

Diaspora Participation in National Processes and Dialogue: The Case of the Constitution Review Commission

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PRESENTATION AT A

COLLOQUIUM OF THE DIASPORA ENGAGEMENT PROJECT

UNDER THE THEME

Linking the Ghanaian Diaspora to the Development of Ghana

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CHOICE OF COUNTRIES BY CRC AND IOM-COINCIDENCE?

- IOM's Diaspora Engagement Project has targeted five of the 6 countries that the CRC targeted in Europe and the US/Canada for its Diaspora consultations.
- They are USA, Italy, UK, Germany, and Netherlands.
- I do not think that it is a coincidence.

WHY DIASPORA CONSULTATIONS?

- THERE ARE GHANAIS ABROAD:
 - Dual Nationality permitted since 1996.
 - Ghana's Nationality Laws do not include Nationality by Birth, only Parentage, etc.
 - Supreme Court has recently clarified that you do not need a dual nationality card to be a citizen of Ghana: *Kweku Asare v. AG SC Writ No. J1/6/2011*
- THERE ARE MILLIONS OF GHANAIS ABROAD.
 - In Cote D'Ivoire=1 million.
 - In Burkina Faso=1 million.
 - Estimated 7.5 million Ghanais abroad.
 - Registered voters at the time were 12.5million.

- THERE ARE KNOWLEDGEABLE AND EXPERIENCED GHANAIS ABROAD
- THERE ARE GHANAIS ABROAD WHO ARE INTENSELY ENGAGED IN GHANA'S:
 - Politics: Ghana Leadership Forum
 - Economy: Raymond A. Atuguba, "Making International Policy: A Stern Look at Ghana's Policies on Migration and Remittances", *Legon Journal of International Affairs*, Vol. 6 No. 2, Nov. 2009, p. 24.
 - Society

CRITERIA FOR CHOOSING DIASPORA SITES FOR CONSULTATIONS

- Estimated population of Ghanaians there.
- Numbers and availability of Ghanaian experts living in the country.
- Capacity of Organisations of Ghanaians there and of the Embassy officials to mobilise citizens for consultations: Burkina Faso e.g.
- Security considerations.

THE CRC REPORT AND DIASPORA AFFAIRS MINISTRY OF DIASPORA AFFAIRS

- **Submission:** “A Ministry for Diaspora Affairs should be created to respond more promptly and effectively to the needs of Ghanaians in the Diaspora”.
- This was the summation of a wide range of frustrations that diasporians narrated to CRC officials: from problems with dual nationality, sending money and goods home, to clearing them when they arrive, to getting permits etc for building houses, etc.

CONCERNS OF DIASPOREANS

- **FINDINGS AND OBSERVATIONS:** “A distinct feature of the consultations with Ghanaians living abroad was that they concentrated on their specific concerns, although there were significant proposals from them on the reform of many other aspects of the 1992 Constitution. Their specific concerns related to issues of dual nationality, facilities for investment in Ghana, facilities for integration back into the Ghanaian community, their eligibility to vote, and their eligibility to hold public office in Ghana. Chapter 2, Para. 36”.

DECISION MAKING BY THE CRC ON DIASPOREAN AFFAIRS

- Diasporians are not very satisfied with the report of the CRC on their affairs.
- **BUT** they need to read the report closely.
- **Note the Law on the issue:** Owing allegiance to another country is not the same as Dual Nationality.
- **Note the Findings and Observations**, leading up to the Recommendations.
- **Note the three levels of recommendations:** Constitutional, Legislative, Administrative.
- Deciding was not easy!!!

E.G. VOTING RIGHTS-AGAINST

- There were submissions on the issue relating to the right of Ghanaians living abroad to vote.
- There were those who were totally opposed to enfranchising Ghanaians abroad.
- They reasoned that:
 - Aside from the operational and logistical difficulties, Ghana, and for that matter the EC, does not have the necessary funds to be able to finance the conduct of elections beyond the boundaries of Ghana.
 - The EC does not have the necessary capacity to address the operational and logistical nightmare involved in the enforcement of any right of Ghanaians resident abroad to vote.
 - Ghana should not spend its scarce resources to conduct elections abroad.
 - Ghanaians abroad who are really desirous of voting could return home to exercise their franchise.

- “There were other submissions which opposed proposals to enfranchise all Ghanaians living abroad. They maintained that the right of persons living abroad to vote must be limited to Ghanaians who were born in Ghana; Ghanaians who have visited the country once within a specified number of years; and Ghanaians who are able to travel home to register for voting. They insisted that there must be a strong connection between those enfranchised and the nation. In their view, Ghanaians resident abroad are generally not abreast with the politics in the country, may not appreciate Ghana’s problems and may consequently not be able to make the right voting choices.”

VOTING RIGHTS-FOR

- There were those who contended that all Ghanaians resident abroad should be enfranchised and that the fact of their living outside Ghana is not enough reason to disenfranchise them. They variously reasoned that.
- Ghanaians living abroad contribute to the growth of the national economy through their remittances and by other means. Giving them the opportunity to vote would enable them further to have a stake in the country's development.
- All Ghanaians, irrespective of their places of residence, should be able to influence how Ghana is governed on the basis of their Ghanaian citizenship.

- Ghana stands to lose the loyalty and expertise of its citizen resident abroad if they are disenfranchised.
- As an implementing mechanism, some proposed that the EC should make use of Ghana's Missions abroad as registration and voting centres. There were similar calls to employ the services of Ambassadors, High Commissioners and staff of Ghana's Foreign Missions as electoral officers. This was, however, strongly objected to by some other Ghanaians. Others, too, called for the registration online of Ghanaians living abroad.

COMMISSION'S FINDINGS AND RECOMMENDATIONS ON VOTING RIGHTS FOR DIASPOREANS

- The Commission similarly observes that, the citizenship of Ghanaians is not extinguished by the fact of their being resident outside Ghana. Many Ghanaians resident abroad maintain an inseparable link with Ghana through the relatives they have back home; their contributions in the form of remittances; their ownership of property in Ghana; and business interests and other forms of investments, to mention a few. They maintain a connection, strong enough to desire also to influence the outcome of elections and the choice of government. Like their kindred back home in Ghana, it is only logical and natural for them to want to be involved in decision-making processes in Ghana at all levels of governance. The Commission accordingly finds that the under-enforcement of the voting rights of Ghanaians living abroad also deviates from values and ideals underpinning the Constitution.

- The Commission notes the genuine challenges confronting the EC in the discharge of its mandate but reaffirms that the pre-eminent status of the right to vote in Ghana places an extremely heavy responsibility on the EC to ensure that all Ghanaians who are 18 years and above and are of sound mind, whether resident in Ghana or abroad, free or incarcerated, are able to exercise their franchise. That responsibility is so heavy that it cannot be sacrificed on the altar of convenience, practicability, and the availability or otherwise of resources. Ghanaians on the one hand cannot commit themselves to certain ideals, principles and values, and later cite reasons why those ideals, principles and values cannot be effectuated. That is why in the conduct of electoral business, the EC is completely independent and not subject to control, direction, management, manipulation and interference of any individual or institution. To reinforce this independence, the Commission has proposed in this report the establishment of an independent fund for all the ICBs so as to resource the EC adequately to enable it discharge the extremely heavy responsibility placed on it.

- The Commission acknowledges that there may be practical challenges in accommodating Ghanaians resident abroad and prisoners to vote. There could, for instance, be challenges in determining the constituencies to which Ghanaians abroad and prisoners would apply their votes. On the one hand, if prisoners are allowed to vote in the constituency in which the prisons are located, a concentrated prison electorate, like those at the Medium Security Prison at Nsawam prison, could exercise a disproportionate local influence and easily sway the results of parliamentary elections in the Aburi/Nsawam Constituency in a direction which the actual permanent constituents may not desire. Similarly, Ghanaians living abroad, if they are to apply their votes to constituencies of their previous abodes or their hometowns, the EC would be presented with immense logistical, financial and administrative nightmare in printing ballots papers for all 230 constituencies for as many polling centres as will be required to ensure that all qualified persons are able to exercise their franchise. Even more serious will be how to ensure that prisoners and Ghanaians abroad receive the campaign message of candidates for elections.

QUESTIONS

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