THE GHANA LEGAL PROFESSION:
THE NATURAL HISTORY OF A RESEARCH PROJECT

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I begin with a confession, that I find it very difficult to write this account of my research now.* I have long passed that stage when it had all the unfulfilled certitude of a plan, still not exposed to the rough testing of the real world. Myths I began with have exploded and the new ones I am constructing are only half formulated. Having begun within a theoretical framework that owed much to Weber and Parsons, I ended up with one that owed much more to Marx. Having attempted a piece of "value-free" research -- with all its implicit conservatism -- I became more concerned with the politics of underdevelopment. And these changes emerged as much from the praxis of research as they did from any conscious change in intellectual direction. Looking back it is difficult to put a coherent face upon what I have done. I cannot say "there, that's how I planned to do it all along" -- because I am close enough to it still to know it wasn't. Yet I am now at that stage of writing when all the untidy strands are falling into place. Any interruption is disturbing because it threatens the coherence of the new rationalisations I am so busy making. But that, I suppose, is precisely the value of putting my thoughts down on paper before I pull so many threads together that what I really did -- or rather what I now think I did -- will be enclosed in yet another cocoon of rationalisations denser than any before and embalmed in writing for all the world to see and judge me by. This is the last wriggle of Luckham the fieldworker, grubbing in the dust of the archives and plying lawyers with questions, some to the point and others irrelevant. A natural history of my research then. Or rather a less unnatural history then it might have been had I told the story after my writing was over.

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* I wrote this introductory paragraph in December 1974 when I prepared the first draft of the paper. I am indebted to many colleagues for their advice and assistance in the course of my research, but above all to Dennis Austin. I have received financial or other kinds of material assistance from the (British) Social Science Research Council which funded my original project, from the International Legal Center, from the Milton Fund of Harvard University and the Institute of Development Studies at the University of Sussex.

It all began in 1968 when I returned to England after three years teaching in Nigeria. I had a year at Manchester University in which to do some light teaching, relocate myself in Britain and find a job. I was also writing my Ph.D. thesis and book on the Nigerian military (Luckham, 1971). This was a case study in the fragmentation of the institutions of a new state when exposed to conflicting social pressures. One of the crucial variable I examined to account for this fragmentation was the "newness" of the Nigerian army as an organisation -- in the sense that most officers had replaced British counterparts within the span of a remarkably few years just before and after independence in 1960. I had some rather vague and in retrospect ethnocentric ideas about wanting to carry my study of the process of "institutional transfer" -- the establishment in Africa of structures and patterns of behaviour associated with certain of the key institutions of the nation state -- a stage further. Would it not be interesting to see what happened when the institutions that were transferred were responsive to African purposes and demands from the beginning, rather than being, like the army, no more than instruments of alien domination up to the moment power was transferred; so that being staffed from very early on with Africans they did not have to undergo that traumatic crisis of rapid indigenisation experienced in the Nigerian army.

A few casual conversations with Dennis Austin about Ghana convinced me that the lawyers there were the kind of group I might be interested in looking at. Though they were -- until recently -- trained at the Inns of Court, wore wigs and gowns and had practiced law before the colonial Supreme Court, they had been sent to study law in England by their own families, represented chiefs, merchants and other indigenous litigants in the Courts and were the most prominent group among the early nationalist: in sum they were intermediaries between their people and the colonial structure rather than mere agents in the colonial legal-bureaucratic complex.

With Dennis Austin's support I decided to submit a research proposal to the British Social Science Research Council. More specific issues then had to be identified as the starting point for the research. What little reading I had already done about Ghana impressed me with the importance of some basic sense of "legality" in restraining the conduct of even so apparently arbitrary a regime as that of Kwame Nkrumah. To summarise the research proposal:

"In Ghana this can be seen in the remarkable success of the profession in maintaining and propagating its own conceptions of legality in the face of formidable political obstacles.... The remarkable thing is that the independence of the judiciary survived so long. Nkrumah himself would hardly have wished to prosecute his political opponents through the normal judicial procedures in the first place had he not had at least some respect for notions of due legal process. It might even be said that he found himself forced in the end to press the issue so far precisely because of the strength of the legal tradition. This seems, moreover, to have been quite widely diffused among elites outside the profession, being one rationale for their hostility to (Nkrumah's) regime: one finds, for example, that Nkrumah is criticised by Colonel Afrifa in his book on the Ghana coup for his arbitrariness in dealing with his opponents under the Preventive Detention Act and in overriding the judiciary. The purpose of the study . . . is to account for the legal profession's success. In particular what features of its social organisation would seem to be most relevant to the maintenance of its distinctive traditions?"

This required, I thought, an analysis in four main parts: a description of the history and structure of the profession; an analysis of lawyers as an elite, with particular emphasis on their links with and influence upon other elite groups; a more detailed analysis of the relationship of lawyers to the state under Nkrumah's rule and during the subsequent period of military government; and an examination of the extent to which lawyers did or did not form an integrated professional community capable of maintaining its values against outside attempts to destroy them.

More thought also had to be given to the logistics of the research. What kinds of data would I need to develop the arguments I advanced? I decided to proceed on a number of different fronts. I would collect historical material. I would send a short questionnaire to all lawyers by mail, to obtain basic demographic data -- social background, training, career, associations belonged to, etc., and answers to a few short questions about their attitudes. And I would conduct longer personal interviews with a smaller selection of the more important lawyers plus a small random sample of all practitioners to explore major issues in depth.

With the advantage of hindsight the decision to combine historical materials with the more standard tools of the sociologist does me more credit than I deserve, as I think all I intended at the time was merely to keep as many options open as possible. If the interviews failed I could always fall back on historical materials and vice versa. My view

of the kind of historical analysis required was shallow. I would have a very general opening chapter on the development of the profession that would be no more than background for the real action that began after independence in 1957. The latter was seen as an appropriate cutting point because it was not until after independence that Nkrumah attempted to harness the legal system to oppress his opponents. It also preceded by a year or two some major reorganisations of the legal profession, including the establishment of a national law school and of an autonomous General Legal Council to regulate entry to the profession, legal education and professional ethics.

I now can see that I chose too late a starting point, removing from my critical vision the most formative period in the profession's history. The confrontation of the legal profession with Nkrumah in the early 1960s had to be understood in the light of similar confrontations between lawyers and the government in the colonial past, and in terms of the contradictory position of the colonial government caught between its desire to strengthen colonial rule by institutionalising the legal system and the fact that it was from the base of that legal system that the early Gold Coast elite were able to challenge colonial authority. Similarly in the early part of this century the growth of a market for lawyers' services was linked to economic transformations occuring at about the same time, in particular the growth of cocoa production and the consequent commercialisation of land. "The transformations of this period" as Szereszewski (1965) has noted, "largely determined the structure of the economy for the next fifty years, and it can be maintained that the pattern established in 1911 still largely persisted in 1960." Much the same could be said of the development of the legal profession. But this I did not fully grasp until much later in the research. For the moment, I still saw history as a convenient backdrop to events after 1957 and not as an unfolding and contradictory process.

Armed with these half-formed ideas, a tape recorder (which I hardly ever used because I found it had an adverse effect on interviews) and a few books (an ill-assorted mixture of works on African customary law and American and British studies of the legal profession) I arrived in Ghana at the end of May 1969. During the first three months I consumed an enormous amount of time on the usual bureaucratic <u>rites de passage</u>: residence permits, housing, clearing a car through customs, etc. In between there was ready made entertainment at the Constituent Assembly in which notables of Ghana's professional, chiefly and political classes argued daily about the allocation of

power in the civilian regime which was about to be established. Many were lawyers and I found the informal contacts I made with them useful. Then in August Dennis Austin joined me for three weeks to cover the 1969 election campaign and to seek contributors for a book on the transition to civilian rule in Ghana (which after many vicissitudes including another coup finally appeared in 1975 with a new title, Politicians and Soldiers in Ghana 1966-1972). Preparation of my chapters and helping to organise those of others ate heavily into my time over the months that followed. But it was not time wasted. I wrote about the process of constitution-making, including the role of lawyers in it, and this suggested a number of useful questions about the role of lawyers in politics. I also had more time to learn my way around the country, to meet people and to make contacts, avoiding some of the crasser mistakes I might have made had I plunged into the legal profession study full tilt.

The Limitation of Professionalisation As A Frame of Reference

Meanwhile I started going through whatever documentary material I could lay my hands on: the Roll of Lawyers at the Supreme Court, Parliamentary and Constituent Assembly Debates, Reports of Commissions of Inquiry and files of the Bar Association. The logistics of obtaining this material were often no easy matter. The Bar Association's files were not kept in any one place, for example, and I had to contact each former secretary of the Association in person to ask him if I could see the files in his possession. In the process I learnt a lot about the Bar. Its lack of routine organisation became quickly apparent. I was soon disabused of the idea of a well organised community of lawyers opposing Nkrumah. For the Bar Association dealt with threats to turn it into a wing of the Convention Peoples' Party (CPP) by not holding meetings or elections at which a new slate of officers could be elected. This evasion of cooptation by the governing party was only possible because the lawyers had an economic base independent of the government. But further back into the Bar's historical origins I did not explore. I could not trace any Bar Association records going back earlier than 1959. If they had existed they had been mixed up with professional papers which died with the lawyers who had owned them. And this for the time being reinforced my conviction that there was little point going much further back into the historical past.

Another setback was that the General Legal Council--the body which controls entry to legal practice, supervises the content of legal education and through its disciplinary

committee deals with cases of professional misconduct -- refused my request to look at their files and records. I was initially told that there would be little problem in getting the records. But I had to wait two or three months for the Council to meet and by then the situation had changed. The Chief Justice opposed my application against some of the Council's other members. No doubt he had cogent reasons for his opposition, since members of the professions normally seek to preserve their however uninteresting "secrets" from the uncomfortable scrutiny of outsiders. Indirectly I got to hear what happened in the meeting and confided my worries to one or two people, only to find the news went straight back to the Chief Justice. He naturally enough was furious and I soon got to know about it. I was worried for the next few weeks whether in the circumstances I would be able to continue my research at all.

There were, however, a number of lessons to be learnt from this blunder. It told me something about the differing attitudes of the members of the profession toward their "secrets"; about the dangers of gossip in the highly integrated social networks of the Ghanaian elite; and about some of the limits on the Chief Justice's authority, the incident tending to make officials of the Bar Association and even one or two judges if anything more sympathetic to my inquiry than they had been in the past. Above all it was a salutary lesson in the politics of research.

It was not until after several months of reading mechanically through these materials and conversing with lawyers, that I began to think seriously about the relevance of my earlier theoretical presuppositions. At about this time I re-read an article, "The Professionalisation of Everyone" by Harold Wilenski (1964) which had earlier had some influence on my thinking. Wilenski argues that professions are based upon the control of certain socially important skills and that this control is acquired through a number of steps through which occupations must pass in order to become "professionalised" -- the skills that are the base of the profession have to be developed and differentiated from other skills; professional training schools have to be organised to teach them; professional associations must emerge to control the market for the skills; these associations must put pressure on the state to delegate them the power to determine conditions of entry to the market and the terms on which their members' services are to be provided; and then, finally, in exchange for these powers of self regulation, they must develop codes of ethics with the

dual purpose of ensuring their control over the market and of guaranteeing that their skills are put to socially responsible uses. What I already know about Ghana suggested to me that this rigid evolutionary scheme of "professionalisation" was not helpful.

First it was based on assumptions about the historical emergence of professions which, if questionable in the capitalist societies of the West, were still more so in any developing country. It was the colonial state in Ghana which had originally defined the content of legal practitioners' skills by granting exclusive rights of audience in the higher courts of the colony to persons trained as barristers or solicitors in Britain (while at the same time denying these lawyers access to the "Native Courts"). The role of lawyers and their ability to regulate their own affairs have been constrained ever since by their contradictory position in relation to state interference in professional matters.

Secondly, I was struck by the fact that in Ghana professionalisation had not occurred by smooth sequential steps, but instead through periodic crises in which the existing structure or operation of the courts and legal profession were called into question. I decided one could learn much more about professionalism by studying such crises in depth. It seemed all the more clear to me than before that it was probably a mistake to conceive of "the legal profession" "the professional community" "the legal system" etc., as fully integrated or unified phenomena. There were always contradictory interests embattled around the legal system; and the legal profession was likely to partake of these contradictions. Examining crises would be a useful way of diagnosing such interests and developing a more dynamic model of professionalisation.

Therefore I devoted more time to digging up materials about three specific crises. The first was that which arose when judgment was given against the government in the Treason Trial of 1963. This led Nkrumah to dismiss the Chief Justice, to rush through an amendment to the constitution which empowered him to dismiss judges of the Supreme Court and to revoke the appointment of four of the judges. The crises exposed the weakness of the courts and of the legal profession when faced with direct challenge. But it also revealed something about their ability to survive, as I have already suggested in talking about the "disappearance" of the Bar Association in the last years of the Nkrumah regime. The second crisis was a conflict between the Bar Association and the Chief Justice in 1968. This was in

effect a trades union dispute, brought on by the Chief Justice attempting both to take measures against professional misconduct by lawyers and to use his powers to make practitioners pay their taxes. It resulted in the lawyers reasserting their interests, reorganizing the Bar Association and using their considerable influence to obtain favourable changes in the constitution and in the legislation governing the profession. A third crisis started almost a year after my arrival in Ghana. The Court of Appeal, sitting as the Supreme Court until the latter was formally constituted under the new Constitution, gave an adverse judgment against the government in a major constitutional case, the Sallah case. This led to a major confrontation between the judiciary and the government. When the time came for the new Supreme Court to be chosen, it was packed with people believed to be supporters of Dr. Busia's government. This brought the Bar directly into the fray, and led to more courtroom battles. After the 1972 coup, the Bar Association used its influence as a pressure group to persuade the new military government that a Supreme Court on top of the existing machinery for appeals was a luxury (which indeed it was) and that its abolition would automatically get rid of the judges appointed by the preceding regime. This drama was doubly fascinating as I was able to watch the courtroom battles and talk to all the participants while the dispute was on. It also helped to bring into focus the contradictory position of the Bar Association as a pressure group, both in its relations to the state and with regard to the autonomy of the judiciary.

I had thus begun to treat the history of the profession in a more dynamic way, with less emphasis on its unilinear "development" as a profession and more interest in patterns of conflict. But the range of issues I was dealing with was still too narrow, and by now I was aware that there were many questions I could not answer except by going further back into the historical past. To what extent did the Courts' lack of assertiveness under Nkrumah follow from the role they had played in the colonial period? What features of the political economy of private legal practice made it possible for lawyers to "go to ground" when faced with challenges under Nkrumah, and what were the historical links of these to the development of the rural economy? In what ways did the earlier prominence of lawyers in the nationalist movement facilitate their re-emergence as a powerful segment of the political elite after Nkrumah's overthrow? And so the questions went on, although for the time being I still resisted the idea of expanding the historical scope of my research, because I felt that unless I stuck to my arbitary cutting point the questions and the research would never end.

The Questionnaire

At the same time as I pursued these questions, I moved forward with the other major part of the research. By December 1969 I had hung around the courts and talked with lawyers enough to feel I could move ahead with the sample survey. Other social scientists with experience of research in Ghana advised me that I would get few replies to a mailed questionnaire, a hunch that was later amply confirmed when I received a fifteen percent response to a mailed enquiry made of a small sample of lawyers. I had to make a rapid change in plans and put forward a request to the Social Science Research Council for more money in order to hire student interviewers to help me interview a large sample of lawyers. The Council acted with welcome speed and the money was allocated in time for me to prepare the survey for the summer. But, as will be evident from what follows, I had still not left myself enough time.

I started by patching together a preliminary draft of a questionnaire. I had a book with me on the New York City Bar by Jerome Carlin called Lawyers' Ethics (1966) which contained in an Appendix a long questionnaire he had administered. Though of course my own questionnaire was to be different in content and still more in the way it was used, Carlin's book had more influence upon me than I now care to admit. I wanted empirical indicators of the adherence of different groups of lawyers to the professional community. Carlin's work suggested first that support for the code of professional ethics might be one such indicator; secondly that those with a central place in the control and organisation of the profession were more likely to be "ethical" than those who were more marginal; and thirdly that, if education abroad had any influence on professional behaviour, those who were trained abroad would tend to be more strongly behind the code of ethics than the products of local training.

The emphasis on professional ethics was on the whole unfortunate. It accentuated the implicit ethnocentrism in the notion of "institutional transfer." (Would "successful" institutional transfer consist of the importation of a code of ethics from Britain and its internalisation by Ghana's lawyers? This was hardly what I intended to imply.) It led to other important and interesting questions being neglected. And it sometimes created an unfortunate impression among lawyers, too, that their own conduct was under value-laden scrutiny. Most of them took it remarkably well.

Despite a few complaints that "you have come here to criticise us lawyers" the interviewing was by no means the disaster that it would have been. On the other hand, on the positive side, "ethics" as measured in the questionnaire did turn out to be related in an interesting way to a number of things, including certain features of the economic base of law practice and the internal stratification of the profession.

I tried out a draft of the questionnaire on one or two lawyers whom I knew and solicited comments on it from a law teacher and sociologist friends at the University, the Secretary of the Bar Association and the Judicial Secretary. This helped me to remove some of the worst infelicities in substance and in wording. The main casualty was the proposed use of the questionnaire to chart the network of connections among lawyers and their links to other elites. It was pointed out that to ask who the friends, family and professional contacts of lawyers were, would be regarded as too much of an intrusion. Unfortunately this further reinforced the tendency to ask lawyers about their values and attitudes rather than their location in the social structure. Another acquisition which took me in the same direction, as well as adding to the bulk of the questionnaire, was a battery of fixed response questions on professional attitudes which another sociologist conducting a parallel study of professions in the commonwealth asked me to include.

The questionnaire was also excessive in length because I was using it for a number of different (not necessarily compatible) purposes. First I used it as an instrument of simple census taking: how many lawyers were in private practice or in the government sector; how do private practitioners distribute themselves between the practice of land law as opposed to commercial law or criminal law; how many lawyers had fathers with primary, university or secondary education; etc. The second purpose was a development of the first, to explore further the social relationships and attitudes of lawyers. Most of the questions designed for this task were "open-ended," allowing the respondents themselves to decide the form their answers should take, rather than limiting them to a choice among fixed alternatives. Such questions (for example "please think back to when you first decided to become a lawyer. When was this? And what specifically was it that made you take this decision?") provided rich contextual information about the way lawyers felt about their roles. And they often suggested new relationships in the data to be explored or new explanations of relationships already observed.

The third function of the questionnaire was to test already formulated hypotheses, (e.g., that successful practitioners are more likely to support the code of ethics than their less successful colleagues). Most of the questions in this category were of the fixed response type with a choice among predetermined alternatives (e.g., scholarships for law should be reduced/kept at the same level/increased).

These three modes of inquiry did not always mix well. Responses were often more useful because of the contextual information they gave than because they helped test hypotheses. For example, details of lawyers' social backgrounds and professional socialisation provided insight into the process of class-formation in Ghana, but turned out to be of relatively little value in testing hypotheses about the relationship of professionalism to that process. Replies to the open-ended questions could sometimes be systematically coded into categories for computer processing, but few of them generated hypotheses that could be tested. They were more interesting for the new questions they raised than for the questions they answered. Indeed they had the uncomfortable effect of raising doubts about the validity of the hypothesis-testing questions, such as those on professionalism and ethics.

The most logical way of handling the problem would have been to do the research in two phases -- an exploratory phase, developing ideas by "in depth" interviews with lawyers, which could then be put into the form of more formal hypotheses for testing in a separate second stage. Unfortunately I did not leave myself enough time for this. There are, further, different ways of striking a balance between the process of discovery and that of verification. My taste for uncertainty is such that I am not sure whether I would ever have reached a stage at which I would feel the most important questions could be clearly enough formulated to limit myself to the testing of hypotheses alone. Even when most of the interviews had already been carried out, new issues kept cropping up, new questions to ask being added to the questionnaire (making its different versions rather difficult to keep track of). Nevertheless, I do not only intend these remarks to justify my own way of working after the event. For we have so little systematic knowledge about the way social institutions work in a developing society -- or for that matter in any society -- that we should be suspicious of research intended to answer questions rather than to ask them.

I summarise below the content of the questionnaire, saying in each case with which of the three modes of inquiry outlined above each set of questions fits:

1. Background and Recruitment: Relationship to Class Structure and Ethnic/Regional Cleavage

Age (census)
Father's and mother's occupation (census)
Father's and mother's education (census)
Region and ethnicity (census)
Urban/rural origins (census)
Schools and universities attended; finance of education (census)
Members of family who were lawyers (census)
Members of family who were other professionals (census)

2. Professional Socialisation and Career

Reasons for deciding to become a lawyer (open-ended)
Details of employment before becoming a lawyer (census)
Details, dates and financing of professional education (census)
Details of pupillage (census plus open-ended question about choice of chambers)
Details of career as a lawyer (mixture of census and open-ended questions)
Details of present employment
Type of employment ideally preferred (fixed response plus an open-ended question about reasons for preference)

3. Networks and Linkages

(a) inside the profession

Frequency of attendance at Bar Association conferences (census)
Membership of Bar Association committees (census)
Number of professional journals read or subscribed to (census)
Frequency of interchanges on professional matters with colleagues (battery of fixed response questions about reference of cases to and from private practitioners)

(b) with the outside community

Membership of clubs, associations, "town" and ethnic unions (census)
Participation in community affairs in home town (open-ended: added at late stage in interviewing)
Membership of Commissions of Inquiry
Membership of political parties (census) and nature of participation in politics (open-ended)
Proportion of 4 best friends who are lawyers (census/fixed response)
Participation in business activities (open-ended: added at late stage in interviewing)
Percent of income derived from sources other than law practice and details thereof (census).

(c) international links

Professional education in Ghana or abroad (census)
Professional visits abroad (census)
Readership of foreign law journals and law reports relative to same of local journals (census)

Private Practice -- Management of the Flow of Work

Main problems of day-to-day practice (open-ended)
Satisfaction with income (open-ended)
Number of lawyers in Chambers (census)
Whether Chambers organized as "solo" "shared" or "partnership" practice (census)
Degree of integration with clients (a mixture of fixed response and open questions, about, for example, the extent of client visits to lawyers' houses rather than their offices, the proportion of clients from own area, preparedness to accept fees in kind rather than in cash, proportion of clients referred by other clients; etc.).
Bargaining about fees (mixed census/open-ended questions added late on in interviewing)
Division of labour between office work/court appearances/clients/contacts with colleagues, etc. (census)
Division of receipt between corporations/small businesses/individual clients (census)
Division of work between individual clients in different social categories (census)
Division of work between different subject matters (land law/civil injury/commercial and corporate/criminal, etc.) (census)
Time devoted to free legal aid and to assigned briefs (census)
Courts in which mainly practices (census)

Bases of Stratification Within Profession

Several of the above indicators (particularly "division of work between different subject matters" and "court in which mainly practices")
Number of telephones, number of cars, number of houses (census
Income (census)

Attitudes and Opinions

(a) To the legal system and constitution

Priorities desired for law reform (open) and direction of law reform wanted (coded from open responses into categories: "modernization" "fusion" and "indigenisation")
Provisions of constitution that wants changed or retained (open)
Opinion whether or not judiciary has sufficient independence (open)
Attitude to role of Bar Association in constitutional cases (fixed response and open)

(b) To the profession and the Courts

Public opinion of lawyers (mixed open and fixed response)
Criticisms of professional conduct and proposals for improvement (mixture open/fixed response)
Operation of the machinery of justice (mixture open/fixed response)
Corruption in the judiciary (open and fixed response)
Belief that poor litigants have problems in courts and support for extension of legal aid scheme (mixed open/fixed response).

(c) To professional ethics

Description of seven hypothetical cases in which lawyer infringes code of ethics. Lawyers asked (i) to say if and how strongly they disapprove (fixed response categories) (ii) to say what they would do if they learnt another lawyer had committed this infraction (open-ended) (iii) to say if they would report him to the disciplinary body (fixed response) and (iv) to say how often they thought this kind of situation in fact occurs (fixed response).

(d) To professionalism

Scale of twenty fixed-response questions, based on five dilemmas of professionalism: client interest vs. professional interest; client interest vs. interest of community; professional interest vs. community interest; intellectual skills vs. practical experience; skills appropriate for narrow professional role vs. those for broad social functions of lawyers.

The next step was to select student interviewers from the Faculty of Law and to do a "pre-test" of the questionnaire on a random sample of 50 lawyers in the Easter Vacation of 1970 (36 of whom were actually interviewed). The pretest allowed me to try out student interviewers and to select those I wanted to work with in the summer. And it helped me to try different versions of the questions and eliminate those which were ambigous or redundant. However, it also suggested several new lines of inquiry and the total length of the questionnaire was increased rather than being reduced as I had hoped. I did too few of the pretest interviews myself and so was not sensitive enough to some of the problems to which the questionnaire later gave rise.

The interviewers complained about its length, saying they found it difficult to get all the way through without losing their respondent's interest. In what seems in retrospect a misconceived attempt to keep in all the questions I wanted and at the same time to reduce the pressure on the interviewers, I decided that the questionnaire should be split. Part One, consisting mostly of simple census and fixed response questions, would be sent two or three weeks in advance for lawyers to fill in before their interview. Interviewers would then pick it up at the same time as they conducted an oral interview based on Part Two, containing all the more open-ended questions. Unfortunately, there was no time to try out this procedure before the summer vacation when interviewing was to begin. Ideally at least one more pretest was needed to improve procedures, cut down the questionnaire and train the interviewers. But the "best" methodology was not the most practicable at the time.

The sampling procedure for the survey was quite simple. The current list of lawyers, eliminating those known to be abroad or dead, contained 588 lawyers as of December 1969. I drew a random sample of 40 percent of these, increasing the size of the sample in the course of the interviewing to 69 percent. To this I added small stratified samples in order to increase the representation of the more senior lawyers, those who were employed by government and those who worked in the regions rather than Accra, all of which were relatively less numerous in both the random sample and the profession as a whole. In all 77 percent of the entire list of lawyers was included in either the random or one of the stratified samples.

Interviewing began in mid-June 1970 and ended in mid-August. I employed eleven student interviewers, eight men and three women, the majority being based in Accra and the remainder in the regional High Court towns. I did some interviews myself in this period, but spent much of my time driving from one place to another to keep check on the inverviewers' work, the bulk of my own interviewing being done later.

Although the pretest had led me to expect difficulties, the whole operation turned out to be even more cumbersome than I had originally feared. A total number of 239 interviews was carried out by the interviewers over eight weeks, an average of about two a week, even the best of them managing no more than two and a half a week. Most of them worked diligently and only in one case did I have clear grounds for dissatisfaction with an interviewer's performance.

The problem was rather in the nature of the task. The length of the questionnaire did not help, though once an interview began it was usually finished. Collecting the Part Ones which had been mailed in advance to the lawyers was quite another problem. Very few of them had completed it by the time the interviewers arrived at their chambers. Although most of them were willing to spend hours on end talking about their problems, they were reluctant to set aside the half an hour that was needed to write the responses to a written questionnaire. Interviewers either had to sit there while the lawyer filled in the questions or -- more often -- to call back at his chambers again and again until the schedule was completed. In the end I had to devise a shortened emergency version of Part One, with only the essential census questions for the interviewers to ask if the lawyers had not answered them already.

A still more important obstacle, however, was the social structure of private legal practice itself. Lawyers in government offices, members of the judiciary and a small number of lawyers in the bigger chambers were not difficult to pin down. But the majority of private practitioners are small-scale legal entrepreneurs, either sharing chambers (but not clients) with one or two other lawyers, or practicing entirely on their own. Such people were often very difficult to find. The sample frame for the survey was based on the annual list of lawyers -- the only list available -- which provided post office box numbers, but not street addresses (the latter are rarely available in Ghana). Some lawyers did not have even a postal address listed; and letters to some others were returned because the addresses were wrong. Every lawyer was sent a covering letter explaining the purpose of the survey and enclosing a slip asking him to provide his street address and telephone, to be returned in a stamped addressed envelope. But only about 15 percent of the sample replied. This meant that interviewers had to spend a great deal of time enquiring of the whereabouts of lawyers from bailiffs and other lawyers they met, and trailing around the back streets of Accra and Kumasi to find them (the practitioners in small towns like Ho, Cape Coast or Sunyani were, of course, much easier to find).

Once the lawyers were traced, they were not always easy to pin down for interview. Remarkably few refused outright. But some played a waiting game: "Come back tomorrow" they might say, "Come back next week" and then tomorrow or next week they were either not in their chambers or they said the same thing once more. We began to notice as we sat in their antechambers amid queues of

clients that some of the latter were caught up in the same waiting game too. There are not many lawyers whose clients bring work to them on a routine basis; most clients appear in chambers only when crises arise. Payment of fees is often haphazard. Keeping clients waiting in an antechamber or telling them to go and come back daily, like the adjournment of cases, is a way of bargaining with them. Time under these circumstances is a resource to be used against clients or impertinent interviewers, rather than something to be allocated in a routine way among different tasks. The problem was probably accentuated by the difference in status between students and the lawyers they were trying to talk to: for although I too spent long hours in antechambers, the difficulties I encountered were less severe.

This seemed very frustrating at the time, although I am now sure there is much to be gained from studying the interviews as social processes in their own right. I probably learnt as much about the entrepreneurial character of law practice and about the way lawyers manage their time from the actual process of trying to make appointments with them and of talking to them, as I did from their replies to the questions we put to them.

The results, however, were disappointing enough for me to think I should organize a supplementary programme of interviews for the summer of 1971, both to improve coverage of the existing sample, and to take in a small addition to the random sample. In all 319 lawyers were interviewed, 276 of these from the random sample and the remainder from the additional stratified samples; giving response rates of 68.3 percent for the random sample and 70.1 percent overall. Only about a third of those lawyers in the sample not interviewed were genuine cases of non-response: 4.8 percent of the sample actually refused to be interviewed and a further 5.1 percent were contacted but were so elusive as to make the interviewer finally abandon all attempts to interview them. A further 2.0 percent were not interviewed because they were never contacted: 5.1 percent because they were abroad; 7.5 percent because the interviewers were never able to find them in or to make an appointment; and 5.5 percent who could not be traced at all.

Analysis of the Survey Results

Immediately after the summer's interviewing was completed in 1971, I left Ghana for Harvard to take a teaching appointment. I had been able to get much of the coding of the data done before I left, although due to the open-ended questions and the length of the questionnaire this was a

complicated business. It was not until the autumn of 1973, however, that the data were finally ready for the computer. The analysis was further delayed because I moved to the Institute of Development Studies at the University of Sussex in early 1974 and found that all my computer programmes had to be rewritten because the packaged social science programme I was using at Harvard was not available there.

The first task was to establish which variables would be most relevant for the analysis. This was partly a theoretical task; that of finding the empirical indicators which most closely fitted the theoretical concerns I was in the process of formulating. But it was also a question of letting the preliminary results guide the selection of indicators and the direction of my theoretical rethinking. I ran large numbers of correlations and cross-tabulations to help me see which variables did and did not show consistent relationships with others. Although this is strictly speaking forbidden by the scientific canons of hypothesis testing, I am prepared to defend its use in the exploration of issues and relationships which are not already well defined. This is not to say that safeguards were not necessary. I normally insisted, for example, that variables should show consistent relationships with a broad enough range of others to be sure they were not produced by random fluctuations of the kind that make it probable that every five in a hundred correlations will be "statistically significant." Nor did I run all variables against all others, but chose only those between which there might be theoretically interpretable relationships, even if I could not predict the precise direction and strength of these relationships in advance.

There were also composite indices and scales to be constructed where this seemed appropriate. I required, for example, an index of lawyers' material success. The figures they gave for their monetary incomes were suspect and seemed to be related to very few other variables. The questionnaire contained information about the number of cars, houses and telephones the lawyers owned. As each was only a partial token of material success it made more sense to aggregate them in a manner that seemed crude (the number of houses plus the number of cars plus the number of telephones) but at the same time showed a consistent pattern of relationships with other variables.

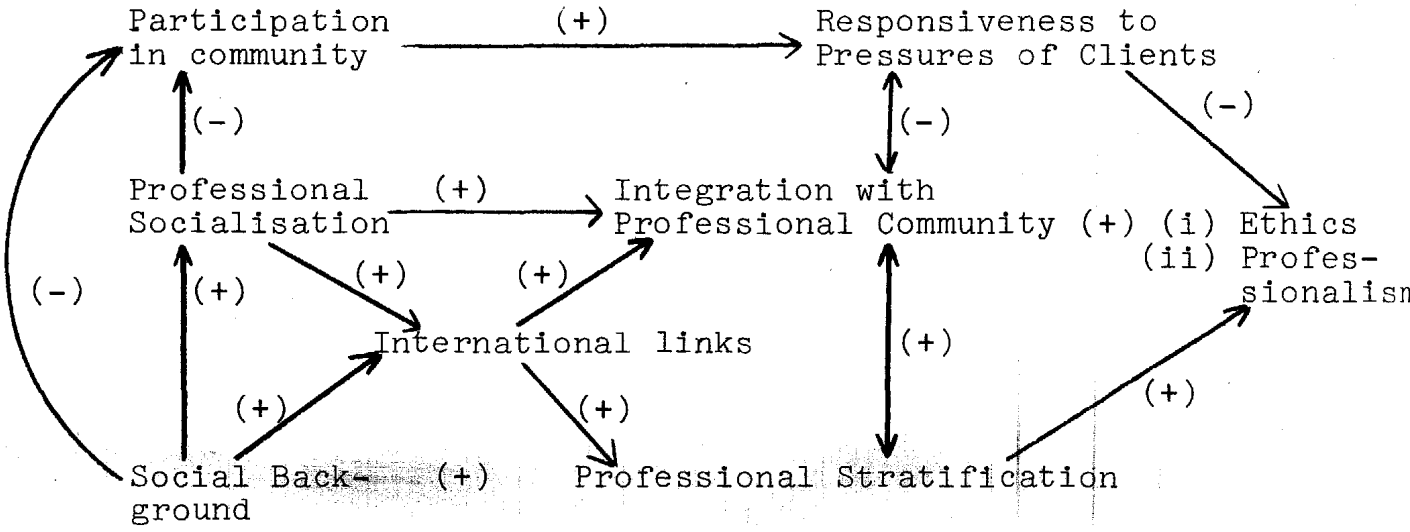
Some of these composite variables, such as the responses to the batteries of ethics and professionalism questions, had been envisaged from the beginning of the research. Yet it was about these questions precisely that the process of

research had made me most suspicious. The hypothetical infractions of legal ethics which had been put to each practitioner to comment upon had been very useful in prompting them to talk at length about the conditions of practice in all their complexity. But this very complexity had made me feel that the questions themselves were rather simple minded and that they would probably not show any statistical pattern. Nevertheless, to my surprise a pattern there was. Not only were the responses to the ethics questions internally consistent, but only one out of seven hypothetical situations produced responses that were not correlated with the others, requiring that it be discarded for purposes of analysis. But also the index of professional ethics I obtained by summing them was related to other variables such as lawyers' wealth and professional status, in a way which suggested that the code of ethics is an important piece of professional ideology closely associated with the existing economic and social base of law practice.

The battery of twenty-four fixed response professionalism questions was somewhat more problematic. Several lawyers had said that they found it difficult to say they agreed or disagreed with general attitude questions (for examples see Appendix: Table 1) without specifying more precisely how and under what conditions. They certainly made me feel very uncomfortable about putting the inane attitude questions which are the stock in trade of sociologists to people whose training is in pulling questions apart. Nor did the preliminary results conform with the pattern I had hypothesised. This had grouped the questions under five characteristic contradictions of professionalism: between a lawyer's obligations to his clients and his interests as a member of a professional community; between the interests of his clients and his social obligations to the community as a whole; between his professional interests and his social obligations; between professional skills based on general knowledge and those acquired through apprenticeship or practice; and between skills relevant to the narrow professional tasks of a lawyer and those relevant to lawyers' broader social functions in politics and the economy. The problem was that the respondents often did not see these dimensions as separate or their internal polarities as contradictory: a lawyer who insisted on the broad social responsibilities of lawyers was also just as likely to say that lawyers should be left free to regulate themselves through their professional association. At this point, I almost gave up, but decided to use the computer to subject the responses to a factor analysis as a way of

seeing if there were any systematic interrelationships among the twenty four questions which I had not spotted. (Again, it should be noted, I was not using this technique to validate a theory, but as a somewhat complicated serendipity device to generate new ways of thinking about the data.) Three main factors appeared (see Appendix: Table 1) each of which could be given a fairly plausible theoretical interpretation. The most strongly-defined factor was one combining emphasis on lawyers' social responsibilities with emphasis on the corporate distinctiveness of the legal profession as a self-regulating group of colleagues. This I have called the "professionalism factor." Even if there are structural contradictions between the social responsibilities of lawyers and their collective professional interests, it is precisely the function of ideology to deny such contradictions by suggesting that what is in the collective interest of the profession is also in the interest of society. The second and third factors were complementary to the first; one grouped responses which emphasised the narrow material and professional interests of lawyers, a "professional trades unionism factor;" and the other was a "bureaucratism factor" which emphasised the subordination of lawyers' professional interests to their narrower technical functions as servants of the state rather than their broader public responsibilities. Again, not only was there a plausible interpretation of these factors as different dimensions of professional ideology, but they were also found to be correlated with the various indices of professional position.

The next task was to develop a theoretical framework to account for the determinants of ethics and professionalism as thus measured. What I had in my head was less a sharply defined model than a set of half-formulated, loosely-connected hypotheses, which only became slightly more systematic as the data analysis proceeded. Such as it was, the model looked something like the diagram below:



Reality provided these presuppositions with a severe test. Parts of the model had to be scrapped altogether. For (i) The various indicators of participation in community affairs (such as membership of associations, a high proportion on non-lawyer friends) and of responsiveness to the pressures of clients (such as the proportion of clients from the lawyer's home area, his preparedness to do business with clients at home as well as in office, etc.,) had no clear pattern of relations either to each other or to ethics and professionalism. (ii) As can be seen in Tables 4 and 6, the social class backgrounds of lawyers (their fathers' education and occupation, their family links with members of the professions and the secondary schools they attended were neither consistently related to their professional socialisation (abroad or in Ghana, whether or not they had degrees or professional training courses only), nor to their international reference groups (whether or not they made visits abroad, whether they read foreign as opposed to local legal materials), nor to their integration with the professional community (the extent of their participation in Bar Association activities, the frequency with which they consul and are consulted by their colleagues) nor to their success in the pecking order of professional stratification (practice in the higher courts, the stability of their clients, their practice of land and customary law and their accumulation of property), nor to their adherence to the code of ethics and professional ideology (Table 7). This is not to say there were not some interesting relationships, such as the fact that lawyers from higher status backgrounds tend to practice in the higher courts, but accumulate less property than their colleagues; or that they tend to avoid civil injury practice which has low prestige but is generally recognised as a way to make money quickly. But these were not sufficiently systematic over the whole range of variables to be of use in testing the model. (iii) The international reference groups of lawyers were not systematically related to their class backgrounds, their professional training, their degree of integration with the professional community, or their place in the hierachy of professional stratification (see Appendix: Tables 4 and 6). Evidently the influences shaping the careers and professional ideologies of lawyers had been so thoroughly institutionalized during the lengthy history of the legal profession in Ghana that they no longer required direct cultural reinforcement.

These negative findings reinforced my skepticism about the survey data and my feeling that I needed to re-examine their place in my whole scheme of research. Yet a number of other results -- each a fragment of the picture, but in combination persuasive -- suggested new ways in which I could make greater sense of what I had found.

(i) In the first place the various indicators of professional integration (participating in the Bar Association, consulting with colleagues, etc.,) are strongly related to indicators of professional success (practice in the higher courts, the accumulation of property) and these in turn to the type of practice lawyers engage in (see Appendix: Table 5). Lawyers who specialise in the customary law of land, inheritance and chieftaincy tend to be the most successful and highly integrated in the profession; those who engage in commercial and company law practice do reasonably well; whereas those doing civil injury work or criminal law practice are distinctly disadvantaged relative to their colleagues. This strongly reinforced my feeling that there was an underlying pattern that could only be understood historically, in terms of the dependence of Ghana's development on the production of cocoa for the world market. For the commercialisation of the rural economy made land litigation a crucial factor, both in the reconstruction of rural property relations and in the redistribution of rural wealth. Other developments have been secondary to this. Thus although there is a sector of the profession which meets the needs of foreign and local business firms, it is smaller and less dynamic. Neither civil injury nor criminal law work is directly connected to the economy, and both are less remunerative and prestigious than other kinds of law work.

(ii) The indicators of the ideology of the profession -- the scales of ethics and of professionalism -- were also more strongly related to the indicators of professional and economic success than they were to any other set of variables (Table 7). This finding seemed consistent with a Marxist interpretation of the relation between the economic base of law practice and its ideological superstructure.

(iii) A similar interpretation could be made of the finding that judges and lawyers in the public sector tended to be higher on ethics than private practitioners while at the same time being lower on professionalism. For the former do not have to compete in the market and can afford to take a tougher view of the ethics provisions (such as those forbidding touting or the use of adjournments to extract fees

from clients) which impinge upon the livelihood of private practitioners. The latter, on the other hand, are the core of the profession in terms of the distribution of status and rewards within it, and consequently show greater agreement with its values as portrayed by the items in the professionalism scale.

(iv) These interpretations of the relations between the public and private sectors are strengthened by a striking difference in the response of judges, lawyers in public service, and private practitioners, to a question asking which branch of practice they would prefer to be in given complete freedom of choice (see Table 8). Virtually none of the judges or private practitioners said they would choose public sector employment; and even the majority of those now in public service would prefer other employment. Though most judges preferred their present position, a substantial minority said they would prefer private practice. In contrast all but a tenth of the lawyers in private practice said they would prefer to remain where they were. The most common reason given, both by those actually in private practice and by those who stated a preference for it, was the independence it would afford them, indicating the entrepreneurial attitudes prevailing in the profession. All this was clear evidence of the imbalance between the public and the private sectors; of the tendency of the private sector in a mixed economy to deprive the public sector of energy and resources.

(v) There was also some rather fragmentary evidence of other kinds of imbalance such as that between geographical areas and between social classes in access to legal services. Lawyers themselves provided quite eloquent responses to questions about the difficulties litigants face in the courts. Yet the data also show that on average they give a very small percentage of their time (usually no more than about five percent) to assigned briefs or free legal services to poor people; and that the successful lawyers tend to give even less than those with lower professional standing.

(vi) Finally there was also interesting data on recruitment into the profession which had to be fitted into the picture. The social class background of lawyers, it will be recalled, was found (Table 7) not to have any particular relation to ethics or professionalism. But this was less of a problem for my analysis than might be supposed. For class origins have less importance than class position itself as determined by the social relations under which legal services are produced -- whether or not a lawyer is in the public or private

sector, whether or not he is prosperous, what kinds of law he practices. Besides, there is as yet relatively little inheritance of class background from one generation to another of the sort which reproduces class formations in the societies of Western Europe or America. Just over a fifth of all lawyers in the sample had fathers who were themselves professionals. Slightly less than a fifth of the fathers were white collar workers and small-scale entrepreneurs respectively. On the other hand, rather more than a third of lawyers' fathers were farmers. Looked at in this way the recruitment base of the legal profession seems open to mobility from below. Yet the data permit a closer examination of the thesis of open recruitment than that afforded by other studies of African elites which have come up with similar findings. About two-thirds of the fathers of lawyers who were "farmers" were men of substance, with large cocoa or cash crop farms, who sometimes operated as traders, transport owners, brokers or landlords as well. Several of them generated large enough surpluses from these activities to send their sons through school and professional training with little assistance from other sources. The resources generated by one process of class formation in rural areas were thus shifted into the acquisition of positions of status in the modern elite sector. Longitudinal statistics which I have compiled from historical records strengthen this argument by suggesting that between the 1890s and the 1950s the output of lawyers has been directly responsive to trends in the economy, rising in periods of prosperity and declining in periods of depression.

Back to History

The results emerging from the survey strengthened my feeling that if I wanted to understand the present-day role of the Ghanaian legal profession it was necessary to go back to the colonial period. I am now talking, of course, as if these thoughts were prompted just by the analysis of the survey data, whereas in truth the survey results took shape gradually and were themselves influenced by changes in my intellectual convictions. Scepticism about how much I would conclude from the survey alone had of course set in much earlier, while the interviewing was still in progress. For the things lawyers said about their careers and about law practice seemed to have so much more interest and specificity than did the more mechanical data on ethics, division of labour and social background, which the questionnaire provided.

This skepticism was accelerated by my departure from Ghana to the U.S.A. in 1971. In Ghana I had been too caught up with the lawyers who were the subject of my research, and the mystique they create around their role, to look seriously at their consequences for the society about them. I had been too caught up with the drama of the present: listening to the exciting court-room battles, gossiping about the intrigues in the Bar Association, and keeping informed of the political scene. I found it difficult, therefore, to perceive the long sweep from the present back into the past. I had been too busy doing research to think much about what it was for. My two years' teaching at Harvard were too time consuming to allow me to give all this enough serious thought, though my graduate students helped to undermine my established patterns of thinking. A seminar on professions allowed me to work through some of my doubts about the appropriateness of inherited models of professionalism in developing countries. Another on comparative sociology convinced me of the theoretical weakness of much of the "modernization" literature because it lacks an adequate analysis of the historical conditions that created both the modern world and its Janus-face of underdevelopment.

All this meant a change of gears. Rather than moving straight ahead with feeding the results of my questionnaire into the computer, I chose to spend what free time I had available in the summer vacations back in Ghana. I fell ill on my way there in the summer of 1972 and only got there for three weeks, time enough to do one or two interviews and to make some enquiries at the Ghana National Archives. Some of my ideas about the way the research should be reshaping itself took the form of a paper presented in early 1973 to a small conference at Yale on the legal profession sponsored by the International Legal Centre and the Yale Law School Program in Law and Modernization. My case was apparently eloquent enough to convince the I.L.C. to finance the completion of my work in Ghana. Back I went, in the summer of 1973 and again in the spring of 1974, to work in the Accra and Cape Coast archives with the assistance (in 1973) of three graduate students from the University of Ghana.

The historical materials that we found were richer than I had originally anticipated. They are basically of five kinds -- (a) official papers in the archives, such as the official correspondence of the Attorney-General and the Solicitor-General and other official files, correspondence and memoranda on a variety of subjects; (b) published official documents such as reports of commissions of inquiry and legislative council and parliamentary debates; (c) legal cases; (d) newspapers, between 1901 and 1972; and (e) lawyers' private papers.

These sources nevertheless present serious problems, both in terms of coverage and in terms of interpretation. The greatest quantity of material is to be found in the official papers and documents. There was an enormous amount of official comment upon lawyers for they were evidently kept under close and suspicious scrutiny by the colonial government. But the problem is that this presents an official view, with all the attendant dangers of bias, and gives relatively little sense of how the lawyers of the period saw themselves and their position. On the other hand there is much information in them not obtainable elsewhere, for instance surprisingly specific details of lawyers fees. And there were occasions when there was frank official debate, such as in the correspondence regarding whether or not lawyers should be admitted to practice in Ashanti, which is revealing not only about lawyers but also about the assumptions of colonial rule and how they affected the working of legal institutions.

Lawyers' private papers have been of some help in dealing with the bias of official sources. But unfortunately they are very patchy and hard to come by. The only truly adequate collection is that of the important nationalist lawyer W.E.G. Sekyi in the Cape Coast Archives, which present a splendidly vivid but highly idiosyncratic view of conditions of practice and political in-fighting in the 1920s and 1930s.

The second main problem of the historical sources is the difficulty of spelling out the real impact of the legal system and legal profession on the economy and political change. I originally hoped, for instance, to get a rough quantitative assessment of the extent to which land litigation in the colonial courts had an actual effect on the distribution of rural wealth. My general feeling was that litigation probably tended to consolidate rural wealth, if only because only those with substantial resources at their disposal could afford to appeal cases up to the colonial courts and to pay lawyers to argue esoteric points of customary law on their behalf. However, court records are not organized in such a way as to provide the information one would need about the land in dispute and about the litigants themselves without a massive new research project. Instead I had to settle for rather more indirect evidence about the kinds of land disputes coming before the courts and about the fees lawyers could extract from them.

I have found it useful to focus my analysis of the historical materials around specific "trouble cases," using them to concretise the analysis of the major contradictions arising from the legal system, carrying a stage further my earlier idea of using crises within the legal profession to call attention to inherent dilemmas of professionalism. The historical section of the book begins with an account of an important dispute, the Asamankese dispute, which generated a whole series of legal cases. It illustrates in a concise way some of the dominant themes of the historical argument I have developed. The conflict arose from a claim by two sub-stools or sub-chiefdoms, Asamankese and Akwatia, that they no longer owed allegiance to the Paramount Stool of Akim Abuakwa, of which they had been clients in pre-colonial times. The claim was a long-standing one, though it is hardly by accident that it was revived at about the same time that diamonds were found in the area and that a concession was negotiated (in 1921) between the African Selection Trust and the two sub-stools to exploit them. The Paramount Stool claimed that it was entitled to a third of all royalties and rents as tribute; and the Selection Trust froze payment of an equivalent portion of the royalties and rents until the issue was determined. The litigation dragged on over most of the inter-war period, going up to the Privy Council in London three times and costing approximately a quarter of a million pounds in lawyers fees, a very substantial sum in those days.

When one looks at a case such as this it is readily apparent that despite the autonomy of the legal system, despite its apparent lack of class character expressed in the ideology of "equality before the law," there are individuals and groups with economic interests behind the system seeking to use it to advance those interests through the powerful sanctions and rewards controlled by the courts. In Ghana the economic interests that were paramount for much of this century, and influenced the working of legal institutions in numberless ways, were those created by the production of cocoa but also by the felling of timber and the extraction of gold and diamonds. As soon as one admits the question -- "Who purchases the services of lawyers and uses them to pursue their interests in court?" -- one is thrust up against the contradiction between the universal values that legal institutions without doubt uphold, and the very mundane uses that are made of them in capitalist economies to advance economic interests and consolidate class position.

A second contradiction that the Asamankese case pointed up was the relation of the legal system to the state. In Ghana British officials actually adjudicated commercial disputes and other cases brought to them by coastal rulers prior to the formal imposition of colonial rule. The courts were always viewed as an important mechanism for institutionalising the authority of the colonial state. Yet at the same time they provided new weapons with which challenges could be mounted against those who controlled the state machinery, by exploiting the contradictions in the administrative and legal structure of colonialism itself. The leading lawyer for Asamankese and Akwatia was the prominent nationalist lawyer-politician, W.E.G. Sekyi, who saw the case as a way of striking a blow at the Paramount ruler of Akim Abuakwa, Nana Ofori Atta I, who was the most articulate spokesman of the chiefs and a supporter of the British policy of indirect rule. Every opportunity to embarrass Akim Abuakwa, the colonial government and the Selection Trust was exploited to the full and was indeed one of the reasons for the lengthiness of the litigation.

Thirdly, the size of the fees extracted by the various counsel in this case and the heavy financial burden it placed on the stools emphasise the potential contradiction between lawyers' public responsibilities and their obligations to their clients on the one hand and the brute fact on the other that they supply a market for legal services and organize themselves to protect that market. There were squabbles and accusations of professional sharp practice among the lawyers in the case over the distribution of fees, illustrating the incompleteness of professional controls over the market. And the subsequent history of the profession has seen several attempts to regulate the market, all of which have been as much concerned with the need to develop monopoly control and safeguard incomes against "unfair competition," as they have been with maintaining professional conduct and standards of practice.

Such concerns, to conclude, have taken me a long way from my initial narrow interest in professionalism as it became more and more clear to me that the latter could not be dealt with in its own terms alone but required a fuller understanding of the political economy of professional roles in their historical context. This rethinking was neither simply a consequence of the facts taking charge nor of a change in political and intellectual gestalt: but rather of an unfolding dialectic between the two, between empirical findings and theoretical reconceptualisation.

Appendix

Table 1: Professional Attitude Factors

Factor 1: Professionalism

Factor Loading		Agrees With
.67	1.	The law profession is a major source of ethical practice in public life and in business.
.63	2.	Any future reform of the legal system should have as its major aim the reorganisation of law practice, so that practice relates more to the welfare of the people.
.61	3.	More than anything else a practicing lawyer depends on the support of his fellow lawyers.
.53	4.	The lawyer has an increasing obligation to protect the rights of all citizens rather than merely the interests of clients.
.47	5.	The lawyer is better equipped than most to understand the problems which beset present-day society.
.47	6.	For the lawyer experience in practice is still more important than formal training. This is largely because a knowledge of the client is more important than general principles.
.47	7.	The most effective means of controlling the practice of lawyers is to allow the lawyers to control themselves, through their professional association.

Factor 2: Professional Trades Unionism

Factor Loading		Agrees With
.64	1.	It is unreasonable to expect practising lawyers to engage in law research and involve themselves in discussions of general principles. Their job is to provide specific answers to specific questions.
.57	2.	If we could depend upon all lawyers acting honestly all the time, there would be no need for a professional association.
.41	3.	The most important function of a Bar Association should be to protect the living standards of lawyers
.41	4.	The lawyer should avoid involvement in public debate as this might antagonise clients.
.40	5.	While trying to balance conflicting pressures from his colleagues, clients and the community at large the lawyer must necessarily put the needs of the client first.

Cont. Table 1

Factor 3: Bureaucratism

Factor Loading		Agrees With
.63	1.	A lawyer who acts unethically should be judged by the community as a whole and not by his professional colleagues only.
.58	2.	The lawyer should avoid involvement in controversial debate as this might antagonise clients.
.45	3.	Lawyers are a privileged group and as such should be subject to government regulation.
.37	4.	The practice of law is best seen as a stepping stone to some other career.
.35	5.	The lawyer should leave business to the businessmen.

Table 2: Matrix of Inter-Correlations Among Class Background Variables

	Seniority	Father's Education	Father's Occupation	Family Connection with Professionals
Father's Education	.15			
Father's Occupation	.04	.68		
Family Connections with Professionals	.01	.48	.41	
Secondary School Attended (Elite/ Non-Elite)	.32	.21	.29	.10

Note: correlations significant at .05 level underlined.

Table 3: Matrix of Inter-Correlation Among Professional Formation and International Reference Group Variables

	Seniority	Professional Training	Degree	Present Employment	Visits Abroad	Read Ghana Journals
Professional Training Ghana/Abroad	.50					
University Degree (No/Yes)	-.15	-.18				
Present Employemnt (Private/Public Sector)	.12	-.08	.05			
Visits Abroad	.10	.00	.12	.22		
Readership Ghana Law Journals	.01	-.11	.29	.18	.03	
Readership Foreign Law Journals	.05	.07	.14	.26	.21	.26

Note: correlations significant at .05 level underlined.

Table 4: Correlations Between Class Background Variables and Professional Formation and International Reference Group Variables

	Father's Education	Father's Occupation	Professional Links of Family	Secondary School
Professional Training	.04	.05	-.05	.30
Degree	.04	.01	-.01	.12
Present Employment (Private/Public)	.22	.13	.12	.15
Visits Abroad	.12	.09	.17	.07
Readership Ghana Journals	.12	.05	.16	.09
Readership Foreign Journals	.11	.13	.20	.12

Note: correlations significant at .05 level underlined.

Table 5: Matrix of Inter-Correlations Between Indicators of Professional and Economic Success of Private Practitioners

	Seniority	Court Appears in	Stability of Clients	Activism in Bar Assn.	Consultation with Colleagues	Property Index
Court Appears in[a] (High/Low)	.36					
Stability of Clients	.21	.28				
Activism in Bar Association[b]	.27	.26	.36			
Consultation with Colleagues[c]	-.01	.21	.18	.13		
Property Index[d]	.45	.44	.20	.21	.24	
Time on Land and Customary Cases	.40	.34	.22	.26	.18	.15
Time on Civil Injury	-.26	-.39	-.26	-.17	-.16	-.14
Time on Criminal Work	-.27	-.25	-.15	-.12	-.14	-.26
Time on Commercial and Company Law	-.01	.17	.25	-.01	.00	.11

Notes: correlations significant at .05 level underlined.

a Weighted index obtained from replies to question asking in which courts lawyers practice most frequently and second most frequently.

b Weighted index obtained from frequency of attendance of Bar Association and whether has belonged to executive of Bar.

c Index obtained by combining frequency consults and is consulted by colleagues on professional matters.

d Index obtained by summing number of houses, cars, and telephones owned by each lawyer.

Table 6: Correlations Between Indicators of Professional and Economic Success in Private Practice and Indicators of Class Background, Professional Socialisation and International Reference Groups

	Court Appears in	Stability of Clients	Activism in Bar Assn.	Consultation with Colleagues	Property Index	Time Land and Inheritance	Time Civil Injury	Time Criminal	Time Commercial and Company Law
Class Background									
Father's Education	.16	-.10	.05	-.04	-.11	-.09	-.20	-.06	06
Father's Occupation	.25	-.02	-.01	.07	-.14	.19	-.28	-.02	.13
Family Connections with Professionals	.07	.04	.03	.11	-.06	-.03	-.28	.00	.27
Secondary School	.47	-.06	-.03	.11	-.05	.18	-.05	.08	-.14
Professional Socialisation									
Professional Training (Ghana/ Abroad)	.38	.19	.14	.02	.36	.19	-.07	-.10	-.04
Degree	-.08	-.01	-.01	.03	-.27	-.06	.13	-.13	.19
Visits Abroad	-.07	.11	.14	.21	.02	-.09	.10	-38	.41
Readership Ghana Law Journals	.05	.09	.16	.11	.04	-.17	-.05	-.17	.46
Readership Foreign Law Journals	-.08	.00	-.06	.23	.01	-.22	.02	-.14	.21

Table 7: Correlations Between Ethics and Professionalism Factors and Indicators of Class Background, Professional Formation and Professional and Economic Success

	Ethics	Profes-sionalism	Profes-sional Trades Unionism	Bureau cratism
Class Background				
Father's Education	.07	.00	-.01	-.15
Father's Occupation	-.03	.01	-.03	-.12
Family Connections with Professionals	.16	.15	.05	-.12
Professional Formation				
Seniority	.12	.13	.11	.08
Professional Training	.10	.16	.12	.09
Degree	-.12	-.17	-.21	-.12
Number of Journals Read	.21	-.07	-.15	-.20
Present Employment (Private/Public)	.19	-.11	-.00	-.04
Indicators of Professional and Economic Success (Private Practitioners)				
Court Appears in	.10	.17	.26	.12
Stability of Clients	.18	.11	.04	.03
Activism in Bar Assn.	.23	.13	-.06	-.01
Consultation with Colleagues	.16	.35	.05	.04
Property Index	.18	.23	.23	.13
Time on Land and Inheritance	.03	.09	-.05	.00
Time on Civil Injury	-.09	-.06	-.11	.05
Time on Criminal	.04	-.05	-.03	.06
Time on Commercial and Company Law	-.10	-.16	-.07	-.15

Table 8: Ideally Preferred Employment by Present Employment

Actual Employment	Preferred Employment: Private Practice	Judiciary	Government	Total	N =
Private Practice	88.2	10.1	1.7	100%	119
Judiciary	31.3	68.7	0.0	100%	32
Government	53.7	14.6	31.7	100%	41

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RESUME

Cet article présente une recherche sur les avocats du Ghana menée par l'auteur de 1969 à 1976. Dépassant un simple résume des conclusions, il suggère comment celles-ci ont émergé du rapport dialectique entre la théorie et l'enquête empirique.

La recherche se centrait au début sur le transfert des rôles professionnels de la Grande-Bretagne au Ghana et sur les conséquences de ce transfert quant au rapport entre les avocats et le gouvernement, surtout depuis l'indépendance. Elle se développa plus fructueusement cependant lorsqu'elle traitait ce transfert et ces relations non pas en termes d'une 'professionalisation' mais à travers une série de crises impliquant et les avocats et le système juridique.

Ainsi la deuxième phase de la recherche comportait l'administration d'un longue questionnaire à un échantillon de plus de 300 avocats. L'article décrit les difficultes de cette methode, dont quelques-unes résultaient d'une manque de précision dans le questionnaire. La recherche se concentrait initialement sur les valeurs et l'intégration des avocats dans la communauté professionnelle ghanéenne, mais il apparût bientôt qu'on ne pouvait pas comprendre celles-ci isolées de l'organisation du travail d'avocat et de sa relation à l'économie, dominées depuis la fin du 19ème siècle par la production du cacao pour le marché mondiale. Cette influence économique necessitait la réconstruction juridique des rapports de propriété dans la campagne. Les effets de cette réconstruction continuent à se faire sentir, car, comme l'indiquent les réponses au questionnaire, les avocats spécialistes en droit foncier dominent toujours la profession par leur richesse relative et par leur accès aux positions de pouvoir au sein du barreau. Ces avocats constituent en plus le support le plus fort des valeurs idéologiques de la profession, tel que révèle l'echelle des attitudes utilisées dans le questionnaire.

Pour ces raisons, dans la dernière partie de la recherche l'auteur portait son attention sur les aspects historiques de la profession d'avocat au Ghana. Cette phase comportait l'étude d'une part des relations historiques entre la production du cacao les changements fonciers et les activités des avocats et, d'autre part, de l'histoire du système juridique. Ce système non seulement consacrait la domination coloniale dans sa forme institutionnelle mais aussi donnait aux avocats une structure normative susceptible d'être utilisée contre le gouvernement colonial. Sur ce point l'article soulève les problèmes du biais inhèrent dans l'utilisation aux fins de cette recherche des papiers officiels dans les archives du gouvernement.