

A crowd of people, likely at a public event or rally, is shown in the background. Many individuals are holding small Ghanaian flags (green, yellow, and red with a black star) and blowing red horns. The scene is set outdoors, possibly under a large tent or canopy, with a white structure visible in the upper right. The overall atmosphere appears to be one of celebration or a significant public gathering.

**REVIEW OF THE 1992 CONSTITUTION OF THE  
REPUBLIC OF GHANA**

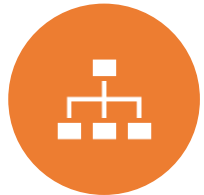
**(CRCC)**

**by**

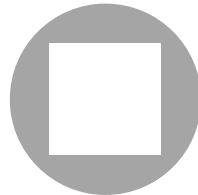
**Clara K. Beeri Kasser-Tee Esq  
(Chairperson of the CRCC)**

**28<sup>th</sup> December 2024**

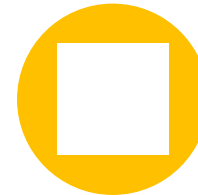
# Roadmap



**A. Brief Historical Background**



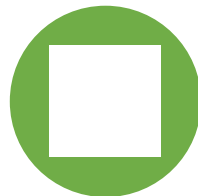
**B. Introduction of the Committee; composition**



**B. The Process: Strategy, Approach, Methodology**



**C. Key Recommendations**



**D. Way Forward,**

# Brief Historical Background

- ❖ Independence in 1957
- ❖ Ghana's first Republic, (from 1960-1966) - lasted just six years.
- ❖ The second republican constitution, (i.e 1969 to 1972) lasted about three years
- ❖ The third Republic Constitution, (1979-1981) - **shortest in the history of the country** lasted less than 3 years.
- ❖ The Fourth Republic, secured by the 1992 Constitution has:
  - It was adopted at a referendum obtaining 92.59% yes vote.
  - continued for over three decades.
  - It has since seen now 9 democratically elected presidents and 9 parliaments.
  - It witnessed a transfer of smooth and peaceful transfer of power upon the death of a sitting president.
  - It witnessed different political parties forming government, including where the Speaker was not a member of the ruling government
  - It is thus the most enduring Ghanaian constitution, securing the longest and most stable democracy in Ghana, if not Africa after independence from colonial rule.



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# Basis for Proposed Amendments

- ❖ Need for improvements in certain aspects
- ❖ Deepen democracy and democratic principles



## A. INTRODUCTION: THE COMMITTEE, COMPOSITION, ETC

- ❖ Institutional Representation
- ❖ The Committee is composed of the following institutions all of whom nominated their own representatives for appointment unto the Committee
- ❖ Coincidentally - Included someone from the Consultative Assembly that produced the 1992 Constitution.
- ❖ Included someone who was involved with the CRC's work
- ❖ Independent, inclusive and non-partisan

## A. INTRODUCTION: THE COMMITTEE, COMPOSITION, ETC

<b>Members</b>	<b>Institution</b>
<b>Clara Kasser-Tee</b>	UGSoL
<b>Victor Brobbey</b>	NCCE
<b>Prof. John Asafo-Adjaye</b>	ACET
<b>Tweneboah Kodua Dickson</b>	MoPA
<b>Yaw Boadu-Ayebofo</b>	NMC
<b>Justice Yonny Kulendi</b>	Judiciary
<b>John Nwozah</b>	Audit Service
<b>Anthony Forson</b>	GBA
<b>Alfred Tuah-Yeboah</b>	MOJAGD
<b>Mercy Larbi</b>	CHRAJ
<b>Dr. Kodjo Mensah Abrampa</b>	NDPC
<b>Nana Tawiah Okyir</b>	Parliamentary Service

# TOR



- ❖ Review:
  - ❖ the report of the Constitution Review Commission, (CRC Report, 2011);
  - ❖ Stakeholder Submissions; Proposals; reports, etc. post the CRC Report;
  - ❖ Submissions made on various Constitutional Review platforms;
- ❖ Make recommendations to the Ministry of Parliamentary Affairs and its partners and collaborators.
- ❖ Submit a report on suggestions or firm resolve for a review of the 1992 Constitution.

# Strategy: Inclusion, Revision



Not to redo or undo what the CRC did, but to build on what the CRC did and include changes that may have occurred since 12 years ago when the CRC report was authored. So the C'tee:



1. Adopts the CRC recommendations where same is not overtaken by events;



2. Harmonises the CRC report with the Gov't White Paper, over 65 submissions received, consider whether there are more efficient ways to achieve the same objective; and



3. Makes recommendations



# APPROACH

1. Clause by clause consideration of the entire constitution vis a vis the CRC report and the over 65 other stakeholder submissions since the CRC report.
2. The underpinning values of the Constitution: Liberty; Equality of opportunity; prosperity; inclusion; respect for diversity; freedom and justice; accountability; rule of law; protection and preservation of human rights; unity of our nation; stability of our nation; sovereignty of the people of Ghana; respect for our cultural heritage; friendship and peace with all peoples of the world; and democratic values.
3. That constitutions are Broad frameworks rather than manuals.
4. Stakeholder validation workshops: many national and international organisations, including institutions from the United Nations, the private sector, the public sector, civil society, traditional institutions, and many individuals from the Ghanaian public including business people, academics, ordinary Ghanaians, retired judges of the Superior Courts of Ghana, current judges of the Superior Courts of Ghana, former parliamentarians, current parliamentarians, etc



## Objective

The report from this work must reflect who we are as a people, where we are 12 years on since the CRC report, where we want to be in our democratic journey, and recommend a constitutional framework that puts us in a position to pursue the Ghanaian aspiration for democracy.



## Comparative Process

- Meetings: physical, residential, virtual
- Comparative analyses:
  - CRC report
  - All briefs received
  - Government White paper
  - The 1992 Constitution
  - Our Recommendations

# Guiding Principles



1. Does it belong in the constitution or an Act, Regulation, Political Party Constitution, etc.?



2. Does the current provision achieve the effect?



3. Is it consistent with the clear values of the Constitution?

# SCOPE/Limitation



1992 CONSTITUTION



EXCLUDES OTHER LEGISLATIVE  
OR ADMINISTRATIVE  
PROVISIONS/REQUIREMENTS





## Key Recommendations

# Procedure for Amendment

- ❖ Consider which proposed amendments fall within entrenched and non-entrenched provisions and pursue accordingly.
- ❖ For the ones that fall within entrenched provisions, and so require a referendum, the proposed amendments must be grouped under the applicable subject matter and relevant consequential amendments, and pursued separately in separate individual bills for amendments.
- ❖ **Each proposed Bill for the amendment of an entrenched provision must separately at a referendum**
- ❖ This gives the people of Ghana, the opportunity to reflect on the effect of each amendment and decide whether or not they want that specific amendment.
- ❖ Benefits: real opportunity for individual reflection and decision on each Bill.
- ❖ For the ones that fall within non-entrenched provisions, these may be amended pursuant to an Act of Parliament in a similar fashion or as Parliament may consider expedient.

# A recommended priority list for consideration

1. Caps: (a) on the appointment of Ministers of State; (b) the number of Members of Parliament; (c) constituencies - Articles 78 & 93
2. Appointment of Ministers from Parliament – Article 78
3. President must pay tax – Article 68 (3-5)
4. Election of MMDCEs - Article 243(I)
5. Emoluments and Conditions of Service of selected Government officials - **Article 71 office holders**



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# A recommended priority list for consideration

6. Appointments of ICB heads and heads of SOEs & the President's Powers of Appointment--Article 70 (1 & 2), 202(1)

7. Provisions on the declaration of the assets – Article 286

8. National Development Planning Commission – Article 86-87

9. Functions of Commission on Human Rights and Administrative Justice – Article 218

10. Fundamental human rights – Article 12-41



# Key Recommendations

1. RECOMMENDATIONS FROM CRC	1. RECOMMENDATIONS FROM CRCC
<p><b>ARTICLE 78(2)</b> – provides for the appointment of Ministers – leaves it open for the President to appoint as many as s/he considers appropriate.</p> <p>CRC Did not recommend a cap on Ministerial Appointment</p>	<p>CRCC Recommends a cap</p> <p>Article 78(2) - The President shall appoint as many Ministers of State as may be necessary for the efficient running of the State. However, the number of Ministers shall not exceed 25.</p> <p>Some submissions requested a consensus of 55</p>
<p><b>ARTICLE 93(1) – (No. of MPS) provides a minimum of 140</b></p> <p>CRC Did not recommend a cap on number of MPs</p>	<p>CRCC recommends a cap of 277</p> <p>Reason?</p> <p>Consequential amendment - Capping the size of parliament will trigger consequential amendments such as Article 47, which deals with constituencies</p>
<p><b>ARTICLE 78(1) – Appointment of Ministers from Parliament</b></p> <p><b>CRC</b> – recommends that President be given a free hand to appoint from within or without parliament, and that ministers appointed from Parliament should retain their seats</p>	<p><b>CRCC:</b> recommends that President be given a free hand to appoint from within or without parliament, however that ministers appointed from Parliament <b>MUST</b> vacate their seats</p> <p>History of this provision</p> <p>Reason for recommendation</p>
<p><b>ARTICLE 68 (3) – (5)</b></p> <p><b>CRC</b> recommends that the President must pay tax</p>	<p>CRCC - Same</p>
<p><b>Article 243-</b> Election of MMDCEs –</p> <p>.CRC – 3 recommendations:</p> <ol style="list-style-type: none"> <li>1. Election of Metropolitan Mayors in public elections</li> <li>2. Presidential nomination Election of Municipal Chiefs - President to nominate a number of persons for vetting by Public Services Commission – 3 of these persons to then be submitted for election</li> <li>3. If neither a Metropolis or Municipality, then President to appoint same with prior approval of simple majority of Assembly members present and voting</li> <li>4. For category 3, they can be removed approved by the Assembly, can be removed either by the President or by a vote of no confidence supported by two-thirds majority of all Assembly members present and voting</li> </ol>	<p>CRCC –</p> <ol style="list-style-type: none"> <li>1. Election of all MMDCEs, but on non partisan basis</li> <li>2. Prohibit revocation of mandate by the President and retain revocation only by electorate, (a resolution supported by not less than 50% of registered voters of the area.</li> </ol>

# THE EXECUTIVE

1. RECOMMENDATIONS FROM CRC	1. RECOMMENDATIONS FROM CRCC
<p><b>ARTICLE 71 - Emoluments and Conditions of Service of selected Government officials</b>            CRC recommended: Establishment of an Independent Emoluments Commission (IEC) to review and determine the salaries, allowances and emoluments of all public officers, from the President to the lowest ranking public officer</p>	<p>CRCC –            No need for another body or new body            Establish a pre-determined formular for the emoluments for all article 71 holders            The formular to be determine by a one-time Committee consisting of institutional representation from the following institutions: Organised Labour; Public Services Commission; Ministry responsible for Finance; Audit Service; and Fair Wages and Salaries Commission.            Let Fair Wages and Salaries manage that formular as they do for public sector workers.            Reason: Less expensive – build on existing institutions. So the Committee will be dissolved after coming up with the pre-determined formular.            There is a need for a body to deal with the issues of emoluments of Article 71 holders. However, these emoluments must be based on a predetermined formula. There is therefore no need to constitute a committee every four years to determine the emoluments of article 71 holders.</p>
<p><b>Article 70, 195, 202(1), etc - Appointments of ICB heads and heads of SOEs &amp; the Appointment—</b></p> <ol style="list-style-type: none"> <li>1. President in consultation with the Council of State and with the prior approval of Parliament to appoint: Chair and members of EC; Commissioner and deputies of CHRAJ; the Administrator and the Deputies of the District Assemblies Common Fund; the Administrator and the Deputies of the Independent Constitutional Bodies Fund; and such other appointments pursuant to an Act of Parliament</li> <li>2. The appointments of Chairpersons and membership of the governing councils or boards of all public corporations, except those established for commercial purposes, and state-owned media corporations, should be designated political appointments and be made by the President in consultation with the Council of State.</li> <li>3. etc</li> </ol>	<p>CRCC recommends:</p> <ol style="list-style-type: none"> <li>1. Appointments by all heads, deputies and members of Independent Constitutional Bodies like EC, NCCE, CHRAJ, etc be subject to open competition. A Legislative instrument to be passed to guide: open and transparent advertisement, vetting, interview, etc of such positions with the final act being Parliamentary vetting and approval, (i.e after the competition of the other processes).</li> <li>2. Similar for heads and deputies of SOEs.</li> <li>3. Political appointments to continue as is.</li> </ol>
<p><b>ARTICLE</b></p>	



# ARTICLE 286 DECLARATION OF ASSETS AND LIABILITIES

- The Committee recommends the inclusion of a requirement for the Auditor-General to verify the assets declared and a certificate of verification to be issued to the person.
- Declaration to be made within three months after the coming into force of this Constitution or **before** taking office, as the case may be,
  - a. at the end of every four years; and
  - b. at the end of his term of office.

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## Functions of Commission on Human Rights and Administrative Justice – Article 218 (NE)

- This provision has been interpreted to mean that CHRAJ cannot investigate alleged violations under this provision in the absence of an identifiable complainant.
- The Committee recommends the amendment of article 218(a) and (b) to empower CHRAJ to investigate certain complaints whether or not it has a complainant, such as:
  - (a) investigate all instances of violations of fundamental rights and freedoms, injustice, corruption, abuse of power and unfair treatment of any person by a public officer in the exercise of his official duties;
  - (b) investigate the functioning of the Public Services Commission, the administrative organs of the State, the Armed Forces, the Police Service and the Prisons Service in so far as complaints relate to the failure to achieve a balanced structuring of those services or equal access by all to the recruitment of those services or fair administration in relation to those services





# Article 102: Quorum of Parliament

- The existing **Article 102** reads as follows: “a quorum of Parliament, apart from the person presiding, shall be one-third of all the members of Parliament”.
- This provision has triggered controversy in the current parliament as to whether the one third includes a Member of Parliament presiding in the absence of the speaker, (example, a Deputy Speaker).
- To address this controversy, the Committee recommends that the provision be amended to read as follows:
  - A quorum of Parliament shall be one-third of all the members of Parliament.

# Fundamental human rights – Article 12-41

- ❖ General: gender neutral recommended throughout the Constitution where relevant
- ❖ expand the category of non-discrimination in article 12 (2), article 17(2) & (3) and article 35(5) to include ‘persons with disabilities’;
- ❖ Reason: It is a historical fact that ‘disability’ has been a ground to discriminate negatively against persons with disability. ‘Persons with disability’ must therefore be included in the category of discrimination both as protection for persons with disabilities and awareness of the ground of disability.





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# Fundamental human rights – Article 12-41

- ❖ **Article 20: Protection from Deprivation of Property - Clause (2)** Compulsory acquisition of property by the State shall only be made under a law which makes provision for—
- ❖ (a) the prompt payment of fair and adequate compensation;
- ❖ **The Committee's recommendations**
- ❖ The Committee proposes an amendment to Article 20(2)(a) so that the timeframe for payment of compensation is not later than one year after assessment. This to ensure that people's compensation is not unduly delayed.



# Next Steps & Way Forward

- ❖ The Committee is committed to ensuring that the voices of Ghanaian citizens are central to the constitutional review process.
- ❖ To achieve this, the Committee recommends the organization of a nationwide engagement aimed at gathering feedback from diverse stakeholders, including civil society groups, traditional authorities, and individual citizens.
- ❖ This initiative will provide an inclusive platform for participants to share their perspectives, contribute valuable insights, and help shape the direction of the amendments.
- ❖ Furthermore, the engagement sessions will facilitate consensus-building on the prioritization of constitutional provisions to be revised, ensuring that the final decisions reflect the collective will and priorities of the nation.
- ❖ By fostering open dialogue and collaboration, the Committee seeks to strengthen public trust and ensure that the review process addresses the most pressing concerns of Ghanaians.





Thank you. Questions