

Strangers and Authorities in the Gold Coast: Immigration Control in Colonial Ghana, 1900–1957

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Abstract

Until the imposition of colonial rule on Africa, movements of people from one place to another were not restricted by national or regional borders, visa systems, or national security fears. The modern idea of immigration is related to the development of nation-states and nationality laws, which often distinguish between citizens and immigrants. Citizenship of a nation-state confers on nationals an inalienable right of residence, employment and free movement in that state, but the residence, employment and movement of immigrants are subject to conditions set by immigration regulations. Since it was the colonial authorities that introduced immigration regulations into Ghana, any attempt to gain a good understanding of the history of immigration control in the country must start from the colonial times. Therefore, using both primary and secondary documents, this study examines the measures which the colonial authorities devised to control the entry of immigrants into Ghana as well as their stay in and exit from the country, and assesses the relative effectiveness of their implementation. It argues that the colonial authorities had been generally liberal towards immigrants in Ghana. The study concludes that the manner in which immigration control had been handled in the colonial era was partly accountable for the frequent influx of many ‘illegal’ migrants into Ghana after independence.

Keywords: Alien, Citizen, Citizenship, Control, Deportation, Immigrant, Immigration, Regulation, Repatriation

Introduction

Available historical records indicate that as a result of both pull and push factors,¹ Ghana’s average annual immigration figure reached 3500 by 1900 and after 1945, the

¹ Theories of migration that traditionally distinguish between push and pull factors assert that motives to migrate can be either incentives, attracting people to other lands, known as ‘pull’ factors, or circumstances encouraging people to leave their homelands, known as ‘push’ factors. ‘Both the ‘push’ and ‘pull’ factors are economically, politically, culturally and environmentally based. For a detailed explanation of the two concepts, see Adjei Adjepong, “Immigration into Ghana, 1880s–1960s: An Examination of the Underlying Factors”, in Eric Sakyi Nketiah, ed., *Distance Forum: A Multidisciplinary Book of Academic Articles*, Vol. II (Winneba: Department of Social Science Education, University of Education, Winneba, 2012), pp. 36–37.

influx of foreign elements picked momentum, thereby establishing a considerable immigrant population in the country.² When one considers that the presence of immigrants helped to increase unemployment, social vices and political insecurity for the country, it is tempting to contend that immigration regulations had altogether not been devised and effectively enforced. Certainly, the movement of migrants into Ghana was not a great concern to the colonial authorities during the colonial era. It is this relaxed immigration policy that led to an increase in both the number of migrants entering Ghana regularly as well as the stabilisation of a substantial immigrant population in the country.

The increased inflow of migrants must not, however, be construed that immigration into Ghana and activities of non-Ghanaians within the country had been left totally uncontrolled. Indeed, the colonial administration made determined efforts to regulate immigration and deal with issues relating to immigrants in Ghana. Some of these measures controlled the entry of migrants into Ghana and regulated their stay and movements within the country. There were measures which defined the political status of both nationals³ and immigrants, regulated the economic activities of the latter within the country and specified the basis for the deportation of ‘undesirable’ immigrants.⁴ The adoption of these measures indicates that the colonial authorities were not indifferent to immigration issues, but migrants continued to flock to Ghana. It is one thing devising immigration control policies and quite another implementing them to achieve the desired results. It appears then that immigration was not effectively regulated. This paper examines the immigration laws and other measures dealing with immigrants which were passed by the colonial government of Ghana and evaluates the effectiveness of their enforcement. The aim of the paper is to show that the colonial administration introduced numerous immigration policies, but these measures were generally not strictly enforced.

The Choice of the 1900–1957 Period

For purposes of clarity, the study specifically considers attempts at immigration control from the early 1900s to the end of the colonial administration in early 1957. In 1901 and 1902, Asante and the Northern Territories (the area now covered by the Northern, Upper East and Upper West Regions) were annexed to the Gold Coast Colony. The first decade of the twentieth century also witnessed the consummation of the process of European partition and conquest of Africa. This development was accompanied by the imposition of artificial boundaries on Africa to separate the various indigenous peoples and states and put them under the sovereignty of different European powers. This phenomenon put internal movements across the continent into an ‘international context’, and this came to involve the introduction of various regulations which impinged on the political, social and economic lives of immigrants who entered, lived and left Ghana. Accordingly, the 1900-1957 period is significant in the history of immigration control in Ghana.

² Jean-Marie Henckaerts and Louis B. Sohn, “Mass Expulsion in Modern International Law and Practice”, *International Studies in Human Rights*, (1994), p. 63.

³ This study uses the terms *national(s)* and *citizen(s)* interchangeably.

⁴ This does not imply that the economic activities of Ghanaians themselves were left uncontrolled. There were laws which affected the economic, social and political activities of indigenous Ghanaians. See discussions under “Regulations on Employment and Economic Activities”.

Theoretical Orientation

Tomas Hammar defines immigration regulation in two senses. In one, he says it is “the control a sovereign state exercises over the entry of foreign citizens and their access to residence and employment”.⁵ In the other, Hammar conceives of immigration regulation as the set of rules and procedures governing the selection and admission of foreign citizens into a country.⁶ In either sense, immigration regulation includes such rules which control foreign citizens (aliens) once they visit or take residence in another (the receiving) country, including control of their employment. Repatriation or deportation,⁷ recruitment of foreign labour by private employers and the state, and the opening of official information and recruitment departments all fall under these regulations.⁸ Immigration policies are often formulated for purposes of effective regulation. These policies can range from allowing no migration at all to allowing most types of migration, which may include free immigration. In general, immigration regulations require that non-citizens remain under some form of control until they become naturalised citizens. Since laws concerning immigrants usually entrust administrative bodies with great discretionary powers, it is considered unnecessary in most countries to make amendments to these laws each time a stricter or a more liberal immigration regulation is introduced. What is often needed is only a change in the application of existing provisions of the laws. In some countries, however, new legislations are often introduced in order to limit the size of immigration.

Knowledge and experiences gathered from the movements of migrants have taught many important lessons. One lesson is that immigration has often been influenced by historical precedents and by culture or traditional patterns of behaviour.⁹ At the same time, immigration regulations are, first of all, influenced by economic considerations, such as the current labour market situation at a particular time, and the profitability in the short and long term of immigrant labour.¹⁰ During periods of acute unemployment or general economic difficulties, immigration control is often strictly applied to protect the national labour market. On the other hand, during periods of general economic growth or prosperity or labour shortages, a policy of economic liberalism which liberalises immigration control and open the way for a great increase in labour migration is pursued. Immigration, it must be understood, is a social and political phenomenon.¹¹ It should be noted, also, that economic considerations sometimes conflict with nationalistic interests. Too sizeable an immigrant population is considered “over-foreignisation” in some countries, while locals in some countries normally react when immigration results in a heavy concentration of non-indigenous peoples in some residential areas.¹² Certainly, an

⁵ Tomas Hammar, “Immigration Regulation and Aliens Control”, in Tomas Hammar, ed., *European Immigration Policy: A Comparative Study* (Cambridge et al.: Cambridge University Press, 1985), p. 249.

⁶ _____, “Introduction”, in Tomas Hammar, ed., *European Immigration Policy: A Comparative Study* (Cambridge et al.: Cambridge University Press, 1985), p. 7.

⁷ In this study, the terms *repatriation*, *deportation* and *expulsion* are used interchangeably.

⁸ Hammar, “Introduction”, p. 7.

⁹ Hammar, “Immigration Regulation and Aliens Control”, p. 249.

¹⁰ *Ibid.*, p. 250.

¹¹ Hans-Joachim Hoffmann-Nowotny, “Switzerland”, in Tomas Hammar, ed., *European Immigration Policy: A Comparative Study* (Cambridge et al.: Cambridge University Press, 1985), pp. 234–235.

¹² Hammar, “Immigration Regulation and Aliens Control”, p. 250.

increase in the size of immigrant families places burdens on social services and leads to demands from social workers for greater resources and pleas from local authorities for national assistance. In some countries, immigrant issues bring public protests or engender the fear of such protests. Sometimes, there are threats of disorders or actual riots. It needs to be pointed out that the ideologies and policies of a particular government in power can influence the nature of immigration control measures that are designed and the extent of effectiveness of their enforcement. Besides these aside, a country's geography, diplomatic policy, experience of policy-makers, their particular national needs, and other significant factors affect immigration into a country, in both quantitative and qualitative terms.¹³

In view of all this, a chronological-thematic or topical-chronological approach has been adopted. This means that the material has been composed and arranged both chronologically and topically, or thematically, to maintain a largely chronological structure, while categorising and discussing important themes. The main aim was to produce a work that takes account of the chronology of events and interprets facts based on themes in order to give the material coherence and meaning. Note, however, that the themes have not been organised into economic, social and political. They have rather been categorised into 'regulations on entry and internal movement', 'definition of citizenship', 'regulations on employment and economic activities', and 'instances for deportation'. This approach has been adopted with the view to establishing a 'chain-relationship' among the variables which would help depict, what may be called, 'from-entry-to-departure' perspective.

Regulations on Entry and Internal Movement

In general, all sovereign states reserve the right to determine whether foreign nationals will be permitted to enter their territory and reside there or not. In essence, the colonial authorities had the power to determine the entry and residence of foreign citizens in colonial Ghana. In relation to regulations on entry, the British colonial administration introduced measures such as the Immigrant Paupers Ordinance of 1909, 1912 and 1919; the European and Asiatic Passengers Restriction Ordinance of 1912; the Regulation of Immigrants Ordinance of 1914; the Immigration of Labourers Restriction Ordinance of 1916 and 1917; and the Former Enemy Aliens (Restriction on Immigration) Ordinance of 1919 to curtail the influx of immigrants into Ghana. Other legislations enacted by the colonial authorities for the same purpose included the Immigration Restriction Ordinance of 1925, 1926 and 1927; the Immigration Restriction (Amendment) Ordinance of 1937; the Immigrant British Subjects (Deportation) Ordinance of 1945; and the Immigration Ordinance of 1947. In fact, entry into Ghana during the colonial period appeared to have been quite difficult, at least in principle. The point is that the Former Enemy Aliens (Restriction on Immigration) Ordinance of 1919,¹⁴ for example, prohibited the entry into Ghana of all citizens or subjects of a state with which Britain had been fighting in the First World War, particularly during the year 1918, unless they obtained entry permits from the Colonial Secretary. Failure to obtain immigration permits before entry was

¹³ Hammar, "Introduction", p. 10.

¹⁴ Government of the Gold Coast Colony, "The Former Enemy Aliens (Restriction on Immigration) Ordinance, 1919", in *The Laws of the Gold Coast Colony (1920)*, Vol. II (1920), p. 1436.

considered a grave offence which could lead to the summary trial and incarceration of offenders with or without hard labour for a term not exceeding one year or a fine not exceeding £100, or both. Moreover, the Colonial Secretary could refuse to grant immigration permits to any former enemy alien without assigning any reasons for such refusal.¹⁵ The Secretary even had the power to cancel permits already issued to subjects of enemy states to Britain at any time he considered it necessary to do so.

Besides former enemy aliens, certain categories of people were labelled as *prohibited immigrants*, and, as a result, barred from entering Ghana. Generally, these were people described by the Governor or the Minister responsible for the Police Department as undesirable, “medically undesirable”, destitute, and of “unsound mind” or lunatics. Other prohibited immigrants were prostitutes, paupers, convicts, agitators, non-native servants, and persons without passports.¹⁶ In colonial Ghana legislation, an *agitator* was a person who, by sufficient evidence, was considered by the Governor to be likely to conduct himself in a manner that could be dangerous to the peace and good order of the country, or to excite enmity between the people of the country and the British Crown, or to undermine the power and authority of the British Crown in Ghana.¹⁷ According to the provisions of the same laws, a *destitute person* was someone who was, or was likely to be, a burden on public funds by reason of mental or bodily health or unable to support himself and his dependants, if any; whereas an *undesirable person* was someone who was, or had been, conducting himself in a way that was dangerous to peace, good order, good government or public morals.¹⁸ A prohibited immigrant who breached the law and entered Ghana, except in accordance with visiting or transit permit, was guilty of an offence and was, on conviction, liable to a fine of £50 or to imprisonment for six months, and might be deported.¹⁹ Certificates issued to prohibited immigrants were cancelled when, within eighteen months, they were arrested and proofs adduced that they were indeed prohibited immigrants.²⁰

Going strictly by the explanations given for the designations *agitator*, *destitute person*, and *undesirable person*, one may observe that the colonial authorities were justified in preventing such people from entering Ghana; for no serious government would entertain such persons in its territory. The problem, however, was the seemingly absolute power vested in the Governor to identify and classify people as agitators, destitute and undesirable and, for that matter, prohibited from entering the country. In any case, to ensure the effective implementation of the law, police and immigration officers were empowered by the law to prevent all prohibited immigrants from entering Ghana and could even without warrant arrest any person suspected to have acted in contravention of the law.²¹

¹⁵ *Ibid.*, p. 1438.

¹⁶ Government of the Gold Coast Colony, “The Immigration Restriction Ordinance, 1925”, in *The Laws of the Gold Coast Colony (1928)*, Vol. I (1928), pp. 51–52. See also in the same work, “The Immigration Restriction Ordinance, 1926”, pp. 773–775.

¹⁷ Government of the Gold Coast Colony, “The Immigration Restriction Ordinance, 1926”, p. 774.

¹⁸ Government of the Gold Coast Colony, “Immigrant British Subjects (Deportation) Ordinance, 1945”, in *The Laws of the Gold Coast Colony (1951)*, Vol. II (1954), p. 228.

¹⁹ “The Immigration Restriction Ordinance, 1926”, pp. 776–777.

²⁰ *Ibid.*, p. 777.

²¹ See, for example, Clause (2) of Article 13 of “The Immigration Restriction Ordinance, 1926”, p. 777.

Apart from dealing with citizens or subjects of enemy states and prohibited immigrants, the colonial authorities also devised measures which affected the entry of *ordinary immigrants*²² into the country. In this case, every immigrant who entered the country, whether by land, sea or air, was required to report himself to an immigration officer for examination and to be issued with certificate of entry. Each immigrant was also required to deposit an amount of £25 with the Colonial Treasurer, or with any other official as might be directed by the Governor, for a one-year period.²³ The said money was returned to the owner when he was about to leave the country at the end of the stipulated period. Conversely, the money was forfeited and used to defray all costs that would be incurred in the course of repatriating the owner if he became destitute and was unable to support himself before the one-year period expired. The seriousness of the government in relation to restrictions on entry into the country could be understood from the fact that owners or captains of ships were required to sign bonds with the government and pay the required amount for those bonds, promising to return, at the end of a stipulated period, all passengers brought into the country who were not born in any part of West Africa.²⁴ Until such bonds were entered into to the satisfaction of the government, clearance was to be refused. Contravention of these provisions was considered as a misdemeanour, and Customs Officers or Police Constables were entrusted with the power to cause the arrest of those who breached the law.

On the basis of the contents of these measures alone, one would be tempted to conclude that regulations on entry into colonial Ghana had been very stringent and, for that matter, made entry almost impossible. However, a scrupulous examination of the situation on the ground reveals that the opposite was rather the case. These ordinances, in fact, did not help check the influx of immigrants into Ghana to any significant degree. The point is that in British colonial citizenship laws, the indigenous people of a territory were referred to as ‘natives’. Nevertheless, these laws regarded peoples in non-British territories also as ‘natives’. So long as a person was considered a ‘native’, he had the same rights and duties as an indigenous Ghanaian. Hence, the restrictions imposed on immigration did not apply to such categories of people, and this entitled them to the right of entry into, residence and work in Ghana. Further, ‘enemies of the British’ in the First World War referred only to the Central Powers and their allies as well as colonies possessed by these powers. Germany and Turkey were the only countries among the Central Powers who had colonies in Africa, but by the start of the war, Turkey had lost all her colonial possessions in Africa. Germany still held hers, but they were seized from her at the end of the war when she was defeated. It implied that only citizens of countries of the Central Powers and their former colonies were prohibited from entering Ghana. Citizens of other countries were, thus, not restricted from entering territories under the British Crown, including Ghana. It could even be argued that after the war, citizens or subjects of the Central Powers and their allies would no longer be barred from entering

²² The term *ordinary immigrants* is used here to refer to all immigrants who were neither citizens or subjects of enemies of the British in the First World War nor prohibited immigrants.

²³ Government of the Gold Coast Colony, “The Regulation of Immigrants Ordinance, 1914”, in *The Laws of the Gold Coast Colony (1928)*, Vol. I (1928), p. 1429.

²⁴ *Ibid.*, p. 1430. Note that all people born in West Africa were considered citizens of Ghana and those not born in any part of West Africa regarded as aliens. See discussion on citizenship below for more details.

Ghana, since the war ceased in 1918 and treaties were signed in 1919 between the Allies and the Central Powers. Moreover, the various immigration regulations made provision for prohibited immigrants to enter the country on certain conditions. Clause (1) of Article 11 of the 1926 Immigration Restriction Ordinance, for example, stipulated categorically that a prohibited immigrant could be allowed to enter Ghana on the condition that

He shall deposit with the immigration officer the sum of sixty pounds: [sic] Provided that the immigration officer may in lieu of requiring the said deposit permit the intending immigrant to give security by bond in the prescribed form in the sum of sixty pounds with one or more sureties to be approved by the immigration officer conditional on the intending immigrant obtaining from an immigration officer within six months after entering the Colony a certificate that he is a fit and proper person to be received as an immigrant.

Even if such a prohibited immigrant was able to procure the aforesaid certificate, the money deposited was to be given back to him; it was only when he failed to obtain the necessary papers within the said period that he forfeited his deposit, which was to be used to defray all costs that would be incurred in deporting him from the country.²⁵ In addition, the restrictions imposed on immigration did not apply to British consuls, members in the British military, air force, naval officers, diplomatic or consular services, unofficial members of the Legislative Council, government officials, foreign officials entering and passing through Ghana to or from other countries, and wives and children under sixteen years of non-prohibited immigrants.²⁶ Considering that the colonial administration was not really strict on the influx of foreign nationals into Ghana, one may wonder the extent to which Ghanaian citizenship and nationality were defined during the colonial period, and the degree to which the indigenous people of the country were distinguished from non-locals.

Definition of Citizenship

It is an important concern of every sovereign nation to clearly define nationality and citizenship with the view to giving its citizens identity and distinguishing them from non-citizens. In view of this, the British colonial administration of the Gold Coast paid much attention to nationality and citizenship legislations. The authorities, thus, adopted measures that dealt with citizenship and, thus, established the nationality of indigenous Ghanaians as against those who were not indigenes of the land. Such measures comprised the British Nationality and Status of Aliens Act of 1914, 1918, 1922 and 1933; the Aliens Ordinance of 1925 and 1935; the Naturalisation Regulations of 1933; the Statute Law Revision Act of 1933; and the British Nationality Act of 1948. These measures made a

²⁵ See subsections 2 and 3 of Clause (1) of Article 11 of “The Immigration Restriction Ordinance, 1926”, p. 776.

²⁶ Government of the Gold Coast Colony, “Immigration Ordinance, 1947”, in *The Laws of the Gold Coast Colony* (1954), p. 203.

distinction between *natives* and *non-natives*. The latter supposedly comprised members of groups whose areas of origin territorially lay outside the boundaries of Ghana. However, the term *native* was legally defined as “British subjects or protected persons”, and, by implication, they included any persons born in territories under the dominion of or owing allegiance to the British Crown. The children and spouses of such persons were also considered British subjects and were, for that matter, citizens of Ghana.²⁷ The term *native* even referred to all persons ordinarily resident in any territory in West Africa under Britain, France, Spain, Portugal as well as the Belgian Congo, the Mandated Territories in West Africa, Liberia, Fernando Po and Sao Tome.²⁸

In addition, the colonial government made provision in its citizenship and nationality laws for people in colonial territories other than those of the British who wished to apply for naturalisation or registration to do so and be considered as citizens of Ghana. Important legislations in this direction were the British Nationality and Status of Aliens Act, 1914, and the Naturalisation Regulations, 1933. Aliens who had resided in a British dominion or had been in the service of the British Crown for a period of not less than five years could apply to the Secretary of State for certificate of naturalisation.²⁹ People who had been ordinarily resident in Ghana continuously for a period of seven years or more without changing their residence were given automatic Ghanaian citizenship and, as a result, did not need to apply for a certificate of naturalisation.³⁰ Meanwhile, persons to whom such certificates were granted were entitled to all political and other rights, powers and privileges, and were at the same time subject to all the obligations, duties, and liabilities to which citizens were entitled or subject.

Admittedly, although these nationality measures distinguished British subjects from others, they did not clearly define Ghanaian citizenship. They rather allowed any British subjects, irrespective of their race and country of origin, to freely and legally move to and reside as well as work in Ghana. However, under certain circumstances, including the acquisition of certificate “by false representation or fraud, or by concealment of material circumstances, or that the person to whom the certificate is granted has shown himself by act or speech to be disaffected or disloyal to His Majesty”, certificates granted could be withdrawn.³¹ Other instances in which certificates of naturalisation could be revoked included being a subject of an enemy state to Britain or assisting an enemy against the British in war; being sentenced by a court in a British dominion to imprisonment for a term of not less than one year, or to a term of penal servitude, or to a fine of not less than one hundred pound; not being of good character; and staying in a territory not under British dominion for a period of seven years after

²⁷ Gold Coast Colony, “British Nationality and Status of Aliens Act, 1914”, in *The Laws of the Gold Coast Colony (1920)*, Vol. II (1920), p. 299.

²⁸ Refer to Government of the Gold Coast Colony, “The Immigrant Paupers Ordinance, 1909, 1912 and 1919”, pp. 1434-1435; “The European and Asiatic Passengers Restriction Ordinance, 1912”, p. 1431; “The Regulation of Immigrants Ordinance, 1914”, pp. 1429-1430; “The Immigration of Labourers Restriction Ordinance, 1916”, pp. 1432-1433; and “The Immigration Restriction Ordinance of 1925, 1926 and 1927”, pp. 55-61, 772-782, and 1423-1431, in *The Laws of the Gold Coast Colony (1928)*, Vol. I (1928).

²⁹ Gold Coast Colony, “British Nationality and Status of Aliens Act, 1914” (1920), pp. 300–301.

³⁰ Government of the Gold Coast Colony, “Immigration Restriction (Amendment) Ordinance, 1937”, in *Laws of the Gold Coast Colony*, Vol. II (1954), p. 222.

³¹ Gold Coast Colony, “British Nationality and Status of Aliens Act, 1914”, p. 302.

being granted the certificate.³² Worse of all, Clause (3) of Article 2 of the British Nationality and Status of Aliens Act, 1914, stated emphatically that the Secretary of State had the absolute power to withhold any certificate granted without assigning any reason for the withdrawal.

The obvious inference one could make from all this is that the acquisition of certificate of naturalisation did not in any way confer permanent citizenship or guarantee permanent stay in the country. Indeed, the possession of a certificate of naturalisation could not be used as a foundation for planning a secure future in the country. In view of the discretionary powers of the Secretary of State, certificates could be revoked at any time, and whenever such a development occurred, those who lost their certificates would lose all rights and privileges previously enjoyed. It also implied that their movement within the country and their economic activities would be strictly regulated by all legislations which applied to aliens in colonial Ghana. For example, they would need to renegotiate for permission to engage in any economic venture in the country.

Regulations on Employment and Economic Activities

A major concern of all governments is the organisation of their economies for the maximum benefit of their countries and nationals, while regulating the economic activities of foreigners within their borders. Accordingly, in the economic arena, too, the colonial administration passed a number of legislations to regulate the economic activities of both local and foreign businesses. In the first place, it was illegal for any persons, other than those of European or West African origin, to take up jobs in Ghana without the written consent of the Governor.³³ Even where applications were officially made, the Governor could refuse them without giving any reasons for his refusal. Immigrants who entered the country to work and those who employed them in contravention of these ordinances could be arrested without warrant by any Customs Officer or Constable. People charged with a breach of the law could be summarily tried before a Police Magistrate or District Commissioner and on conviction thereof be liable to a term of imprisonment with or without hard labour for any period not exceeding one year or to be fined not exceeding £100, or both.³⁴

Provisions relating to employment may be misinterpreted to mean that aliens were prohibited from undertaking any economic activity in colonial Ghana altogether. Nevertheless, as pointed out, it was only unlawful to start engaging oneself in economic enterprise without the prior knowledge and agreement of the Governor, although he had the power to refuse the grant of application for such purposes. It could also be reasoned from the statement: “Any person other than a West African native, who arrived in the [Gold Coast] Colony to serve any other person, firm, company or association in any capacity ...”³⁵ that some immigrants entered Ghana to take up jobs. The problem or condition, however, was that if within a period of eighteen months from the date of his arrival such a person or employee became destitute, it was the responsibility of the

³² *Ibid.*, pp. 302–303.

³³ Government of the Gold Coast Colony, “The Immigration of Labourers Restriction Ordinance, 1916”, p. 1432.

³⁴ *Ibid.*, p. 1433.

³⁵ Gold Coast Colony, “The Immigrant Paupers Ordinance, 1909, 1912 and 1919”, p. 1434.

person, firm, company or association that employed him to pay for all expenses that would be incurred in the course of deporting such a destitute to his home country. However, if the employer had paid an amount of money not exceeding £100 to the Colonial Treasurer as security before the person became destitute, then the employer would not be under any further liability in respect of such a person.³⁶

Interestingly, immigration regulations in colonial Ghana also affected company law. In this regard, much of the credit must be given to John Mensah Sarbah, for he may be said to have engineered the promulgation of the first legislation in this direction. Sarbah, appointed a member of the Legislative Council in 1901, used his membership of the Council to put forward several proposals for legislative reforms. One of the important matters for which Sarbah sought a legislation was limited liability companies. Eventually on December 11, 1906, the colonial government passed the Companies Ordinance, which sought to provide protection for all people, both foreign and local, who wanted to do business in Ghana.³⁷ In the end, however, the Ordinance favoured the foreigner more than the local investor, for whom Sarbah had proposed such a measure. The Ordinance, thus, fell short of the expectations of Ghanaians at the time. Continued agitation for a more up to date companies legislation led to the passing of the Registration of Business Names Ordinance of 1937.³⁸ This measure went a little way to meet some of the needs of the local people, but on the whole the law concerning companies remained substantially unchanged. The reason, it has been suggested, was that apart from few companies formed locally by Africans for the exportation of cocoa and the importation of general merchandise, most of which failed from one cause or the other, no African companies of substance were formed which could feel the benefits of the reform in the company law of the country.³⁹

This apathetic attitude on the part of the British colonial administration became a matter of concern to some of the local people. Some Ghanaians could not remain silent over the continuous influx of foreigners into Ghana in particular and West Africa in general during the period. At its first congress in Accra in 1920, for instance, the National Congress of British West Africa asked for stricter immigration controls to exclude ‘undesirable’ Syrians and other nationals of Asian origin.⁴⁰ This request was inspired by their resentment at the overwhelming role these Asian immigrants had carved for themselves in the economy. Impliedly, unrestricted immigration was one of the causes of the 1948 disturbances in Ghana. In fact, the Watson Commission instituted to inquire into the riots found that there was widespread hostility among all sections of the local people towards the steady influx of both European, and Levantine and Asiatic peoples. The real complaint was, however, against the Levantine and Asiatic peoples “whose apparent rise from poverty to wealth in a comparatively short period of time has caused much heart-burning”.⁴¹ The Commission then recommended the adoption of measures that would strictly check immigration. In response to the peoples’ grievances and the Commission’s

³⁶ *Ibid.*, p. 1435.

³⁷ Justice Azu Crabbe, *John Mensah Sarbah 1864–1910* (Accra: Ghana Universities Press, 1971), p. 37.

³⁸ *Ibid.*, p. 39.

³⁹ *Ibid.*

⁴⁰ Elizabeth Isichei, *History of West Africa Since 1800* (London: Macmillan Publishers Ltd., 1977), p. 268.

⁴¹ Colonial Office, *Report of the Commission of Enquiry into Disturbances in the Gold Coast 1948* (London: His Majesty’s Stationery Office, 1948), p. 33.

recommendations on unrestricted immigration, the British government promised to control immigration by introducing “immigration ... laws with the object of protecting the interests of the local inhabitants without discrimination against intending immigrants on grounds of race”.⁴²

Consequently, some of the earlier measures were amended in the early 1950s to satisfy the demands of the local people. A careful examination of immigration control after the 1948 riots clearly shows, however, that no serious effort was made to effectively implement immigration regulations. This situation allowed immigrants to continue to dominate certain fields of economic activity in the country, arousing protest from some Ghanaian interest groups. This is evidenced by the fact that the National Crusade for the Protection of Ghanaian Enterprises, presided over by Dankyi-Awere, in 1953 started writing letters to the colonial government protesting against the extent of foreigners’ trading in Ghana.⁴³ The government, nonetheless, remained the same in its approach to checking immigration. So unconcerned were the colonial authorities with immigration, and the consequent dominance of foreigners in certain sectors of the Ghanaian economy, that the National Crusade was compelled to state in its press releases that “we are waging a peaceful war of aggressiveness on the aliens”.⁴⁴

It is not clear from available documents whether the National Crusade actually carried out its ‘threats’. However, considering the selfish and exploitative attitude of the colonial authorities,⁴⁵ it could be argued that not much was achieved for Ghanaians in terms of economic reforms. Being themselves Europeans, the authorities had so framed immigration policies in the economic sector to cater not only for the interest of the country, but also, and more especially, for the benefit of European merchants. In any case, why should they prevent all immigrants, “other than those of *European* (author’s emphasis) and West African origin” from engaging in economic undertakings in the country?⁴⁶ Evidently, the Asians and other immigrants who, it would be assumed, were the targets of these economic regulations were not dealt with as desired.⁴⁷ No wonder that

⁴² _____, *Statement by His Majesty’s Government on the Report of the Commission of Enquiry into Disturbances in the Gold Coast 1948* (London: His Majesty’s Stationery Office, 1948), p. 10.

⁴³ According to Margaret Peil, the National Crusade for the Protection of Ghanaian Enterprises was launched to protect, assist and educate its members on the role of efficiency for productivity toward economic salvation as well as advise the government about the activities of corruptible officials in the country who encouraged bribery, smuggling, and other forms of anti-social practices. See her study, “The Expulsion of West African Aliens”, *The Journal of Modern African Studies*, Vol. 9 (1971), p. 212.

⁴⁴ *Ibid.*

⁴⁵ The economic philosophy of all the European imperialist powers was the maximum exploitation of both the human and natural resources of the colonies for the benefit of the colonising powers. As a result, the health of the colonial economy was measured not in terms of how much the colonial peoples gained but more in terms of how much the colonising powers benefitted from the economy. It is in this context that the contemporary economic backwardness of Africa and the overwhelming economic advancement of the West should be examined and understood.

⁴⁶ Refer to Gold Coast Colony, “The Immigration of Labourers Restriction Ordinance, 1916”, p. 1432.

⁴⁷ The Western banks and other large expatriate firms, like the United Africa Company, and financial institutions in Ghana were more liberal and generous in offering financial assistance to European and Asian merchants and businesses in Ghana, whereas they refused these privileges to African businessmen and companies. See Adjepong, “Immigration into Ghana”, pp. 40–41; Michael Crowder, *West Africa Under Colonial Rule* (London: Hutchinson and Co (Publishers) Ltd. and Benin City: Ethiope Publishing Corporation, 1968), pp. 293–297 and 411–412.

Osagyefo Dr. Kwame Nkrumah and his Convention People's Party assumed power in 1957 and inherited an economy heavily dominated by expatriate firms.⁴⁸

Instances for Deportation

As pointed out above, nationality laws often distinguish between citizens, or nationals, and immigrants, or strangers. Citizenship of a nation-state confers on nationals an inalienable right of residence, employment and free movement in that state, but the residence, employment and movement of immigrants are subject to conditions set by immigration regulations. More importantly, the fact that nationality and citizenship laws distinguish between citizens and non-citizens is an indication that non-citizens can be deported from the country through deportation orders or legislations. In its efforts to regulate immigration, the British colonial government made provision for instances in which immigrants whose presence was considered uncondusive to the good of the country could be deported. Measures such as the Deportation of Suspects Ordinance, 1916; the Aliens Ordinance, 1925; the Immigration Restriction Ordinance, 1926; the Repatriation of Convicted Persons Ordinance, 1945; the Immigrant British Subjects (Deportation) Ordinance, 1945; the Immigration Ordinance, 1947; and many other deportation orders were promulgated for this purpose. For instance, the Deportation of Suspects Ordinance of 1916 empowered the Governor, during the course of the First World War, to order the deportation from Ghana of any persons suspected to have assisted an enemy of the British, "either by doing any act, or communication by any means, or in any way whatsoever, or to have attempted to render any such assistance, or to intend to render any such assistance"⁴⁹

The other measures, on the other hand, empowered the Supreme Court or a Magistrate's Court to order the deportation from Ghana of immigrants convicted of punishable offences. The Repatriation of Convicted Persons Ordinance of 1945 made specific reference to people of African descent, but, in addition to the Deportation of Suspects Ordinance, all the other repatriation measures referred to "any person", that is, all people who, according to the citizenship and nationality laws of the land, were strictly not considered nationals of Ghana. Other categories of immigrants liable to repatriation were those who contravened the immigration laws of the country, such as not possessing a valid passport or valid visa.⁵⁰

From the 1930s, the colonial authorities passed several deportation orders against individual *aliens* whose presence in Ghana was deemed uncondusive to the public good or who had been convicted of certain offences. In 1934, for instance, a deportation order was passed against a Bukari Grunshie, who was subsequently ordered to leave Ghana before the 20th of May, 1934. In 1938, I.T.A. Wallace-Johnson, a Sierra Leonean, and

⁴⁸ See Adjei Adjepong, "Immigration Control in Ghana under Kwame Nkrumah, 1957–1966", in Olaniyi Rasheed, ed., *Ibadan Journal of History*, Vol. 1 (2013), pp. 94–95; A. Adu Boahen, *Ghana: Evolution and Change in the Nineteenth and Twentieth Centuries* (Accra: Sankofa Educational Publishers Ltd., 2000), p. 196–197.

⁴⁹ Gold Coast Colony, "The Deportation of Suspects Ordinance, 1916", in *The Laws of the Gold Coast Colony (1928)*, Vol. I (1928), p. 603.

⁵⁰ Government of the Gold Coast Colony, "Immigration Ordinance, 1937", in *The Laws of the Gold Coast Colony (1951)*, Vol. II (1954), p. 218; "The Immigration Restrictions Ordinance" (1925), p. 56; "The Immigration Restrictions Ordinance" (1926), pp. 776–777; and "Immigration Ordinance" (1947), p. 204.

Dr. Nnamdi Azikiwe, a Nigerian, were also deported under the Sedition Act of 1934 for allegedly carrying out activities calculated to overthrow the colonial system. Again in 1954, the colonial administration deported some Nigerians from Ghana.⁵¹ Interestingly, provisions were made also for the expulsion of the dependents of people expelled.

A critical observation of the stipulations of these measures point clearly to the fact that the colonial authorities were really serious and quick to effect the repatriation of people sentenced to expulsion. In the first place, persons against whom deportation orders were issued were required to comply strictly with the dictates of these orders. Secondly, Article 3 of the Deportation of Suspects Ordinance stipulated that as soon as orders for the expulsion of any such suspects were issued, all public officers of the Colony were “hereby empowered and authorized to take all such necessary action, and to do all such things, as the efficient execution of such order or direction may require.”⁵² In cases where deportees were serving prison terms, they could either be repatriated outright, notwithstanding that the full term of imprisonment had not been served, or be kept in prison till the end of their terms and be deported after their release.⁵³ Moreover, deportees were not allowed to return to Ghana for as long as the repatriation orders against them were in force. Even some people were not permitted to move from their own regions of origin in the country to any other part of the country until the expiration of the duration specified by the orders against them.⁵⁴ Periods of deportation varied from one expellee to another, but in cases where people were barred from moving from one area within the country to another, the period did not exceed three years.⁵⁵

Evidently, these repatriations had political implications, and were not means of regulating immigration in the real sense. Moreover, they contained elements of arbitrariness, at least, to some degree. This assertion is strengthened when examined critically within the context of some of the provisions of the deportation laws. Clause (1) of Article 8 of the 1925 Aliens Ordinance, and Article 5 of the 1945 Repatriation of Convicted Persons Ordinance granted people against whom deportation orders were issued the right to appeal against their conviction in accordance with the provisions of the Criminal Procedure Ordinance, and if the Appeal ruled against the deportation, it would not carry any effect. Generally, deportation orders did not take effect until they had been certified by the Chief Justice and forwarded to the Governor in Council. These conditions, however, appeared to be more theoretical than practical because they could not override the Governor’s determination to expel. Actually, the same measures empowered the Governor in Council to make an order, at any time he thought fit, requiring an alien to leave, particularly if he deemed it conducive to the public good. In furtherance, whereas Clause (2) of Article 3 of the Aliens Ordinance specified that a deportation order could be made “subject to any condition which the Governor in Council

⁵¹ Peil, “West African Aliens” p. 205.

⁵² Gold Coast Colony, “The Deportation of Suspects Ordinance” (1916), p. 603.

⁵³ _____, “The Immigration Restriction Ordinance” (1926), p. 777. Note that the number of years for which deportees were to be out of the country was specified. Hence, those who were repatriated after serving their full prison terms suffered such fate only if they were released before the period specified in their deportation orders expired. However, if those years expired before they were released from prison, then they could not be expelled.

⁵⁴ _____, “Repatriation of Convicted Persons Ordinance”, p. 236.

⁵⁵ *Ibid.*

may think proper”, Clause (3) of Article 8 of the same Ordinance stated firmly that the right to appeal against a deportation order could not “prejudice the power of the Governor in Council to make an order for deportation”⁵⁶

Essentially, the power to expel rested with the Governor. But that was not all; any alien with respect to whom a deportation order was issued, or a certificate was given by a court with the view to the making of such an order, could be detained on the instructions of the Governor before being sent away. Even where expellees were placed on ships, aircrafts or vehicles about to leave Ghana, they were considered to be in legal custody whilst so detained until the ships, aircrafts or vehicles left the country.⁵⁷ Indeed, the powers wielded by the Governor in relation to repatriation considerably influenced the living conditions and attitudes of immigrants in the country. Additionally, the very existence of the possibility of deportation fostered a considerable degree of legal insecurity since decisions concerning the stay and expulsion of foreign citizens were made by administrative authorities who had much discretion in interpreting immigration regulations. Such legal insecurity was made worse when foreign citizens had no right to appeal against decisions of administrative authorities.

Assessment and Conclusion

Looking at the provisions of the measures examined above, one would contend that immigration regulations in colonial Ghana, other than those for political reasons, were not strictly enforced. First, citizenship and immigration regulations were alien to the African way of life in pre-colonial times. International boundaries separating one country from others were non-physical and not effectively patrolled. Added to these was the fact that movements across certain boundaries, such as those of the Ghana-Togo, Ghana-Cote d’Ivoire, Ghana-Burkina Faso, Togo-Benin, Benin-Nigeria, Nigeria-Cameroun, Niger-Mauritania, and Senegal-Sierra Leone, were, to the local people, not considered international but internal in view of the fact that people of the same ethnic stock lived on both sides of the said boundaries. The scope of citizenship laws were, further, so wide that all people in both British and non-British colonial territories in West Africa could legally claim Ghanaian citizenship because all people under the authority of the British Crown were considered British subjects, while all West Africans were considered ‘natives’. Neither were the authorities strict on ensuring that immigrants in Ghana either naturalised or registered as citizens of Ghana nor did they see to it that immigrants did not freely move from one area to another within Ghana as stipulated by existing regulations. It was also impossible for immigration officers to issue permits to all foreigners who entered Ghana since it would be difficult identifying all such people. In addition, some immigrants would feel reluctant to show themselves to immigration officers to be examined and be issued with certificates.

It can also be observed that most of the immigration regulations the administration passed remained dormant in the statute books because they needed more tax payers to enable them get more revenue for their administration. Moreover, the colonial authorities needed cheap labour force for the maximum exploitation of the resources of the country as well as people who were prepared to do the type of jobs

⁵⁶ Gold Coast Colony, “The Aliens Ordinance, 1925”, pp. 64–65.

⁵⁷ *Ibid.*, p. 64.

Ghanaians despised. Apart from these, Europeans came to meet the principle of 'freedom of movement' well established in African culture, and they were prepared to maintain it for their ultimate benefit. For example, it would be easy for them to transport labourers from one region to another. The most important reason, it is argued, was that the original intention of the colonial powers in creating political boundaries in Africa was not to create political units that would determine the basis of future African nation-states. Neither did they have the idea of restricting the movement of Africans from one geographical area to another, nor protecting the resources of a territory for the sole enjoyment of the indigenous people. Those boundaries appear more to have been imposed only for the European imperial powers to distinguish between their possessions and those of rival nations in order to prevent any clashes among themselves.

Clearly, in spite of the numerous measures passed, which were expected to reduce the population of foreigners, the population of immigrants in the country rather increased. For instance, the 1913 Ghana population census indicated that there were 4,142 foreigners working in the country. By 1931, according to the census of that year, out of a total population of 3,163,464, there were 292,294 non-Ghanaians (3,078 non-Africans and 289,216 Africans of foreign-origin) in the country; the majority of non-Ghanaian Africans came from the French colonies, while Nigerians accounted for 95 percent of migrants from the British colonies.⁵⁸

It should be noted, however, that the colonial authorities' indifferent attitude towards immigration control was not peculiar to Ghana alone. The situation was generally the same everywhere in Africa during the colonial period. The reclamation of independence, nevertheless, changed the pattern of migration and immigration control in Africa by reducing free international movements through elaborate development of visa and passport regulations, or customs and controls, of the need for foreign workers to obtain work permits, or restrictions on the repatriation of savings. As Akin L. Mabogunje rightly indicates, African migrants came to perceive the real significance of national independence to be, for the first time, governments' definition of who their citizens were and who were not.⁵⁹ The newly independent countries were zealous to reserve available employment opportunities for their nationals and raise the standard of living of their citizens. Consequently, a series of regulations were promulgated by the various governments to generally regulate immigration of foreigners but specifically to discourage the inflow of unskilled or unqualified persons into their territories for the purpose of taking up employment and to provide the independent nations the opportunity to get rid of illegal foreigners in their midst. In the case of Ghana, therefore, the Nkrumah administration which inherited power from the colonial government introduced a number of measures to regulate immigration. The implementation of these laws and orders were, expectedly, relatively stringent and effective in comparison with those adopted during the colonial era. Nevertheless, the policies of the Nkrumah administration, such as its pursuit

⁵⁸ Micah Bump, "Ghana: Searching for Opportunities at Home and Abroad", *Migration Information Source* (2006), <http://www.migrationinformation.org/Profiles/display.cfm?ID=3>, (accessed 21 June, 2006).

⁵⁹ Akin L. Mabogunje, *Regional Mobility and Resource Development in West Africa* (Montreal and London: McGill-Queen's University Press, 1972), p. 122.

of the policy of African brotherhood and the influence of the colonial administration, had a considerable impact on the execution of these measures.⁶⁰

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⁶⁰ See Adjepong, "Immigration Control in Ghana", pp. 87–106.

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