

1-14-1985

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Recommended Citation

Kumado, C. E. K. (1985) "The Value of Preliminary Surveys and Pilot Projects in Legal Aid Schemes for Rural Farmers — The Legon (Ghana)," *Third World Legal Studies*: Vol. 4, Article 14.
Available at: <http://scholar.valpo.edu/twls/vol4/iss1/14>

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THE VALUE OF PRELIMINARY SURVEYS AND PILOT PROJECTS IN LEGAL AID SCHEMES FOR RURAL FARMERS—THE LEGON (GHANA) EXPERIENCE*

C.E.K. Kumado**

People who work in universities and similar institutions probably need not be reminded of the value of research. Such centres of learning have to generate the knowledge before they can share it, and research is one acknowledged way of generating knowledge. Those of us who have tried to address the needs for knowledge in communities other than the university, through community service programmes, have discovered (or had confirmed for us further) the indispensability of research as the starting point of any social action-oriented programmes, particularly in rural areas.

In 1981, the Faculty of Law at the University of Ghana began plans for a legal aid scheme to rural small farmers. This was to be the Faculty's contribution to the promotion of human rights in Ghana. For the Faculty had become convinced that the cause of human rights in Ghana, as indeed elsewhere in the developing world, could be well served in those areas where the under-privileged classes need massive assistance to enable them to participate effectively and meaningfully in the over-all development programme of the country. We felt that, in our country, the bulk of those engaged in farming and fishing undoubtedly belonged to the under-privileged class. Since a target group for our scheme had to be chosen, we selected the small-scale peasant farmer. All available evidence shows that the small-scale peasant farmer plays and will continue to play a pivotal role in the agricultural well-being of our country. It was therefore necessary, in our opinion, to devise a scheme for meeting some of his or her needs for legal services quickly.

A good number of these peasant farmers work on other people's lands and farms. They are, generally speaking, illiterate and ignorant of the complexities of our plural legal system: the laws relating to land tenure

* Paper presented to the Windsor Workshop on "Education in Law for Alternative Development: Generating and Sharing Knowledge about Law."

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systems, security of title to land, and the relationship between landlord and tenant. They need farm credit and debt management counselling. At the same time, they are often too poor to afford the high professional fees charged for this kind of service.

One thing became clear to us at the outset: we had to avoid paternalism of any kind in our development of the project. We were convinced that, for any rural legal aid scheme to have the right impact, we had to involve the rural people in its conceptualisation, design and implementation. Since the aim of our scheme was to bring the law to the doorsteps of small-scale farmers, to enable them to exploit the law to their advantage, the success of the programme would depend on our ability to persuade each of the usefulness of his own participation *to him*. Consequently, we arranged a pilot survey.

Two towns were selected which straddled two regions, Akyease in the Eastern Region and Amanfupon in the Central Region. The number of farmers interviewed in each town was fairly proportional to the population of the areas. Amanfupon is the more rural of the two towns. It has had little influence on the outside world, and most of the farmers there are settler-farmers. Akyease, on the other hand, is partly urban, with modern amenities and institutions and a higher rate of mobility among the people.

The survey covered the social background of the people in the two towns. The most significant feature concerned age distribution. The largest single age group for both males and females was the 60-plus bracket. Clearly the brunt of farming activity, in so far as evidenced by this survey, is being borne by the very old in our society. This confirms the belief that, because of the effects of social change brought about by modern formal education and urbanisation, the arduous task of farming in Ghana is shouldered by older people; the younger generation is either busy in school or looking for white-collar jobs in the urban centers. Of course, this evidence has clear implications for any legal aid scheme for our rural farming communities.

The field trip reports revealed an interesting point: female farmers were reluctant to express their own independent views to the interviewers. This may well be because of a tradition which looks upon encounters of this nature with outsiders as the function of the male head of the family.

For every planned legal aid programme, full information about the educational level of the members of the target group is absolutely essential. Such information is necessary if one is to design services which are adequate and relevant to their needs. Thus the survey covered the educational background of the farmers included in the sample.

What stood out clearly from the interviews was that a large number

of the farmers have had very little or no formal education.¹ Against the background of the rather arcane language in which, traditionally, legal documents are written and legal proceedings conducted in Ghana, this evidence is instructive. Indeed, even if one added those who have had formal education of some sort, the evidence suggests that about ninety percent of those in the sample were, as far as an ability to wade through the law and its jargon, illiterate. Thus, because of this lack of formal modern education, the majority of our farmers are likely to leave their interests unprotected and insufficiently worked out; otherwise they would have to spend much more of their energies on litigation. This will not only sap their resources, but it might get them deeply into debt and rob them of valuable time which could have been used for productive work: for the improvement of their social conditions and the development of the country.

The survey covered the number and size of farms owned by the farmers. While some are migrant farmers selling their labour for reward either in kind or cash, a goodly number "owned" the lands they tilled: they held the highest interest in land recognised by Ghanaian law. The median number of farms owned, according to the evidence, is three. This is entirely consistent with the pattern reported in other studies.

The responses showed that the subsistence farms were mostly between one and ten acres. Of course, there were the usual difficulties associated with ascertaining farm size in rural communities: the respondents' caution, deliberate concealment for unstated reasons, difficulties of conversion of traditional measurement schemes to modern ones, etc. But all told, the evidence confirmed the belief that the majority of those in the rural communities not engaged in cash cropping are farming at a small scale. It is noteworthy that only about five percent of the farmers had farms in excess of fifty acres.

It is also important to note the type of tools used on most of the farms. All the farmers questioned use traditional implements like the hoe, cutlass, mattock, axe and similar simple tools. Not a single person reported the use of power tools. Obviously, in spite of talk about mechanisation of agriculture in the country and the existence of large-scale mechanised farms, the farm technology employed by most of our farmers remains simple.

Since the legal aid scheme (for which the survey was a preliminary step) was intended to cover farm credit counselling, it was thought

1. About sixty-eight percent of those interviewed fell within this group.

necessary to find out the sources of income available to respondents. They were asked to specify the actual sources of finance for their farms. Only one-third of them reported receiving credit from financial institutions. Further probing revealed that, although all farmers knew about the existence of bank credit for farming generally, many could not take advantage of credit for a number of reasons.

First, some of the farmers complained about the distances they had had to travel in the past to negotiate for credit. The cost of transportation, in their opinion, became unjustified when their applications were turned down. Second, the initial cost of preparing documents like feasibility studies tended to reduce the amount of credit when it was actually granted. But third, and for us a more significant reason, many farmers did not avail themselves of the existing credit facilities simply because they had no idea of the formalities; what little information they had made the whole process sound very cumbersome to them. The result of all of this is that some resorted to unofficial credit sources, i.e., private moneylenders, with all the disabilities which attend such credit.

We thus felt justified in our assumption that our legal aid scheme, to be complete and beneficial, must encompass farm credit counselling. The counselling will involve arranging with the banks for the initial paperwork to be done by operatives under the scheme, operatives who can also act as intermediaries between the financial institutions and the farmers.

Another area surveyed was the types of disputes arising in relation to the farms, and how these disputes were handled. Disputes over ownership of the land ranked as the main cause of disputes. For settler-farmers, the problems always arise after the original grantors have developed the land. Next in frequency were boundary disputes. Here the claim is limited to a portion of the total area cultivated by a neighbor. In the absence of a comprehensive title and boundary registration scheme for the whole country, the prevalence of these types of problems is hardly surprising.² The third major cause of disputes was inter-family differences. Where the land being farmed is owned by the family as a group, quarrels within the family, even on issues unrelated to the land, sometimes spill over into allocations of land worked on by individuals.

The responses showed that legal advice was sought from a variety of sources in all these cases: legal practitioners, elders, and "pocket lawyers." For the most part, those who sought advice from legal practitioners had

2. A Stool Lands Boundaries Settlement Commissioner exists for the resolution of disputes relating to the boundaries of Stool lands only.

to pay for those services, either in cash or in kind. Many thus preferred to handle the matter themselves, often to their long-term detriment. Those who relied on paid legal advice sometimes had to borrow the money to pay for these services. All told, the problems involved here tend to act as a disincentive to seeking proper legal advice. The result is that these disputes drag on and eat even more into the resources of the small-scale peasant farmer.

The survey responses reveal that an important segment of any legal aid scheme for the peasant farmer must be education. Indeed during the fieldwork, some of the Akyease respondents complained that the younger generation often tried to exploit their elders' lack of a formal modern education. Clearly, therefore, any legal aid scheme must provide some basic education to enable farmers to appreciate the various factors likely to affect their output. This will require the use of adult education techniques, and the lawyers who run a legal aid scheme of the kind contemplated by us must be tutored in such techniques. A multidisciplinary approach will probably be the best process for such a scheme. For university-based schemes like ours, where the institution has a department of adult education or the like, it may be useful for the legal aid scheme to involve both the law faculty and the education department.

It must be emphasized that the legal aid scheme we are designing is not simply an opportunity for farmers to have access to free legal service. We intend the scheme to contribute to the development efforts of Ghana and improve the agricultural output of our farmers. Consequently, we have sought at the outset to involve the farmers in the process of designing the scheme itself.

We believe (as has been observed elsewhere)³ that, in any development-oriented programme or scheme aimed at the rural areas of Africa, the people who live in the area must be involved in the process of designing the programme itself, if it is to stand any real chance of success. In this regard, it was interesting to note that, when the chiefs and people of the two towns covered by the Survey were apprised of the objective of the survey, they very readily offered to provide accommodation for the field workers and assisted them considerably during their six-weeks' stay in the area.

3. See, e.g., the excellent paper by Jacques Bugnicourt, "Popular Participation in Development in Africa," ISSP/TP/2 (presented at the International Seminar on Popular Participation, Ljubljana, 17-25 May, 1982). This seminar was organised by the Policies and Resources Planning Division, Department of Technical Cooperation for Development, United Nations. See also International Commission of Jurists, "Final Report Limuru Seminar on Legal Services in Rural Areas of Africa" (October 1984).

The lessons we have learned from analysing the results of the pilot survey have been tremendous. We are now slightly wiser about the size of the problem we are taking on, the type of issues to be handled, the characteristics (and peculiarities) of our clientele, the kind of personnel (particularly lawyers) we would need and their training, etc. The survey brought into sharper focus the difficulties likely to be encountered once the scheme was underway. Further, it enabled the Faculty to make an initial, realistic assessment of the need for, and the chances of success of, the whole project.

The usefulness of the lessons learned through particular research may be constrained by time and place. Yet if the participants in any community service programme are to be sufficiently sensitised to the needs and aspirations of the community concerned, particularly if it is a rural community, then our experience is that the developers of any such scheme must begin with a survey. Indeed, the approaches that have to be adopted for such schemes to be successful can only be ascertained properly through research. And we would repeat that the people concerned, our target group so to speak, must participate at every stage in the design, organisation and execution of such schemes.