

PROJECT PROPOSAL

CONSULTATIVE REVIEW OF THE OPERATION OF THE 1992 CONSTITUTION OF GHANA

October, 2009

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1. INTRODUCTION AND EXECUTIVE SUMMARY

This proposal seeks funding for the review of 16 years of the operation of the 1992 Constitution of Ghana.

The 1992 Constitution has created an enabling framework for the nurturing of a vibrant democracy in Ghana. In the past, military overthrows of constitutional democracies denied the country the opportunity to make self-reflective and comprehensive reforms of subsisting constitutions. Thus, examples of previous constitutional reforms have taken the form of State reconstruction after a given military regime. The review of the 1992 Constitution presents the first opportunity for assessing and reforming a subsisting Constitution since 1960.

It is proposed that the entire exercise should revolve around the achievement of six (6) broad outputs which would be translated into performance indicators for monitor progress on the project and for evaluating the entire project. The 6 principles relate to voice and the building of citizenship; subsidiary constitutional powers of parliament; control of executive power; parliamentary autonomy; resource governance; and enhanced citizens-government engagement.

The project itself will involve the following key steps:

1. Preliminary activities including:
 - (a) The preparation of a detailed proposal for Constitutional Review, complete with a detailed work plan and monitoring framework and a detailed budget;
 - (b) Fundraising;
 - (c) Identification of prospective members of the Constitutional Review Commission (CRC); and
 - (d) Office set up.
2. Research and documentation.
3. Conducting community level consultations.
4. Conducting ten (10) regional level consultations.
5. Conducting mini stakeholder consultations with specific interest groups; academia, parliament, Civil Society Organizations (CSOs), gender groups, etc.
6. Holding a National Constitutional Conference.
7. Development of constitutional proposals for presentation to the President and for the consideration of cabinet.
8. Parliamentary consideration of constitutional proposals that do not involve a national referendum to pass.
9. Holding a national referendum on entrenched provisions of the constitution and reference to Parliament for passage.
10. Continuous monitoring, a mid-term review and a terminal evaluation.

The total cost of the project is **US\$ 2,716,685.00** The Government of Ghana's contribution is 20% of the budget.

2. BACKGROUND

The overall purpose of the Constitutional Review is to undertake an experiential reflection on the operation of the Constitution over the last 16 years and thereby identify aspects of the Constitution that need to be retained; retained and further developed; amended; or repealed.

Ghana became the first African country south of the Sahara to achieve political independence from Britain on 6 March 1957. The 1957 Constitution, modeled after the Westminster system was repealed in 1960, when Ghana became a sovereign unitary Republic under the 1960 First Republican Constitution. The 1960 Constitution reflected the system of government in the United States. This Constitution could not survive a 24th February 1966 coup d'état which ushered in the first military government in Ghana the National Liberation Council (NLC). The NLC vested both executive and legislative powers in itself, but preserved judicial functions in the judiciary. This was the state of affairs in Ghana until 22nd August 1969 when the Second Republican Constitution was introduced.

The 1969 Constitution was explicit in separating the three arms of government. One major reason for the overthrow of the 1960 Constitution was that it over concentrated power in the Executive President. To remedy this, the 1969 constitutional arrangement created a split executive. The two roles of Head of State and Head of Government were unbundled and held by a President and a Prime Minister. The legislative function was exclusively reserved for a National Assembly without the participation of the President. The judicial function was kept separate and distinct. This did not prevent a second military coup that led to the establishment of the National Redemption Council (NRC). As was the case with the NLC, the NRC vested executive and legislative powers of the State in itself. On 5th July 1978, the NRC (which had transformed itself mid-way into the Supreme Military Council (SMC), was overthrown in a palace coup and replaced by body generally called SMC II. In less than a year, the SMC II regime was overthrown by the Armed Forces Revolutionary Council (AFRC) on 4th June, 1979. In less than four months, the AFRC returned Ghana to Constitutional rule with the proclamation of the Third Republican Constitution on 24th September 1979.

The 1979 Constitution re-introduced the Presidential system of government. Executive authority vested in the President and legislative powers in a Parliament of 140 members. The judiciary continued to remain separate and distinct as was the case under all the military regimes. On 31st December 1981, this constitutional arrangement was also abrogated by the coup d'état of the Provisional National Defence Council (PNDC), setting the stage for the fifth, the longest, and hopefully the last, military rule in Ghana lasting until 6th January 1993.

Since the 7th of January 1993 Ghana has been operating the 1992 Constitution. This Constitution was brought into force following an elaborate process that involved local and regional level

consultations; technical considerations by a Committee of Experts; deliberations of a quite inclusive National Consultative Assembly; and a National Referendum. The Constitution creates a compromise between the Westminster and the American Presidential systems of government, with at least one half of all Ministers of State coming from Parliament. The constitution also contains an extensive bill of rights and indemnity provisions for all persons who were involved in all of the military changes in government since independence. A National Reconciliation Commission was established in 2002 to help reconcile the people of Ghana by establishing the truth about past human rights abuses, perpetrated mainly by past military governments and provide reparations to those who were wronged.

The 1992 Constitution is expressed to be the supreme law of Ghana. As noted earlier, it creates a hybrid presidential-parliamentary government structure with three distinct centres of power. Executive power is vested in the President, and is to be exercised within the limits imposed by the constitution. The Constitution gives to Parliament representational, legislative and oversight functions. The Constitution also has provisions designed to ensure the independence of the judiciary. It also contains an impressive bill of rights and names the High Court as the Human Rights Court.

The 1992 Constitution has also created a number of independent bodies designed to enhance responsiveness, transparency, and accountability. These bodies include the Commission for Human Rights and Administrative Justice (CHRAJ); the Electoral Commission; the National Media Commission; and an independent Auditor-General.

Ghana has been touted as a shining example of the few successful cases of democratization and good governance in Africa. It has held five successful elections since the return to multi-party democratic rule in 1993. Two of those elections (2000, 2008) resulted in a political turnover, involving a switch in positions of the sitting government and the largest opposition party. This underscores the resilience and universal acceptance of Ghana's democratic institutions among its electorate and politicians. The 2008 elections was the most closely fought election with a winning margin of only 0.46%, after a second round of voting. During this period the Electoral Commission of Ghana has gained a strong reputation as one of the most respected, competent, professional and independent Elections Management Bodies in Africa.

Ghana's constitutional democratic credentials and good governance record has been confirmed by several assessments over the last decade. For example, the Mo Ibrahim Index of African Governance has ranked Ghana 7th for 2008. This is likely to continue, with Executive power alternating between two very strong political parties that have demonstrated their capacity to act both as a government and an effective opposition. With a Bill for the development of strong political parties in Ghana, including public funding of such parties receiving Cabinet attention, this prediction is truer still.

Ghana's 1992 Constitution, therefore, embodies many features that seek to foster accountable, open, transparent and participatory democratic governance. There are, however, some deficits. Flaws in constitutional design and practice have led to too much power concentrated in the presidency, thus undermining systems of checks and balances. Executive dominance has impeded the effectiveness of oversight institutions such as Parliament and independent constitutional commissions. These transparency and accountability deficits are caused by structural defects and exacerbated by consistent under-resourcing of institutions that should act as a counter point to the Executive. This has translated into a failure of formal democratic institutions to give voice to the poor and other marginalised groups. There is also a lack of effective devolution of authority to democratic local government bodies. Finally, a weak culture of the rule of law, respect for human rights and constitutionalism has meant that Ghana is still awaiting great strides in these areas.

At a more micro level, Separation of Powers is undermined by a constitutional provision requiring the President to select more than fifty percent of his ministers from parliament. This makes these Parliamentarians a part of the Executive, effectively undermining parliament's oversight responsibility. The independence of the judiciary has also been called into question in the last decade following evidence of significant interference in their work by the Executive. The 1992 constitution provides that the Attorney-General is the chief legal adviser to the government. In practice, the Attorney-General is also the Minister of Justice, as well as the head of the prosecution service. Opposition politicians have frequently accusing the government of exercising their prosecutorial discretion against members and sympathizers of the opposition.

In addition to these formal constraints in the Constitutional architecture, there are other governance issues confronting Ghana. Patronage, nepotism and cronyism are still rife in Ghana. Corruption remains a problem. Political opportunism, mixed with ethnicity and chieftaincy has led to conflicts in parts of the country. It is time to review the operation of the 1992 Constitution of Ghana in order to take more scientific and conscious decisions on the governance architecture of the country which could lead to the resolutions of the many problems that now confront her.

Research conducted by many governmental and non-governmental organizations reveals that there are potentially close to forty (40) changes that need to be made to our constitution. The proposals have largely centered on the following:

1. A review of the provisions of Chapter Eight of the Constitution to determine whether there should be a curtailment of the excessive powers of the Executive President.
2. A review of the Constitution to determine whether it should be amended to allow more easily for the tabling and passage of Private Member Bills in Parliament.
3. Flowing from the above, a review of article 108 barring anyone other than the President or someone designated by him to propose a bill that has financial implications.
4. The decoupling of the position of Attorney-General from that of Minister for Justice (article 88).

5. A review of the constitutional injunction in article 78(1) that a majority of Ministers of State should come from Parliament.
6. A review of article 78(2) which does not place a ceiling on the number of ministers a President may appoint.
7. Absence of a ceiling on the number of judges that may be appointed to the Supreme Court and the Appeal Court under Article 128(1) and 136(1)(b) of the Constitution.
8. A reconsideration of applying the tenure of judges to the heads of the independent constitutional bodies; Commission on Human Rights and Administrative Justice (CHRAJ), National Commission on Civic Education (NCCE), Electoral Commission (EC) and the National Media Commission (NMC).
9. The overlapping functions of independent constitutional bodies such as the Commission on Human Rights and Administrative Justice (CHRAJ); the National Commission on Civic Education (NCCE); the Electoral Commission (EC); and also between some constitutional bodies and statutory bodies such as the anti-corruption mandate of the CHRAJ and the Serious Fraud Office (SFO).
10. The panel system at the Supreme Court, especially the power of the Chief Justice to empanel the Court for all cases, even for cases involving the Chief Justice as Plaintiff or Defendant;
11. Proposals for empanelling all members of the Supreme Court to sit on all or key cases in order to ensure finality to litigation and consistency of precedence.
12. A proposal for amending the Constitution to allow the CHRAJ to investigate all forms of malfeasance of a public officer without a complaint made to it.
13. A clarification of the public character or otherwise of the chieftaincy institution and whether or not a chief may hold public office (Articles 94 (3) (c) and 276 (2)).
14. A change of the timing for the holding of Presidential and Parliamentary elections (articles 63(2) and 112(4)).
15. A consideration of the prohibition on serving a court process on a the Speaker of Parliament, a Member of Parliament or the Clerk of Parliament, even when (s)he has left the precincts of Parliament contained in article 117.
16. A proposal for increasing the tenure of office of a President from four to five years under article 66(1).
17. The inclusion of provisions to regulate a scenario where a sitting President leaves the party on whose ticket he was voted into power.
18. The inclusion of provisions to regulate a scenario where a Vice President resigns from office.
19. The provision of more effective provisions in the Constitution in order to effectuate real decentralization of governmental powers and functions to the District Assemblies (Chapter 20).
20. The reconsideration of the attempt to impose a partisan government on a non-partisan local government system (article 248(1)).
21. A review of the Constitution to allow for the election of District Chief Executives (article 243).

22. A review of the death penalty provisions and the possible abolition of the death sentence (articles 3(3) & 19 (2)).
23. A reconsideration of the exclusion of Executive Instruments from the category of subsidiary legislation which requirement prior parliamentary approval for their validity, (article 11(7)).
24. A review of the composition of the Electoral Commission in terms of Article 43 to determine whether part-time membership be removed and be replaced by full-time members.
25. A reconsideration of Article 45 with a view to granting the Electoral Commission the power to monitor and enforce compliance with electoral laws by political parties.
26. A review of Article 55(17) to provide for Parliamentary debate of the Annual Reports of the Electoral Commission.
27. A review of Article 71(1) to remove the power granted the President to determine the salaries, allowances and facilities of Members of Parliament and the Speaker.
28. A reconsideration of Article 75(1) in terms of rewording for better clarity.
29. A review of Article 82(5) to establish whether it should be amended to make it mandatory, rather than discretionary, for the President to revoke the appointment of a Minister once Parliament has passed a vote of no confidence in that Minister.
30. A review of Articles 142-147 to determine whether the Regional Tribunals be removed from the court structure of Ghana.
31. A reconsideration of the Article 146(6) to determine whether it should be amended to include Parliamentary oversight and public proceedings in the process for removing the Chief Justice from office.
32. A review of article 190(1) on the listing of the Public Services of Ghana in order to more fully take account of changes in the Public Services.
33. A review of the provisions on retiring age and pension to allow lawyers in senior grades of the Legal Service to retire at sixty-five, (Article 199(1)).
34. A review of the Article 221 to determine whether it should be amended to allow for the appointment of non-lawyers to the membership and chairmanship of the CHRAJ.
35. A reconsideration of Article 218(a) – (e) to determine whether it should be amended to remove the traditional ombudsman or administrative justice functions from the CHRAJ and to assign them to a new institution (such as the Labour Commission) so that the CHRAJ can focus on human rights and anti-corruption.
36. A review of Article 225 to determine whether it should be amended to identify or create a source of funding similar to that of the Common Fund to finance the CHRAJ and its commissioners.
37. A review of the provisions of Chapter 18 of the Constitution to provide for Parliamentary debate of the CHRAJ annual reports and to ensure accountability and social auditing of the performance of the CHRAJ.
38. A review of the provisions on amendments of entrenched provision in order to make the process more meaningful to the citizenry (article 290(5)).

39. A review of the provisions on the amendments of non-entrenched provisions to clarify matters relating to the reference to the Council of State of proposed amendments after the first reading of a Bill for the purpose (Article 291(2)).

3. STRATEGIC CONTEXT AND RATIONALE

3.1. Analysis of Key Constitutional Developments in Ghana

Aside the 1992 Constitution, no other Constitution Ghana has had, post independence, has been in operation for up to six (6) years. As noted above, the 1957 lasted until 1960. The 1960 Constitution was overthrown in a coup d'état in February, 1966. The 1969 and 1979 Constitutions both lasted some twenty-seven (27) months. Only the 1992 Constitution has been in operation for over sixteen (16) years.

The 1992 Constitution is the most important law in Ghana. It is expressed to be the “supreme law of Ghana” and any other law and any action that is inconsistent with the Constitution is deemed void and of no effect. All powers of government, including the powers of the Parliament and the Judiciary are derived from the Constitution. Again, all the rights of the people, including rights that are not written in the constitution, but are nevertheless guaranteed by it, find their force from the Constitution. The Constitution also provided for the security of the state, the management of the natural resources of the state, the resolution of conflicts and many other important aspects of a nation’s life. The Constitution is an important document indeed.

The Constitution is divided up into entrenched and non-entrenched provisions. The non-entrenched provisions may be amended by Parliament alone. The entrenched provisions, the more important provisions that deal with the powers of government and the rights of the people, cannot be amended without a yes vote by the electorate in a national referendum. To endorse a proposal for the amendment of an entrenched provision, at least 40% of the electorate must have voted in the referendum and at least 75% of those who voted must have voted for the proposed amendment.

The 1992 Constitution was amended in 1996 by Parliament in order to allow Ghanaians to hold dual citizenship of Ghana and another Country; to change the position of the Vice President as the automatic Chair of the Armed Forces, Police and Prisons Councils; to review entitlements of Members of Parliament to gratuity and to allow more time between the death of a Member of Parliament and the holding of a by-election; to increase the membership of the National Media Commission (NMC); and to proscribe founding members and office holders of political parties to be members of the NMC.

3.2. Rationale for a Constitutional Review

After 16 years of operating the 1992 Constitution, there are calls for a review of many provisions of that Constitution. It appears that the continuous operation of the Constitution for over a decade and a half has resulted in the identification of parts of the Constitution that need to be reviewed. Many

experts, government officials, public advocates and commentators, the media, and the Africa Peer Review Mechanism (APRM) have recommended that aspects of the 1992 Constitution of Ghana be reviewed. The purpose of the exercise is often stated as the need to remove contradictions and ambiguities, supply omissions, and make the Constitution more practical and relevant to the needs of Ghanaians in the twenty-first century.

Other voices have cautioned that the Constitution should be operated for a few more years in order to have a much clearer idea of what a review process would contribute to our democracy and constitutionalism. Advocates of this view generally believe that sixteen years is too short a period for amending a document as important as a national Constitution. They also argue that the many problems with the Constitution would seem to come from the operators of the Constitution and not the text of the Constitution.

In the very recent past, many proposals were made for the amendment of the 1992 Constitution in order to provide for more orderly transitions from one government to another in the wake of the closely fought presidential elections of 2008, that went into a run-off and another period of extension in order to hold elections in a particular constituency that was not served during the run-off. This allowed too little time for the transition and thus fuelled the argument for the amendment of the provisions of the Constitution on the timing of elections.

President J.E.A. Mills, in his address on the State of the Nation early this year called for a Constitutional Review Conference to debate proposed constitutional amendments in a consensual manner. In his words, *“We believe also that a National Constitutional Review Conference is the surest way to ensure that our Manifesto promises as well as those of some of the other political parties which require constitutional amendments see fruition in a consensual manner. In preparation towards this Conference, we shall this year establish a Constitutional Review Committee to collate views on amendment proposals and to work towards the Conference”*. Ex-president J. A. Kuffuor also made similar calls for the amendment of the 1992 Constitution. The Flag bearers of the four main Political Parties in Ghana and which are represented in Parliament all called for the review of parts of the 1992 Constitution during the Presidential debates for the 2008 elections.

3.3. Broad Principles for Constitutional Review

A deep reflection on most of the calls for assessing the operation of the 1992 Constitution reveal a number of broad principles which should guide the entire exercise. These principles spring from and are generally in accord with our aspirations as a people and our past constitutional and administrative experiences.

The first cardinal principle is that the exercise must create an open and receptive avenue for the Ghanaian people to participate in a debate on all the critical issues that affect their lives and livelihoods as part of a process of building citizenship. Thus, it is sufficient if the people of Ghana

engage in a series of reflections and dialogues on how their constitution has served them in the last 16 years; what has worked well and why; what has not worked so well and why; what may be done in order to increase and improve the dividend of constitutional democracy; and what may be done to attenuate the ill effects of constitutional democracy. The success or otherwise of the constitutional review exercise should go beyond the formal securing of a constitutional amendment and into the softer issues of initiating real participatory processes for accessing constitutional governance in Ghana and collating innovative and creative ideas for making our constitutional democracy better.

The second broad principle is the need to create a firm Governance Framework to ante date the flow of oil resources and curses in Ghana. The globe abounds with dismal examples of how oils revenues have disrupted peace and stability and the governance infrastructure in many countries. It is important that Ghana's assesses its governance framework before oil and gas start flowing into the country. This will include an examination of the broad rules of the game, the fundamentals of which are contained in our constitution, for the generation and distribution of resources and the management of ensuing conflict. We must ensure that these rules are clear, just, equitable and progressive.

The third broad principle is that in a fast changing world, it is not practicable to contain in a Constitution all the basic principles that should guide a nation, now and in the future and so it is critical to isolate for Parliament a subsidiary constitutional role. Article 298 of the 1992 Constitution already provides that "where on any matter whether arising out of this Constitution or otherwise, there is no provision, express or by necessary implication of this Constitution which deals with the matter that has arisen, Parliament shall, by an Act of Parliament, not being inconsistent with any provision of this Constitution, provide for that matter to be dealt with." What is needed is a clear isolation of a range of matters over which Parliament may exercise its subsidiary constitutional powers.

Flowing from the above, the fourth broad principle is the need to reaffirm Parliament's autonomy by conferring on it greater legislative and oversight powers. Currently, Parliament's powers to pass financial laws is severely circumscribed by the Constitution. Those constitutional provisions will need to be reassessed if Parliament is to act as an effective counterpoint to the Executive.

The fifth broad principle is the creation of broader and deeper frameworks for managing Executive Power so that it does not become dysfunctional. The Constitution has over-concentrated power in the Executive Presidency, a move which has weakened Parliament, created avenues for interference in the work of the judiciary and fuelled patronage.

The last broad principle relates to the need to develop real and concrete avenues for citizens engagement with government at all levels so that they can demand responsiveness and accountability from all duty bearers. This will involve creating avenues for the citizenry to hold various layers of

the executive, the private sector and Traditional Authorities accountable for their actions and inactions. This will involve a review of the constitutional provisions of executive power, decentralisation and chieftaincy.

4. METHODOLOGY AND PROCESS

The methodology for the Constitutional Review project would include desk research; opinion surveys; key informant interviews; participatory consultations at the community, district, regional and national levels; documentation and analysis; strategic collaborations with key partners; and strategic communication with various publics.

The process is designed to be non-partisan and very participatory. This approach is critical to achieving the broad principles of constitutional review, especially those relating to building an active citizenry and an effective governance framework as a way of matching the process with the six (6) broad principles outlined above. Effective documentation, monitoring, evaluation and continuous learning would also be key in the methodology.

5. PROJECT DESCRIPTION AND COMPONENTS

The crux of the constitutional review project is to initiate processes for identifying all proposals for constitutional review, isolating those proposals that are defensible, subject those proposals to thorough public and expert debate, and draw up proposals for any amendments of the Constitution in line with the popular will.

The project is in three broad phases: preliminary activities; research, documentation and consultations; and drafting and passage of constitutional proposals. The first phase includes the preparation of this proposal; the identification of eminent persons to serve as members of the CRC; fund raising; and the setting up of the CR secretariat.

The second phase of the project involves research; documentation and consultations. Before the commencement of the consultative aspects of the project, a number of surveys will be conducted. First, there will be an opinion survey on constitutional review and second a key informant survey. The output from these surveys, together with all other proposals for constitutional review will then be subjected to thorough analysis by two independent consultants. The analysis will include a complete list of all proposals for constitutional review; a list of proposals that are justifiable and not based on a mis-appreciation of fact or law; an assessment of the reasons for the proposals; an articulation of options for constitutional reform regarding each proposal; and an indication of the most agreeable option.

The research and documentation aspects of this phase would be followed by a number of consultations. The consultations will take place at the community, district and regional levels to be followed by a National Constitutional Conference, with participation by constitutional experts from

around the globe. Mini-stakeholder consultations with specific, specialized and identifiable interest groups would be conducted before the national conference. Interest groups would include gender groups, parliament, academia, Civil Society Organisations, and stakeholders in the natural resource industry.

The third and final phase of the project involves the finalisation of proposals for the amendment of the constitution and the submission of the proposal to the President, the Cabinet and Parliament, including the holding of a referendum for the amendment of entrenched provisions of the constitution.

The various phases of the project translate into the following steps:

1. The preparation of a detailed proposal, work plan and budget.
2. Fundraising.
3. The identification of eminent persons as prospective members of the CRC.
4. The establishment and inauguration of the CRC, comprising eminent persons and experts in constitutional law and practice, by the President.
5. An opinion survey on constitutional review.
6. A key informant survey on constitutional review.
7. Consolidation and collation of proposals for constitutional review.
8. Conducting community level consultations.
9. Conducting district level consultations.
10. Conducting ten (10) regional level consultations.
11. Conducting mini stakeholder consultations with specific interest groups; academia, parliament, Civil Society Organizations (CSOs), gender groups, etc.
12. Holding a National Constitutional Conference.
13. Development of constitutional proposal and presentation to the President.
14. Cabinet approval of constitutional proposals.
15. Parliamentary consideration of the proposals.
16. Referendum and passage of the proposals into law.
17. Monitoring, Mid-Term Review, and Evaluation of the Project.

6. THE CONSTITUTIONAL REVIEW SECRETARIAT

The CRC would be serviced by a secretariat. The secretariat would be charged with:

1. The day-to-day management of the project.
2. Conducting orientation for staff and consultants.
3. The provision of research and documentation support to assist the deliberations of the CRC.
4. The execution of all decisions of the CRC.
5. House the members of the CRC, the researchers, and teams working on the project
6. The preparation of reports.
7. The management of the finances of the project.
8. The execution of a communication strategy for the project.

9. Coordinate all the activities and events of the project.
10. Ensure that the objectives and deliverables of the project are achieved by conducting monitoring, review and evaluation of the project.
11. Performing any other related tasks.

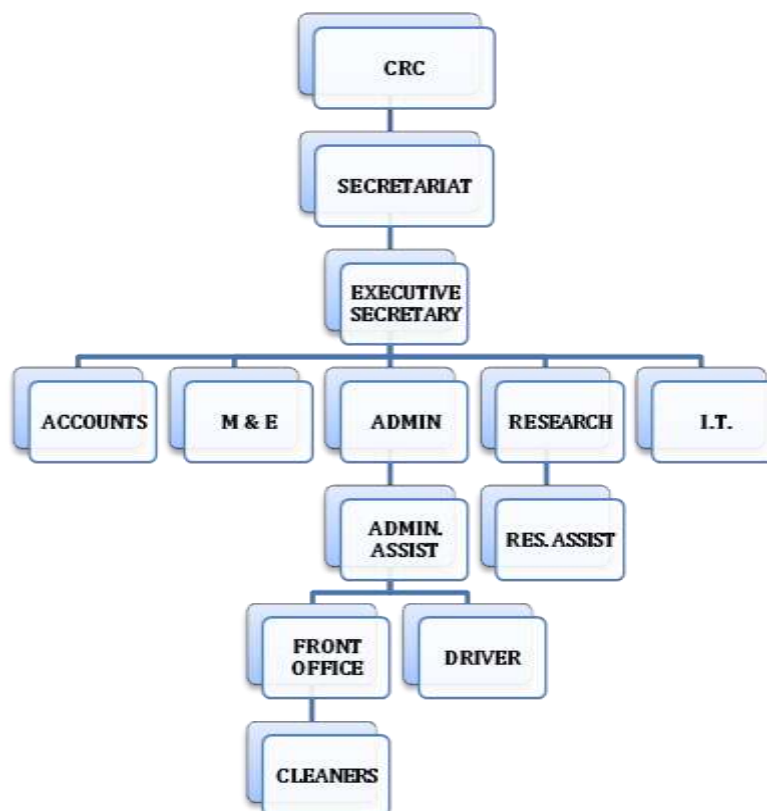
Below is a checklist of some of the detailed activities that the Secretariat will plan and execute.

1. Serving as a call centre to collate individual input to the project (including input from the Ghanaian Diaspora).
2. Receiving institutional proposals for constitutional amendments.
3. Maintaining public relations, information dissemination and feed-back.
4. Maintaining a communication person to follow-up on media reportage.
5. Support and management of consultants for the project, including the preparation of contracts and TORs.
6. Process management for the various consultations.
7. Financial management.
8. ICT management.
9. M&E processes.

The Secretariat will be headed by an Executive Secretary (ES), appointed by the Attorney-General for the entire period of the project. The ES will help formulate and manage the entire work program of the project, recruit staff for the secretariat and work closely with the CRC to deliver on the entire project.

It is proposed that the Secretariat of the CRC be located in the premises formerly used by the National Governance Programme (NGP) Secretariat, which is physically located away from the building of the Ministry of Justice. The premises together with its furnishings and fittings, where available, will be made available by the Attorney-General as part of the Government of Ghana's contribution to the project.

Figure 1: Organizational Chart for Project Implementation Agency



7. MONITORING AND EVALUATION

In order to ensure a thorough process and useful outcomes of the review exercise, the project will adopt effective monitoring and evaluation systems. Key monitoring indicators include the quality of the technical papers of the consultants, the effectiveness of the CRC, and the quality of consultations. Monitoring activities will include the review of work plans and activity schedules and work products from consultants, the CRC, any subcontractors and the secretariat. Periodic financial audits would also be undertaken at the end of the project to ascertain effective use of funds and reporting to donors, government and relevant stakeholders. Content, process and financial reviews will be both internal and external.

A monitoring and evaluation team will be established to further develop the indicators and provide a thorough substantive, process and financial assessment of the entire process.

8. SUSTAINABILITY AND RISKS

The active involvement of the general public through consultations at the community, district, regional, and national levels should establish a strong sense of ownership of the project and this is vital for ensuring sustainability of the project. After the phase-out of direct consultations to the conduct of possible referendum. Similarly, the methodology to be adopted will also ensure ownership of the process.

The strategies in-built in the project activities to ensure technical and financial sustainability will include the following capacity building through awareness creation. Likewise, multiple donors will be sought to provide funding and technical assistance in a synergistic manner.

Some of the possible risks that may attend the project are enumerated below, together with steps that are taken to mitigate the risks.

- ✓ The President may not set up the CRC or may disband it after setting it up. To mitigate this, the project will only start after there is assurance that it is approved by the cabinet.
- ✓ The project may run out of funds. The strategy is to get commitments for at least half of the resources before the project starts. Further funding will depend on the output of the project.
- ✓ The government may unduly interfere with the project. The secretariat will be set up with the assistance and facilitation of government but will work under an independent CRC thereafter.
- ✓ Limited participation of the citizenry in the project. This is unlikely given the interest of Ghanaians in participatory democracy and in their constitution. An effective communication strategy will be developed to ensure that information flow does not become a limitation to effective popular participation in the process.
- ✓ Parliament may reject the proposed amendments. Various strategic meetings will be held with Parliament throughout the process so that differences may be resolved well ahead of time. Efforts will also be made in the constitution of the CRC and in the entire process to ensure a bi-partisan consensus.
- ✓ The electorate may reject the proposals. The extensive consultations should mitigate against this risk. Also, the project will collaborate closely with many governmental and non-governmental institutions that are critical in reaching out to the Ghanaian public and utilize all those channels to ensure that the process succeeds.
- ✓ The project may get unduly politicized. The bi-partisan consensus will effectively deal with this threat. Additionally, the entire process is slated to end in December 2011, one year before the 2012 elections, so that discussions on constitutional reform do not get muddled by partisan politics.

Ghanaians stand to gain immensely from the proposed review of the current 1992 Constitution. This is the very first time since 1960 that a subsisting constitution will undergo review. Luckily, there exists bi-partisan consensus on the need to review the constitution and strong political will to do so now. A non-partisan, all-inclusive, people-centered process of constitutional review will ensure that Ghana deepens her democratic credentials and re-establishes a firmer framework for stability and effective governance.

9. DETAILED WORKPLAN

A final and detailed work plan would be developed as part of the inception phase of the project.

10.BUDGET SUMMARY

The total amount that is sought for this project is two million, seven hundred and sixteen thousand, six hundred and eighty five United States dollars (US\$ US\$ **2,716,685.00**). The Government of Ghana will provide twenty percent (20%) counterpart funding.

A final and detailed budget would be developed as part of the inception phase of the project.