

Conservatives, Nationalists and American Romantics Debating Legal Education in Kwame Nkrumah's Ghana

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I Introduction

In the immediate post-independence period from the late 1950s, the setting up for the first time of university law schools in many African nations led to often bitter battles over the purpose of legal education.¹ The stakes in these struggles were high. Leaders, such as Tanzania's Julius Nyerere and Zambia's Kenneth Kaunda, gave landmark speeches launching law faculties in their national universities in this period.² The same is true of Ghana, whose first prime minister (later President) Kwame Nkrumah had a personal interest in legal education. The early years of independence from 1957 were marked by considerable disagreements about the constitution and functions of the Law Department at the University of Ghana. These pitted academics, often though not exclusively expatriate, against Nkrumah and his advisors. Tensions came to a head in the period between 1962 and 1964 when the Law Department was at the centre of 'a whole circle of institutional convulsions ... that went to the very heart of the Ghanaian political system.'³ These events added impetus to the conspiracy of senior military and political conservatives which overthrew Nkrumah in a coup d'état on 24th February 1966.

¹ See, for example, WL Twining 'Legal Education in East Africa' (1966) 12 *International and Comparative Law Quarterly Supplementary Publication* 115-152; YP Ghai, 'Law, Development and African Scholarship' (1987) 50 *Modern Law Review* 750-776; IG Shivji, *Intellectuals at the Hill: Essays and Talks, 1968-1993* (Dar es Salaam, Dar es Salaam University Press 1993)..

² JK Nyerere, 'Inaugural Speech at Opening Ceremony of University College Dar es Salaam, 25th October 1961 [copy on file with authors]; KD Kaunda, 'The Functions of the Lawyer in Zambia Today' (1971-1972) 3 *Zambia Law Journal* 1-25.

³ DH Akenson, *Conor: A Biography of Conor Cruise O'Brien* (Ithaca [NY], Cornell University Press 1994) 223.

Our purpose in this paper is to document these complex struggles, to identify the broader political stakes within them, to pick out the main, competing philosophies of legal education which animated them, and to relate all of these to the broader historical conjuncture of decolonization. Drawing on relevant primary and secondary sources, as well as interviews,⁴ we aim ultimately to show that debates over legal education had a significance going beyond the confines of the Law Faculty, and that they engaged questions of African nationalism, development and social progress, the ambivalent legacy of British rule and the growing influence of the United States in these territories.

This study builds on the longstanding work on the tensions between academic autonomy and state-building in many post-colonial states in Africa.⁵ If universities were 'born out of nationalist aspirations for freedom', how did they fare as the states to which they were responsible encountered fiscal constraints and political challenges from disillusioned groups in the population?⁶ How did they avoid the impression that their autonomy merely functioned as 'a figleaf for ex patriate anti-national expatriate dominance'?⁷ The paper is organised as follows. After setting the background to the establishment of the University College of the Gold Coast (later University of Ghana) after the Second World War we focus on the early history of its Law Department,

⁴ Professors SKB Asante and WC Ekow Daniels allowed us to consult their papers. We also studied relevant papers of Conor Cruise O'Brien, held in the Archives of University College Dublin [referenced here as 'UCD Archives'], and those of William Burnett Harvey [referenced here as 'Indiana Archives'] which are held in the on-line collection of the Maurer School of Law, Indiana University at <http://www.repository.law.indiana.edu/histdocs/7>

⁵ See most recently M Mamdani, 'The African University' (2018) 40(14) *London Review of Books* 29-32.

⁶ GP Hagan, 'Academic Freedom and National Responsibility in and African State: Ghana', in M Diouf and M Mamdani (eds), *Academic Freedom in Africa* (Dakar, Codesria 1994) 39-58, 39.

⁷ M Mamdani, 'Introduction: The Quest for Academic Freedom', in M Diouf and M Mamdani (eds), *Academic Freedom in Africa* (Dakar, Codesria 1994) 1-16, 2.

founded in 1958. We locate this in the context of struggles between Kwame Nkrumah's government and the opposition. Government attempts to influence appointments and teaching at the University, leading ultimately to the deportation of the American Dean. We will show that these conflicts were animated by three main conceptions of legal education: an instrumentalist model, associated with the government, which sought ways to bypass the university and to train the large number of lawyers needed for development; a humanistic American model which emphasized interactive teaching methods over lecturing, and which would give the university a monopoly of training; and a traditionalist model which sought continuity with British forms of legal professionalism and teaching practice. We note the resonance of each model with specific local and international political tendencies. We consider particularly the important and growing role played by Ghanaian political and educational actors in these struggles.

II Founding the University College of the Gold Coast

British policy on education in its African colonies went through two significant phases in the period from the end of the First World War. The first, aimed at supporting the general policy of exercising control through local chiefs exercising customary powers or 'indirect rule',⁸ limited education to primary schooling in vernacular languages, rather than English. Nationalist thinkers in the Gold Coast, such as JE Casely Hayford, argued that this policy effectively confined Africans to subordinate roles in

⁸ See C Whitehead 'Education Policy in British Tropical Africa: The 1925 White Paper in Retrospect' (1981) 10 *History of Education* 195-203.

administration and the economy.⁹ The second phase, after 1945, saw a shift from indirect rule to 'modernization' and a concern with bringing on sympathetic local elites who would eventually rule after the departure of Britain.¹⁰ As part of this empire-wide process, and as a result of strong campaigning within the colony, the University College of the Gold Coast was opened near Accra in 1948.¹¹

The manner in which the new college, and its equivalents elsewhere, was to be run was addressed by the Asquith Commission.¹² At the heart of the so-called 'Asquith doctrine' was a concern that African institutions should be held to an academic 'Gold Standard' which would allow their graduates 'to enter the world community of intellect' on equal terms.¹³ This aim was realized through the creation of a 'special relationship' between the new colleges and the University of London.¹⁴ The latter approved syllabuses, scrutinized examination processes and participated in staff appointments, and the installation of ex patriates at those institutions. Though funded by the state, the new colleges would be self-governing, their autonomy a pre-condition of entry into relationship with the University of London.¹⁵ Finally, Asquith favoured residential universities, with students of diverse geographic and ethnic backgrounds studying and living together on the Oxbridge model.¹⁶

⁹ See S Küster, "'Book Learning' versus 'Adapted Education': The Impact of Phelps-Stokesism on Colonial Education Systems in Central Africa in the Interwar Period' (2007) 43 *Paedagogica Historica* 79-97.

¹⁰ A Cousins, 'Governing Africa: The Imperial Mind in British Colonies, 1938-1947, in the Light of Indian Experience' (1999) 27 *Social Scientist* 140-167, 160.

¹¹ C Emudong, 'The Gold Coast Nationalist Reaction to the Controversy over Higher Education in Anglophone West Africa and its Impact on Decision Making in the Colonial Office, 1945-47' (1997) 66 *Journal of Negro Education* 137-146.

¹² Report of the Commission on Higher Education in the Colonies, 1944-45, Cmd. 6647.

¹³ ICM Maxwell, *Universities in Partnership. The Inter-University Council and the Growth of Higher Education in Developing Countries 1946-70* (Edinburgh, Scottish Academic Press 1980) 13.

¹⁴ See E Ashby and M Anderson, *Universities: British, Indian, African. A Study in the Ecology of Higher Education* (London, Weidenfeld and Nicolson 1966) 233ff.

¹⁵ ICM Maxwell, *Universities in Partnership. The Inter-University Council and the Growth of Higher Education in Developing Countries 1946-70* (Edinburgh, Scottish Academic Press 1980) 33.

¹⁶ ICM Maxwell, *Universities in Partnership. The Inter-University Council and the Growth of Higher*

The College's first Principal was David Mowbray Balme, a former classics lecturer at Cambridge University. Under his guidance, the College closely followed the 'gold standard' and adopted British forms, rituals and organizational models for university life. Though popular with early students and the small but growing number of African staff, this approach was criticized not least by Sir Eric Ashby, a senior British educationalist, as 'a vivid expression of British cultural parochialism' married to imperial self-interest.¹⁷ At least in its early years, this view was not shared by Kwame Nkrumah who declared in his party's 1954 manifesto an 'ambition to make the university among the finest places of learning on earth'.¹⁸ This attitude was to change as issues of higher education standards, financing, staffing and autonomy became a key focus for contestation between political factions in the Gold Coast. The tensions between these ambitions were particularly evident in relation to legal education both at the University and beyond. Before examining them in detail it is worth reflecting on the evolving role of the legal profession in the politics of pre- and post-independence Ghana, which provides significant background for the academic struggles of the early 1960s.

III Politics and the Legal Profession in the Gold Coast

Education in Developing Countries 1946-70 (Edinburgh, Scottish Academic Press 1980) 17.

¹⁷ E Ashby, *African Universities and Western Tradition* (London, Oxford University Press 1964) 19.

¹⁸ ICM Maxwell, *Universities in Partnership. The Inter-University Council and the Growth of Higher Education in Developing Countries 1946-70* (Edinburgh, Scottish Academic Press 1980) 145.

Lacking facilities for training lawyers locally, young men from the Gold Coast were sent to London to attend the Inns of Court. This formation, as well as their class background, created a cultural and professional bond with England and a notable political and social conservatism.¹⁹ These ties were sustained by their very mode of practising law, which centred predominantly on litigation, and also by the exclusive focus at the Inns on English law.²⁰ British caution regarding the creation of a 'babu class' hostile to colonial power was particularly acute in the case of lawyers. As a result, no widening of legal education beyond the Bar was contemplated until 1950, when a number of scholarships were provided to enable Gold Coast students to read law at British universities.²¹

The campaign for self-government in the Gold Coast had been initiated after the Second World War by the United Gold Coast Convention (UGCC). This was in effect a coalition of chiefs and an educated class, mostly made up of the English-trained lawyers.²² They had invited Kwame Nkrumah, who had studied at Lincoln University in the US, before moving to England in 1945, back take up the position of general secretary by the UGCC in 1947. However, the relationship soon deteriorated and in June 1949 Nkrumah broke away to form the Convention People's Party (CPP) which was more insistent and urgent in its demand for independence than the gradualist UGCC.²³ The latter, as Dennis Austin wrote,

¹⁹ See further R Luckham 'The Ghana Legal Profession: The Natural History of a Research Project' (1976) 8 *Journal of Legal Pluralism and Unofficial Law* 106-144.

²⁰ SO Manteaw, 'Legal Education in Africa: What Type of Lawyer Does Africa Need?' 39 *McGeorge Law Review* 903-976, 916 (2008).

²¹ SKB Asante, 'Recollection of the History of the Law Faculty at Legon: The Turbulent Early Years' in University of Ghana Faculty of Law, *50th Anniversary Celebrations – Grand Durbar*, 20th April 2009 [copy on file with authors].

²² D Birmingham, *Kwame Nkrumah. The Father of African Nationalism* (Athens [OH], Ohio University Press 1998) 11.

²³ D Austin, *Politics in Ghana 1946-1960* (Oxford, Oxford University Press 1964) 85.

had a liberal view of society – a lawyer’s view perhaps; they were never quite able to understand the appeal or techniques of mass organisation; and they had a lawyer’s caution too, against rash precipitate action.²⁴

Nkrumah’s success in the elections of 1951, 1954 and 1956, and his accession to power, as Prime Minister of the Gold Coast under British rule, then of independent Ghana in 1957, and as President from 1960, ensured an enduring enmity between him and his former employers.²⁵ Led by a group of ‘lawyer-merchants’, they articulated their refusal in class terms, dismissing Nkrumah and his followers as under-educated ‘verandah boys’.²⁶ Resistance to increasing centralization under the CPP led to the creation, in 1954, of the National Liberation Movement (NLM), which mobilized traditional opponents and disaffected supporters of Nkrumah.²⁷ Embracing first constitutional and then ‘extra-constitutional’ methods,²⁸ the opposition was alleged to have fomented a coup plot in 1958, a series of bomb attacks on CPP meetings, and two assassination attempts on Nkrumah himself in 1958 and 1964. In response the government itself had recourse to extra-constitutional measures, most notably the Preventive Detention Act 1958 which allowed internment without trial and was largely used against political opponents. By the time of Nkrumah’s overthrow in 1966 over 1,000 people were so detained.

²⁴ D Austin, *Ghana Observed. Essays on the Politics of a West African Republic* (Manchester, Manchester University Press 1976) 12-13.

²⁶ D Austin, *Politics in Ghana 1946-1960* (Oxford, Oxford University Press 1964) 181.

²⁷ (n55) 253ff.

²⁸ D Austin, *Ghana Observed. Essays on the Politics of a West African Republic* (Manchester, Manchester University Press 1976) 99.

Nkrumah's steady accumulation of executive powers culminated in the declaration of a one-party state after a rigged plebiscite of 1964.²⁹ Expatriate critics were deported and opposition leaders went into exile. The drift to authoritarianism was particularly evident in relations with the judiciary. Measures in response to a wave of strikes in 1961 included declaring a state of emergency and the creation of a Special Court of three judges to try security-related cases arising under it, with no appeal permitted.³⁰ When the Supreme Court acquitted three politicians charged with involvement in the 1962 assassination attempt, the Constitution was amended to allow the President to dismiss any judge of the superior courts.

V The Wider Cold War Context

These struggles had a wider resonance. As the first African state to win independence, Ghana was the object of considerable attention from the United States, the Soviet Union, and the former colonial powers in Europe, but also from anti-colonial and black liberation movements in Africa and North America. The President continued the engagement with socialist activists and pan-Africanist thinkers which had marked his years abroad. Thus, British left wingers and anti-apartheid activists were invited to join the teaching staff at Legon.³¹ Ghana's attempt to steer a course between the Cold War superpowers was a central concern of Geoffrey Bing, Nkrumah's Attorney General. Formerly a London barrister and Labour MP, Bing had long been active in the influential

²⁹ D Austin, *Politics in Ghana 1946-1960* (Oxford, Oxford University Press 1964) 414-415.

³⁰ The case is discussed in OY Asamoah, *The Political History of Ghana (1950-2013). The Experience of a Non-Conformist* (Bloomington [In], Author House 2014) 53-55.

³¹ R De, 'The Flying QC: The Postcolonial Career of DN Pritt and the Jurisprudence of Decolonization' (forthcoming).

Movement for Colonial Freedom which campaigned for more or less immediate British decolonization in the 1940s and 50s.³² His considerable influence over Nkrumah, in this regard, was sometimes attributed to his alleged membership of the Communist Party of Great Britain or fellow traveller inclinations, though this has never been proven.³³

Nkrumah was also accused of pro-Soviet sympathies by critics throughout his career, but in fact the early period of his rule was marked by considerable openness to the US. The latter indeed made much of its own anti-colonial origins in its engagement with Africa in the late 1950s. Nkrumah's turn towards the USSR and its allies came relatively late and was motivated less by ideology and more by disillusionment with the West in the aftermath of the Congo crisis of 1960-61 and the realization that US involvement in his flagship industrialization project on the Upper Volta river had proved more disadvantageous than expected.³⁴

Independent Ghana was consistent in its leading role in the movement of non-aligned states.³⁵ The most tangible manifestation of this commitment was the contribution of around 2,000 troops to the UN mission in the Congo and a diplomatic push in support of beleaguered President Patrice Lumumba.³⁶ It was out of that context that Bing recruited the Irish diplomat, Conor Cruise O'Brien, as Vice-Chancellor of the University

³² See S Howe, *Anti-Colonialism in British Politics. The Left and the End of Empire, 1918-1964* (Oxford, Oxford University Press 1993) 250.

³³ A document in the British National Archives from 1956 refers to Bing as having been a member of the CPGB's 'secret legal group' before the Second World War and a 'fellow traveller' after it: TNA V 2/3819.

³⁴ E Nwaubani, *The United States and Decolonization in West Africa, 1950-1960* (Rochester [NY], University of Rochester Press 2001) 162.

³⁵ E Nwaubani, *The United States and Decolonization in West Africa, 1950-1960* (Rochester [NY], University of Rochester Press 2001) 136-139.

³⁶ E Nwaubani, *The United States and Decolonization in West Africa, 1950-1960* (Rochester [NY], University of Rochester Press 2001) 146ff.

of Ghana in September 1962. Having resigned in protest at the UN's own failure to block these neo-colonial ambitions, and given his record as a scholar and author, Cruise O'Brien was considered by Nkrumah to be an ideal leader for the national university of a former British colony, like Ghana.³⁷ However, the relationship between Cruise O'Brien on the one hand and Nkrumah and Bing on the other deteriorated due to conflicts over academic freedom in the university generally and in its law faculty in particular as we will see in the following sections.

³⁷ B Davidson, *Black Star. A View of the Life and Times of Kwame Nkrumah* (London, Allen Lane 1973) 56.

VI Conflicts over Academic Freedom at Legon

The University at Legon became a site of struggle between Nkrumah's government and an array of opposition forces, including Ghanaian and expatriate academics, in the early 1960s for four main reasons.³⁸ First, the deteriorating economic situation meant that the government grew more aware of the cost of running the University in its then current format. Of the 13% of the 1960 national budget dedicated to education, a full 40% was absorbed by the University.³⁹ Second, the government's growing disaffection with the US and its allies, including the UK, registered locally in an atmosphere of suspicion and accusation. Expatriate staff were accused of spying, and of promoting neo-colonialist and racist attitudes. Third, some Ghanaian staff were openly associated with and involved in the opposition movement. Fourth, the student body was growing increasingly disaffected with the CPP.

Tensions came to the fore when the University College abandoned its formal link with the University of London in 1961 and became the University of Ghana, with Kwame Nkrumah as its Chancellor. Controversy immediately followed as the government formally dismissed all academic staff, ostensibly on the grounds that their employer had changed.⁴⁰ Although in the event only 6 lost their jobs, claims of a dire threat to

³⁸ For a first-hand account by the then Vice-Chancellor and Professor of Classics, see AA Kwapong, *A Life in Education: A Memoir* (Legon-Accra, Sub-Saharan Publishers 2016) 183-185.

³⁹ D Akenson, *Conor. A Biography of Conor Cruise O'Brien* (Ithaca [NY], Cornell University Press 1994) 227.

⁴⁰ SKB Asante, 'Recollection of the History of the Law Faculty at Legon: The Turbulent Early Years' in University of Ghana Faculty of Law, *50th Anniversary Celebrations – Grand Durbar*, 20th April 2009 [copy on file with authors].

academic freedom found an echo with political and educational commentators internationally, adding to Nkrumah's growing reputation as autocrat.⁴¹

These conflicts also played out in and around the University Law Department, founded in 1958, with dedicated funding from the government, and admitting its first students (a total of 30) in 1959.⁴² JHA Lang was recruited from the UK as its first Dean by Bing, having been forced to resign his post as legal counsel at Imperial Chemical Industries for political reasons. He recruited three young Ghanaian law lecturers, along with two from the UK. Supplementary teaching was provided by eminent legal practitioners. However Lang's tenure came to a controversial end when he resigned in January 1962 in protest at Nkrumah's insistence, without further consultation, that one of the Ghanaian staff, Alex Kuma, widely seen as a CPP loyalist, be promoted to a Presidential chair.⁴³ The new Dean, William Burnett Harvey, took over in October 1962 with the support of the Ford Foundation on a two-year secondment.⁴⁴ Ford had just launched its dedicated programme for programme for the Staffing of African Institutions of Legal Education and Research (SAILER) which was to contribute to developing law schools across the continent over the next decade. A contract lawyer and legal theorist, Harvey was professor of law at the University of Michigan. With him came Robert Seidman, a Harvard graduate, who took up a senior lectureship also with Ford support. From the start Harvey pursued a vigorous programme of reform and

⁴¹ See E Ashby, *Universities: British, Indian, African. A Study in the Ecology of Higher Education* (London, Weidenfeld and Nicolson 1966) 329.

⁴² F Agbodeka, *A History of the University of Ghana: Half a Century of Higher Education 1948-1998* (Accra, Noeli Publishing Services, 1998) 210.

⁴³ DH Akenson, *Conor. A Biography of Conor Cruise O'Brien* (Ithaca [NY], Cornell University Press 1994) 234.

⁴⁴ See JK Krishnan, 'Academic SAILERS: The Ford Foundation and the Efforts to Shape Legal Education in Africa, 1957- 1977', 52 *American Journal of Legal History* 261-324, 301-303.

expansion in law at Legon. He achieved faculty status for the department, helped found a university law journal and began the move to dedicated premises. He also had clear ideas about the ideal scope and form of legal education, informed above all by his career in the United States which we will explore in detail later.⁴⁵

Ironically, while Harvey's innovations were seen as revolutionary by local practitioners associated with the opposition, his American origins also made him suspect in the eyes of government ministers and CPP activists, especially as he took Vice-Chancellor Cruise O'Brien's side in defending university self-government.⁴⁶ In a sign of the government's growing insecurity he was accused by party newspapers of being involved in the assassination attempt of January 1963. They claimed that 'the so-called Michigan professor from Legon', had been inexplicably standing behind Nkrumah when there was an attempt on his life by a body guard, leading them to infer complicity on his part.⁴⁷ He was also charged with supporting the racist South African government on the basis of his inaugural professorial lecture of May 1963. A dry and fairly brief discussion of the peculiarities of the Roman-Dutch legal system was interpreted by CPP supporters in the press as endorsement of apartheid.⁴⁸

Cruise O'Brien was unsuccessful in his attempt to reassure Nkrumah personally that the accusations against Harvey were unfounded. On the contrary government outlets

⁴⁵ D Akenson, *Conor. A Biography of Conor Cruise O'Brien* (Ithaca [NY], Cornell University Press 1994) 234.

⁴⁶ The union of radical and conservative opponents is noted in C Cruise O'Brien, Letter to WB Harvey, 1st July 1965, UCD Archives, P82/99.

⁴⁷ D Akenson, *Conor. A Biography of Conor Cruise O'Brien* (Ithaca [NY], Cornell University Press 1994) 236.

⁴⁸ WB Harvey, 'Legal Education in Ghana. A Report to the SAILER Programme of the Institute of International Education and the Ford Foundation' (n.d.), Indiana Archives, p.313.

went on the offensive, emphasizing the need for the law faculty and indeed the legal profession to align themselves with national objectives as defined by the party.⁴⁹ The President himself sanctioned this line of attack in a speech at the opening of the University's Institute of African Studies in October 1963 where he affirmed that 'the Law Faculty should be staffed by Africans'.⁵⁰ Some months later demonstrators loyal to the government marched on to campus taunting students and demanding the Africanization of staff and teaching methods.⁵¹ The crisis culminated in the deportation of Harvey and Seidman, along with a further five expatriate teachers from other faculties, on 8th February 1964. The contest between academic freedom on the one hand and promotion of social relevance on the other cannot simply be mapped on to the differences between expatriate and African staff. In fact many Ghanaian academics were critical of government interference in the running of the university.⁵² Equally expatriates, including Harvey and Seidman, acknowledged the importance of law and other disciplines contributing to national development and the need to Africanize the cohort of lecturers and professors.⁵³

VII Comparing the Modes of Legal Training in Ghana

It is most likely that all of the charges against Harvey were concocted by party activists. But there were substantive issues in dispute too.⁵⁴ These concerned the appropriate

⁴⁹ Quoted in D Akenson, *Conor. A Biography of Conor Cruise O'Brien* (Ithaca [NY], Cornell University Press 1994) 235.

⁵⁰ Quoted in D Akenson, *Conor. A Biography of Conor Cruise O'Brien* (Ithaca [NY], Cornell University Press 1994) 238.

⁵¹ WB Harvey, 'Legal Education in Ghana. A Report to the SAILER Programme of the Institute of International Education and the Ford Foundation' (n.d.), Indiana Archives, p.333.

⁵² D Akenson, *Conor. A Biography of Conor Cruise O'Brien* (Ithaca [NY], Cornell University Press 1994) 219, 231.

⁵³ WB Harvey, *Law and Social Change in Ghana* (Princeton [NJ], Princeton University Press 1966) 371; R Seidman, Letter from a Deportee (n.d.), UCD Archives, P82/121.

⁵⁴ See D Akenson, *Conor. A Biography of Conor Cruise O'Brien* (Ithaca [NY], Cornell University Press

institutions for training legal professionals in Ghana, the relations between them, and the style of teaching which each would adopt. Thus, in 1957, at the instigation of Geoffrey Bing, the government moved to establish a centre for training lawyers which would eliminate the necessity for Ghanaians to travel to London to study at the Inns of Court.⁵⁵ The Ghana Law School (GLS) opened in 1958 was located in the heart of the commercial district of central Accra, near to the main courts, a setting which contrasted with that of the University Law Department located in its (then) rural setting on Legon Hill. Though founded in the same year, there was no formal connection between the two. The GLS was subject to the direct control of the General Legal Council which regulated admission to the legal profession.

It was planned that the GLS would offer a one-year practical course for law graduates. But its main task was to prepare students for the English Bar Examination through evening classes. Students would be eligible to practice law in Ghana on completing a compressed syllabus over the course of a three-year diploma programme. By contrast the University law degree entailed four years full-time study of traditional common law subjects, as well as African customary law and one non-law elective. Entry requirements were similarly divergent. The University demanded passes in the national school leaving examinations, while the GLS accepted a range of qualifications, from bachelor's degrees to commercial courses in accounting. Poor student completion rates in the School seemed to reflect this generous admissions policy.

1994) 234.

⁵⁵ The discussion in this and the following paragraph draws on Harvey's memorandum 'Legal Education in Ghana' presented on behalf of the Faculty of Law to the Academic Board of the University of Ghana in November 1962 and reprinted in WB Harvey, *Law and Social Change in Ghana* (Princeton [NJ], Princeton University Press 1966) 369-389.

The unclear relationship between the GLS and the University Law Department was considered by an International Advisory Board on Legal Education in July 1959, whose members included Arthur Sutherland (US), Zelman Cowen (Australia) and LCB Gower (UK). The Advisory Board recommended that Ghana's bifurcated system of legal training come to an end. The GLS should be absorbed into University, the part-time diploma phased out, and its efforts focussed on post-graduate training for legal practice.⁵⁶ These recommendations had not yet been implemented when William Burnett Harvey took up the Deanship at Legon. He addressed the issue of the GLS in a memorandum submitted to the Academic Board of the University and the General Legal Council in October 1962 only a month after his arrival.⁵⁷ Going one step further than the Advisory Board, he proposed that the GLS be abolished completely and with it the provision of separate vocational training in legal practice. The latter could, he argued, be delivered more efficiently, by the University Law Department itself, as was the case in the US. To achieve this, students would take a three-year BA course, followed by two years of LL.B. studies to entitle them to practice. This would have the benefit of improving the quality of teaching and, thus, of graduates and practitioners. It would also concentrate national research capacity in law. Ultimately, though accepted by the General Legal Council, Harvey's proposals did not survive his deportation in 1964. Moreover, they provoked significant opposition, as we will see in subsequent sections. Before that we turn first to investigate more fully the rival

⁵⁶ Report of the International Advisory Committee on Legal Education, Accra (n.d.), pp.6-7 [copy on file with authors].

⁵⁷ An Integrated Programme for Legal Education in Ghana, Accra, 1962, reprinted in WB Harvey, *Law and Social Change in Ghana* (Princeton [NJ], Princeton University Press 1966) 369-389.

conceptions of legal education which underpinned the different positions in this debate.

VII Nkrumah, Bing and the Instrumentalist Approach

Geoffrey Bing's memoirs, published after his expulsion in 1966, include a chapter of historically and theoretically well-informed reflections on education in Ghana. Examining this, along with views expressed by Nkrumah himself, will provide us with an insight into the distinctive aims and values which each felt should shape legal training in a post-colonial state. Bing adopted Sir Eric Ashby's critique of the 'Asquith doctrine', noted above, but gave it a more political, indeed anti-colonial edge. Asquith's elite (or 'Platonic') model of university education, he argued, was rooted in imperial strategies of domination, exemplified, for example, in the criteria laid down by Cecil Rhodes for scholarships awarded in his name to students coming to Oxford.⁵⁸ Privileging classicists and historians as candidates for administrative and political leadership in Britain and the colonies, the model aimed to teach 'men how to rule men', not 'how the world might be improved'.⁵⁹

⁵⁸ G Bing, *Reap the Whirlwind. An Account of Kwame Nkrumah's Ghana from 1950-1966* (London, MacGibbon & Kee 1968) 345.

⁵⁹ G Bing, *Reap the Whirlwind. An Account of Kwame Nkrumah's Ghana from 1950-1966* (London, MacGibbon & Kee 1968) 341. This was also Nkrumah's view, see B Davidson, *Black Star: A View of*

For his part, Bing took a more instrumental and democratic view, one rooted in the ethos of the natural sciences prevalent at mid-century. Education, he wrote,

consists of passing on and augmenting the knowledge which enables man to conquer his environment. The student's mind must be so trained that he [sic] will for ever after question, in accordance with scientific principles, the world in which he lives.⁶⁰

This generalized instrumentalism was given concrete substance in independent Ghana by the government's developmental ambitions, and it was in these specific terms that Bing recounted and evaluated the relationship between Nkrumah's government and the University at Legon. He dismissed the sequence of on-campus demonstrations and deportations as no more than the 'sordid brawling between "town" and "gown"' typical of medieval Cambridge. Rather the true 'crime of the University was its passivity in face of the crying economic and social needs of the country' and its failure 'to provide the skilled personnel necessary for development.'⁶¹ The banner of academic freedom, raised against Nkrumah by Conor Cruise O'Brien and his colleagues, as well as by international critics, in reality served to protect the corporate and material interests of disproportionately well-paid expatriates and the entrenched class position of established Ghanaian elites.⁶²

the Life and Times of Kwame Nkrumah (London: Allen Lane, 1973) 163.

⁶⁰ G Bing, *Reap the Whirlwind. An Account of Kwame Nkrumah's Ghana from 1950-1966* (London, MacGibbon and Kee 1968) 340.

⁶¹ G Bing, *Reap the Whirlwind. An Account of Kwame Nkrumah's Ghana from 1950-1966* (London, MacGibbon & Kee 1968) 364.

⁶² Regarding the former he mentions the defence, in terms of intellectual autonomy, of holiday leave allowances including first class air fares. The latter accounted for 1/9 of the annual university budget: G Bing, *Reap the Whirlwind. An Account of Kwame Nkrumah's Ghana from 1950-1966* (London, MacGibbon & Kee 1968) 360.

A better, more development-focussed model for Ghana, and other African states, according to Bing, lay in the Land Grant Colleges established in the United States in second half of the 19th century.⁶³ Governed by a committee drawn from the surrounding community, rather than by academics themselves, these colleges were explicitly founded to promote economic and social progress in their own regions.⁶⁴ Courses of varying length focussed therefore on practical training, oriented to the needs of local industries, including agriculture. This approach was widely discussed elsewhere in Africa during the period of decolonization, most notably by Dr Nnamdi Azikiwe in Nigeria who adopted it as the model for the University of Nigeria at Nsukka founded in 1955. More democratic and more oriented to social problems, according to Ashby the Land Grant college was concerned 'with the making of citizens, not just leaders ... its campus [was] the whole state'.⁶⁵

Nkrumah and Bing's interventions on legal education were also marked by a steady focus on the collective, articulated in instrumentalist terms. Bing argued that through its 'inefficiency, slowness and uncertainty' colonial legislation was 'a clog on industrialization and an invisible surcharge on every commercial transaction'.⁶⁶ According to the President, practitioners, for their part, had concentrated on conducting litigation 'between wealthy individuals', neglecting less lucrative disputes and effectively promoting 'colonial economic interests'.⁶⁷ This group understood law in

⁶³ G Bing, *Reap the Whirlwind. An Account of Kwame Nkrumah's Ghana from 1950-1966* (London, MacGibbon & Kee 1968) 340. See further, ED Ross, 'On Writing the History of Land Grant Colleges and Universities' (1953) 24 *Journal of Higher Education* 411-414, 451-452.

⁶⁴ See E Ashby and M Anderson, *Universities: British, Indian, African. A Study in the Ecology of Higher Education* (London, Weidenfeld and Nicholson 1966) 276-281.

⁶⁵ See E Ashby and M Anderson, *Universities: British, Indian, African. A Study in the Ecology of Higher Education* (London, Weidenfeld and Nicholson 1966) 279.

⁶⁶ G Bing, *Reap the Whirlwind. An Account of Kwame Nkrumah's Ghana from 1950-1966* (London, MacGibbon & Kee 1968) 330.

⁶⁷ K Nkrumah, 'Law in Africa' (1962) 6 *Journal of African Law* 103-112, 107.

absolute terms, as an end in itself, operating above all in defence private property and the established order. By contrast, in an independent Ghana law would be deployed dynamically for transformation and growth. For Nkrumah 'law must represent the will of the people and be so designed and administered as to forward the social purpose of the state', a view warranted by the essential communitarianism of historic African societies.⁶⁸

Legal education in the new Ghana would be reshaped to serve this end. Not litigators but 'legally trained administrators and legal technicians' were required for development through socialist planning.⁶⁹ The re-orientation of practice toward external goals meant that the curriculum should include non-law subjects such as economic, social and political science, and even science and technology. This vision of the new lawyer as technocrat was complemented by a more populist concern with the needs of 'the ordinary man and woman' in small towns and villages whose 'everyday legal problems' had been neglected by elite litigators.⁷⁰ Through the GLS, civil servants, police and army personnel, for example, would be able to gain the legal knowledge necessary for the more effective discharge of their public duties. Equally its lower cost would attract into the profession 'those whose families lacked the money to send them to London to read law'.⁷¹ So-called 'legal letter writers', operating as informal advisors in the countryside would be offered instruction 'in the rudiments of law' as a condition for being formally licensed. Significantly these initiatives were resisted in the name of

⁶⁸ K Nkrumah, 'Law in Africa' (1962) 6 *Journal of African Law* 103-112, 103.

⁶⁹ K Nkrumah, 'Law in Africa' (1962) 6 *Journal of African Law* 103-112, 103, 107.

⁷⁰ G Bing, *Reap the Whirlwind. An Account of Kwame Nkrumah's Ghana from 1950-1966* (London, MacGibbon & Kee 1968) 316.

⁷¹ G Bing, *Reap the Whirlwind. An Account of Kwame Nkrumah's Ghana from 1950-1966* (London, MacGibbon & Kee 1968) 318.

maintaining standards. The GLS curriculum, as we have seen was pegged to the Bar course in London, and its quest for the authority to train lawyers from scratch was thwarted. The 'letter writers' proposal was also rejected by the General Legal Council, as a 'colonialist suggestion' that Ghanaians could not aspire to the same quality of legal education as that prevailing in England.

IX Harvey, Seidman and the Humanistic Approach

In taking steps to ensure a widening of legal education suited to Ghanaian conditions, Bing and Nkrumah were opposed by the WB Harvey. Admittedly he acknowledged like them that the law department faced the challenge of promoting Ghanaian staff and he shared their concern that the University Law Faculty should not isolate itself from the wider society.⁷² In form and substance, however, his vision differed from theirs quite sharply. Harvey arrived at Legon 'carrying the torch for American legal enlightenment'.⁷³ Like Bing he started with a critical view of the legal profession as it then was: numerically small, over-concentrated geographically and skewed towards advocacy. He too argued that the new curriculum should include non-law courses to alert the lawyer to 'the pressures and needs felt at the growing edge of ... society'.⁷⁴ But these concessions did not amount to an acceptance of Bing's assumption that law was merely a tool of national development subject to government direction. On the contrary, Harvey emphasized first and foremost that

⁷² WB Harvey, *Law and Social Change in Ghana* (Princeton [NJ], Princeton University Press 1966) 178.

⁷³ SKB Asante, interview, 8th October 2018.

⁷⁴ WB Harvey, *Law and Social Change in Ghana* (Princeton [NJ], Princeton University Press 1966) 369.

law is a learned profession [and the lawyer] who is faithful to the highest standards of his profession is not merely a skilled craftsman manipulating a technique for social ordering.⁷⁵

Lawyers required a 'broad and liberal education' rendering them sensitive to 'the values of the cultural tradition of which they are a part' through 'substantial exposure to the learning of the humanities and the social sciences'.⁷⁶ Acquiring familiarity with 'the body of positive legal norms' was not enough.⁷⁷ Echoing the Asquith report he evoked the 'gold standard'. Ghana should concentrate on producing 'soundly and liberally educated' lawyers entitled 'to full acceptance in the international community'.⁷⁸

Harvey robustly defended the inherent academic value of the academic law degree. In its core subjects, as much as through non-law electives, it offered a 'rich storehouse of data of general humanistic and social significance'.⁷⁹ Law was a worthy subject of study even by those who would not go on to practice. The law of contract provided an insight into the workings of the market economy, tort law into the costs of industrialization, and so on. This potential was sold short by the abbreviated training offered at institutions like the GLS which he dismissed as "crash programs" for the training of minimally qualified legal technicians'.⁸⁰ If national resources were scarce they should be devoted to providing standard law degrees to a high standard, rather than to supplementary and inevitably mediocre law teaching aimed at public servants and the like. The practical corollary of this view for Harvey, as we have seen, was that legal education should be solely delivered by the university as in the United States.

⁷⁵ WB Harvey, *Law and Social Change in Ghana* (Princeton [NJ], Princeton University Press 1966) 369.

⁷⁶ WB Harvey, *Law and Social Change in Ghana* (Princeton [NJ], Princeton University Press 1966) 369

⁷⁷ WB Harvey, *Law and Social Change in Ghana* (Princeton [NJ], Princeton University Press 1966) 369

⁷⁸ WB Harvey, *Law and Social Change in Ghana* (Princeton [NJ], Princeton University Press 1966) 370.

⁷⁹ WB Harvey, *Law and Social Change in Ghana* (Princeton [NJ], Princeton University Press 1966) 370

⁸⁰ WB Harvey, *Law and Social Change in Ghana* (Princeton [NJ], Princeton University Press 1966) 370

This humanistic, as opposed to purely instrumentalist, conception of legal education was also evident in how Harvey, and his colleague Robert Seidman represented their teaching practice. Trained at Michigan and Yale law schools respectively, both followed the Socratic, or dialogic method of teaching. Famously, this inducted students into the practice of common law reasoning by a rigorous and open-ended questioning on the detail of important cases, through which they were expected to grasp the principles of a given legal area. The function of the law teacher in this mode was ‘to organize an apt body of working materials, to stimulate the student to consider them in such a way as to sharpen his [sic] own analytical skills and insights, and by his questions and criticisms to light the student’s path toward discovery, but not to carry him along it’.⁸¹ As regards teaching materials, this approach privileges casebooks, containing extracts from primary legal sources, rather than straight-forwardly descriptive textbooks, and American staff at Legon were active producing such casebooks for their courses, containing specifically Ghanaian and other African materials.⁸² Historically associated with Harvard Law School, the Socratic method was quite opposed to the magisterial style common in British law faculties and among Ghanaian colleagues who had studied there. On that model, according to Harvey, legal information was imparted in unidirectional fashion through lectures which students attended ‘without prior preparation on the materials to be considered ... quietly taking their notes’.⁸³ This

⁸¹ WB Harvey, ‘Legal Education in Ghana. A Report to the SAILER Programme of the Institute of International Education and the Ford Foundation’ (n.d.), Indiana Archives, p.286.

⁸² The fruits of this effort are recorded in WB Harvey, ‘Legal Education in Ghana. A Report to the SAILER Programme of the Institute of International Education and the Ford Foundation’ (n.d.), Indiana Archives, p.281.

⁸³ WB Harvey, ‘Legal Education in Ghana. A Report to the SAILER Programme of the Institute of International Education and the Ford Foundation’ (n.d.), Indiana Archives, p.285.

ultimately rested on a view of law, not as activity, but as a body of rules and principles in the first instance.

This difference in teaching methods had a clear political valency for Seidman. While the American professor's role was 'to guide students to discover for themselves underlying patterns of law', their European counterparts used 'a heavily didactic, authoritarian instructional method'.⁸⁴ Small wonder that the President, himself seen as an incipient autocrat, 'objected to the way Americans taught "Western law"', or that proponents of the traditional lecturing style in the University had also sought to introduce compulsory courses for students in the party doctrine of 'Nkrumahism'.⁸⁵ The popularity and inherent democratic potential in the Socratic method was borne out for Seidman in the very week of his expulsion in January 1964. He recalled with pride a criminal law class from that period which saw students tease out the implications of the common law doctrine of provocation with reference to a Ghanaian defendant poised between 'rational understanding' and 'traditional beliefs'. His own departure from Accra airport was attended by most staff from the Law Faculty and a large body of obviously distressed, but supportive students. Even in his absence, he was sure that their acquired skill in Socratic techniques would allow them to run their own classes for a number of weeks.⁸⁶ Harvey too expected that students who had been 'encouraged to question, to criticize and to attempt to defend their own analyses [would] never again be content with passive note-taking on lectures'.⁸⁷

⁸⁴ R Seidman, Letter from a Deportee (n.d.), UCD Archives, P82/121.

⁸⁵ R Seidman, Letter from a Deportee (n.d.), UCD Archives, P82/121

⁸⁶ R Seidman, Letter from a Deportee (n.d.), UCD Archives, P82/121

⁸⁷ WB Harvey, 'Legal Education in Ghana. A Report to the SAILER Programme of the Institute of International Education and the Ford Foundation' (n.d.), Indiana Archives, p.287.

X English Conservatism and Ghanaian Nationalism

Legal conservatism, in teaching and practice, was attacked in the name of Ghanaian development by Bing, and by Harvey and Seidman. In both cases the British origin of these traditions was explicitly disparaged. Harvey traced the tendency towards rote learning and regurgitation among his students to the imposition of the British school system in Ghana, one of the most the 'most regrettable aspects' of the colonial legacy.⁸⁸ Against this he hoped that 'even after the direct American involvement in law teaching has ended, the American insistence that rule-learning through neat lectures is not legal education will still influence the Faculty of Law'.⁸⁹

Nonetheless the British connection continued to be highly valued by many Ghanaian scholars and legal practitioners. Thus in 1960, addressing the University of Hull, Mr Justice NA Ollenu, then a judge of the Ghanaian High Court and sometime lecturer at Legon, affirmed that

[N]ot only are we indebted to England for that part of our law which we have received from England, but also, and much more significantly, we are indebted to you for giving us the heritage of your own methods of creating, declaring, and developing the law.⁹⁰

⁸⁸ WB Harvey, 'Legal Education in Ghana. A Report to the SAILER Programme of the Institute of International Education and the Ford Foundation' (n.d.), Indiana Archive, p.284.

⁸⁹ WB Harvey, 'Legal Education in Ghana. A Report to the SAILER Programme of the Institute of International Education and the Ford Foundation' (n.d.), Indiana Archive, p.287.

⁹⁰ NA Ollenu, 'The Influence of English Law on West Africa' (1961) 5 *Journal of African Law* 21-25, 35..

Indeed, lawyers' resistance to Nkrumah was represented at the time by SKB Asante as the result of 'solid attitudes instilled by a hundred years of contact [which meant that] the essential ingredients of the English concept of the rule of law were sufficiently rooted in Ghanaian public life to generate a revulsion against wanton totalitarianism.'⁹¹ In the University too, even though the formal link to the University of London was abandoned in 1960, a more informal shadowing of the gold standard was achieved through the appointment of British, or British-trained external examiners for its law programmes.⁹² Even the Ghana Law School, which was founded to outflank the conservative, Anglophile legal profession, was concerned to show it would maintain parity with English standards at least in its early years, through setting the same examination papers as the Council of Legal Education in England.⁹³ This affinity formed part of a broader pattern among the educated elite which emerged in the Gold Coast in the post-war period. The memoirs of Alex Kwapong, who succeeded Cruise O'Brien as Vice-Chancellor at Legon make this clear.⁹⁴ Trained as a classicist at Cambridge he expressed a determination in the aftermath the 1966 coup, that the University at Legon should endure as a 'microcosm of the national freedom of Ghana'.⁹⁵

The defence of legal Englishness was not limited to established professionals and political conservatives, however. WC Ekow Daniels, who had joined the Faculty having

⁹¹ SKB Asante 'Law and Society in Ghana', *Wisconsin Law Review* 1113-1124 (1966).

⁹² SKB Asante, 'Recollection of the History of the Law Faculty at Legon: The Turbulent Early Years' in University of Ghana Faculty of Law, *50th Anniversary Celebrations – Grand Durbar*, 20th April 2009 [copy on file with authors].

⁹³ 'Law School Opens', *New Ghana*, 19th November 1958.

⁹⁴ AA Kwapong, *A Life in Education: A Memoir* (Legon-Accra, Sub-Saharan Publishers 2016).

⁹⁵ See 'The Vice-Chancellor's Address to Congregation, 26th March 1966' reproduced in AA Kwapong, *A Life in Education: A Memoir* (Legon-Accra, Sub-Saharan Publishers 2016) 326-342, 341.

returned from doctoral studies at University College London, was strongly identified with President Nkrumah. Like Bing he was accused of off-stage plotting to subvert the autonomy of the University in the name of Africanizing the lecturing staff. Indeed, Cruise O'Brien, Harvey and Seidman all asserted privately that he was instrumental in having the latter two deported in order to secure a chair in law for himself.⁹⁶ Ekow Daniels strenuously denied this at the time and since.⁹⁷ What is indisputable is that he openly challenged Harvey's proposed reforms to the organization and format of law teaching in Ghana with a memorandum of his own to Faculty staff in late 1962.⁹⁸ This was made out in terms of a defence of the English form of legal education that he had experienced as an undergraduate, i.e. a separation of academic study, to be delivered at the University, from vocational instruction, to be provided through a separate institution, like the GLS. He argued that Harvey's typically American proposal to deliver the entirety of legal education through a university degree programme confounded theory and practice. Casting Harvey's ambition to overcome British traditions as a kind of legal educational 'imperialism', he proposed instead that students take a diet of solely legal subjects, with no room for extra economics, social studies and so on.⁹⁹ Contextual and critical perspectives on law were, thus, more likely to be offered to students by American staff, than by their British-trained Ghanaian colleagues, no matter how radical their politics.¹⁰⁰

⁹⁶ C Cruise O'Brien, Letter to Alan Nunn May, 24th February 1964, UCD Archives P82/99; WB Harvey, 'Legal Education in Ghana. A Report to the SAILER Programme of the Institute of International Education and the Ford Foundation' (n.d.), Indiana Archives, pp.289, 306; R Seidman, Letter of a Deporte (n.d.), UCD Archives P82/121.

⁹⁷ Libel proceedings arising out of a piece that Cruise O'Brien had written to this effect were settled in 1969 with an apology. See respectively C Cruise O'Brien, 'Return to Ghana', *The Observer*, 24th April 1966 and relevant litigation Papers [on file with Professor WC Ekow Daniels].

⁹⁸ WC Ekow Daniels, 'Some Comments on Professor Harvey's Memorandum on the Future of Legal Education in Ghana' (n.d.) [copy on file with authors].

⁹⁹ WC Ekow Daniels, interview, 10th October 2018.

¹⁰⁰ Even SKB Asante, who was considerably more critical of Nkrumah and supportive of Harvey and Seidman than Ekow Daniels, felt that the Americans were 'over-confident' in seeking to impose a 'romanticized' US conception of legal education 'against English tradition' in Ghana: SKB Asante, interview, 8th October 2018.

A further irony is evident when we consider the views of LCB Gower, then chair of law at the London School of Economics and founder of academic company law in England, who was highly active in law reform and development of law faculties across West Africa in this period.¹⁰¹ As we have seen, Gower had served on the International Advisory Committee on Legal Education in Ghana, was no missionary for the traditional English model, however. He had long-established contacts with leading US scholars of corporate law.¹⁰² Like many British academics who made this journey at the time, he was greatly impressed by the breadth and vigour of American legal scholarship and equally convinced of the inferiority of its counterpart at home.¹⁰³ He brought this awareness with him to his work in and on Ghana, arguing repeatedly for the value of a university law degree as a prerequisite of professional practice.

Gower dedicated his Oliver Wendell Holmes lectures at Harvard in 1966 to the theme of 'Independent Africa', starting from the assumption that well-trained lawyers were essential to political order and economic development.¹⁰⁴ He reviewed the 'colonial inheritance' in this regard. Positives included the rule of law, policing, an apolitical military and the common law itself. Foremost among the negatives were the education system, which was elitist at the highest level and simply insufficient at the lower

¹⁰¹ Most notable in Ghana was Gower's work on company law reform, see Final Report of the Commission of Enquiry into the Working and Administration of the Present Company Law of Ghana (Accra, Government of Ghana 1961) 2.

¹⁰² Gower's American connections are carefully mapped in D Sugarman 'A Special Relationship? American Influences on English Legal Education, c. 1870-1965', (2011) 18(1-2) *International Journal of the Legal Profession* 7-57, 23-25.

¹⁰³ For an early statement, see LCB Gower, 'English Legal Training a Critical Survey', (1950) 13 *Modern Law Review* 137-205.

¹⁰⁴ LCB Gower, *Independent Africa. The Challenge to the Legal Profession* (Cambridge [Ma], Harvard University Press 1967) 144, 107.

levels.¹⁰⁵ While recommending that Britain and US should address these deficiencies 'in combination' rather than competition, Gower clearly cast his American peers as the agents of progress.¹⁰⁶ He counselled due modesty, warning against 'dollar imperialism', over zealotry and the naïve assumption that Africans saw the US as a 'loveable' ally with a shared anti-colonial past. Allowing for that, however, what was required above all was for 'more for more African lawyers to be exposed to American methods at American law schools, and more American teachers to practise American methods at African law schools'.¹⁰⁷ Not only African lawyers, but their British counterparts needed to be shaken 'out of complacency'.¹⁰⁸ Recalling a friendly comment from his year at Harvard to the effect that he 'wasn't a typical Englishman', he added 'I wouldn't know about that. But I think too many African lawyers are'.¹⁰⁹

XI Conclusion

Legal education, neglected and discouraged under colonial rule, received much attention after independence but there were often conflicting outlooks on its aims and how it should be provided. In this paper we have shown that from 1957, debates about the roles of the Law Department at the University of Ghana and the Ghana Law School must be understood as part of wider, complex struggles. At stake were the political positions of the main protagonists and competing

¹⁰⁵ LCB Gower, *Independent Africa. The Challenge to the Legal Profession* (Cambridge [Ma], Harvard University Press 1967) 34, 13.

¹⁰⁶ LCB Gower, *Independent Africa. The Challenge to the Legal Profession* (Cambridge [Ma], Harvard University Press 1967) 134.

¹⁰⁷ LCB Gower, *Independent Africa. The Challenge to the Legal Profession* (Cambridge [Ma], Harvard University Press 1967) 144.

¹⁰⁸ LCB Gower, *Independent Africa. The Challenge to the Legal Profession* (Cambridge [Ma], Harvard University Press 1967) 145.

¹⁰⁹ LCB Gower, *Independent Africa. The Challenge to the Legal Profession* (Cambridge [Ma], Harvard University Press 1967) 145.

philosophies of legal education whilst the broader historical context was one of decolonization. We have sought to show that struggles over legal education had a significance far beyond the Law Faculty. They were as much about African nationalism, development and social progress, the impact of British rule on legal education and the growing involvement of the United States in this domain. There was no straight alignment of perspective with national origin however.

As regards the shape of legal education in Ghana it must be admitted that in the medium- and long-term both Harvey and Bing failed in their ambitions. The bid to create a university monopoly of legal training was thwarted by Harvey's deportation in 1964. The bid to by-pass the university by allowing non-graduates to practice after studying at the Ghana Law School was frustrated by Bing's own expulsion after the coup against Nkrumah in 1966. Our discussion shows that neither proposal was supported by a sufficiently numerous and influential domestic constituency.¹¹⁰ Ultimately the mixed English model, as supported by the International Advisory Committee was retained. In the aftermath of the 1966 coup the university council declared its intention to return Ghana 'to the academic gold standard', and this development was a noted ambition of the conspirators themselves.¹¹¹

We have already noted the irony in all of this. Britain was exhausted as a world power by the early 1960s. The ruling class had lost an empire, and its ruling ideas had lost purchase, most of all with the ambitious children of its own working and

¹¹⁰ SKB Asante, interview, 8th October 2018.

¹¹¹ D Austin, *Ghana Observed. Essays on the Politics of a West African Republic* (Manchester, Manchester University Press 1976) 176.

middle classes. The veneration of tradition, complemented by an empiricist anti-intellectualism, which marked both the common law and the wider culture, was being challenged by imported continental and American models of thought and pedagogy.¹¹² In some former colonies, by contrast, the 'peculiarities of the English' retained a certain purchase in debates over the future of law and legal education. The metaphor of the 'gold standard', repeatedly invoked, suggests a certain nostalgia for the days when money and qualifications had an intrinsic worth underwritten by the imperial metropole. Dollar convertibility had fewer attractions. National money threatened inflation and a loss of value. It would be erroneous, however, to see this as mere imitation or simple neo-colonial deference. Well-founded strategic concerns, about US intentions in Africa for example, as well as the tactical demands of the political moment within Ghana, meant that the English model had value even for radical nationalists. We do well too to remind ourselves that the Anglophile lawyer-elite in Accra, like its conservative peers in other former colonies, was no less committed to independence and development than their radical rivals, albeit with more caution. Finally, it is worth noting that many teachers and students positively embraced the plurality of teaching styles and scholarly orientations on offer at Legon in this period. They rallied in support of deported US lecturers, and in protest against Nkrumah's constraints on the judiciary. British and American methods were appropriated, adapted and in-part rejected for differing disciplinary contexts by distinguished Ghanaian scholars and judges over the following decades.¹¹³

¹¹² See generally, P Anderson, 'Components of the National Culture' (1968) 1/50 *New Left Review* 3-57; and on law, AWB Simpson, 'The Common Law and Legal Theory', in AWB Simpson, *Legal Theory and Legal History. Essays on the Common Law* (London, Hambledon Press 1987) 359-382.

¹¹³ SKB Asante, interview, 8th October 2018; S Date-Bah, interview, 10th October 2018.