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Hegemony, Contestation, and Empowerment: The Politics of Law and Society Studies in South Korea

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The philosophers have only interpreted the world, in various ways. The point, however, is to change it.

(Karl Marx, *Theses on Feuerbach*, 1845)

It can never be the task of an empirical science to provide binding norms and ideals from which directives for immediate practical activity can be derived.

(Max Weber, *Objectivity of Social Science and Social Policy*, 1904)

Abstract
This paper traces the development of law and society studies in South Korea, elucidates the political implications of the academic practices of law and society scholars, and identifies the forms of their political engagement. It canvasses the situation of law and society studies in the pre- and post-Liberation periods and analyzes the changes that have occurred since law and society came to be studied and taught in universities. The paper shows how the early generations of scholarship were sidestepped in the 1980s by the so-called "third-generation legal scholarship" and delineates the counter-hegemonic movement launched by the new generation of scholars. It throws light on the empowerment of critical law and society scholars in the post-democratization phases of the 1990s and 2000s, when many of those scholars actively participated in policy-making and civil advocacy, and discusses the tensions in those developments.

Keywords: South Korea, law and development, legal field, activism, Marxism, promotionalism

1. INTRODUCTION

This paper traces the development of law and society studies in South Korea.[1] It elucidates the political implications of academic practices in the discipline and identifies the forms of

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1. In this paper, law and society studies signifies social-scientific studies of legal phenomena in general.

political engagement taken on by its practitioners. It begins with an overview of the situation during Japanese rule and the early years of legal scholarship after Liberation with reference to institutional constraints, ideological inclinations, and foreign influences. It will be followed by an account of the arrival of law and development programmes and its concomitant effect of stimulating interest in socio-legal studies among US-educated scholars. The paper shows how these early generations of law and society studies were sidestepped in the 1980s by the so-called "third-generation legal scholarship," which organized the Korean Law and Society Association in the late 1980s, and how this generation of scholarship tried to keep up with the counter-hegemonic movement that swept the whole territory of social science in South Korea, a movement which fused academic inquiry and political praxis in the name of "critical academism." It brings to light the political and relational dynamics within critical academism that propelled the launching of the Democratic Legal Studies Association by a more radical and younger group of scholars and students. This paper throws light on the empowerment of critical law and society scholars in the post-democratization phases of the 1990s and 2000s, when many of those scholars actively participated in policy-making and civil advocacy despite the demise of theoretical resources that had fuelled their critical academism.

This study approaches law and society studies as a "field" in a broader field of academic practice in Bourdieu's terms.[2] It is a field of struggle for hegemony where competing actors mobilize their academic and cultural capital to come out ahead, but in ways that are constrained by the logic inherent in the field itself. It is an autonomous field, but that autonomy is relative. The paper shows how political imperatives have infiltrated the field, influenced scholarly practices, and changed the constellation of academic and political capital within the field. While no academic practice is devoid of political meaning, law and society studies in South Korea have moved towards political engagement. Instead of evaluating these developments in terms of their contributions to democracy and the rule of law, this study describes them in terms of a struggle for recognition and competition for power and authority. Such acts of struggle and competition are described in ways that include episodic depictions of choices made by particular actors and biographic accounts of individual career paths. As shown in the works of Dezalay and Garth, such individual cases cumulatively constitute a collective biography that unveils the structure of positions informing the landscape of the field.[3]

2. LAW AND SOCIETY STUDIES UNDER JAPANESE RULE: A DISCONTINUED FOUNDATION

It is commonplace to regard 1895 as the beginning of modern legal studies in Korea. In that year a Judicial Officer Training Institute (*Pŏpkwanyangsŏngso*) was established to educate

2. Bourdieu defines the "juridical field," which has much overlap with the field of academic law, in the following terms: "The social practices of the law are in fact the product of the functioning of a 'field' whose specific logic is determined by two factors: on the one hand, by the specific power relations which give it its structure and which order the competitive struggles (or, more precisely, the conflicts over competence) that occur within it; and on the other hand, by the internal logic of juridical functioning which constantly constrains the range of possible actions and, thereby, limits the realm of specifically juridical solutions" (Bourdieu, 1987, p. 816).

3. Dezalay & Garth (1996, 2002).

potential judges of the new courts anticipated by the Court Organization Law of 1895.[4] Legal studies proliferated in the following decade, particularly after 1905, when Korea was deprived of its diplomatic autonomy and a Residency-General was established to control the Korean government through the supervision of Japanese advisers in various parts of the government. Demand for legal studies increased with the transformation of the legal system under Japanese influence. Simultaneously, legal studies were looked upon as a necessary means to strengthen the nation's capacity to resist foreign intervention. A new *Juristenstand* emerged with a prestige not enjoyed by technicians of law under traditional rule by Confucian literati.[5] Legal education, however, did not include any social-scientific approaches to law. Some subjects outside the narrow field of law, such as economics, were taught at the Judicial Officer Training Institute and Posŏng College (*Posŏng Chŏnmun Hakkyo*), the institution established in 1905 from which the Korea University of today originated.[6] Yet no evidence shows any attempt to implement interdisciplinary education in law. This situation continued in the early part of Japanese rule, when Korea had no university and the colleges established before annexation were subjected to restrictive regulations.[7]

It was natural at this time that Korea's legal academy lacked social-scientific interest in law. Sociology of law was still a young discipline in Europe and did not get a foothold in Japan until the end of World War I. The sociology of law in Japan emerged out of dismay with the *Begriffsjurisprudenz* imported from Germany and dominant in legal education, which was increasingly seen as impotent amid changing social conditions after the war. Marxism and other critical ideas inspired socio-legal research, much of whose *mondai ishiki* (problem consciousness) was aroused by the need to explain the gap between state law and social life in a rapidly industrializing society. Suehiro Izutarō's intellectual endeavours represent this early development of the Japanese sociology of law.[8]

In Korea, nationalist campaigns were launched in the early 1920s to establish private universities, only to be thwarted by the Government-General. Instead, an imperial university was established. Keijō Imperial University opened in 1923, and from 1926 taught law in the Faculty of Law and Letters, one of the two faculties in the university.[9] Legal education in a university and the combination of law and other disciplines in a single faculty provided a positive condition for the development of legal science beyond training in black-letter law.

4. A limited knowledge of Western law had been introduced from the seventeenth century. For the nature of this prereception (*Frührezeption*) of Western jurisprudence, see Choi (2005), pp. 138–42. Yang Kun suggests that a nascent form of law and society study might be found in the thought of Dasan Chŏng Yagyong (1762–1836), the Chosŏn dynasty Confucian scholar (Yang, 1989, p. 891). Korean terms in this paper are romanized in accordance with the McCune-Reischauer system. Korean names are romanized in the way the persons themselves have adopted, as long as those ways are known, with McCune-Reischauer-romanized names in brackets when needed and for authors in the list of references, except for the names of those whose publications in English are cited.

5. Choi (2005), chapter 3.

6. At Posŏng College, police science, administrative policing, prison administration, and local institutions were taught along with economics; Choi (1990), p. 108.

7. The Judicial Officer Training Institute turned into the Keijō Professional School of Law (*Kyŏngsŏng Pŏphak Chŏnmun Hakkyo*). This school and the Department of Law at Posŏng College (named the Posŏng School of Law and Commerce between 1915 and 1921) were the main centres of legal education in this period. Yŏnhŭi College (*Yŏnhŭi Chŏnmun Hakkyo*), the predecessor of Yonsei University, did not have a law department, but taught law in its Department of Commerce. At Yŏnhŭi, courses on law were offered alongside economics and public finance courses, but no course combined law and another discipline. See *Yŏnse pŏphak 90 nyŏnsa p'yŏnch'an wiwonhoe* (2011), chapter 2.

8. Kawashima (1968), p. 67; Rokumoto & Yoshida (2007); Rokumoto (1986), pp. 141–6; Nottage (2013), pp. 210–11. Japanese words and names are romanized in accordance with the Modified Hepburn system.

9. The other was the Faculty of Medicine. A Faculty of Natural Science and Engineering was added in 1941.

The Faculty of Law and Letters had four departments—Law, Literature, History, and Philosophy—and the students of each department were required to obtain a certain number of "units" (credits) from courses offered by other departments.[10] Furthermore, economics and political science were subfields of law and taught in the law department.[11] To what extent did this condition actually lead to progress in law and society studies?

The Faculty of Law and Letters had 14 professors and 7 assistant professors when it was first established, which expanded to 39 professors and 13 assistant professors in the early 1940s.[12] Yet the multidisciplinary organization of the department and the faculty did not lead to a law and society orientation in teaching and research. One of the obstacles was the "chaired lecture" system. Teaching and research revolved around professors who held chairs in strictly defined fields. While this promoted the professionalism of scholars, it brought compartmentalization in teaching and research, which impeded interdisciplinary studies by cancelling out the potentially positive effects of multiple disciplines mingling in a single faculty.[13] Akiba Takashi, the sociology chair, was not interested in law and society. If any socio-legal studies were pursued, it should be by the members of the law department.

One can get a glimpse of the complexion and character of legal scholarship at this school from the *ronshū* (serialized selection of essays) published by the Legal Studies Association organized by the members of the law department. A total of 25 issues, published between 1928 and 1944, contained 108 articles, of which 20 related to issues in legal dogmatics. Articles in economics and economic history made up the greatest proportion, with a total of 26 pieces. Among the rest were 12 Roman law articles, 9 articles on constitutional politics and administration, 8 on legal philosophy, and 7 on Korean legal history.[14] Determining how many of the articles related to law and society depends on how we define the boundaries of the field. The few articles on Korean customs and traditions contained some empirical study, which might befit law and society studies in a very loose sense. There were few theoretical studies of law and society other than the lengthy article "The Social Structure of Law" by the legal philosopher Otaka Tomoō. It was closer to sociological jurisprudence than sociology of law; the author characterized it as a social-philosophical study that moved beyond an "empirical science of fact."[15] Otaka, the high-flying scholar who befriended Edmund Husserl and Alfred Schutz, advanced a phenomenologically inspired theory of law's conceptual relationship with social relations and social organization. Discussing the social theories of Weber, Simmel, and Tönnis in addition to references to the philosophical theories of Husserl and Dilthey, Otaka sought to "analyse legal and social elements contained in legal phenomena" and to "clarify the essential connections" between them "on the basis of a structural thinking."[16] While some of his students remember him as a liberal, and some of his

10. Joung (2002), p. 109.

11. The Department of Law offered economics, public finance, statistics, politics and political history, and diplomatic history along with constitutional and administrative law, civil law and procedure, criminal law and procedure, commercial law, public international law, private international law, jurisprudence, legal history, and Roman law; Jung et al. (2011), chapter 6.

12. Joung, *supra* note 10, p. 117.

13. *Ibid*., pp. 106–11; Jung et al., *supra* note 11, pp. 309–14.

14. See the list of articles in the *ronshū* in Choi (1990), *supra* note 6, pp. 451–6.

15. Otaka (1928), p. 201.

16. *Ibid*., p. 109.

postwar commentators admire him as "a democrat and liberal in the deepest sense,"[17] his preoccupation with correcting legal theory's bias towards the "*Gesellschaftliche* structure of law" and his criticism of the "rationalistic and atomistic organization of law," which he attributed to Kant and Stammler, foreshadowed a collectivistic turn in line with rising militarism in the 1930s. Otaka's statist tendency became clearer in his book *Kokkakōzōron* (1936), where he called for overcoming the opposition between *Gemeinschaft* and *Gesellschaft* with the notion of *Körperschaft* (co-operative social organization) as the foundation of the state. He openly supported militarism in the late imperial years, when he campaigned for a "virtuous Korea" (*tōki Chōsen*) that should serve Japan's expansionist enterprise.[18] Having been a source of pride for the "Keijō school" (particularly vis-à-vis Tōkyō) with his unparalleled academic capital, Otaka was now labelled a "stool pigeon of militarism" and was shunned by Korean students. In 1944 he left Keijō for Tōkyō Imperial University.[19]

A theme that runs throughout this paper is the contradiction and mutual penetration between the "big tradition" of official legal scholarship and the "little tradition" of counter-hegemonic intellectual practice. Under Japanese rule, as in later periods, the latter had much potential for developing social-scientific sensibilities in approaching law. One of its sources of inspiration was Marxism. As in Japan, Marxism was a powerful idea that captured the imagination of students and intellectuals. In the late 1920s, some students in the Faculty of Law and Letters at Keijō Imperial University organized the Association for Economic Studies (*Kyŏngjeyŏnguhoe*), which played a pivotal role in propagating critical ideas. Discussion groups soon spread to other schools, including Keijō Professional School of Law and Posŏng College.

Interestingly, the Keijō Imperial University law faculty professor Miyake Shikanosuke supported this movement. This professor of public finance is said to have spent most of his teaching hours preaching Marxian economic theory. His help was crucial in organizing the Association for Economic Studies, whose members included the law students Yu Chino, Ch'oe Yongdal, Yi Kangguk, and Chŏng T'aesik.[20] The academic activities and career paths of Yu Chino and Ch'oe Yongdal tell us much about the field of legal studies at the time. Yu's early writings carried elements of Marxism in criticizing the class character of mainstream jurisprudence.[21] Yet his academic biographer, Lee Young Lok, characterizes his thought as "Marxistic" rather than "Marxist."[22] This encyclopaedic scholar had such diverse interests and drew inspiration from so many sources that Marxism can hardly be said to have been his primary and permanent base. In the end, he repudiated Marxism and, after Liberation, became the chief figure in drafting the Constitution of the Republic of Korea. Ch'oe Yongdal devoted his academic efforts to debunking the bourgeois character of the dominant institutions. He attacked the separation of powers in capitalist states and criticized Weimar-style economic

17. *Supra* note 11, p. 330; Sato (1999), p. 52.

18. Otaka (1942); Lee (2006), pp. 100–2; Ishikawa (2006), pp. 204–5; Kim Yoo-Keun (2008), pp. 92–7.

19. Students recall that, in his capacity as Dean of Student Affairs, Otaka ordered students to have soldier-style short hair and disciplined those who disobeyed; Kim (2012), pp. 447–9.

20. Lee & Choi (2013), pp. 258–62; Shim (2006), pp. 21–31.

21. For example, in his article "Social Democracy in Law," Yu criticized the so-called "new school" of criminal justice, which provided rationales for special deterrence and discretionary treatment, for its neglect of the fundamental social background of crime; Yu (1931).

22. Lee, *supra* note 18, pp. 55–65.

constitutions and the emerging economic law, while introducing the theories of major Marxist jurists such as Evegeny Pashukanis.[23] Ch'oe followed Yu in joining the law faculty at Posŏng College, because at Keijō Imperial University Korean scholars faced a systematic barrier to recruitment; no Korean was appointed to full-time faculty membership at the Faculty of Law and Letters.[24] This benefited private colleges run by Koreans such as Posŏng. It may have benefited the Korean communist movement too, as promising researchers such as Yi Kangguk and Ch'ong T'aesik turned away from academia and plunged into revolutionary activism.[25]

How did the counter-hegemonic movement in Korea interact with intellectual movements in Japan, where sociology of law was a critical project even in official academic circles? Suehiro Izutarō does not seem to have given much inspiration to Korean jurists. His follower Hirano Yoshitarō was well known for his prominent role in the debate between *kōzaha* (the "lecture" school) and *rōnōha* (the "worker-farmer" school) regarding the character of Japanese society and the concomitant revolutionary strategy. The *kōzaha* school underlined the persistence of feudal elements in Japanese society and claimed that Japan needed a bourgeois revolution before a socialist revolution, while *rōnoha* argued that the capitalist mode of production was dominant in Japan, and therefore a single-stage socialist revolution was needed.[26] The *kōzaha* school was in consonance with the Comintern's official observation, which was taken seriously by leftists in Korea. Hirano was a leading theorist for *kōzaha*. Indeed, Yu Chino and Ch'oe Yongdal met Hirano during their research trip to Tokyo.[27] However, the extent to which Hirano's socio-legal theory was appreciated by Korean jurists is unclear. Like Suehiro, Hirano had a special interest in rural customs, which he saw disintegrating under the individualistic thrusts of Roman law and *Pandektenjurisprudenz* prevalent in the Japanese Civil Code—modelled on the first draft of the German Civil Code.[28] Even if Hirano did not directly impact Korean jurists, Koreans were familiar with discourses that criticized the individualistic organization of society and called for more co-operative forms of social life. While such theories were invoked to attack capitalism, they were prone to fall into the traps of militarist discourse, as was the case in Otaka.[29]

3. BUILDING FROM SCRATCH

Despite the recruitment of Korean scholars by private colleges, there were fewer than ten full-time professors of law in the whole country when Korea was liberated from Japanese rule.[30] Efforts were made to expand higher education, and law faculties were established in

23. Ch'oe (1930); Yi (2008).

24. See Yu (1985), pp. 87–91, where he recounts his bitter experience of discrimination.

25. Through Yi Kangguk and Ch'ong T'aesik, Miyake co-operated with Korean revolutionaries and assisted the Korean Community Party reconstruction movement. He was arrested and sentenced to three years for violating the Peace Preservation Law; see Kim (2007), pp. 131–44.

26. For this debate, see Hoston (1986) and Barshay (2004), chapter 3.

27. Lee, *supra* note 18, pp. 42–3.

28. Hirano (1970); Nottage, *supra* note 8, p. 210–11.

29. After World War II, Suehiro was discredited for his role in the North China rural customs survey, which served Japan's expansionist campaign; Ishida (2002, 2007); Baba (2002). Hirano later participated in the survey, and steered his criticism of capitalism towards supporting Japanese expansionism during World War II; Barshay (2004), pp. 179–81.

30. Choi, *supra* note 6, p. 469.

an increasing number of universities. By 1948, there were four universities and 23 colleges. Keijō Imperial University was reorganized into Seoul National University, whose College of Law also absorbed the Keijō Professional School of Law. Posŏng College turned into Korea University, with its College of Law becoming the flagship faculty of the university.

Many leading members of the early post-Liberation legal academia were graduates of Keijō or Tōkyō Imperial University. They bore imprints of pre-war Japanese jurisprudence, but without Marxian elements. Marxist intellectuals such as Ch'oe Yongdal, Yi Kangguk, and Chŏng T'aesik left South for North Korea, and gone with them were their Marxian visions regarding law and society.[31]

In the field of socio-legal research, there was little left over from the pre-Liberation period. This left the field intact, free from charges of reproducing "legacies of Japanese imperialism."[32] Nevertheless, some publications from the 1950s suggest that Korean jurists shared perspectives of pre-war Japanese jurists who reflected critically on imported legal rules and doctrines reified by *Begriffsjurisprudenz*, from the sociological Suehiro to the mainstream civil lawyer Wagatsuma Sakae.[33] These scholars grappled with the question of how to cope with the gap between state law and "living law," inspired by Eugen Ehrlich (Suehiro), or between law in books and law in action, as per Roscoe Pound (Wagatsuma). As in Japan, the concern with the "gap" became a dominant tendency among Korean jurists interested in law and society.[34] Classics in sociology of law and sociological jurisprudence began to be translated in the 1950s. The first book from these fields to be translated into Korean was Ehrlich's *Fundamental Principles of the Sociology of Law* (*Grundlegung der Soziologie des Rechts*) by Chang Kyung Hak (Chang Kyŏnghak) in 1955. This preceded the translation of Max Weber's *Rechtssoziologie* (in *Wirtschaft und Gesellschaft*) by Choi Shik (Ch'oe Sik) published in 1959. Interestingly, Ehrlich had been welcomed in Japan, unlike in Europe, where he was slighted and undervalued.[35] In 1962, Chang translated the best-known work of one of Ehrlich's greatest champions—Oliver Wendell Holmes's *The Common Law*. Roscoe Pound also found an inlet into Korean readership when his *Interpretations of Legal History* was translated in 1955 by Ko Byong Gook (Ko Pyŏngguk), the Tōkyō Imperial University graduate who taught at Yŏnhŭi College and became the first Dean of the College of Law at Seoul National University. Pound's other books, *New Paths of the Law* and *Justice According to Law*, were translated by Ko in 1961 and Ko's junior colleague Seo Don Gag (Sŏ Ton'gak) in 1960, respectively. While this interest in Ehrlich and American sociological jurisprudence had something in common with the interests of socio-legal scholars in Japan, one should not overlook the politico-intellectual backdrop of the times—the hegemonic influence of the United States.

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31. Ch'oe Yongdal became the Judicial Director of the North Korean People's Committee and played a key role in building the legal system of North Korea; Yi, *supra* note 23, p. 138.

32. See Symposium (1995) for a review of legal studies in Korea in terms of the extent to which Korean scholarship overcame the legacies of Japanese rule.

33. Yoshida (2004), p. 440; Seo (2010), p. 106; Nottage, *supra* note 8, pp. 210–11. Unlike Suehiro and Hirano, who had few Korean students, their Tōkyō Imperial University colleague Wagatsuma Sakae had an unmistakable influence on Korea's civil law scholarship.

34. For a critique of "gap studies" and its defence, see Abel (2010); Miyazawa (2013), pp. 124–5.

35. Vogl tells us how Ehrlich was understood and applied by Suehiro in a way Ehrlich would have never contemplated; Vogl (2009).

4. THE ARRIVAL OF LAW AND DEVELOPMENT

As Choi Chongko has pointed out, the leitmotif of legal academia after Liberation was that Korea should free itself from the influences of Japan, the "unpleasant intermediary" between Korea and the West.[36] As in many other parts of the world, the US was not only a political liberator but also a model for legal development. Under the US Military Government, the American legal advisor Charles Lobingier proposed a civil code for Korea free of the "anachronistic" legacies of an aggressor nation. The proposal was not accepted, however, which was one of many signs that the US Military Government did not want to upset the existing legal system.[37] Except for a few overtly repressive laws, all laws from Japanese rule were carried over into the new Republic of Korea.

Following the promulgation of the Constitution in 1948, Korean jurists embarked on the drafting of major codes for the Republic. The Penal Code was completed in 1953, followed by the Code of Criminal Procedure in 1954, the Civil Code in 1958, the Code of Civil Procedure in 1960, and the Commercial Code in 1962. Continental legal concepts and doctrines prevailed, while the extent to which the codification rid itself of the Japanese influences is debatable. If Japan was to go, there had to be a direct bridge to Continental Europe, primarily Germany.[38]

At the same time, a different kind of interest emerged, impelled by dynamics deriving more from the economic base than the legal superstructure. During the First Republic, the redistribution of former Japanese assets and the distribution of aid from overseas were high on the state's agenda in its relationship with the market. US influences were prominent in these projects. The Bank of Korea Act and the Banking Act of 1950, the two most important instruments for structuring the financial system of Korea, were drafted by a team of advisers from the Federal Reserve Bank of New York.[39] Historians point out that it was around 1957 that the Korean state began to conceive of itself as a long-term developmental planner, and that conception did not materialize in the form of economic plans until the Park Chung-hee regime.[40] The First Five-Year Economic Development Plan was launched in 1962. One of its consequences was that foreign loans surpassed aid as the main source of capital. This explains the making of a large number of banking and finance-related laws and regulations between 1962 and 1966.

Academic law was, however, unable to cope with such changes, insofar as it was preoccupied with the logical coherence of statutory interpretations rather than the efficacy of law as a policy tool. At least some sections of the Korean legal academia woke up to the need for a reorientation of legal studies and education. This was the time when the law and development movement prospered, and legal education was looked upon as the best channel through which American legal method could gain entrance to developing countries with

36. Choi (1982).

37. Jeong (1989), pp. 148–56.

38. See the debate between Jeong Jong Hyu and Yang Chang-Soo on the nature of the codification of civil law in post-Liberation Korea; Jeong, *supra* note 37; Jeong (1991), pp. 133–8; T'oron (1991), pp. 138–51; Yang (1995). Yang Chang-Soo (2007) criticizes what he regards as a tendency among Korean scholars who look upon Germany as a model in developing "an independent jurisprudence liberated from the shackles of Japanese legal scholarship," which he criticizes as another form of "cultural colonialism."

39. Kim (1997), p. 190.

40. Kim (2000).

Continental legal systems. Since the late 1950s, various material supports had been provided by US organizations to sponsor Korean legal scholars' research and training in US law schools. In the 1960s, the Asia Foundation provided financial support and advice to the Graduate School of Law (*Sabŏptaehagwon*) of Seoul National University, established for training those who passed the National Judicial Examination. The Asia Foundation's Korea Representative, David Steinberg, explained the rationale in the following terms:

> The developmental role of law in any society is thus closely related to the status of the lawyer, his education, and the nature of the legislative and judicial processes of the society. While the legal profession has often played a crucial role in independence movements, this has not been the case in the development process, or in planning and executing development programs.[41]

Steinberg observed that all the routes into the legal profession—the notoriously competitive national judicial examination, the military route, and exams under Japanese rule—were conservative channels that circumscribed the lawyers' "understanding of modern concepts of law and legal needs for development."[42]

As noted in Steinberg's remarks, "development" was the catchword of this movement. Jay Murphy, the Asia Foundation-sponsored visiting professor at the Graduate School of Law from 1963, defined development as the "growth, construction, achievement and progress in an affirmative sense of a nation and a people" towards "becoming more complete ones."[43] He observed that legal education in Korea and its underpinning jurisprudence lacked the perspective needed for maximizing the law's capacity for achieving development goals. Jurisprudence in Korea was excessively "patterned after the idealistic tradition of Kant and Hegel, neo-Kantian Natural Law, and analytical positivism." Hence, legal education and jurisprudence should be infused with a novel perspective, he said, namely "sociological jurisprudence and Legal Realism and the Policy-Science of McDougal and Lasswell, and the instrumentalism of John Dewey."[44]

The view entertained by Murphy and Steinberg was, according to Trubek, a good example of the US prescription that instrumental forms of legal education were the "true path to development" in developing countries.[45] Murphy did not hesitate to make public that legal education was "a tool … interrelated with United States foreign policy."[46] That the law and development movement was a projection of US hegemony could not manifest itself better than in Steinberg's assertion that the success of legal reform in Korea would depend proportionately on the degree of the United States' diplomatic, military, and economic superiority, particularly vis-à-vis Japan seeking to roll back.

> The reduction of United States military forces in Korea, the diminution of foreign assistance, and especially the Guam Doctrine will relate to the impact of the American model in the legal field.

41. Steinberg (1983), p. 49.
42. *Ibid*., p. 69.
43. Murphy (1967), p. 2.
44. *Ibid*., p. 35; Murphy (1975), pp. 245–6. A compassionate professor from Alabama who had fiercely attacked racial segregation in American schools (Murphy, 1954–55), Murphy found, albeit hypothetically, a cultural and intellectual foundation in Korean society that could provide a friendly environment to the sociological and pragmatic legal philosophies; he discovered "a striking kinship between the discipline of Zen Buddhism and the contextualism and consequences oriented philosophy of Dewey's instrumentalism." Lee Jae Hyup (2009) appraises Murphy's work (1967) as the first positive research focused on legal education in Korea, despite lacking methodological rigour.
45. Trubek (1972), p. 11.
46. Murphy, *supra* note 43, p. 42.

> The Guam doctrine is predicated on an expanded role for Japan in East Asia in a variety of fields … The influx of Japanese capital into Korea following the Normalization Treaty, the heightened trade with Japan, together with the reduction of the American role in the region may bring with it a resurgence, not only of Japanese influence economically (and perhaps militarily), but also a restitution of the Japanese model in such fields as law and administration … In a sense it can be argued that the role of Japan in Korea today will reinforce traditionalists in the society; traditionalists who by their age alone already tend to dominate their fields. This may make reform of law more difficult in the years ahead as Japan's influence is reasserted.[47]

Was Steinberg's concern misplaced? The Graduate School of Law established in 1962 under the auspices of Seoul National University, which Steinberg and Murphy applauded as a major development in legal education, was, much to their dismay, replaced less than ten years later by the Judicial Research and Training Institute, modelled on the Japanese institution with almost the same name.[48]

5. LAW AND SOCIETY STUDIES TAKE OFF

On the whole, Steinberg's concern was misplaced in legal studies. The shadow of the "unpleasant intermediary" got dimmer, and Korean legal scholars increasingly gravitated towards Western models, mainly those of Germany and the US. While the German model had substantial influence in public, civil, and criminal law, it was thanks to US-educated scholars that "law and society" took off as a discipline and movement.

5.1 Culture v. Development: The Pessimistic Developmentalism of Hahm Pyong-Choon

Hahm Pyong-Choon was the first law and society scholar in South Korea without any experience of higher education under Japanese rule. Neither did he pursue the "orthodox" track in law in post-Liberation Korea—studying at Seoul National University, passing the National Judicial Examination and becoming a judge or public prosecutor. He graduated from the elite Kyunggi High School, as did many top lawyers with the greatest prestige, but did his military service without going to university. Then he went to the US for higher education. He studied economics at Northwestern University and obtained a juris doctor (JD) degree from Harvard Law School. Dezalay and Garth describe how people with US legal-educational backgrounds, regarded as less prestigious than the "orthodox" path, have come to outplay the "orthodox" elite in scholastic competition by taking advantage of the internationalization of the legal field.[49] This change had yet to take place when Hahm Pyong-Choon was a young scholar. It is debatable whether Hahm fits Bourdieu's interesting concept of "heresiarch"—a person with strong family capital who goes through a different career trajectory from the "orthodox" elite route and who uses his or her social capital to follow a "heterodox" career.[50] To be sure, Hahm's extraordinary educational success

47. Steinberg, *supra* note 41, p. 69.

48. *Ibid*., p. 66; Murphy (1967, 1975). The new institute, *Sabŏpyŏnsuwon*, was copied from Japan's *Shihōkenshūsho*.

49. Dezalay & Garth (2007), p. 99.

50. Hahm Pyong-Choon's father Hahm Tai Young (Ham T'aeyŏng) was a graduate of the Judicial Officer Training Institute and worked as a public prosecutor and a judge before Japanese rule. He campaigned for independence and, after Liberation, became the third Vice-President of the Republic of Korea. He was also one of the most influential figures in the Christian community.

explains his rise as an influential public figure. Nevertheless, he remained outside the core of legal scholarship. In 1959 he joined the law faculty of Yonsei University, which was ranked lower than Seoul National University and Korea University in legal education. His teaching career and publications show that he was not tied to any particular field of positive law, unlike most legal scholars in Korea—and dominant ones in particular. This unorthodox situation enabled him to pursue law and society studies with a high degree of freedom. Yang Kun appraises Hahm as "the first figure to rise above the amateurish level of research in socio-legal studies in Korea."[51] No Korean academic has been more widely cited by international socio-legal scholars than Hahm Pyong-Choon.[52]

As in the case of his East Asian contemporaries and preceding generations, Hahm's main interest lay in the gap between the imported official law and traditional legal culture.[53] Hahm regarded it as meaningless to classify Korea as a member of the Continental legal family by reference to legal postulates without probing into the underlying cultural differences. Legal policies that do not take account of Korea's cultural characteristics are, Hahm warned, doomed to fail. Hahm characterized Korean culture as "alegal," affective, and harmony oriented, and inferred from this an antipathy to dispute and a predilection for informal, non-adjudicative methods of dispute resolution. Hahm was later criticized for his impressionistic portrayal and sweeping generalizations of Korean culture.[54] Yet his portrayal of Korean culture was based on empirical research. He and his associates conducted a survey with a questionnaire on attitudes to law over a nationwide sample of 1,301, which was a huge project seen from the 1960s perspective.[55] Many criticisms were later levelled against the ways in which some of the questions were framed, but this work, carried out between 1963 and 1965, became a model for the subsequent "legal consciousness surveys" conducted by scholars and policy institutes.[56]

Hahm's academic endeavour can be interpreted in the broad context of the law and development movement. He was most active as an academic during the 1960s, the high-water mark of law and development. He conducted the above survey with the sponsorship of the Asia Foundation, one of the most important sources of support for law and development in Asia. Law and development preachers such as Steinberg and Murphy relied on his research. Hahm also carried elements of modernization theory, the theoretical base of law and development discourse.[57] Yet he distanced himself from the kind of optimistic developmentalism often found in law and development programmes. Hahm did not share Steinberg's view that the influx of foreign capital and the lure of growth would "exert positive pressure on legal institutions and on government attitudes towards law."[58]

51. Yang, *supra* note 4, p. 893; Yang (2001), p. 79.

52. For example, Felstiner (1974), p. 78; Luhmann (1985), pp. 117, 327.

53. Hahm (1971, 1986).

54. Yang, *supra* note 4; Lee (1998); Youm (2009).

55. Hahm & Yang (1982).

56. Among subsequent surveys on legal consciousness, the 1979 survey by Yang Seung-Doo and the 1991, 1994, and 2008 surveys conducted by the Korea Legislation Research Institute succeeded Hahm's survey in questionnaire designing.

57. "It seems that the sooner we rid ourselves of the traditional ways of politics and law the better off we shall be in building a new political order premised upon respect for the dignity of an individual" (Hahm (1971), *supra* note 53, p. 83).

58. Steinberg, *supra* note 41, p. 69.

Instead, he thought that the incongruity between the introduced legal system and the native cultural order was so fundamental that a modernization of the value pattern towards the Western model would not easily occur, nor was it a natural course of events. According to Hahm:

> The formal "superstructure" of the Korean legal system still remains fundamentally at odds with the indigenous legal culture. The discord between the superstructure (prescriptive postulates and organizational structures) and the infrastructure (cultural milieux) of the Korean legal system goes beyond the time lag between the advanced superstructure and the backward infrastructure … It may be argued that the infrastructure is bound to change as the pattern of life becomes more industrial and competitive, and that it will be sufficient to wait for the change to catch up with the modern superstructure. The difficulty with this argument is that it is not clear how long it will take for this change to come about if the change does come about at all.[59]

"The tension and strain" between the superstructure and infrastructure should be reduced, but not by supplanting traditional behaviour patterns with law. Hahm declared: "What we need today is not more law but less law."[60]

Hahm's observation has some parallel with that of Kawashima Takeyoshi, the grandmaster of postwar Japanese sociology of law, who provided a starting point for the well-known legal culture debate in and outside Japan. Kawashima characterized Japanese legal culture in terms of an aversion to litigation deriving from a harmony-oriented tradition. But Kawashima had a stronger belief in the imminence of change.[61]

Hahm's pessimism about the pace of modern transformation made him less than supportive of the liberal legalism underpinning the law and development movement. Has he attracted any criticism for his apparent conservatism? In addition to his attack on Hahm's "colonial" view of Korean culture, Yang Kun has criticized Hahm for his "ruler's perspective."[62] Nevertheless, critics rarely go so far as associating Hahm's academic work with his service under two authoritarian presidents—Park Chung-hee and Chun Doo Hwan—and there is little sign that his academic arguments and findings were politically utilized.[63]

5.2 How Big was the "Big Tradition" of Law and Society Studies?

While Hahm Pyong-Choon was planting new seeds at Yonsei University, young professors at Seoul National University (SNU) organized a study group, initiated by Kwon Tai-Joon, the son of an ex-President of SNU who had been educated at SNU, Southern Methodist University, and Yale Law School. This group, which was loosely called the Law and Society Studies Association (*Pŏp kwa Sahoe Yŏnguhoe*), was first organized in 1966. It soon attracted the highest-flying young jurists, such as Song Sang-Hyun and Kang Koo Chin. Indeed, its membership boundaries were not clear, and many scholars frequented the Association. The scholarship of this group was highly receptive to US-supported law and

59. Hahm (1986), *supra* note 53, p. 118.

60. Hahm (1971), *supra* note 53, p. 166.

61. "The transition is irretrievably in process, and the outcome is clear." Kawashima (1973), p. 74.

62. Yang, *supra* note 4, p. 900.

63. Hahm Pyong-Choon became President Park's adviser in 1970 and served as the Korean ambassador to the United States (1974–77). He continued to advise President Park while teaching at Yonsei University. He fully returned to academia in 1981, but became Secretary-General of the Presidential Office under President Chun in 1982, and in 1983 lost his life in a North Korean bomb attack in Rangoon, Burma. See Special Tribute to Hahm Pyong-Choon in 4(2) *Yonsei Law Journal* (2013), and Lee (2013).

development programmes. Kwon Tai-Joon and his three SNU colleagues—Lee Tai Ro, Lee Shi Yun, and Paik Choong-Hyun—participated in research led by Jay Murphy on the legal profession in Korea with a focus on judicial scriveners. The research had a unique meaning in that judicial scriveners, whom the researchers saw as a "link between the law and the common man in Korea" and "the lawyer[s] for the masses of Korea's 30 million," had been, even until now, rarely studied.[64] This study group's endeavour culminated when a symposium was held in 1974 with the participation of scholars from major social sciences. The invited guest Jerome A. Cohen, Harvard Law School's doyen of East Asian legal studies, gave an address introducing the International Legal Center's report on the future of law and development.[65] Korean participants reciprocated with introductory but more or less elaborate papers, including those by sociologists Han Wan Sang and Lim Hee-Sop. Lim's study was received with special interest, as it presented the results of a legal consciousness survey, conducted ten years after Hahm's. Although more theoretically sophisticated and using different terminologies, Lim's study came up with findings which were not at variance with Hahm's.[66]

Baptized with modernization theory and stimulated by the law and development movement which they could closely observe while studying in the US, these scholars were highly critical of the outdated methods of legal studies and education—"the exam-oriented study of law that value[d] the memorizing of the 'six codes' and the dogmatic jurisprudence that [was] nothing more than a mimicry of legal studies in Japan."[67] Their outspokenness paradoxically reflected their success in the established order. Song Sang-Hyun, who is now President of the International Criminal Court, and Kang Koo Chin were top graders at Kyunggi High School and Seoul National University, passed the National Judicial Examination, briefly worked as a lawyer and a judge, respectively, and received doctorates from top US law schools. They could dwarf most members of the legal elite with both their hyper-modern international credentials and cultural capital tapped from the established academic hierarchy. They also enjoyed a great amount of social capital within the legal field; they had close relationships with, or were among, the top internationally oriented lawyers who began to succeed with what Dezalay and Garth have termed "international strategies," strategies to gain power and prestige by "drawing on international connections and expertises."[68]

Kwon Tai-Joon recalls that it was their "elite consciousness" and "spiritual room to manoeuvre" that enabled them to seek new perspectives on law.[69] They criticized the existing system of educating lawyers and called for the introduction of a US-style law school system. This they did without being seen as expressing frustration because of failure in the National Judicial Examination, a reason which is often attributed to those who criticize the existing legal education system. They could advocate law and society studies against the dominant dogmatic method, without being seen as proving the rebellion-pauperization thesis. Their products, however, did not match their fame and self-confidence. Their activities were

64. Murphy et al. (1967); Murphy (1975), *supra* note 44, pp. 242–4.

65. Cohen (1974).

66. Lim (1974). All papers presented at the symposium and discussion notes are available in 15(1) *Pŏphak* [Seoul Law Journal] (1974).

67. Song (1973), p. 31.

68. Dezalay & Garth, *supra* note 49, p. 84.

69. Interview with Kwon Tai-Joon, Professor Emeritus of Seoul National University, on 22 January 2014.

confined to small-scale seminars with little impact on legal education and research outside their elite circle. They may have achieved some success in enlightening academia and the informed public about the need for social-scientific studies of law, but that enlightenment did not materialize in the form of either a steady production of socio-legal research or the development of a teaching programme in law and society.

It was their SNU colleague Choi Dai-Kwon who became the first person in Korean legal academia to claim the title of professor of sociology of law.[70] In 1976 Choi made the sociology of law a regular course in the SNU law curriculum, which influenced other universities. He was the first Korean scholar to publish a book with the title *Pŏpsahoehak* (*Sociology of Law*), although it was more a collection of articles than a standard textbook.[71] A graduate of Seoul National University, Choi earned a doctorate in political science at the University of California at Berkeley. His early writings were clearly inclined towards modernization theory.[72] The autonomy of law penetrated his literature as the central concept, which he at some point elevated to a normative goal of socio-legal change.[73] While this sounds different from Selznick's underlining of the limitations of "autonomous law," Choi's concern echoes the latter's adherence to natural law and the recognition of normative goals in law and society studies.[74] Interestingly, while Choi critically examined traditional attitudes and relational practices which he saw as encroaching on the autonomy of law, he showed increasing discomfort with the use of law as a tool of development policy, which he thought might be a bigger threat to the autonomy of law than traditional practices.[75] In this respect, Choi did not fully support the central tenet of the law and development movement. Choi Dai-Kwon's former student Lee Kook-Woon recounts that Choi's concern with the autonomy of law drove him towards doctrinal analysis in constitutional interpretation and expresses his regret that Choi lacked interest in aspects of domination in the functioning of law.[76] Nonetheless, Choi's seminar classes in the early 1980s were filled with students with critical sensibilities, who moved to form a new, counter-hegemonic movement in law and society studies.

6. THE "LITTLE TRADITION" OF CRITICAL LAW AND SOCIETY STUDIES

Despite the exhortation of law and development preachers and promotion by US-educated high-flying jurists, social-scientific perspectives were still marginal in legal studies under the dominance of dogmatic jurisprudence. Nonetheless, the law and society studies practised by professors through regular university curricula, such as that of Choi Dai-Kwon, gradually constituted an integral part of the hegemonic academic mode of production. In the meantime, a

70. While legal anthropology has been less developed than the sociology of law in Korea, Hahm Pyong-Choon had taught legal anthropology at Yonsei University (in the late 1960s) before Choi began to teach the sociology of law at SNU.

71. Choi (1983a).

72. Choi (1972).

73. Choi, *supra* note 71; (1992).

74. Nonet & Selznick (1978); Selznick (1961).

75. Choi (1983b).

76. Lee (2003), p. 561.

separate, counter-hegemonic law and society movement emerged from the waves of the student movement that had persistently challenged the established political order since the birth of the Republic. In fact, such a movement preceded the arrival of law and society studies in the official arena.

In his biography of the late Cho Young-Rae (Cho Yŏngnae), the renowned civil rights lawyer who died in 1990, Ahn Kyong-Whan points to 1957 as a turning point in the democratic movement of law students. In that year a group of law students at Seoul National University organized the Association for the Study of Society and Law (*Sahoebŏphakhoe*), which functioned as a medium of "lawful" student activism. With social-democratic ideals, its members concentrated on the study of labour law and practice, among other things.[77] Another association, named the Agrarian Law Studies Association (*Nongch'onpŏphakhoe*), was organized at almost the same time. This organization encouraged participation in agricultural labour in rural villages, which was becoming a standard form of student activism.

The student movement gathered momentum through the April uprising in 1960, which brought down the Rhee Syngman presidency, and the 1965 protest against the normalization of diplomatic relations with Japan. Naturally, its growth provoked suppression. In 1971, both the Association for the Study of Society and Law and the Agrarian Law Studies Association were declared unlawful.[78] The repression drove student activists underground and radicalized them. The student movement gravitated towards socialism and campaigned for radical social changes. Like student organizations in all corners of any university, the law students' study associations became channels of recruiting and mobilizing activists and demonstrators. Law students had awakened to the fact that they had possessed an "unscientific world outlook based on naïve liberalism," with little critical awareness of the "hegemonic domination of the United States."[79]

What this author found when he entered university in 1979 tells much about the situation in this period of radicalization. Student associations actively recruited members and trained them with elaborate curricula. Freshmen started their discussion with E.H. Carr's classic *What is History*.[80] They were then guided to read essays on the Chinese and Vietnamese Revolutions as well as on modern Korean history. Sophomores studied Marxian political economy. Third- and fourth-year students learned the strategies and tactics of social movements, while deepening their understanding of Marxism and other critical theories.

Now the university had a dual structure, composed of official and unofficial layers. On the official layer were the curricula designed by the university and courses taught by professors, many of whom had received doctorates from universities in Western countries. On the unofficial, or underground, layer were the curricula designed by radical student activists and discussions conducted in clandestine ways. Since participants in this layer did not seriously engage with legal issues, there was ironically little challenge to the official legal studies and

77. Ahn (2006), pp. 102–3.

78. In the same year, Cho Young-Rae, who was a key member of the Association for the Study of Society and Law, was convicted of seditious conspiracy and sentenced to 1.5 years in prison. In 1974, he was once again sought by the authorities for his alleged leading role in the organization of the National League of Democratic Youth and Students and hid for six years to avoid arrest.

79. Ahn, *supra* note 77, p. 123.

80. Why this book was selected as the first reading is an interesting question. The box office hit "The Lawyer" (*Pyŏnhoin*) shows how the book was treated by the police in the 1980s.

education based on dogmatic jurisprudence. Even the social-scientific approaches to law promoted by the aforementioned young professors did not attract much interest among these students, because those professors were practitioners of the "big tradition" of liberal legalism. The American preachers of law and development would have been even more at odds with the new generation of critical students if these students had had enough knowledge about what those preachers were saying. Steinberg's prediction, that international legal contracts such as the Status of Forces Agreement with the US would contribute to the infusion of a new spirit of law that Korean political life needed, would have struck those students as bizarre or even provocative, given the rising anti-American sentiment in the student movement.[81]

The marginalization of law in the "little tradition" of underground intellectual pursuit since the mid 1970s began to change in the mid 1980s. Under the authoritarian Chun Doo Hwan regime, many students participated in the student movement and critical intellectual activities, and disciplinary differentiation began to take place; law students developed their own agendas and theories. The informal Law and Society Seminar was the best example. This was organized in late 1983 on the initiative of Han In-Sup, a graduate student at Seoul National University who had passed the National Judicial Examination but was disqualified to enter the Judicial Research and Training Institute because of past involvement in student activism.[82] The seminar group had a score of graduate law students, including this author, who read works by major socio-legal theoreticians. In the reading list were Alan Hunt's critical reinterpretations of sociological approaches in law, as well as then classic treatises by Nonet/Selznick and Unger, followed by sociological classics such as Max Weber's works. The group of course had an unmistakable interest in Marxism. Not only did its members read Marx's writings, but they also explored different versions of Marxism that had relevance to law and the state, including the structural Marxism of Louis Althusser, Etienne Balibar, and Nicos Poulantzas, as well as the political theory of Gramsci. Some of the leading members of the group majored in criminal law, and introduced critical criminology. Another significant trend in their study was the critical examination of law and development discourse with the aid of the dependency approach to law and modernization. While Trubek and Galanter's critical reflection on the law and development movement won much sympathy, theoretical discussions based on dependency and underdevelopment theory by such scholars as Francis Snyder and Peter Fitzpatrick were received with great enthusiasm.[83]

7. THE RISE OF THE THIRD-GENERATION LEGAL SCHOLARSHIP: THE KOREAN LAW AND SOCIETY ASSOCIATION

In 1987, the members of the Law and Society Seminar allied with a few well-known young professors to organize the Korean Law and Society Association (KLSA).[84] Yang Kun of Hanyang University became its first president, which was natural given his rising fame as the

81. See Steinberg, *supra* note 41, p. 69.

82. Han is now a professor at the Seoul National University School of Law.

83. Trubek & Galanter (1974); Fitzpatrick (1980); Snyder (1981).

84. The organization's original Korean name was *Pŏp kwa Sahoeiron Yŏnguhoe*, literally meaning the Association for the Study of Law and Social Theory.

author of a sociology of law textbook. His book *Sociology of Law* (*Pŏpsahoehak*, 1986) covered most of the major topical areas in law and society with detailed references to theoretical trends, which made it suitable as a textbook at both undergraduate and graduate levels. He was a constitutional lawyer, but, as he later recalled, lost interest in positive law when the country fell under the authoritarian rule of Chun Doo Hwan, and found a spiritual haven in law and society studies.[85]

Hence two different generations of scholars merged into the KLSA—those who went to college in the 1960s or early 1970s and had already established themselves in fields of positive law, and those who went to college in the mid/late 1970s or early 1980s and were either graduate students or had just obtained academic jobs.[86] The upper group were in their late 30s and enjoyed an increasing voice in established academic circles. These high-flyers were similar to their seniors who had organized the Law and Society Studies Association at SNU. Like the latter, they advocated law and society studies in challenging the dominant legal method, but, except for Yang Kun, did not conduct sociological research themselves. But they differed from their seniors in that they were supported by junior members who were gaining confidence amid a radicalization of critical scholarship.

The launching of the KLSA marked the rise of the "third-generation legal scholarship." The term "third-generation scholarship" was used to highlight a massive move towards critical studies in the humanities and social sciences. This new generation of scholars were also called "domestic academicians" because they did their postgraduate studies in Korea instead of going abroad, especially to the US.[87] To be sure, this *going abroad v. domestic* dichotomy did not have as much purchase in legal academia as in other areas. The US was not a dominant source of authority in Korean legal studies even in the heyday of the law and development movement. With the passage of time, and because of national sentiment, Japanese influence had faded out, and many law students went to Germany. But studying in Germany was not necessarily an elite symbol. Hence, for the third-generation legal scholars, there was nothing special about being a "domestic academician."[88] Notwithstanding this and other unique features, third-generation legal scholarship shared much with the rising critical scholarship in the humanities and social sciences.

In the mid 1980s, widespread opposition to authoritarian rule stimulated an exploding interest in critical social sciences. Cho Hee-Yeon gives a short but first-hand account of how the streams of critical academic movement merged into the Korea Progressive Academy Council in 1988, a year after the June Protest and the democratic constitutional change.[89] Younger members of the KLSA were already participating in this movement in alliance with scholars and students in the social sciences. The more established members were also aware of the once counter-hegemonic academic campaigns becoming hegemonic in many corners of academia. This "critical academism" was the baseline for the activities of the KLSA.

85. Yang (1994), p. 306.

86. The upper group included Kwon Oh-Seung, a competition law professor who was later to become the Chairperson of the Fair Trade Commission, and Bae Jong-Dae, a Korea University criminal law professor. They were later joined by Suh Hun-Je, who taught international economic law, and Kim Sung Tae, who specialized in corporate law and insurance law.

87. Cho (2009), p. 123.

88. Although Yang Kun had expert knowledge of the US legal system and method, he did not receive his doctorate from a US institution.

89. Cho, *supra* note 87, p. 122. The Council has been active until now. See its website at <http://haksul.org/html>.

This position was best expressed in the editorial of the first issue of the *Korean Journal of Law and Society* (*Pŏp kwa sahoe*), the journal which the KLSA launched in 1989. The editorial begins with the diagnosis that "Korean society is now in unprecedented waves of change" and that "legal studies to date has avoided urgent and significant problems … and failed to prepare itself for the new era of change." It called for "legal studies that contributes to political democratization and … to safeguarding freedom and participation." At the same time it warns against "narrow-minded dogmatism or blindness." It declares: "We recognize the practical nature of academic studies, but will beware of any recklessness that derives from a lack of sincere theoretical reflection. We recognize the necessity and inevitability of the professionalization of law, but will respond to the people's demand for knowledge of legal issues."[90] Welcoming remarks poured in, not least from major newspapers, conservative and progressive alike.

What kind of law and society studies did the critical academism produce? Yang Kun declared war against existing law and society studies by way of his article published in 1989, which appeared in both the *Law and Society Review* and the *Korean Journal of Law and Society*. Here Yang levelled a frontal attack on Hahm Pyong-Choon. Castigating Hahm for his "culturalism" in explaining socio-legal phenomena, Yang proposed an approach that paid due attention to political and other "non-cultural" factors, which he believed would bring a true sociology *of* law rather than sociology *in* law, borrowing Alan Hunt's terms.[91] But five years later Yang expressed his disappointment and frustration at the quality and character of research carried out in the name of law and society. The biannual *Korean Journal of Law and Society* published 94 articles during the first five years.[92] Only 25 of them were theoretical, empirical, historical, or non-doctrinal comparative studies. The rest were loose doctrinal studies with some policy proposals or normative criticisms of the legal situation. This was a manifestation of the inherent tension within "critical academism." Yang had been conscious of the tension between academic rigour and practical engagement. The tension was implied in the vision Yang gave about law and society scholarship in Korea, where he quoted Trubek's caution that "law and society research should be critical without being cynical, empirical but not positivistic, normative but not subjective, detached yet not disinterested."[93] Now, Yang expressed his worry about an excessive gravitation towards politico-normative engagement at the expense of detached research. In a 1994 essay entitled "Yesterday and Tomorrow of the Korean Association of Law and Society," Yang warned that the task of promoting social-scientific research of legal phenomena had not been sufficiently achieved and that the sociological study of law remained the weakest area in the whole of legal scholarship.[94]

Much improvement has been made since then in terms of the percentage of non-doctrinal and detached studies. During the subsequent 20 years (1994–2013), the same journal published 406 articles of which 37.4% were theoretical, empirical, historical, and non-doctrinal comparative studies. Such studies accounted for the same percentage of all articles

90. 1 *Pŏp kwa sahoe* [*Korean Journal of Law and Society*] (1989), pp. 3–4.

91. Yang, *supra* note 4, p. 896.

92. Primary materials and commentaries to those materials, case reviews, book reviews, and writings of clear journalistic character have been excluded from these statistics.

93. Yang, *supra* note 4, p. 899.

94. Yang, *supra* note 85, p. 309.

published since the beginning of the new millennium. The percentage has gone up to 43 over the last five years (2009–2013). Nevertheless, these are results of a loose coding. Many articles included in these figures are more jurisprudential than social-scientific, while those counted as empirical research include text analyses, which are often not clearly distinct from doctrinal studies. After all, these generously construed law and society studies still form a minority of the writings published in the most representative journal for the discipline. Still the majority are loose doctrinal studies with normative criticisms of the current situation. This is a far cry from the social-scientific sensibilities demonstrated by the Law and Society Seminar of the mid 1980s. A number of reasons can be presumed. The officialization of the once "little tradition," with an increase in members from a score to about 100, has resulted in the loss of common theoretical interests. Moreover, in a legal education and research system where areas are highly compartmentalized, the increase in the number of members also meant an increase of members couched in particular fields of positive law where the dominant legal method is doctrinal. But more importantly, even the core members who are not necessarily confined to particular areas of positive law do not regard the association as something similar to the Law and Society Association in the US, unlike the wishes of Yang Kun. They think that campaigning for democracy and the rule of law has been the essential tradition of the KLSA, far more important than theoretical or detached empirical research.[95]

8. AGAINST BOURGEOIS JURISPRUDENCE: THE DEMOCRATIC LEGAL STUDIES ASSOCIATION

Not all members of the Law and Society Seminar participated when two generations of scholars merged to form the Korean Law and Society Association. Those who did not join in had a personal reason to remain outside, but the primary reason came from the changing intellectual landscape.[96] At that time, critical social-scientific scholarship was being further radicalized. The exploration of a wide spectrum of critical theories in the first half of the 1980s gave way to meticulous analyses and citations of the original literature of Marx, Engels, and Lenin. It was followed by an intense debate on the character of Korean society, with a view to developing revolutionary strategies—the "Korean social formation debate"—which had some similarities with the *kōzaha v. rōnōha* debate in Japan half a century before.[97]

The urge to combine theory and revolutionary action put pressure on younger members of the Law and Society Seminar and graduate students. They came to re-examine the

95. Based on the author's participant observation.

96. The high-flying upper generation scholars thought that those who were yet to receive a doctorate should join the association as associate members and not full members. This incensed some of the young members of the Law and Society Seminar, who were quite proud of their commitment and academic training in the field.

97. Cho Hee-Yeon offers the following depiction of the "Korean social formation debate." See Cho, *supra* note 87, p. 122.

> The debate in the mid- and late-1980s developed into a harsh conflict over the question of whose side was more scientific as a revolutionary strategy. Two main streams emerged: the National Liberation Group (NL group) and People's Democracy Group (PD group). Based on the Maoism and North Korean Juche ideology, the former emphasizes Korea's neo-colonial dependency to the US and the national contradiction between South Korea and the US, as a neo-imperialist country, and it holds an anti-US theme as its main slogan. On the other hand, the latter starts from orthodox Marxism or Leninism to emphasize class contradictions between the capitalist and the working class as the main concern, and also the state as an apparatus for class domination.

validity and relevance of the diverse theories that had been liberally explored by critical academicians.[98] Further, they came to question the commitment of the upper members of the KLSA to real social change. Instead, they were inspired by another group of young professors seeking to organize a more radical movement. These included Kang Kyung-seon and Kwak Nohyun of the Korea Open University and Lee Chang Ho of Gyeongsang National University. All of them were college classmates. They were morally supported by Kuk Sun Ok, a relatively senior professor of constitutional law at Inha University. These scholars by no means lacked academic capital. They were SNU graduates and some had remarkable academic records. Yet they were not in the mainstream of legal academia in both their method and positions in the academic hierarchy. They taught at smaller universities relative to their counterparts in the KLSA. Some of them taught at provincial universities and participated in various local popular movements. These "unorthodox" scholars successfully mobilized students and young researchers. In January 1989 they organized the Democratic Legal Studies Association (DLSA) (*Minjujuŭi Pŏphak Yŏnguhoe*).

According to the Founding Declaration of the DLSA, the liberal-democratic ideology underpinning the newly adopted Constitution of the Sixth Republic was to protect South Korea's neo-colonial fascist regime; the democratic legal studies movement should move beyond "interpreting" the legal world towards "changing" it; and the purpose of legal studies was to obtain a "scientific" world outlook for changing the world. For the DLSA, struggle about law was to create a space for a Gramscian war of position with a view to revolutionizing the whole of society. The Declaration defined the DLSA's relationship with the KLSA in a subtle manner. It made it clear that the DLSA had a different position—commitment to action—but recognized the progressive role of critical academism. It envisaged that the DLSA would form alliances with critical academicians and give them "constructive criticisms."[99] The DLSA started as a far more disciplined organization than the KLSA, with dedicated young members. This made it possible for the organization to publish its journal *Democratic Legal Studies* (*Minjupŏphak*) immediately after its founding.

The DLSA faced a serious challenge less than a year after it was founded. The Berlin Wall fell in 1990. The Association continued to stage campaigns as it had done, but stopped publishing its journal for a year. When it resumed publication in 1992, some changes were noticeable. While the group's young theoretician Cho Kuk, who drafted the Founding Declaration, continued to stress the validity of Marxism, the published articles showed a widened spectrum.[100] Hong Sung-Soo, who traced the evolution of the DLSA's theory and practice, defines 1992–93 as a transition period. He found in essays published in *Democratic Legal Studies* from 1994 a shift towards greater diversity and a narrowed gulf between the journal and the allegedly liberalist KLSA's *Korean Journal of Law and Society*.[101] Albeit from critical perspectives, some of the essays dealt with standard academic issues, such as

98. For example, the theory of the articulation of modes of production developed by structural Marxists had fascinated some of the members of the Law and Society Seminar as a useful tool for explaining the combination of "modern" and "pre-modern" legal institutions, and had the potential of being an alternative to the culturalist explanation of the "gap" between modern law and pre-modern practices; see Wolpe (1980). Such theoretical experiments faded out amidst the intensification of the social formation debate.

99. Reproduced in 48 *Minjubŏphak* (2012), pp. 436–8.

100. Cho (1993). After then, however, Cho Kuk has never contributed a paper to *Democratic Legal Studies*; see Yi (2012), p. 18.

101. Hong (2010).

Radbruch's jurisprudence, or delivered more or less distanced empirical research, such as a quantitative analysis of constitutional adjudication.[102] While this shift must have been inevitable, Hong points out that it took place without a clear redefinition of the organization's direction. Hong contrasts the DLSA and its journal with radical organizations and publications which either disappeared or reorganized into different forms of progressive intellectual movement. In proportion to the loss of theoretical identity, Hong observes, the DLSA has doubled its energy towards reform campaigns. Recent examples are communiqués on judicial reform, the Lee Myung-bak government's river management policy, and the Korea-US Free Trade Agreement.[103]

On the occasion of celebrating the 50th issue of *Democratic Legal Studies*, Yi Kye Soo, who was one of the youngest members when the DLSA was founded, responded to Hong Sung-Soo's external criticism by way of his recollections on DLSA activities. He admitted that the organization's early practice was more similar to democratic centralism than deliberative democracy. He also described how Kwak Nohyun, who admired Roberto Unger, rather reluctantly accepted the draft of the Founding Declaration advanced by Cho Kuk. Most remarkable is his explanation of the change the DLSA community experienced in the 1990s. According to Yi, despite the waves of neoliberalism that struck Korean academia, many DLSA members successfully obtained teaching jobs, partly thanks to school ties. He contrasts it with the harsh reality experienced by left-wing legal scholars in Germany in the 1970s and 1980s. Yi then blames this "success" for "theoretical loosening"; left-wing scholars have been increasingly immersed with the routines of law faculties, he deplores.[104] Whereas both Hong and Yi lament theoretical petrification and loosening, *Democratic Legal Studies* achieved remarkable success with increasing diversity, which has been both a cause and an effect of the journal's indexation by the Korea Research Foundation.[105]

9. THE EMPOWERMENT OF THE CONTESTERS

The officialization of the "little tradition" not only took on the form of incorporation into law faculties. The powerful waves of neoliberalism ironically brought political change in favour of the liberal opposition. Kim Dae-jung became President in the wake of the Asian financial crisis. Five years later, Roh Moo-hyun, a former civil rights lawyer, succeeded Kim. Judicial reform became a catchword of the day, and critical jurists found favourable conditions for advancing their agenda.

Judicial reform evolved into a two-pronged project. The first was for a jury system. The other was for legal education reform to introduce a graduate law school system. The legal education reform had been put on the agenda during the Kim Young-Sam presidency. In 1995, the Presidential *Segyehwa* (globalization) Committee took up the issue, pressed by the idea developed by Pak Se-Il, the SNU professor who became the President's Secretary for Policy Planning. On the Committee were Yang Kun and Kwon Oh-Seung, the first and second presidents of the KLSA. The rationale for the reform was packaged in globalization

102. Lee (1994); Kim (1994).

103. Hong, *supra* note 101.

104. Yi, *supra* note 100.

105. In Korea, journal evaluation is mechanically conducted on the basis of formal criteria. Indexing by the Korea Research Foundation is the single most important criterion in evaluating a journal's academic credentials.

discourse: to win in globalized competition, legal services should be made more competitive. This logic was supported and promoted by some Westernized intellectuals and *Chosŏn ilbo*, the conservative and most influential newspaper, although businesses were indifferent, unlike in Japan where *Keidanren* also expressed its voice.[106] These non-legal elite groups agreed that the narrow vested interests of the judicial elite and legal profession sustained the outdated legal education system. As Dezalay and Garth's "palace war" thesis suggests, the reform seemed to be driven by global forces, but taking place within the domestic context of a power struggle between different elite groups.[107]

Reform efforts under the Kim Young-Sam administration were carried over into the Kim Dae-jung government, and in 1999 two committees were formed, one on education and the other on judicial reform. Choi Dai-Kwon of SNU came to chair the New Education Community Commission. Four of the seven members of the committee were affiliated with the KLSA—Yang Kun, Yoon Dae-Kyu, Kim JaeWon, and Song Seog-Yun—three of them as the association's president either before or after. Choi Dai-Kwon also participated in the Committee for Judicial Reform. Again, negative reactions from the legal profession and the lack of means to secure consensus within the reform group impeded progress. These failures, however, added to the voice for reform, which was capitalized on by the succeeding Roh Moo-hyun government.

Judicial reform under Roh was more successful because of the skilful mobilization of people sharing the same views and commitments. The co-operation of the judiciary was one of the greatest success factors. Hong Ki Tae, a judge and an original member of the Law and Society Seminar, participated in the executive team as Head of the Judicial Policy Chamber of the Ministry of Judicial Administration. He was in charge of legal education reform planning. Kim Sang-Joon, a judge who had an excellent relationship with civil rights NGOs, was in charge of judicial reform planning. The overall planning team was headed by Kim Sun-Soo, who later became President of Lawyers for a Democratic Society (*Minbyun*). The Judicial Reform Committee was jointly headed by the prime minister and Han Seung-Hun (Han Sŭnghŏn), a highly respected civil rights lawyer. Representatives from NGOs were also invited on the Committee and sat alongside judges, public prosecutors, civil servants, and journalists. Critical law and society scholars were invited as advisers, and some of them added impetus from outside through such organizations as the Judiciary Watch of the People's Solidarity for Participatory Democracy (PSPD) and Solidarity for a New Society.[108] Thus, legal education reform took on the shape of a progressive social movement.

It might look odd that a legal education reform to introduce an American-style law school system was supported and even executed by groups that had criticized US imperialism. Those groups thought that this was an effective strategy to dismantle the vested interests of the legal elite and to democratize the judiciary and procuracy.[109] At least partly, the legal

106. For Japan's legal education reform, see Miyazawa (2007); Miyazawa et al. (2008).

107. Dezalay & Garth (2002), *supra* note 3; Kim (2011).

108. See Han (2011). Han Sang Hie, a former student of Choi Dai-Kwon who later became President of the KLSA, played an instrumental role in founding and running the Judiciary Watch.

109. When the legal education reform was implemented, a maverick sociologist who had been prosecuted for violation of the National Security Act a couple of years before, told the author that he fully supported the reform because it would be helpful in transforming the procuracy. He had been criticized by the conservative media for having a daughter who had graduated from a US law school when he fiercely condemned US imperialism.

education reform marked a struggle between a rising "progressive elite" in various corners, who had been produced through the anti-authoritarian movement of the past decades, and a legal elite that rationalized its vested interests by highlighting the fairness of the extremely competitive and meritocratic system of judicial recruitment. This "palace war" was propelled by the forces of globalization and marketization.

Yet legal education reform did not win the support of all sections of critical law and society scholarship. While the KLSA was highly supportive, with its leading member Kim Chang-Rok playing a pivotal role in and out of the reform machine, the DLSA was critical of the proposal on professional law schools becoming the only option.[110] A dominant section of the DLSA decided to distance themselves from this legal education reform and to concentrate on other reform issues. By that time a number of DLSA members and affiliates had obtained powerful jobs. Chun Jung-Bae, a close friend of the founding members of the DLSA and supporter of the organization, had been elected a member of the National Assembly and became the Roh Moo-hyun government's Minister of Justice. Kwak Nohyun became a member of the National Human Rights Commission, which stepped up its intervention in sensitive policy issues in the name of human rights.

Whether it was legal education reform or other issues, the KLSA and DLSA members intensified their engagement with the world outside academia. They enjoyed a substantial voice and even political power during ten years under two progressive governments. The situation changed with the inauguration of the conservative Lee Myung-bak. Back in the wilderness, the DLSA returned to its job of objection amid the June 2008 protest against the government's policy on beef imports from the US. Electoral politics combined with human rights advocacy was another form of engagement. In 2010, Kwak Nohyun was elected Superintendent of the Seoul Office of Education. He narrowly won the election, as the conservative vote was split between multiple candidates, while he secured the withdrawal of another progressive candidate. In doing so he stepped on a landmine; he was prosecuted in 2011 and convicted the following year for violating election law, namely bribing another candidate into withdrawal. Kang Kyung-seon, the co-founder of the DLSA, was also prosecuted for delivering material benefit to the allegedly bribed candidate. In the end, he was acquitted. The incident differed from an ordinary corruption scandal in many respects, and provoked questions about the soundness of excessive regulation in the Public Official Election Act.[111] But it was enough to throw these "cause scholars" into disgrace and the democratic legal studies movement into confusion.

Active political engagement in an environment where the democracy versus authoritarianism opposition is no longer relevant raises a question of democratic deficit. While most members of the KLSA and DLSA share "progressive" political views, they are not in absolute agreement regarding the kind of action to take when a political issue arises. One of the key members of the KLSA told the author how uncomfortable he was when he saw some of the leading members of the Unified Progressive Party present at the symposium "Legal Responses to the Crisis of Democracy," organized jointly by the KLSA and DLSA to discuss the pending Constitutional Court case on the motion for the dissolution of the

110. Kim Jong Seo (2008); Lee (2005).

111. The applied rule might seriously stifle acts of electoral alliance. See the 2011 and 2012 issues of *Minjubŏphak* for the DLSA's position as to the legal problems surrounding this incident. Among the articles is a Japanese scholar's criticism of a similar rule in Japanese election law; Honda (2012).

Unified Progressive Party.[112] He deplored that he had not been asked about or even informed of the nature of the event and wondered whether the organization should engage with such politically sensitive issues in a way that favours a particular position.

10. CONCLUSION

In his 2000 Presidential Address for the Law and Society Association, Frank Munger made a call for activism and engagement with justice, which he believed would both strengthen and benefit from research and inquiry.[113] While Munger's thesis may resonate with many sections of law and society scholarship worldwide, it will enjoy greater sympathy among East Asian scholars. Setsuo Miyazawa has pointed out that many East Asian scholars engage in some form of activism because rapid changes in their legal systems require informed decision-making.[114] The foregoing account has shown how the force towards political engagement has unfolded itself in law and society scholarship in South Korea. Indeed, the activism of Korean scholars has gone further than policy-oriented participation. Law and society scholars in Korea undertook political resistance and radical challenges to the existing politico-economic order, joining a huge wave of counter-hegemonic academic movements and campaigns against authoritarian rule. Many of them have taken part in post-democratization reforms for more human rights, the rule of law, and responsive justice. Developments as described in the foregoing account argue for the following conclusions and suggestions.

First, the political implications of law and society studies in South Korea require serious concern with the role of legal academics in the struggle for political change, which has been more or less neglected. For example, recent comparative interest in the features of the "legal complex" in the struggle for political liberalism hardly embrace academic law and its practitioners. Although the legal complex, defined as "the system of relations among legally trained occupations," need not exclude legal scholars, studies of the legal complex have focused on lawyers, judges, and, to a lesser extent, prosecutors and civil servants, without any reference to scholars.[115] Legal academics in Korea, and law and society scholars in particular, enjoy lower recognition than judges and lawyers, unlike legal scholars in medieval Continental Europe. Nevertheless, they are no exception to the great influence that scholars in general exercise as opinion leaders. Moreover, critical law and society scholars since the 1980s have successfully taken advantage of the struggle against authoritarianism and for post-democratization reforms in strengthening their collective authority and increasing their symbolic capital. This should be accounted for in discussing the role of the legal complex and its transformation.

Second, in the same vein, critical analyses of "Asian legal revivals" should also pay greater heed to academic law and its practitioners. So far, those studies have tended to limit their focus to the legal profession in a narrow sense.[116]

112. Symposium on Legal Responses to the Crisis of Democracy, organized by the Korean Law and Society Association and the Democratic Legal Studies Association, Seoul, 5 December 2013.

113. Munger (2001).

114. Miyazawa, *supra* note 34, p. 126.

115. Halliday et al. (2007), particularly Ginsburg (2007).

116. See Dezalay & Garth (2010).

Third, alliances between different groups within law and society scholarship should be taken as seriously as conflicts between them. As mentioned before, the efforts of the early law and society scholars with elite backgrounds were sidestepped in the 1980s by scholars of a younger generation, namely the practitioners of critical academism and even more radical left-wing legal scholars. Yet the common ground between the two should not be neglected. Both groups, one way or another, challenged the hegemony of dogmatic jurisprudence of Japanese and Continental origins. Members of the two groups have had personal ties too. Many young members of the critical academic movement were students of Choi Dai-Kwon and, despite their occasional criticism of Choi's method, have maintained close personal ties with their teacher. Personal ties are also found among lawyers: critical lawyers Cho Young-Rae and Chun Jeong-Bae worked at Kim & Chang, the foremost symbol of success in legal practice and global lawyering. To be sure, the most prominent instance of collaboration between the executors of "international strategies" and the players of critical academism was the legal education reform movement from the mid 1990s. One of the conditions favourable to this alliance was the political success of the "neo-liberal left" in the post-democratization era.[117] In this respect, Dezalay and Garth's "palace war" thesis has considerable purchase in interpreting the nature of legal education reform and the politics of law and society studies in South Korea.

Fourth, the relationship between policy-relevant activities and political activism should be defined in order to better understand the political implications of law and society studies in South Korea. While Miyazawa referred to policy-relevant activities as the main form of activism on the part of law and society scholars, critical scholars often distance themselves from policy-oriented studies. Miyazawa advocated activism *qua* policy-relevant activities in reaction to Richard Abel's criticism of such a tendency in the early stages of the American law and society movement.[118] Abel's criticism is reminiscent of the charge made by British sociologists of law against "socio-legal studies" in the 1970s. Critics of policy-oriented studies attack such studies for accepting and furthering the hegemony of law.[119] This criticism brings into relief the disjuncture not only between theory and policy but also between policy relevance and political engagement. Critical law and society students in the early 1980s flocked to social theory to find an escape route from the stifling domination of dogmatic jurisprudence to find an alternative to the not so big "big tradition" in law and society studies based on theoretically arid modernization theory. When they did so, they were not interested in policy-oriented studies. When they embarked on political action on top of theoretical studies, they were even more indifferent to policy-making, inasmuch as they envisioned revolution rather than reform.[120] But in the 1990s this combination of theory and activism gave way to policy analysis and participation in policy-making. This change occurred in the midst of two conditions—first, the collapse of Marxism and the weakening of other critical theories, and second, the empowerment of critical scholarship as a result of democratization. Without powerful alternative theoretical resources that would provide a

117. Kim, *supra* note 107, p. 232.

118. Miyazawa, *supra* note 34, pp.125–6; Abel, *supra* note 34.

119. Campbell & Wiles (1976), p. 553.

120. A similar attitude of British sociologists of law towards policy-oriented socio-legal studies is described in the following terms: "Even for those sociologists of law who are committed to a methodology which demands a link between research and action (e.g., the Marxist notion of 'praxis'), the purpose of action is not circumscribed by the technical and legal considerations that hold sway in socio-legal studies" (*ibid*., pp. 553–4).

comprehensive vision of society, and under the pressure of the need to do something to improve the legal situation, critical scholars have tended to fall into what Dezalay and Garth criticize as promotionalism, which sanctifies the rule of law as a universal goal and uses it as a yardstick in judging societies.[121] This tendency is strong among both participants in political activism and observers of socio-legal processes.

Lastly, interest in the political engagement of scholars should not hide the development of their research. Although concern with praxis and a drive towards political action have impeded distanced approaches to the reality and development of law and society studies as a science, there has been an accumulation of research that deserves a serious review. A division of labour between scholars and even a division of the self by individual scholars accounts for the production of more or less "pure" theoretical and empirical studies.[122] The evaluation of the theoretical visions, methodological premises, and empirical findings of these studies requires another piece of research.

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121. Dezalay & Garth, *supra* note 49.

122. The Korean Society for the Sociology of Law, which hosted the Second East Asian Law and Society Conference in 2011, positions itself in a space independent of the politically motivated practices of the KLSA and the DLSA. Many members of this association, which is more a network of scholars than a tight organization, are also members of the KLSA.

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