



Dual Citizenship - Amendment of the 1987 Constitution of Haiti
Questions & Answers

September 2010

1. **What does the recommendation made by the 48th Legislature during its last ordinary Session on September 14, 2009 to the 49th Legislature mean to, not only the Haitians living abroad but, all Haitians in general?**

To all Haitians, this recommendation represents a step forward in the right direction and proves that our lawmakers are conscious about the fact that things must change for the best interest of everybody. Without this recommendation, we would have had to wait till the end of the 49th Legislature's term in 2014 to try to get to where we are today.

2. **Why, instead of amending the constitution once and for all, the 48th Legislature only proposed the amendment?**

According to Article 282 of the 1987 constitution, the amendment has to be made in two steps. First, the current Legislature, on the recommendation of one of the two Houses or of the Executive Branch, with reason to support it, may declare that the constitution should be amended. Then, the following Legislature will decide on the proposed amendment at its first Session.

3. **Now that the term of the 48th Legislature is over, when should the next legislative elections take place?**

On a normal basis, the next legislative elections should take place during the last week of the month of November. However, due to the need to put in place a Permanent Electoral Council, this time, it seems they are going to be behind schedule.

4. **When should the new lawmakers take office?**

Normally, the new lawmakers should take office during the second week of the month of January.

5. **One of the tasks of the 49th Legislature will be to amend the constitution. So, what is the period of time in which they should do that?**

Based on Article 283 of the constitution, at the first Session of the 49th Legislature period, the Houses shall meet in a National Assembly and decide on the proposed amendment.

Article 284 says: the National Assembly may not sit or deliberate on the amendment unless at least two-third (2/3) of the members of each of the two (2)

Houses is present.

Article 284-1 declares: no decision of the National Assembly may be taken without a majority of the two-thirds (2/3) of the votes cast.

- 6. After amending the constitution, when does the new law go into effect?**
According to Article 284-2, the amendment passed may enter into effect only after installation of the next elected President. In no case may the President under the Government that approved the amendment benefit from any advantages deriving there from.

This said, let's assume the amendment is passed in January of 2010, we will have to wait till February 7, 2011, after installation of the next elected President for the new law to enter into effect.

- 7. What is your opinion about the set-up put in place for the amendment of the constitution?**

First, this procedure is too slow. The current Legislature should be able to amend the constitution at its last ordinary session, so long as they use the same method declaring that the new law goes into effect after installation of the next elected President.

Then, this procedure is also risky because, there is no guaranty that the new lawmakers will vote the same way as their predecessors.

Finally, if for some reason, the elections do not take place, the House will be broken-down, and there will be no amendment.

- 8. Did the 48th Legislature make any substantial changes or modifications to the Articles related to the issue of Nationality in its declaration?**

A few Articles were modified such as, Articles 11 and 12. Other Articles were simply eliminated altogether namely, Articles 12.1, 12.2, 13, 14 and 15.

Article 11 now reads as follows: any person born of a Haitian father or Haitian mother who is not repudiated their nationality at his time of birth possesses Haitian nationality.

Article 12 now reads as follows: all Haitians must comply with all rights and obligations attached to their nationality.

No Haitian, dealing with the local authorities, may take advantage of his foreign nationality on the territory of the Republic of Haiti.

- 9. What motivated the 48th Legislature to propose the amendment of the constitution?**

According to Article 282 of the constitution, on the recommendation, with reason

given to support it, of one of the two (2) Houses or of the Executive Branch, the Legislative may declare that the constitution should be amended.

Thus, the Executive Branch had formed a commission to examine the constitution and determine if an amendment was necessary. On July 10, 2009, the commission submitted its report to the Executive. After reviewing that report, on September 4, 2009, the Executive recommended to the Parliament to declare that the constitution should be amended. And that's what indeed the 48th Legislature did.

10. Is there a difference between “Haitian of origin” and “Haitian born”?

According to the 1987 constitution, to be Haitian of origin, the three (3) following conditions must be met:

- a. be born of a Haitian father or Haitian mother;
- b. themselves must be born Haitians;
- c. never renounced their nationality.

The constitution of 1987 makes biological relationship the only criteria to attribute Haitian nationality of origin to an individual, which could require going back to many generations. How many Haitians are capable of establishing such a relationship over generations?

Being aware of the troublesome consequences of that approach, the presidential commission decided to keep things simple by substituting “Haitian of origin” with “Haitian born”.

From now on, an individual who is born of a Haitian father or Haitian mother who had not repudiated their nationality at the time the child was born, possesses Haitian nationality at birth.

11. Some people say “dual citizenship”, others say “dual nationality”. Is there in fact a difference between these two (2) terms?

Based on Article 16 of the constitution, citizenship entails both civil and political rights. So, when a State attributes nationality to an individual, whether at birth or through naturalization, that individual becomes a citizen who, from that point on, in this quality, is entitled to those rights.

The difference simply resides between “national at birth” and “national by adoption or naturalization.”

The “national at birth” is a native member of a State or nation who enjoys his civil and political rights in their entirety. While the “national by adoption or naturalization”, although he is also a member of the State or the nation, has limited rights.

Nevertheless, ordinarily people use both terms “dual citizenship” and “dual

nationality” as if they were the same.

12. Is “renounce” different than “repudiate”?

Two (2) words are synonym when they have the same or nearly the same meaning in the language. It all depends on the context they are used.

In our case, “renounce” and “repudiate” at first seem to mean nearly the same thing. But, in fact, “renounce” really means “refuse”, “decline”, while “repudiate” means “give-up”.

Based on this observation, renunciation is just a refuse while repudiation is an abandon. Therefore, the term repudiate is stronger than the term renounce.

13. When does a Haitian repudiate his/her nationality?

It is considered that a Haitian repudiates his nationality when he officially makes such a declaration before a Haitian tribunal, in conformity with the law.

14. May a Haitian with dual nationality impose his/her foreign nationality in Haiti?

According to International Law, when an individual is bi-national or multinational, thus possessing two or multiple nationalities, so far as he is in the territory of one of the States that attribute him nationality, he must abide by all the laws of that State. In no case, can he oppose his other nationality to try to get around the laws of the State of which he is a citizen. In other words, when dealing with the local authorities, he cannot take advantage of his foreign nationality on the territory of the Republic of Haiti.

15. Does a Haitian lose his Haitian nationality at the time of obtaining a foreign nationality?

The acquisition of another nationality by a Haitian does not mean in any shape or form that he automatically loses his Haitian nationality. In order for that to happen, he must appear before a Haitian tribunal and officially declares that he wants to do so, in accordance with the law.

16. How is Nationality defined?

Nationality, from a juridical point of view, is the status of belonging to a particular nation, whether by birth or naturalization. That is to say, Nationality is the primordial requirement for an individual to be entitled to both civil and political rights.

17. How is Citizenship defined?

Citizenship is the state of being vested with the rights and duties of a citizen; a citizen being a native or a naturalized member of a State or nation who owes allegiance to its government and is entitled to its protection.

18. How beneficial could dual nationality be to a country?

Looking at dual nationality from all different angles, one can only see the positive impact on a country. For instance, from a demographic, economic and cultural point of view, the reintegration of its Diaspora in the country's affairs may constitute a powerful engine to its development. Dr Bernard Gousse seems to understand this reality when he says:

“The economic situation of Haiti is the worse of the region and all development indications put Haiti way behind the other countries on the planet. Our lacks of human resources are shocking in every area. We do not have enough professors at the University. To be a State University professor, which is a public function, one must be Haitian. The sector of public health is in terrible need of medical doctors. Among our congeners who live abroad, many of them obtained high level of education and accumulated exceptional professional experiences. Figure among them without a doubt the scientists and the professionals that we need in forestry, aquiculture, horticulture, hospitals administration, urbanism, etc”.

The majority of the countries in the world accept the principle of dual nationality. The Heads of those States realize that the inclusion of their people who live abroad in the national life of their countries represents one of the essential factors to the development of their countries. Therefore, they do not hesitate to sacrifice some of their own personal interests in favor of the interests of everyone.

19. Could dual nationality also constitute an obstacle to a country?

Dual nationality is becoming more and more popular in the world so much that, countries like Mali, Senegal, Brazil, the Philippines, etc. go as far as encouraging their sons and daughters to go to other countries to gain knowledge and experience. They do not care if some of their children adopt the nationality of the host country in order to better fit themselves there. Then, those natives are welcome to return home whenever they feel like it to serve their countries as citizens with their full rights.

The world is moving forward incessantly. Modernization and globalization are the order of the day. Therefore, it is imperative that we evolve together with time. We can not continue to retire within ourselves. We must open ourselves to the exterior world. Otherwise, we will run the risk to be left behind. This is the requirement of the moment

Briefly, in no case, may dual nationality represent an obstacle for a country. This is so true that the majority of the countries in the world embrace this principle. Belgium and Luxembourg are the last two countries that added their names to the list of countries allowing dual nationality. Both of them did so on October 15, 2008.

We are hoping that, soon, Haiti will be part of that famous list for, Haiti has

nothing to lose and everything to gain from it.

20. What is the meaning of “jus sanguinis” and “jus soli”?

Jus sanguinis or right of blood is the principle that the country of nationality of a child is determined by the country of nationality of the parents while jus soli or right of soil is the principle that the country of citizenship of a child is determined by its country of birth.

That said, if a French person goes to Canada and gives birth to a child there, that child is born with dual nationality. He is French and Canadian. He is French by blood because of his father or mother. That’s what they call jus sanguinis or right of blood; Canadian because he was born on the Canadian territory. That’s what they call jus soli or right of soil.

21. May an individual have two or multiple nationalities?

If you do a thorough analysis of what’s happening in the world right now, you will notice that there is a social and professional movement that is taking place globally. Men are moving around and establish themselves all over the world. They share ideas and products while the countries are doing exchanges among themselves. The world is evolving rapidly. Everything is being modernized. Man has the tendency to become more than ever a citizen of the world.

This observation made a number of States realize, in order for them to maintain their human resources, they should allow their citizens the right to adopt a foreign nationality while keeping theirs. As a result, an individual can become a bi-national or a multinational.

22. What is the purpose of the dual citizenship campaign?

As the years went by, a number of Haitians were obligated to leave the country to go elsewhere, mainly to look for better socio-economic opportunities. Particular circumstances pushed many of them to adopt a foreign nationality in order to be able to better integrate themselves in the local life of the host country. Consequently, according to Article 15 of the March 29, 1987 constitution, this action took away their Haitian nationality.

We have determined that the exclusion of those Haitians by this Article of the constitution is an intolerable injustice. Not only this Article is quite incoherent to other disposition relative to nationality but also, based on Article 11 of the same constitution, a Haitian born is and remains Haitian because, there is no disposition of the constitution that foresees that dual nationality be an act of forfeiture or loss of nationality. In order to lose his Haitian nationality, an individual must appear before a Haitian tribunal to officially declare he wants to do so, in accordance with the law.

This said, we applaud the Executive Branch for making it possible by recommending to the Legislative Branch the need to propose the amendment of

the constitution. And we congratulate our Senators and Deputies of the 48th Legislature for their courage in declaring, with reason given to support it, that the constitution should be amended.

Soon, it will be the 49th Legislature's turn to deliberate on the proposed amendment. We are hoping that the new lawmakers will vote the same way as their predecessors, that means in favor of dual nationality. Such action will be considered as magnanimous and patriotic, and will be entered forever in the archives of our history as a people.

We strongly believe that the reunification of the Haitians living abroad with the Haitians in Haiti constitutes one of the fundamental conditions for Haiti to experience a real take-off towards development. That explain why we are fighting for the right to dual nationality.

23. Should one be Haitian in order to help Haiti?

Some of our brothers and sisters are mistaken. When we declare that the Diaspora should be reintegrated in the national life of the country, without hesitation they claim one does not need to be Haitian to help Haiti.

Of course, a stranger can help Haiti. However, they failed to realize a foreign aid is not a cure; it is a palliative. Haiti's problem is a Haitian problem. After all, it is up to us, Haitians, to find a durable solution to our problem. And one of the indispensable factors to that solution is the reunion of the great Haitian family to blend in a bundle so together we get a chance to remove that curse that's been pending for so long over the head of our beloved Haiti.

24. Is it true that a great deal of Haiti's human resources in terms of knowledge and experience, from a professional point of view, resides outside of the country?

Certainly, a significant part of Haiti's intellectual power lives outside of the country. This brain-drain began in the 60's when a group of professionals left the country to go to Congo, in Africa, to Canada, to the USA, to France, etc.

Then, in the 70's, another group of people followed. That time, it was peasants and urban proletarians. They left by all means possible, either by plane, by boat or by land, crossing the border to go to the Dominican Republic working in the sugar cane plantations. It was like a "head long flight".

Since the 1980s to present, Haiti received the grace-stroke. We assist the massive departure of staffs and middle class families.

As a result, Haiti, despite its miserable under-development conditions, had prepared a reservoir of people for the developed countries. Today, we, the Haitians living in the Diaspora, very affected by the degradation of our alma mater, decide to provoke a similar phenomenon to try to save what can be saved.

But this time, it will be in reverse. That is to say, we would like to invite all the staffs and professionals that Haiti had lost to return home to help reforest, build, develop the country and educate our people. For that to happen, a national sense of urgency is a must, and dual nationality is a necessity.

25. **Why after more than 200 years of independence Haiti is qualified as one of the poorest countries in the Hemisphere?**

Haiti declared its independence on January 1, 1804. It's the first black Republic independent of the world. Back then, slavery was in vogue in many parts of the planet. The super-powers at that time did not appreciate that at all. To them, that act set a very bad example. They feared that slaves elsewhere might follow our footsteps and go into rebellion; the slaves being the iron lung of their fortune. Therefore, they decided to give us a punishment. Not only they did not recognize our independence but also, for a long time, they imposed an embargo towards the country. That way, they left us to cook in our own juice.

In spite of all of that, we still could have survived this vice if we were bound together. Alas, during all our life as a people, we chose to practice instead what they call "everyone for themselves and God for all". It is this lack of solidarity among us that dragged the country into this terrible situation. Consequently, a number of citizens from different background decided to leave the country to try to better their lives elsewhere. They are now all over the world. Inevitably, this created a big hole in every sector of the country. So, lack of human resources and financial means simply handicapped the country. As a result, while other countries are moving forward, Haiti unfortunately went backward, or better yet, she made a complete U-turn. This is why, after more than 200 years of independence, Haiti is one of the poorest countries of the Hemisphere.