



# CONSTITUTION REVIEW COMMISSION

## MAIDEN PRESS CONFERENCE

CRC Secretariat

No. 16, 5<sup>th</sup> Link, Cantonments, Accra

Monday, 15<sup>th</sup> February, 2010 at 2pm

### PRESS STATEMENT

#### WELCOME

Good afternoon, Ladies and Gentlemen of the Media.

It is my pleasure to welcome you, on behalf of the Constitution Review Commission (CRC), to its first Press Conference. We wish to extend a special welcome to those of you coming from outside of Accra. My association with the media landscape leads me to say that I know *some* of you by name and face but I know *all* of you by name. My colleague Commissioners and I look forward to an interactive interface with you after the official ceremony.

Before I read the text of the Press Statement, let me underscore the critical importance which the Constitutional Review Commission places on your work. Surely, and without a doubt, the ultimate success of the Commission's public consultation processes will rest on the *credible, sincere and fair* reporting of the Media.

So, Ladies and Gentlemen, you are the anvil on which the Commission's work is going to be

anchored. That is why we have deemed it prudent to make our public entry through the portals of the Media.

So, again welcome.

I will now proceed to read the Press Statement, after which the Commission will take your questions and comments.

## **A. INTRODUCTION**

Ladies and Gentlemen, the Constitution Review exercise represents a critical phase in our constitutional democracy as a nation.

We have had almost two decades of uninterrupted Constitutional Rule under the Fourth Republic, basing ourselves on the 1992 Constitution. This is an important feat and we need to commend ourselves as a country. As a living document, the Constitution, and indeed our constitutional democratic experiences, need to be periodically reviewed. In our books, a review represents nothing more than good housekeeping. Just as in our individual lives we take stock of the past and plan for the future so it must be with the Nation. A review provides a platform for the people of Ghana to express opinions on the fundamental law which governs their lives. That represents for us a true expression of democracy; nothing more, nothing less. Whilst views may differ as to whether the timing of the review is right or wrong, that decision has already been taken based on overwhelming demand. The focus for this Commission must be how to manage the review exercise in a fair, credible and transparent manner.

## **B. BROAD OUTPUTS**

The mandate of the Constitution Review Commission, clearly articulated in the Constitutional Instrument setting up the Commission (C.I. 64 of 2010), enjoins the Commission to:

1. Ascertain from the people of Ghana, their views on the operation of the 1992 Fourth Republican Constitution and, in particular, the strengths and weaknesses of the Constitution;

2. Articulate the concerns of the people of Ghana as regards the amendments that may be required for a comprehensive review of the 1992 Constitution;
3. Make recommendations to the Government for consideration and provide a draft Bill for possible amendments to the 1992 Constitution.

The Commission may also co-opt the services of persons that it considers fit for the proper performance of the functions of the Commission. It is clear that by the terms of the Constitutional Instrument that set it up, the Commission has an open agenda. Some have suggested in the media that we invite various categories of persons to assist the Commission with its work. We welcome the suggestion because we ourselves anticipated that we will need to tap into the enormous expertise available to us in Ghana and elsewhere. Our consultation strategy speaks to that very clearly.

The membership of the Commission, all of whom are present here today, is listed in the Constitutional Instrument. The Executive Secretary of the Commission is Dr. Raymond A. Atuguba. Copies of the Constitutional Instrument are contained in your folders.

The mandate given to the Commission by the Constitutional Instrument is ample and full. It is not limited in any way by anything done before the inauguration of the Commission. Prior to our inauguration a set of proposals which had been in the public domain was submitted to us. A full list of these areas has been provided for you in your folders.

The proposals are as follows:

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 Members' 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 precedent.
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 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 require 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)).

For the avoidance of doubt, we wish to make it clear, that our authority derives from the Constitutional Instrument and none other. So, the only limitation on our jurisdiction revolves around what the people of Ghana choose **NOT TO PLACE BEFORE US**. We wish to reiterate that we welcome all views.

The Commission has developed a number of protocols to guide it in the conduct of the entire review exercise. These include the following:

1. A detailed work plan.
2. A budget.
3. A plan of action for year one.
4. A detailed first quarterly work plan.
5. A research strategy.
6. A communications and media strategy.
7. A consultations strategy.
8. A documentation strategy.
9. A monitoring and evaluation strategy.

These were adopted and ratified by the full membership of the Commission on Saturday, 13<sup>th</sup> February, 2010.

At the same meeting, the Commission considered and approved the following documents:

1. An Organogram.
2. The Terms of Reference for Commissioners and the Executive Secretary.
3. The Job Descriptions of Staff of the Commission.
4. The Report on Office Setup.
5. Communication from the Commission to date.
6. A summary of media reportage so far.
7. Submissions made so far.

### **C. PROJECT PHASES**

We have segmented our assignment into three broad phases:

**Phase I** involved the preparation of project proposals, workplans and budgets, establishment of the Constitution Review Commission, fundraising and the setting up of the CRC secretariat. Under this phase, despite several infrastructural and other constraints, we were able to develop the protocols referred to above. About 50% of the start-up activities envisaged by the Commission's workplan have been completed and the other 50% is expected to be completed by the end of March, 2010.

Immediately after its inauguration, the Commission started receiving submissions from the public. To date, about 25 complete submissions have been received, processed and reviewed by the Commission. Indeed some of the submissions received from the public so far relate to the list of 39, but some do not. All submissions will receive the attention of the Commission. They will also be referred to a team of competent researchers who will advise the Commission on the factual and legal integrity of the submissions.

**Phase II** is committed to Research and Documentation; Consultations and Interface with the Ghanaian public at home and abroad; the holding of a National Constitution Review Conference; and a mid-term review of the project.

The consultations will take place at the

1. Community;
2. District; and
3. Regional levels; to be followed by
4. A National Constitution Review Conference with broad participation.

Mini-stakeholder consultations with specific, specialized and identifiable interest groups would be conducted with gender groups, Parliament, the Judiciary, the private sector, academia, Civil Society Organizations, Political Parties, Professional Bodies and Associations, Religious Bodies and stakeholders in the natural resource industry, among others.

All these consultations would need to be done between March 2010 and December, 2010. The timeframe is extremely tight. We would, therefore, like to solicit the cooperation of the media in particular and the citizenry in general to help us meet this target so that the 2012 elections can be conducted one clear year after the completion of the constitution review exercise.

**Phase III** will commence after the National Constitution Review Conference and will aim at the finalization of a report with our recommendations and the submission of those recommendations to the President. The likely outcomes from the totality of the consultation processes could be as follows:

1. Retain the Constitution as it is;
2. Retain the Constitution, but institute some corrective administrative actions *only*;
3. Retain and further develop portions of the Constitution; or
4. Amend/repeal some portions of the Constitution;

In the event that any portion of the Constitution is to be altered, the following scenarios could arise:

1. Amendment of the Constitution by Parliament *only* (by a two-thirds majority vote in Parliament).
2. In the case of any recommendations touching on the entrenched provisions, a referendum of the people.

A Bill for the amendment of the entrenched provisions must be published in the Gazette for six months before it is introduced in Parliament. After it is introduced, the Bill would need to be referred to the Council of State for up to one month. If the results of the referendum meet the required majorities, (i.e. at least forty percent (40%) of all persons entitled to vote must have voted and seventy-five (75%) of that number vote in favour) Parliament is required to pass the Bill.

The project would end with a terminal evaluation.

#### **D. MEDIA INTERFACE AND REPORTAGE**

As noted earlier, the media is key to the success or failure of this exercise. Already, we have depended on you to convey to the people of Ghana information on the inauguration and start up activities of the Commission so far. We have received numerous calls from you seeking information about the operations of the Commission, seeking clarifications on certain matters



and requesting interviews. With only one employee and a few volunteers so far, we have not been able to meet all of these requests.

We wish to expressly thank you for your patience and understanding in allowing us to get settled and organized before interfacing with you and the public. We wish to use this medium to request that you consider dedicating part of your space to reportage on the constitution review exercise.

#### **E. SUBMISSIONS**

So far, we have received a number of submissions, some going beyond the 39 issues initially identified. Stakeholders have presented these issues through written submissions, telephone calls, e-mails and verbal submissions at the Commission's Secretariat. These submissions have been received from within the country and also from overseas. All the submissions received so far are under consideration by the Commission.

We wish to commend organizations that are setting up special committees or other bodies to collate submissions for transmission to the Commission and encourage many more associations including religious, social, political, private, civil society and diasporan groups to consider this course of action, as well.

#### **F. AVENUES FOR RECEIVING SUBMISSIONS**

To facilitate the involvement of Ghanaians in the review process, the Commission has so far created the following avenues for the receipt of submissions from the public:

1. A team of volunteer research associates are available at the Secretariat to receive written and verbal submissions;
2. The secretariat is open from 8:00am to 5:00pm each working day to receive written submissions from individuals, groups or organisations and special arrangements may be made for the receipt of submissions outside of these times;
3. A postal address for those who wish to mail in submissions;
4. Advertised telephone lines for those who wish to make submissions by telephone;
5. An e-mail address for electronic submissions;

6. The Commission' website is currently under construction and will soon be inaugurated so that submissions may be uploaded directly unto the site; and
7. Drop-in boxes are available at the Secretariat and would be created in designated places at the regional, district and community levels very soon.

We have instituted mechanisms for monitoring the media and extracting issues relevant for the exercise from the media and we encourage you to bring these to our attention and assist us procure copies for our use.

We hope to create many more avenues for Ghanaians to get involved in the process.

## **G. SECRETARIAT CONTACTS**

Any member of the public who wishes to present submissions and proposals may do so by contacting the Executive Secretary of the Commission at the following address, telephone numbers and email address:

**Office Location:**

16, 5th Link Cantonments, Accra  
Opposite the American Embassy  
P. O. Box CT. 1619  
Cantonments, Accra

**Telephones:**

+233 21 771185 / 771184 / 771188

**Email:**

[atugubaatuguba@yahoo.com](mailto:atugubaatuguba@yahoo.com)

## **H. CONCLUSION**

In conclusion, the Commission wishes to reiterate to the Ghanaian public the following:

1. That the Commission is an independent body and assures the people of Ghana that it does not represent any particular interest group.
2. That the process of reviewing the Constitution will be open, impartial and transparent in order to afford all Ghanaians, at home and abroad, the opportunity to contribute to the process.
3. That the Commission will deploy the assistance of a corps of competent and professional experts to assist the Commission measure, evaluate and compare its work with best comparative practices elsewhere.
4. That whatever recommendations come out of this review will be supported with the reasons leading to the conclusions that the Commission arrives at.
5. Finally, the Commission wishes to solicit the support of all Ghanaians to ensure that the exercise culminates in a sound Constitution which reflects the collective ethos of Ghanaians.

The Commission expresses its profound thanks to you for honouring this meeting. We look forward to more interactions with you in the future.

**Ladies and Gentlemen of the Press Thank You for your time and attention.**