defending (or even acclaiming)? The same applies to any explanation of legal behavior as a means to the well-being of society as a whole.[165] Teleological explanation is not only bad science, then, but hardly science at all. And because teleology is the superparadigm of sociology, some might infer that value-free sociology is impossible. What may be impossible, however, is not value-free sociology, but value-free teleology.[166]

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163. In one teleology of crime, for example, criminal behavior is "force or fraud undertaken in pursuit of self-interest" by people "lacking self-control." Michael R. Gottfredson & Travis Hirschi, *A General Theory of Crime* xv, 5 (Stanford, Cal.: Stanford University Press, 1990).

164. Here I allude to Marxian and neo-Marxian explanations of law. See, e.g., Maureen Cain & Alan Hunt, eds., *Marx and Engels on Law* (London: Academic Press, 1979).

165. Functional explanations of law are teleological. See, e.g., Talcott Parsons, "The Law and Social Control," *in* William M. Evan, ed., *Law and Sociology: Exploratory Essays* 56 (New York: Free Press, 1962). To the degree that it is explanatory, the strategy of legal analysis known as "law-and-economics" is teleological as well. See, e.g., Richard A. Posner, "Utilitarianism, Economics, and Legal Theory," 8 *J. Legal Stud.* 103 (1979). If goals, values, or purposes are imputed to society as a whole, law may be regarded as a more or less effective means to those goals, values, or purposes. See Donald Black, "On Law and Institutionalization," 40 *Soc. Inquiry* 179 (1970) (review of Leon H. Mayhew, *Law and Equal Opportunity* (cited in note 119)); Leon H. Mayhew, "Teleology and Values in the Social System: Reply to Donald Black," 40 *Soc. Inquiry* 182 (1970). Any claim that law is effective or ineffective—if it carries the implication that law should or should not behave in a particular fashion—is value-laden. This includes, for example, any discussion of the gap between the law-in-theory and the law-in-action that suggests or implies that a gap should not exist. See Black, 81 *Yale L.J.* at 1086–91.

166. Moral discourse in everyday life is often teleological as well. Whether the gossip of neighbors and colleagues or the arguments in courtrooms and barrooms, the ends of people are continually imputed, inferred, examined, and evaluated. Even a seemingly good deed may be discredited as the devious pursuit of a selfish or otherwise unattractive end. Yet the end is

My sociology escapes the scientific shortcomings of teleology. It neither assumes nor imputes the ends of anyone or anything. It offers only formulations that are readily and completely testable and falsifiable. It evaluates nothing. In my sociology, social life has no goals, purposes, values, needs, functions, interests, intentions, or anything else not directly observable by anyone. It simply behaves. It just is.

## EPISTEMOLOGICAL SHOCK

A new paradigm may be likened to a revolution: "The new theory implies a change in the rules governing the prior practice of normal science. . . . Its assimilation requires the reconstruction of prior theory and the re-evaluation of prior fact, an intrinsically revolutionary process that is seldom completed by a single man and never overnight."[167] The revolution is epistemological. It changes reality: "During revolutions scientists see new and different things . . . in places they have looked before. It is rather as if the professional community had been suddenly transported to another planet where familiar objects are seen in a different light and are joined by unfamiliar ones as well. . . . After a revolution scientists are responding to a different world."[168] Because it overturns fundamental conceptions of reality, a revolutionary theory may cause reactions akin to "culture shock," a form of personal disorientation exhibited by people who experience a foreign way of life. Only now reality itself becomes—or is said to be—something entirely new, and the shock is deeper: It is epistemological. Reactions to epistemological shock may include not only confusion and consternation but also various forms of disgust and indignation: The new conception is wrong. It is absurd. It is outrageous.[169]

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always scientifically unknowable. If the scientific style of thought continues to proliferate, however, future generations may someday look back at today's teleological discourse with much the same dismay and amazement as those of the present look back at accusations of witchcraft and magic in earlier societies.

167. Kuhn, *Scientific Revolutions* 7 (cited in note 4). As noted earlier, Kuhn describes the adoption of a new paradigm as a scientific revolution. *Id.* at 10–11; see also generally *id.*, chs. 2, 10.

168. *Id.* at 110. In this sense, a new paradigm is an invention of reality.

169. The shock occasionally induced by modern art, especially painting, is a close relative of epistemological shock. When Pablo Picasso was young and largely unknown, for example, his painting called *Les Demoiselles d'Avignon* (1907) shocked even close associates such as the French painter Georges Braque and the American writer Gertrude Stein. It has been said that "No painting ever looked more convulsive." Robert Hughes, *The Shock of the New* 21 (orig. pub. 1980) (New York: Alfred A. Knopf, 1991) ("Hughes, *Shock of the New*"). Word spread through Picasso's neighborhood that he had "gone mad." But the poet Guillaume Apollinaire called the painting a "revolution." Pierre Cabanne, *Pablo Picasso: His Life and Times* 119–20 (orig. pub. 1975), trans. Harold J. Salemson (New York: William Morrow, 1977). The paintings of Belgian Surrealist René Magritte have also been described as "disturbing" in much the same fashion as a scientific revolution: "Magritte's paintings are a systematic attempt to disrupt any dogmatic view of the physical world. . . . What happens in

A classic case of such a revolution was the astronomical theory advanced by Nicholas Copernicus that demoted the earth, home of humanity, from its position as the center of the universe to only one of many planets revolving around the sun. Another was Charles Darwin's theory that demoted humanity from the highest position in the biological world—a creation of God in His own image—to only one animal in a multitude of species, no more miraculous than barnacles or beetles and, moreover, a close relative of monkeys and baboons. Copernicus did not live to see the fate of his book containing the theory—*De Revolutionibus Caelestium Orbium* (1543)—but he would not have been surprised by what happened: Most astronomers rejected it,[170] and the Roman Catholic Church officially declared it to be false and heretical. The Church later placed *De Revolutionibus* on its list of prohibited books, where it remained until 1835.[171] Had Copernicus not died the year his book was published, he might well have been burned at the stake, as was an early supporter, Giordano Bruno, in 1600.[172] More than 50 years after the Copernican theory appeared, Galileo confirmed its validity, but he retracted his endorsement in 1615, after being threatened with torture by Church officials.[173] When he later published evidence for the theory, Galileo was again forced to retract his endorsement and also condemned as a heretic and sentenced to life in prison (reduced by the Pope to house arrest for the rest of his life).[174]

Darwin's theory has often been compared to the Copernican theory: "Just as Copernicus showed how our abode the earth is not the center of the solar system, so Darwin showed how the biological order does not revolve around man."[175] Both paradigms were revolutionary. The Darwinian theory

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Magritte's paintings is, roughly speaking, the opposite of what the trained mind is accustomed to expect." Suzi Gablik, *Magritte* 112, 114 (New York: Thames & Hudson, 1985). See also generally Hughes, *Shock of the New*. In science and scholarship, too, "trained minds" are more vulnerable to new conceptions of reality.

170. Even those astronomers who found Copernicus' book scientifically valuable typically regarded its central thesis of the earth's movement around the sun as unworthy of attention, absurd, or merely a useful but false assumption: "From the start the *De Revolutionibus* was widely read, but it was read in spite of, rather than because of, its strange cosmological hypothesis." Kuhn, *Copernican Revolution* 186 (cited in note 50).

171. Mason, *History of Sciences* 159–61 (cited in note 50); see also Burtt, *Metaphysical Foundations* ch. 2 (cited in note 49).

172. Although he was apparently executed for various heresies, not specifically for his support of Copernicus, "the Church feared Bruno's Copernicanism, and that fear may also have stimulated their reaction." Kuhn, *Copernican Revolution* 199.

173. His retraction: "I Galileo, being in my seventieth year, being a prisoner and on my knees, and before your Eminences, having before my eyes the Holy Gospel, which I touch with my hands, abjure, curse, and detest the error and heresy of the movement of the earth." (*Quoted in* Howard E. Gruber, *Darwin on Man: A Psychological Study of Scientific Creativity* 36–37 (orig. pub. 1974) (2d ed. Chicago: University of Chicago Press, 1981) ("Gruber, *Darwin on Man*").

174. Mason, *History of Sciences* 159–64; Pietro Redondi, *Galileo: Heretic* 260–61 (orig. pub. 1983), trans. Raymond Rosenthal (Princeton, N.J.: Princeton University Press, 1987).

175. Gruber, *Darwin on Man* 12.

has even been called the "second Copernican revolution."[176] Both undermined the self-importance of humanity. Both were epistemologically shocking. And although Darwin was not prosecuted in a court of law, his theory was dismissed by numerous colleagues in biology (including former teachers), and the Church of England condemned it as false and heretical.[177] In an earlier age, he probably would have been executed.

Now, after losing forever its prominent place in the center of the physical universe and biological universe, humanity still clings to a final conceit: that it is the center of the social universe. But this is ending. Another revolution has begun. My paradigm removes people from the center of the social universe. It deprives people of their explanatory importance. It shows that the source of human behavior is the shape of social space—particular locations and directions, particular structures rather than particular persons or societies or groups. It demotes people to mere agents of social life, a form of life that obeys its own principles of behavior. It ignores what people think and feel. It ignores their goals and preferences. It ignores their intentions. It removes humans from human behavior.

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Sociologists often disregard the scientific value of my work. So do lawyers. Some, however, speak of it as "shocking," "alarming," "infuriating," "repugnant," "weird," or "crazy." One said I had "gone too far," another that I had "gone off the deep end," and another spoke sarcastically of "the Gospel according to Saint Donald."[178] Others condemn my work as politically incorrect. One thus calls it "conservative," "reactionary," and "regressive,"[179] another "complacent liberalism,"[180] another the left-wing radicalism of "political protesters and long-haired hippies,"[181] another "technocratic,"[182] and still another "nihilism."[183] But my work is not polit-

176. *Id.*

177. See generally *id.*, ch. 4; Adrian Desmond & James Moore, *Darwin*, esp. chs. 32–34 (orig. pub. 1991) (New York: Warner Books, 1992). Many years after Darwin published his theory (in 1859), proponents of the theory still occasionally encountered hostility. In a famous case in 1925, for example, John Scopes was prosecuted, convicted, and fined $100 for teaching the theory in a Tennessee high school. A higher court upheld the law against teaching Darwin's theory in public schools, but overturned the fine on a legal technicality.

178. These labels and remarks are quoted primarily from unpublished and informal sources such as letters and conversations.

179. Alan Hunt, "Behavioural Sociology of Law: A Critique of Donald Black," 10 *J.L. & Soc'y* 20, 30, 35–39, 42 (1983). But see also *id.* at 45–46 n.68.

180. Sciulli, 20 *Law & Soc. Inquiry* at 821 n.33; see also *id.* at 827–28 (cited in note 124).

181. David F. Greenberg, "Donald Black's Sociology of Law: A Critique," 17 *Law & Soc'y Rev.* 365 (1983).

182. Austin Sarat, "Donald Black Discovers Legal Realism: From Pure Science to Policy Science in the Sociology of Law," 14 *Law & Soc. Inquiry* 776–77 (1989).

183. Marianne Constable, "Sociological Justice and Jurisprudential Nihilism," 11 *Oxford J. Legal Stud.* 114 (1991); *id.*, "Genealogy and Jurisprudence: Nietzsche, Nihilism, and the Social Scientification of Law," 19 *Law & Soc. Inquiry* 574–75 (1994). Since I chose royal

ical at all. It is pure science.[184] It contains no value judgments of any kind, explicit or implicit. It neither criticizes nor defends nor praises anything. Where, for example, is the value judgment in the principle that law varies directly with relational distance? People may like or dislike the pattern of legal behavior the principle describes, but the principle itself is not a value judgment. It is politically and morally neutral. It has neither value implications nor connotations. It is totally factual, a perfect example of value-free social science. Yet it is shocking. Why?

My work is shocking not because it is politically incorrect, but because it is epistemologically incorrect. It violates conventional conceptions of social reality in general and legal and moral reality in particular. It therefore shocks—epistemologically shocks—many on whom it is inflicted. If I disturb your universe, I may be worthy of contempt. I may appear to be your favorite political enemy, a conservative if you are radical, a radical if you are conservative. Such reactions are not peculiar to social science. Albert Einstein, for example, had a similar experience. His general theory of relativity (now widely regarded as his greatest innovation)[185] originally elicited political as well as scientific condemnation: Many physicists and engineers were "outraged" and "horrified" by the theory,[186] and others dismissed it as "absolute nonsense."[187] But German scientists also attacked it as "Communist" and "Jewish,"[188] while in Russia the Communist Party damned it as "bourgeois," "reactionary," and "counter-revolutionary."[189] Yet the theory was epistemologically rather than politically deviant. It violated the physical re-

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purple for the dust jacket of *The Behavior of Law*, perhaps I shall someday be called a monarchist as well.

184. Some therefore call me a "positivist." E.g., Hunt, 10 *J.L. & Soc'y* at 21; Constable, 19 *Law & Soc. Inquiry* at 573; Frankford, 20 *Law & Soc. Inquiry* at 788 (cited in note 2); Sciulli, 20 *Law & Soc. Inquiry* at 805 (in title). But I am a positivist only in the sense that I am not a negativist who believes a science of social life is impossible or undesirable. Positivism is a label used primarily by nonscientists, especially those who claim science has limitations of which scientists are ignorant and those who are, for one reason or another, hostile to science. Scientists, however, rarely use the concept of positivism. Physicists, for example, do not refer to Newton or Einstein as a positivist, nor do biologists refer to Darwin as a positivist. Among scientists, a scientist is simply a scientist. And those who believe a science of social life is impossible apparently do not realize that it already exists. My work is an example.

185. One of Einstein's biographers, a physicist himself, remarks that "many physicists" regard his general theory of relativity (a geometrical conception of gravitation) as "the most perfect and aesthetically beautiful creation in the history of physics, perhaps in all of science." Bernstein, *Einstein* 72 (cited in note 90).

186. Whitrow, *Einstein* 42 (cited in note 57).

187. H. Levy *in id.* at 43.

188. Hoffmann, *Albert Einstein* 143 (cited in note 56). During the 1920s, in fact, a German association called the "Study Group of German Natural Philosophers" held public meetings devoted entirely to the refutation and condemnation of Einstein's theories. Einstein jokingly called it the "Antirelativity Theory Company, Limited." In 1931, the association published a book entitled *100 Authors Against Einstein*. Regis, *Einstein's Office* 21 (cited in note 71). See also Michael White & John Gribbin, *Einstein: A Life in Science* 148–50 (New York: Dutton, 1993).

189. Pais, *Einstein Lived Here* 159 (cited in note 90).

ality of classical physics and, for that matter, common sense. It was more shocking than politics.

Because they challenge reality, the greatest innovations in science may seem insane—"crazy" or "wild"—when they first appear.[190] But sophisticated scientists know that a theory's craziness may indicate its potential importance. In a famous exchange between physicists Wolfgang Pauli and Niels Bohr, for example, the former asked the latter's reaction to his new theory of elementary particles: "You probably think these ideas are crazy," said Pauli. "I do," said Bohr, "but unfortunately they are not crazy enough."[191] Nor is sociology. It is almost never crazy. It almost never has wild ideas. On the contrary: Sociology is extremely conservative—epistemologically conservative. It is afraid of everything new. It is imprisoned by its long-dead founders and their century-old conception of the field. Its spirit is broken, and it has no dreams. It is boring. I am therefore glad my work is occasionally called crazy.

My work deviates from sociology of all kinds—voluntarism and determinism, rationalism and nonrationalism, structuralism and functionalism, phenomenology and social psychology, microsociology and macrosociology.[192] It abandons all of this and starts anew, with a totally different conception of social reality and sociology itself—a sociology without people.

It also deviates from legal scholarship of all kinds—legal formalism and legal realism, natural law and legal positivism, law-and-economics and critical legal studies.[193] To be scientific in the study of law is shocking enough, almost unknown among legal scholars. But my work challenges the epistemology of law as well, the conventional conception of legal reality. It implies that the central concerns of legal education and scholarship—rules, principles, and logic—provide a drastically incomplete description and scientifically inadequate explanation of legal behavior. It addresses what actually happens: the behavior of law. It conceptualizes law as a quantitative variable, something to count. It predicts and explains the quantity of law

190. The same applies to major innovations in general: "New political ideas, new aesthetic forms or new scientific theories inevitably seem crazy in the framework within which they appear." Cyril Stanley Smith, "Structural Hierarchy in Science, Art, and History," *in* Wechsler, *Aesthetics in Science* 44 (cited in note 53).

191. Abraham Pais, *Niels Bohr's Times: In Physics, Philosophy, and Polity* 29, unnumbered footnote (Oxford: Oxford University Press, 1991). For another version of the same conversation, see Kaku & Trainer, *Beyond Einstein* 12 (cited in note 60).

192. For overviews of sociological theory, see, e.g., Turner, *Sociological Theory* (cited in note 118); Randall Collins, *Four Sociological Traditions* (orig. pub. as *Three Sociological Traditions*, 1985) (rev. ed. New York: Oxford University Press, 1993).

193. See any collection of readings in jurisprudence. E.g., Philip Shuchman, ed., *Cohen and Cohen's Readings in Jurisprudence and Legal Philosophy* (orig. pub. 1951 by Felix S. Cohen & Morris R. Cohen, eds.) (2d ed. Boston: Little, Brown, 1979); Lord Lloyd of Hampstead & M. D. A. Freeman, eds., *Lloyd's Introduction to Jurisprudence* (orig. pub. 1959) (5th ed. London: Stevens & Sons, 1985). See also Posner, 8 *J. Legal Stud.* (cited in note 165); Editors, "Critical Legal Studies Symposium," 36 *Stan. L. Rev.* (1984).

with its location and direction in social space. It implies that equality before the law, a central ideal of modern law, is realized only when cases have the same location and direction in social space—a rare phenomenon.

I long ago declared independence from lawyers.[194] I largely ignore them.[195] Yet it is understandable why many might be disturbed, even shocked: Their world was invaded. Their reality—what they learned and what they teach about jurisprudence—was lost. I stole law from the lawyers and gave it to sociology. I burglarized the law school and contaminated it with science. I corrupted the students. I was accused of positivism.[196]

My work challenges morality of all kinds, official or not. It exposes the social relativity of right and wrong. It denies the existence and even the possibility of the universality of right and wrong assumed and asserted by virtually everyone. But it judges nothing. It lies beyond politics, beyond jurisprudence, beyond values. It does not take sides, but only predicts and explains who takes whose side. It does not say what is just or unjust, but only predicts and explains who wins. It shows, however, that the conventional conception of right and wrong—what practically everyone believes—is an illusion. Yet the legal and moral implications of my work are incidental. They derive from the epistemology of pure sociology, its radically scientific methodology and its new conception of human reality.

I took sociology seriously: I stripped it of psychology. I stripped it of teleology. I stripped it of ideology. I even stripped it of people. I scrapped every explanation of human behavior not distinctively sociological and completely factual. I pursued the accepted ideals of science: generality, simplicity, and the rest of it. But my strategy had consequences I never expected: It stripped humanity itself. It reduced human behavior to its simplest expression. It left nothing but social life.[197] And I know now that anyone who is not shocked by my work has not understood it.[198] I myself am shocked.

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194. Black, 81 *Yale L.J.* (cited in note 160).

195. But I do not ignore the participation of lawyers in law itself: Lawyers contribute to the social structure of cases and are part of the subject matter of legal sociology. On "lawyer effects," see *id.*, *Sociological Justice* 13–14 (cited in note 9). At the same time, my work implicitly diminishes the importance of lawyers in the determination of legal events.

196. As mentioned earlier, positivism is a term used primarily by nonscientists.

197. My words invert a comment by anthropologist Claude Lévi-Strauss about his search for human beings in a "state of nature" in the jungles of Brazil: "I had been looking for a society reduced to its simplest expression. The society of the Nambikwara had been reduced to the point at which I found nothing but human beings." *Tristes Tropiques* 310 (orig. pub. 1955), trans. John Russell (New York: Atheneum, 1970).

198. Here I paraphrase Niels Bohr, a founder of quantum mechanics, a theory with a conception of physical reality even Einstein could not accept: "Anyone who is not shocked by quantum theory has not understood it." *Quoted in* Kaku & Trainer, *Beyond Einstein* 49.

## THE DEATH OF THE PERSON

I came to sociology and found it was a charade. Its subject was not social life, but only people. The person was the center of the social universe. But social life does not revolve around people. They do not rule society, and never did. Sociology said otherwise, and an unthinkable revolution was unavoidable. The person had to be overthrown. Only social life would survive. And I now plead guilty to the crime of pure sociology: I assassinated the person.[199]

I do not ask to be forgiven. My crime is not against the person, however, nor is it against property. My crime is epistemological—against reality. My only excuse is that I believed the sociologists. I believed my teachers. They said sociology should be the science of social life. No one realized the destruction this would entail.[200]

But wait.

I too was a person. I too lost my place. Epistemologically speaking, I killed myself. What, then, happened to me? Where did I go? Who am I?

I am social life: I call the police, and I am law. I inflict pain, and I am violence. I sing, and I am music. I pray, and I am God. I write these words, and I am sociology. I obey the laws of social life, and I am greater than myself.

199. The Spanish painter Joan Miró said he wanted to "assassinate painting." Roland Penrose, *Miró* 65 (New York: Thames & Hudson, 1985). Salvador Dalí later claimed credit for being his accomplice and delivering the "death-blow": "The painting that we were going to assassinate together was 'modern painting.' " *Quoted in* Néret, *Dalí* 46 (cited in note 112). A post-personal sociology similarly implies the assassination of modern sociology.

200. It has not escaped my attention that the death of the person entails a moral as well as a scientific revolution: The locus of morality shifts from people to social life itself.